Telephone: 341-1000 Ext. 8370
Melissa Benedetto, Secretary

VARIANCE PROCEDURE

TOWNSHIP OF TOMS RIVER ZONING BOARD OF ADJUSTMENT

TO REQUEST A BULK OR USE VARIANCE FROM THE BOARD OF ADJUSTMENT:

To Appeal to the Zoning Board of Adjustment for a Bulk or Use Variance from the Township Code you must submit the following to the Zoning Board of Adjustment office at 33 Washington Street, PO BOX 728, Toms River, NJ 08754-0728 with the following information:

1. Completed Unified Land Development Application form.

2. Eight (8) copies of a survey of the property dated within the past (1) year one of which must include the surveyor's raised seal (as per 10/12/06 resol.)

3. Eight (8) copies of a plot plan or survey marked at the appropriate scale to show the proposed pool, addition, fence, etc.; Plot Plans prepared by architects must include the reference to the Professional Land Surveyor as required by State Statutes and Administrative Codes.

4. In the case of applications involving construction, addition or alteration related to structures such as sheds or dwellings, the applicant shall furnish eight (8) copies of the building plans showing elevations and floor areas (including dimensions).

5. An initial non-refundable application fee in the sum of $100 for pools and accessory structures and $250 for an addition, one or two family structure.

6. EDUCATIONAL FEE

   Pursuant to N.J.S.A. 40:55D-8(b) the following fees shall be due and payable in connection with the following categories of land use development applications submitted to the Township Planning Board and Board of Adjustment (Hereinafter referred collectively as "the Board"). The fee shall supplement the Administrative Fees currently charged to Applicants and shall be non-refundable and shall be used solely to offset requisite educational fees incurred by "the Board". The fee denoted as "Educational Fee" shall be utilized exclusively to offset the cost of continuing educational costs and fees incurred by members of the Board as necessitated in order to maintain valid board status. No application

may be deemed complete until all applicable non-refundable educational fees have been paid as follows:

Major Subdivision Site Plan Approval	$50	Due and payable at the time of application for preliminary approval
Variances pursuant to N.J.S.A. 40:55D-70(d)	$50	Due and payable at the time of application for conditional use permit
Minor Subdivision Minor Site Plan Approval	$25	Due and payable at time of submission of application
Variance pursuant to N.J.S.A. 40:55D-70(c) Not connected with any Other approval	$25	Due and payable at time of submission of application

7. An initial escrow application fee paid by separate check in accordance with the following schedule:

a)	In ground pool and detached garages	$600
b)	Accessory structures (deck, shed, fence and other similar structures)	$150
c)	Addition, one or two family structure	$1,500
d)	Use Variance	See fee ordinance 3980-05

Application fees noted above are determined as per Section 348-3.4. Payment may be in form of a check made payable to Township of Toms River or cash in the exact amount.

8. W-9 form completed to match the check submitted. (Form attached).

A property owner's list request must be submitted to the Toms River Township Engineering Department along with a $10.00 200' property owner's list fee in cash or a check payable to the Township of Toms River. This fee covers the first 40 property owners – After 40 property owners an additional fee of $.25 per line item will be charged. Note: This list will be used to give notice to all real property owners located in the State and within 200 feet in all directions of the property which is the subject of a hearing.

After furnishing the Board of Adjustment office with all of the submittals required above, the Zoning Board Engineer will perform an analysis of the application and list the variances required for the proposed work to be done. You will be receiving a copy of the analysis.

*(All corporations must be represented by an Attorney). *

A separate check must be submitted for escrow fees and must be accompanied by a completed W-9 form. If the funds fall below 30% of the total required escrow, an additional 30% of the initial escrow shall be deposited. In order for work to continue on said application, these funds must be deposited.

GIVING PUBLIC NOTICE

Pursuant to N.J.S.A. 40:55D-12 all applications being heard by the Township of Toms River Board of Adjustment require a Public Hearing and must give Public Notice of said hearing in accordance with the requirements of the Municipal Land Use Law and Township of Toms River Land Use and Development Regulations. This means that the applicant, his agent or attorney shall **at least ten (10) calendar days prior to the hearing date scheduled** give written notice either personally or by Certified Mail to all homeowners within 200' of the applicant's property and publish a legal notice in the newspaper. (e.g. - Hearing date is January 12, then notices should be out by January 2). All white certified receipts must be **stamped & dated by the post office at least the 10th day prior to the hearing**.

The blank "Public Notice" form shall be completed by the applicant showing what kind of work is proposed and which variances are required. This Notice shall also show the date, time and place of such hearing. This is the form which will be mailed or delivered to all property owners within 200', published in the newspaper and forwarded to utilities as described below.

If the applicant wishes to serve property owners personally, a "Proof of Service List" is available in the Board of Adjustment Office. The completed "Public Notice" form shall be hand delivered to the **homeowner** and a signature and date of delivery obtained. Said Notice can be left at the home with an occupant over the age of 14 years, said occupant must sign the "Proof of Service List".

Where the owner is a partnership or corporation, service upon any partner or officer in the corporation as above provided shall be sufficient.

Where the applicant's property fronts on a County road, adjoins County land or is situated within 200' of the Township of Toms River Municipal boundary, Public Notice shall also be given in writing to the Ocean County Planning Board, 129

Hooper Ave., PO Box 2191, Toms River, NJ 08754-2191. If said property fronts upon a State road or adjoins State land, a "Public Notice" shall be given to the N.J. Department of Transportation, 1035 Parkway Ave., Trenton, NJ 08625.

Additionally, if the applicant's property is within 200' of an adjoining Municipality, Notice of Hearing shall be given to the Clerk of such Municipality along with all property owners located within the 200'.

Pursuant to N.J.S.A. 40:55D-12, "Public Notice" must also be given to the following utilities: **This Tax Assessors office will provide you with these addresses.**

1. Toms River Water Company
2. New Jersey American Water Company, Inc.
3. New Jersey Natural Gas Company
4. Comcast Cable Communications
5. Verizon New Jersey, Inc.

In addition to the above the applicant must also publish a legal notice in either the Ocean County Observer, or the Asbury Park Press, both located at 8 Robbins St., Toms River, NJ 08753. Said notice must be published for one day only and must be published at least ten (10) days prior to the date of the hearing. An "Affidavit of Publication" must be obtained from the newspaper in which the notice was published. The "Public Notice" form should be used for the legal notice of hearing.

ITEMS TO BE BROUGHT TO THE BOARD OFFICE PRIOR TO HEARING

After all notices have been delivered the following items must be provided the Board of Adjustment Office **prior to 4:30 PM on the Friday before the scheduled hearing**.

- White certified receipts date stamped by the post office or completed "Proof of Service List
- Original "Affidavit of Publication" of the legal notice placed in the newspaper.
- "Proof of Service" form signed and notarized.
- A copy of the Public Notice sent or hand delivered to the property owners and utilities.
- A copy of the property owners list prepared by the Engineering Dept.

THE MEETING

On the evening of the public hearing meeting, the applicant, owner, contract purchaser or person having a real interest in the property, his agent or attorney, shall appear before the Board to submit or present proof in support of the application. A contractor/builder may not represent an applicant, but may accompany applicant as a builder. In the event that said applicant, his agent or attorney fails to appear at the scheduled hearing, the application shall be dismissed. If the applicant, his agent or attorney is unable to appear before the Board at the appointed time, they shall notify the Board of Adjustment Office no later than 4:00 PM on the date of the public hearing to inform the Board of an absence and the Board office will confirm with the same person a future date at which time the public hearing can be heard by the Board. At the time of the public hearing, and for applications involving variances for undersized lots, the applicant should be prepared to provide proof of an attempt to purchase additional property to make the lot conform and/or an attempt to sell the subject property to the adjoining owners for reasonable compensation.

Failure to comply with any of the above shall result in the cancellation of the applicant's public hearing and possible dismissal.

THE RESOLUTION

Should the Board of Adjustment take action on your application, the Board will adopt a Resolution at the following meeting memorializing the action taken. A copy of said resolution will be mailed to the applicant and/or their attorney.

If the application is approved, the applicant will obtain a blank "Notice of Decision" form and blank "Real Estate Tax Affidavit" form along with the Resolution. It is the applicant’s responsibility to publish a Notice of Decision in one of the above noted newspapers after the resolution is adopted. If the application is denied, the Board will publish a notice of decision to deny the application.

OBTAINING A “RESOLUTION COMPLIANCE CERTIFICATE”

To obtain a Resolution Compliance Certificate, the applicant must provide the Board of Adjustment office with the following proofs:

1. Proof of compliance with all conditions listed within the Resolution of Approval adopted by the Board of Adjustment.

2. Original "Affidavit of Publication" from the newspaper. Application form is available in the Zoning Board Office.

3. Copy of a completed Real Estate Tax Affidavit form, which will also be forwarded along with the resolution.

4. For any applications including escrow, it must be determined that all final bills have been submitted from both professionals.

The Zoning Board Engineer will determine whether or not the applicant has satisfied conditions imposed by the Board. The Zoning Board Engineer will issue a Resolution Compliance Certificate after you have satisfied the Board's conditions.

OBTAINING A ZONING PERMIT

To obtain a Zoning Permit from the Zoning Officer you must submit the following to the Zoning Office.

1. Zoning permit application form and Resolution Compliance Certificate.

2. Zoning Permit Fee ($25 for permit relating to decks, fences and sheds under 150 square feet. Any construction, pools and/or grading disturbing over 150 square feet of the lot area will require an additional review fee of $100.00 pursuant to 2008 ordinance #4158-08.

OBTAINING A BUILDING PERMIT

Upon receipt of the Zoning Permit from the Zoning Officer, the applicant may file an application with the Building Department. The applicant must provide the Building Department with a copy of the Zoning Permit and two (2) sets of plans signed by the Zoning Officer

Any questions regarding this procedure should be directed to:

(732) 341-1000 ext. 8370

Last revised May 26, 2009
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