

**RULES OF THE PLANNING/ZONING BOARD**  
**OF THE CITY OF WOODBURY**

**ARTICLE I. ADMINISTRATION**

**Rule 1:1 Organization, Officers, General Provisions**

**1:1-1 Title of the Board**

The title of the Board shall be: "The Planning/Zoning Board of the City of Woodbury, New Jersey."

**1:1-2 Annual Meeting; Officers**

The annual reorganization meeting of the Board shall be on the Wednesday in January immediately following the annual reorganization meeting of Council of the City of Woodbury. At such annual reorganization meeting of the Board, there shall be elected from among its members, a Chairperson, a Vice Chairperson and a Secretary. Additionally, a planning consultant and solicitor shall be appointed. Persons serving in such positions shall continue in such capacity for a period of one year and until election or appointment of successors. The Board may appoint such other officers or assistant and employ such experts or staff as it may deem necessary.

**1:1-3 Chairperson**

The Chairperson, subject to these rules, shall decide all points of order and matters of procedure governing the meetings, unless otherwise directed by a majority of the Board in session at the time. He shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally appertaining to his office. He or his designee shall swear all witnesses giving testimony before the Board.

**1:1-4 Vice Chairman**

The Vice Chairman shall preside at all Board meetings and hearings in the absence of the Chairperson.

**1:1-5 Secretary**

a. Subject to these rules and under the direction of the Chairperson, the Secretary shall sign all resolutions of the Board, conduct all correspondence as directed by the Board and shall perform such other duties as may be directed by the Board and Chairperson.

b. The Secretary or his designee shall give all notices of meetings required to be given by the Open Public Meetings Law, the Municipal Land Use Law or any other applicable law or ordinance.

c. The Secretary or his designee shall make record of, and keep on file, the minutes of the proceedings at each meeting or hearing held by the Board and shall enter therein with the other proceedings, such resolutions and orders as are adopted and a copy or synopsis of every report, application and other paper presented.

d. The Secretary or his designee shall publish the notice and serve copies of the Board's resolutions as provided in Rule 2:8-5.

e. The designee of the Secretary may be any employee of the Board or member of said Board.

### **Rule 1:2 Meetings**

(a) The regular meetings of the Board shall be held at the Municipal Building, 33 Delaware Street, Woodbury, New Jersey at 7:00 p.m. on the third Wednesday of each month. The Secretary shall annually furnish a copy of the regular meeting dates for the year to the news media designated by the Board as the official newspaper in accordance with the Open Public Meetings Law, N.J.S.A. 10:4-1 et seq.

(b) The Board shall not take any new testimony or hear any applications or matters beyond 10:30 p.m. This rule may be waived by an affirmative vote by a majority of the Board members then present and qualified.

#### **1:2-2 Special Meetings**

Meetings may be called by the Chairperson, or in his absence, by the Vice Chairperson, at anytime or upon the written request of three members, provided notice thereof be mailed or given to each member of the Board at least two days prior thereto, and to the public as required by the Open Public Meetings Law, N.J.S.A. 10:4-1 et seq.

#### **1:2-3 Meetings Open to Public**

All meetings shall be open to the public, except such executive sessions as authorized by N.J.S.A. 40:55D-9b and N.J.S.A. 10:4-1 et seq.

#### **1:2-4 Order of Business**

The order of business at all meetings shall be as follows:

- (a) Roll Call
- (b) Open to Public Meeting Announcement
- (c) Approval of minutes of last meeting
- (d) Calendar and attention to unfinished or old business
- (e) Motions for adjournments of scheduled cases, and other motions
- (f) Calendar of new business
- (g) Communications, correspondence and reports
- (h) Adjournment

**Rule 1:3 Quorum and Voting**

**1:3-1 Quorum**

At all meetings of the Board a quorum for the conducting of business shall consist of five members. In the absence of a quorum, the members present may adjourn the meeting and the hearing on any motion of application, to another date.

**ARTICLE II. RULES OF PRACTICE**

**Rule 2:1 Commencement of Action, Service and Filing of papers**

**2:1-1 Commencement of Action**

**(a) APPLICATIONS TO BOARD**

An application for subdivision approval, conditional use or site plan review or for any other relief shall be commenced by the filing of copies of an appropriate application (Part II in forms A-1 through A-3) with the Zoning Officer together with the fee required by ordinance. Said application shall forthwith be forwarded to the Municipal Clerk and be given to the members of the Board at or prior to its next regularly scheduled meeting.

**(b) OTHER REQUIREMENTS**

1. Any maps, applications or documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Municipal Clerk. This filing shall be in addition to the maps and other documents required to be filed with the application, as set forth in the appropriate application form (A-1 through A-3).

2. The application form shall be filled out completely and, where necessary, supplemented by additional information in order to make it clear to the Board what relief is being sought. No action shall be considered complete until all applicable requirements of R. 2:1-1 have been complied with. If the

Secretary or other designated official determines that an application is not complete, the applicant shall be advised of the specific deficiencies within 45 days of its submission, otherwise it shall be deemed to be complete.

(c) FEES

Fees as established by ordinance shall be paid simultaneously with the filing of an application.

3. In accordance with the provisions of the municipal ordinances pertaining to subdivisions, conditional uses, site plan or other relief, an applicant shall in connection with an application pay, in addition to the fees hereinabove specified, deposits to cover special expenses incurred by the Board for the rendering of services by its planning consultant, engineer, attorney and other experts in the amounts set forth in said ordinance.

4. Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made in accordance with the provisions of N.J.S.A. 40:55D-65(h) and local ordinance.

**2:1-2 Certification of Completeness**

Within 45 days of the submission of any application to the Board, the Zoning Officer shall note any deficiencies in the application and give notice of same. Absent same, the application shall be deemed complete.

In the event deficiencies are noted, the applicant shall be granted a reasonable time, not to exceed thirty days, to correct said omissions. At said time a certificate of completeness shall be issued and the case may subsequently be put before the Board.

**2:1-3 Docket Number**

The Zoning Officer shall assign to each new application, a docket number which shall thereafter appear on all subsequent papers filed in the matter.

**Rule 2:2 Hearing Date**

**2:2-1 Hearing Date**

As soon as any complete appeal or application is filed in accordance with foregoing rules, the case shall be placed on the calendar. The applicant shall be notified of time set for the hearing thereon.

## **2:2-2 Adjournment**

The time for hearing may be adjourned from the time fixed therefore, for good cause, upon the motion of the applicant or other person interested in the action, or on the Board's own motion, provided, however, that where such adjournment would extend the statutory period within which the Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

## **Rule 2:3 Notice: Upon Whom Served; Time**

### **2:3-1 Notice: Upon Whom Served**

Notice shall be given to all persons and officials entitled thereto by the requirements of N.J.S.A. 40:55D-12.

### **2:3-2 Notice: Form**

The notice required to be served and published pursuant to Rule 2:3-1 shall be in substantially the form set forth as Form A-4 in the Appendix to these rules.

### **2:3-3 List of Owners Supplied by Clerk**

Where the Clerk of the municipality (or authorized official) has furnished applicant with a list of the property owners entitled to notice pursuant to the provisions of N.J.S.A. 40:55D-12(c), a copy of the official certification and list shall be annexed to applicant's proof of service.

### **2:3 Proof of Service**

The service and publication of notices as hereinabove provided is a jurisdictional requirement, and proof of the service and publication of all required notices in accordance with these rules shall be made by affidavit of the person or persons who actually served or mailed said notices as required by law, and by the authorized official of the newspaper which published same.

## **Rule 2:4 Application**

### **2:4-1 Form**

Every application shall be filed with the original and copies on the appropriate form provided to the applicant by the Zoning Officer and which is set forth in pages A-1 through A-3 appended to these rules.

## **2:4-2 By Whom Filed**

Every application must be signed by the owner of the lands and premises to be affected, or by his duly authorized agent, and may be signed by any other person having an interest in the action.

## **2:4-3 Application: Contents**

The applicant shall set forth in his application all facts upon which he will rely to establish his right to the relief sought and supply all information requested on the application form or otherwise required by law.

## **2:4-4 Affidavit of Ownership**

If the applicant is not the owner of the premises affected by the variance requested in the application, an affidavit or consent executed by the owner of the affected premises shall be filed with the Board consenting to the filing of the application, except as otherwise provided in R. 2:4-2.

## **2:4-5 Applications by Corporations or Partnership (Disclosure of Stockholders or Ownership Interest)**

A corporation or partnership applying for relief from this Board shall list the names and addresses of all stockholders or individual partners owning at least ten (10) percent of the stock of any class or at least ten (10) percent of the interest in the partnership as the case may be, in accordance with the requirements of N.J.S.A. 40:55D-48.1.

## **Rule 2.5 Hearings**

### **2:5-1 Appearances**

At the hearing upon the application, the applicant, or any other party, shall appear in person, or may be represented by an Attorney-at-Law of New Jersey. Every corporation shall be represented by an Attorney-at-Law of New Jersey.

### **2:5-2 Oath**

At the hearing, the applicant and all witnesses shall be sworn by the Chairperson or his designee before giving testimony.

### **2:5-3 Order of Presentation**

a. When the hearing is called to order, the Zoning Officer shall state the relief sought by the application.

b. The applicant shall then present, by his testimony and the testimony of his witnesses, or by such documentary evidence or exhibits as he may submit, proof of all facts upon which he relies to establish his right to the relief sought in the application.

c. Any other persons interested in the action shall then be heard and may present any relevant testimony or evidence in support of the application.

d. Any other persons interested in the action shall then be heard and may present any relevant testimony or evidence tending to show why the relief sought by the applicant should not be granted.

e. Rebuttal testimony or evidence shall then be admitted in such order as the Chairperson shall designate.

f. All witnesses may be cross-examined by any member of the Board, the Board attorney, or any interested person.

#### **2:5-4 Examination by Board; Testimony**

The applicant and every other person appearing and presenting testimony at any hearing may be examined by any member of the Board and the Board Attorney for the purpose of eliciting any relevant information which may assist the Board in deciding the issue. Any member of the Board may testify as to any relevant matter of which he has personal or official knowledge for the purpose of amplifying the record, including facts ascertained from a viewing of the premises in question and the general area.

#### **2:5-5 Closing of Hearing; Continuances**

a. When the applicant and all other interested persons have had an opportunity to be heard, the Chairperson may declare the hearing to be closed. Thereafter no further evidence will be received in the action unless the matter is reopened in accordance with these rules.

b. The applicant or any other interested person, prior to the closing of the hearing, may move the Board for a continuance of the hearing for the purpose of presenting further relevant evidence, which the Board, acting in its sole discretion, may either grant or deny.

c. In cases where the Board feels that testimony or other evidence should be received in the public interest from any municipal, county, or state official or from any other persons, to assist in rendering a just decision, the Board may, on its own motion, continue the hearing to another day certain for such purposes.

## **Rule 2:6 Evidence**

### **2:6-1 Competent Evidence**

Although formal rules of evidence are not enforced before the Board, every fact indispensably necessary to establish the applicant's right to the relief sought shall be based upon the consideration of any facts or matters which are not in the record, unless they be such as to which the Board is entitled to take judicial notice. The Board may limit irrelevant, immaterial or redundant testimony.

### **2:6-2 Documents and Exhibits**

When any papers, documents or exhibits are admitted into evidence during a hearing, they shall be marked by the Zoning Officer and may be retained by the Board until the termination of the matter, at which time they shall be returned by the Zoning Officer to the person who offered them.

### **2:6-3 Judicial Notice**

The Board may take judicial notice of the provisions of any ordinance of the municipality, any public statute of the State of New Jersey and any officially reported judicial decision.

### **2:6-4 Burden of Proof**

It is the applicant's responsibility to supply competent and credible evidence to apprise and inform the Board of the nature of the relief or approval requested. The burden of proof remains upon the applicant at all times to prove entitlement to the request or approval.

## **Rule 2:7 Dismissal of Actions**

### **2:7-1 Voluntary**

Any applicant may at any time before the commencement of hearing, voluntarily withdraw his application, in which case the action shall be dismissed without prejudice.

### **2:7-2 Nonappearance**

When, at the time set for the hearing on any application, neither the applicant nor any one in his behalf appears, and no adjournment has been previously requested, the action may be dismissed without prejudice.

### **2:7-3 Infraction of Rules**

For failure to comply with the provisions of Rule 2:2, the Board shall, and for failure to comply with any other rule, the Board may dismiss the application.

### **2:7-4 Preliminary Reports**

a. The Board may, at any time, request a written report on any particular matter from any officer, board, or agency in connection with a pending case, provided, however, that a copy of any such report shall be made available to the applicant, who shall, if requested, have an opportunity to question the maker of such report as to any fact or conclusion therein contained.

b. The Board may arrange to take the testimony of any expert witness employed by it.

### **Rule 2:8 Decision, Resolution of Board**

#### **2:8-1 Time**

The Board shall render a decision on the matters within its jurisdiction upon the submission of a certified complete application for relief or approval within the following prescribed periods of time:

a. Within 45 days for minor subdivision approval and 95 days for major subdivision approval as defined by the ordinances of the City of Woodbury.

b. Within 95 days for conditional use approval and bulk variance approval.

c. Within 45 days for minor site plan approval.

d. Within 45 days for other ancillary relief within the Board's jurisdiction and not specified herein.

e. Within such other time as may be consented by the applicant and at the applicant's request.

#### **2:8-2 Form**

The judgment of the Board shall be in the form of a resolution containing findings and conclusions which shall be adopted on the date of the meeting at which the Board granted or denied approval. A copy of the Board's resolution shall be furnished to the applicant or his attorney within ten days from the date of adoption thereof and a copy of the resolution shall also be made available to any person who has requested it and paid the fee established therefore.

### **2:8-3 Relief Granted**

Where an applicant has demonstrated his right to relief, the Board may grant such relief as it may deem appropriate and in keeping with the intent and purpose of the zone plan and zoning ordinance, even through the relief granted may be different in kind or degree from that asked for in the appeal or application.

### **2:8-4 Conditions**

The resolution of the Board granting any relief, may subject such grant to conditions as the Board may impose in the public interest for the purpose of furthering any of the purposes of zoning. The Board may, when deemed necessary in the public interest, specifically provide in its resolution for the retention of jurisdiction over the action for a reasonable time, as therein specified, for the purposes of enabling it to vary the terms of any condition therein imposed, or for the purpose of imposing additional conditions in the public interest in the light of then existing circumstances.

### **2:8-5 Publishing Notice; Service of Copy of Resolution**

The Board Solicitor shall cause notice of the Board's action to be published once in the official newspaper of the municipality.

## **Rule 2-9 Motions**

### **2:9-1 Rehearing**

Any applicant or other interested person may, within 20 days after publication of notice of the decision, move the Board for a rehearing of the matter by filing an application in the form of a letter addressed to the Board containing a brief statement of the grounds relied upon. If the motion is granted by the Board, it shall fix a date for rehearing and shall require the moving party to give notice to all persons who participated in the original hearing or hearings, upon such terms as the Board may deem adequate. The Board may grant a rehearing on its own motion when unusual circumstances so require in the interests of justice.

### **2:9-1 Vacation or Modification**

At any time after the adoption of a resolution granting a variance, any person having an interest in such decision may move the Board for an order vacating or modifying any term or condition of said decision by filing with the Board a petition in the form of a letter setting forth the reasons therefore and the ground relied upon within 20 days after the publication of notice of the decision.

If the petition is granted, the Board shall fix a date for hearing and the movant shall give notice of such hearing in the same form and manner as required by Rule 2:3 in the case of original petitions. The Board, on its own motion, may in a proper case similarly order all parties in interest to show cause at a time and place fixed in the notice why the terms or provisions of any relief ought not to be vacated or modified.

## **Rule 2:10 Qualification and Disqualification of Members of the Board**

### **2:10-1 Qualification to Act**

a. Whenever a hearing is continued over two or more sessions, or the Board has reserved decision on any matter, any member of the Board, even though he did not sit upon the hearing of the action, may, nevertheless, participate in the decision of the case if, but only if, he has read or listened to a recording of the entire record of the proceedings and has certified in writing that he has done so.

b. This rule shall in no way be construed as authorizing any hearing to be held before less than four members of the Board.

### **2:10-2 Disqualification of Member**

a. Any member of the Board shall disqualify himself from sitting on the hearing of any matter in which he has a disqualifying interest, such as, but not limited to, the following situations:

1. Where he owns property located within 200 feet of the property affected by the action.

2. Where the applicant is related within the third degree of consanguinity to the member by blood or is the husband or wife of any person so related.

3. Where the applicant or his attorney is the employer, employee or partner of the member, or is a corporation in which the member is a shareholder or has other financial interest.

4. Where he has any other personal or pecuniary interest in the proceeding.

Any member so disqualifying himself shall not sit with the Board for participation in any executive session or conference, during the hearing or determination of the case in question.

b. When a member fails to disqualify himself, any interested party may move the Board for an order or determination that such member is or was disqualified to act and may even after entry of judgment, seek the vacation of the judgment and rehearing or other appropriate relief. The motion shall contain a statement of the facts upon which it is based, and the Board may thereupon hold a hearing on the matter or take whatever action it may deem appropriate.

**Rule 2:11 Record of Testimony**

**2:11-1 Stenographic or Other Records; Transcripts**

In accordance with provisions of N.J.S.A. 40:55D-10f, the Board shall provide for the verbatim recording of all hearing by either a stenographer, or by mechanical or electronic means. A transcript or duplicate recording in lieu thereof shall be furnished to any interest party at his expense.

**2:11-2 Notes by Designee**

The Board's Planning Consultant or other designated person, shall take notes of all meetings and shall, as soon as possible after the hearing, prepare copies of the minutes of said meeting for distribution to the members of the Board. If a transcript of the testimony has been filed with the Board, such transcript shall be filed in the case docket.

**Rule 2:12 Moot Questions: Advisory Opinions**

**2:12-1 Prohibition**

a. The Board shall not hear an action based upon and presenting a question which is moot, or becomes moot, or hypothetical or render any decision in such an action.

b. The Board shall not render any advisory opinion to any person or persons; provided however, that this rule shall not be construed as prohibiting the Board from submitting recommendations or advice to the governing body in accordance with the applicable provisions of the City Ordinances or any statutes.

**Rule 2:13 Subpoenas**

**2:13-1 Issuance**

The Board, by its subpoena issued under its seal and under the hand of its Chairperson or Vice Chairperson and Secretary as the case may be, may compel the attendance and testimony of witnesses, and the production of books, papers, documents or tangible things related to any matter or subject within the Board's

powers of inquiry. The issuance of a subpoena may be requested by the applicant or any other interested person.

### **2:13-2 Service**

Any such subpoena may be served by the Sheriff, Under-Sheriff or Deputy, or any person 18 or more years of age. Service of a subpoena shall be made by delivering a copy thereof to the person named, or as otherwise permitted by law.

### **2:13-3 Failure to Comply**

If a person under such subpoena shall refuse or fail to appear or refuse to be examined or to answer any proper question, or to produce any books, papers, documents or tangible things, in accordance with the subpoena, the Board may apply to the Superior Court for an order to compel him to do so.

## **Rule 2:14 False Testimony**

### **2:14-1 Perjury:**

Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.), be guilty of perjury. The Board shall submit a transcript of a testimony it believes may be perjurious to the County Prosecutor for investigation.

## **ARTICLE III. MISCELLANEOUS PROVISIONS**

### **Rule 3:1 Relaxation of Rules**

#### **3:1-1 Where Rules May be Relaxed**

For good cause shown, or where the strict application of any rule would work surprise or injustice, the Board may relax the requirement of such rule, except where the provisions of the rule are also statutory requirements.

### **Rule 3:2 Person; Interested Person**

#### **3:2-1 Person; Interested Person**

Whenever in these rules reference is made to "any person", "any interested person", "any person interested in the action" or the like, such term refers to any "interested party" as defined in N.J.S.A. 40:55D-4.

**Rule 3:3 Application of Certain Land**

**3:3-1 Laws Applicable**

The provision of the County and Municipal Investigations Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers conferred by said act. These rules are adopted pursuant to the provisions of N.J.S.A.40:55D-8, subject generally to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey.

**Rule 3:4 Removal of Member**

**3:4-1 Grounds; Recommendation**

Whenever a member of this Board shall absent himself from meetings of the Board, without just cause, for a period deemed detrimental to the conduct of Board business, the Board may recommend to the (governing body of the municipality) in writing that such member be removed in accordance with the provisions of N.J.S.A. 40:55D-69.

**Rule 3:5 Citation of Rules and Decisions**

**3:5-1 Citation**

(a) These rules shall be cited as "PRB 1:1-1" etc. indicating that the rule is a Board Rule.

(b) Decisions of the Board shall be cited as "Resolution #-20 of Woodbury Planning/Zoning Board.

**Rule 3:6 Amendments**

**3:6-1 Amendments**

Amendments to these rules may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board at least three days prior to such meeting. In no case, however, shall any rule as amended be applicable to any action commenced prior to the adoption of such amendment where the application thereof to such action would result in surprise, hardship or injustice to the petitioner or other interested persons.