

Chapter 157, LAND USE PROCEDURES

[HISTORY: Adopted by the Mayor and Council of the Borough of Laurel Springs 1-24-1977 by Ord. No. 275 (Ch. 51 of the 1973 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Site plan review -- See Ch. 213.

Subdivision of land -- See Ch. 233.

Zoning -- See Ch. 270.

ARTICLE I, Planning Board Powers and Procedures

§ 157-1. Establishment and membership, [Amended 2-28-1983 by Ord. No. 349]

There is hereby established, pursuant to P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), in the Borough of Laurel Springs a Planning Board of nine regular members and two alternate members, consisting of the following four classes:

- A. Class I: the Mayor or the Mayor's designee in the absence of the Mayor. EN
- B. Class II: one of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.
- C. Class III: a member of the governing body to be appointed by it.
- D. Class IV: six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member unless there be among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.

§ 157-2. Terms; alternate members.

- A. The term of the member composing Class I shall correspond to the Mayor's official tenure or if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first. EN
- B. The term of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever comes first.
- C. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four years after their appointment, as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years, except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.
- D. Alternate members shall be appointed by the governing body as Class IV members and shall meet the qualifications of Class IV members of a nine-member Planning Board. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The term of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only. [Added 2-28-1983 by Ord. No. 349]

§ 157-3. Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

§ 157-4. Organization.

The Planning Board shall elect a Chairman and a Vice Chairman from the members of Class IV and shall select a Secretary who may be either a member of the Planning Board or a municipal employee designated by it.

§ 157-5. Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney.

§ 157-6. Experts and staff.

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 157-7. Powers and duties generally.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, including any areas outside its boundaries which, in the Board's judgment, bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of Chapter 213, Site Plan Review, and Chapter 233, Subdivision of Land, in accordance with the provisions of said ordinances and the Municipal Land Use Law, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.).
- C. To approve conditional use applications in accordance with the provisions of Chapter 270, Zoning, pursuant to N.J.S.A. 40:55D-67.
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. To annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and to recommend same to the governing body.
- G. To consider and make report to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also to pass upon other matters specifically referred to the Planning Board by the governing body pursuant to the provisions of N.J.S.A. 40:55D-26h.
- H. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:
  - (1) Variances, pursuant to Subsection 57c of Chapter 291 of the Laws of 1975 (N.J.S.A. 40:55D-70c), from lot area, lot dimensional, setback and yard requirements, provided that such relief from lot area requirements shall not be granted for more than one lot.
  - (2) Direction, pursuant to Section 25 of said Act (N.J.S.A. 40:55D-34), for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of said Act.
  - (3) Direction, pursuant to Section 27 of said Act (N.J.S.A. 40:55D-36), for issuance of a permit for a building or structure not related to a street. Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.
- I. Powers generally. [Added 12-2-1996 by Ord. No. 553]
  - (1) The powers of the Planning Board shall be in accordance with N.J.S.A. 40:55D-69 et seq. and amendments and supplements thereto and with the provisions of this chapter.

(2) It is further the intent of this chapter to confer upon the Planning Board as full and complete powers as may lawfully be conferred upon such Board, including, but not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this chapter, or any term, clause, sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction applicable to legislative enactments.

(3) The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of this chapter in accordance with the general or specific rules contained herein and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of this chapter would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.

J. Appeals and applications. [Added 12-2-1996 by Ord. No. 553]

(1) Appeals to the Planning Board may be taken by any interested party. Each appeal shall be taken within the 65 days prescribed by the statute by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of said notice, with the Secretary of the Planning Board. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(2) Applications addressed to the original jurisdiction of the Planning Board without prior application to an administrative officer shall be filed with the Secretary of the Planning Board. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

(3) An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Planning Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Planning Board or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

K. Power to reverse or modify decisions. In exercising the above-mentioned power, the Planning Board may, in conformity with the provisions of P.L. 1975, c. 291, (N.J.S.A. 40:55D-1 et seq.) or amendments thereto or subsequent statutes applying, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken. [Added 12-2-1996 by Ord. No. 553]

L. Expiration of variance. Any variance from the terms of this chapter hereafter granted by the Planning Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within 60 days from the date of publication of the notice of the judgment or determination of the Planning Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Planning Board to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding. [Added 12-2-1996 by Ord. No. 553]

M. Powers granted by law. [Added 12-2-1996 by Ord. No. 553]

(1) The Planning Board shall have such powers as are granted by law to:

(a) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of Chapter 270, Zoning.

(b) Hear and decide requests for interpretation of the map or Chapter 270, Zoning, or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.

(c) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation in Chapter 270, Zoning, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to the Subsection 47a of the Municipal Land Use Law of 1975, P.L. 1975, c. 291 (N.J.S.A. 40:55D-60a).

(d) Grant a variance to allow a structure or use in a district restricted against such structure or use in particular cases and for special reasons, but only by the affirmative vote of at least 2/3 of the full authorized membership of the Board.

(2) No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Chapter 270, Zoning. Any application under any subsection of this section may be referred to any appropriate person or agency, including the Planning Board, for its report, provided that such reference shall not extend the period of time within which the Planning Board shall act.

N. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers. [Amended 12-2-1996 by Ord. No. 553]

§ 157-8. Combination of Planning Board and Zoning Board of Adjustment. [Added 12-2-1996 by Ord. No. 553]

The Planning Board shall exercise to the same extent and subject to the same restrictions all the powers of the Zoning Board of Adjustment; but the Class I and Class III members shall not participate in the consideration of applications for development which involves relief pursuant to N.J.S.A. 40:55D-70(d).

§ 157-9. Time limits.

A. Minor subdivisions. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Planning Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless within such period a plat, in conformity with such approval and the provisions of the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Planning Board before it will be accepted for filing by the county recording officer.

B. Preliminary approval of major subdivisions. Upon submission of a complete application for a subdivision of 10 or fewer lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon submission of a complete application for a subdivision of more than 10 lots, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval for the subdivision.

C. Ancillary powers. Whenever the Planning Board is called upon to exercise its ancillary powers before the granting of a variance, as set forth in § 157-7G, the Planning Board shall grant or deny approval of the application within 95 days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant.

D. Final approval. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the applicant. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat.

§ 157-10. Procedure for filing applications.

Applications for development within the jurisdiction of the Planning Board, pursuant to the provisions of P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), shall be filed with the Secretary of the Planning Board. The applicant shall file, at least 14 days before the date of the monthly meeting of the Board, three copies of a sketch plat, three copies of an application for minor subdivision approval, three copies of an application for major subdivision approval or three copies of an application for site plan review, conditional use approval or planned development. At the time of filing the application but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

§ 157-11. Citizens' Advisory Committee.

The Mayor may appoint one or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other actions required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

§ 157-12. Submission of application to Environmental Commission.

Whenever the Environmental Commission has prepared and submitted to the Planning Board an index of the natural resources of the municipality, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development to the Planning Board. Failure of the Planning Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

## ARTICLE II, Administrative Provisions

§ 157-13. Conflicts of interest. [Amended 12-2-1996 by Ord. No. 553]

No member of the Planning Board shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

§ 157-14. Meetings.

A. Meetings of the Planning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.

[Amended 12-2-1996 by Ord. No. 553]

B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

C. No action shall be taken at any meeting without a quorum being present.

D. All actions shall be taken by majority vote of a quorum, except as otherwise required by any provision of P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.).

E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Chapter 231 of the Laws of 1975 (N.J.S.A. 10:4-6 et seq.).

§ 157-15. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection

during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use, as provided for in the rules of the Board.

§ 157-16. Fees. [Amended 12-2-1996 by Ord. No. 553]

Fees for applications or for the rendering of any service by the Planning Board or any member of their administrative staffs which are not otherwise provided by ordinance may be provided for and adopted as part of the rules of the Board, and copies of said rules or of the separate fee schedule shall be available to the public.

§ 157-17. Hearings.

A. The Planning Board shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter. [Amended 12-2-1996 by Ord. No. 553]

B. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et seq.), shall apply.

C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

E. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

§ 157-18. Notice requirements for hearings. EN

Whenever a hearing is required on an application for development, pursuant to N.J.S.A. 40:55D-1 et seq. or pursuant to the determination of the municipal agency in question, the applicant shall give notice thereof as provided in N.J.S.A. 40:55D-12.

§ 157-19. List of property owners.

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the administrative officer of the municipality, shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee as provided in the Annual Fee Ordinance, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 157-18B of this chapter.

§ 157-20. Form of decisions; copies.

A. Each decision on any application for development shall be set forth in writing as a resolution of the Board which shall include findings of fact and legal conclusions based thereon.

B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon a payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

§ 157-21. Publication of decision. [Amended 12-2-1996 by Ord. No. 553]

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Secretary of the Planning Board, as the case may be, without separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 157-22. Payment of taxes. [Amended 12-2-1996 by Ord. No. 553]

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application, or, if it is shown

that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.