

## ARTICLE VII DEVELOPMENT APPLICATION REVIEW PROCEDURES

### SECTION 701. DIVISION OF JURISDICTION IN DEVELOPMENT APPLICATIONS.

- A. Planning Board. The following provisions set forth the jurisdiction of the Planning Board in the review of development applications:
1. The Planning Board shall have the power to grant subdivision or conditional use approval simultaneously with site plan approval.
  2. Review by Planning Board in lieu of Zoning Board of Adjustment. Whenever the proposed development requires approval of a subdivision, site plan, or conditional use, but not a variance pursuant to *N.J.S.A. 40:55D-70d*, the Planning Board, in lieu of the Zoning Board of Adjustment, to the same extent and subject to the same restrictions, shall receive, review, and act upon applications for variances and the issuance of permits pursuant to *N.J.S.A. 40:55D-32, -34, -36 and -70c*.
  3. Bifurcation of application. A developer may elect to submit a separate application requesting approval of variances and the issuance of permits pursuant to *N.J.S.A. 40:55D-32, -34, -36 and -70c* and a subsequent application for any required approval of a subdivision, site plan, or conditional use. The separate approval of any variance or issuance of permit shall be conditioned upon the grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Master Plan and Zoning Ordinance, or where a deviation would advance the purposes of the Master Plan and the Zoning Ordinance and the benefits of the deviation would outweigh the detriments. Whenever relief is requested pursuant to this subsection, the public notice shall include a reference to the request for a variance or direction for issuance of a permit, as the case may be.
  4. Grant bulk (c) variances pursuant to *N.J.S.A. 40:55D-70c*.
  5. Direct issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin, or public area reserved pursuant to *N.J.S.A. 40:55D-34*.
  6. Direct issuance of a permit for a building or structure not related to a street pursuant to *N.J.S.A. 40:55D-36*.
- B. Zoning Board of Adjustment Action in Lieu of Planning Board. The Zoning Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, site plan, subdivision, or conditional use approval when reviewing an application for approval of a "use (d) variance" pursuant to *N.J.S.A. 40:55D-70d*.

### SECTION 702. PLANNING & ZONING BOARD OF ADJUSTMENT PROVISIONS.

- A. Meetings.
1. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled at least once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
  2. Special meetings may be scheduled at the call of the chair or on the request of any two board members, which shall be held on notice to its members and the public in accordance with the *Open Public Meetings Act, P.L. 1975*.
  3. Actions at meetings; quorum. All agenda items requiring action by the Board, except adjournments, shall be taken with a quorum present.
  4. No action shall be taken on an application unless it has been declared complete pursuant to §805.K and *N.J.S.A 40:55D-10.3*. The Board may delegate the determination of completeness to a subcommittee or its designee.

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5. All actions shall be taken by a majority vote of the members present at such meeting, except as otherwise provided in this Article. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote requirements of §604.D shall be deemed an action denying the application. A member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings: provided, however, that such a Board member has available to him or her the transcript or recording of all the hearings from which he or she was absent, and certifies in writing to the Board that he or she has read such transcript or listened to such recording.
  6. All meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the *Open Public Meeting Law, C. 231, Laws of New Jersey, 1975*.
- B. Records of the Board.
1. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Planning Board or the Zoning Board of Adjustment, and of the persons appearing by attorney, the action taken by the Planning Board or Zoning Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during the normal business hours at the office of the Administrative Officer and in conformance with the *New Jersey Open Public Records Act (OPRA)*. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes, consistent with the *New Jersey Open Public Records Act (OPRA)* and §901.A of this Ordinance.
  2. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made by either stenographer, mechanical, or electronic means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense, provided that the charge for a transcript shall not exceed the amount permitted in *New Jersey Open Public Records Act (OPRA)* and §901.A of this Ordinance. Each transcript shall be certified in writing by the transcriber to be accurate.

### **SECTION 703. PUBLIC HEARINGS.**

- A. The Planning Board or Zoning Board of Adjustment, as the case may be, shall hold a hearing on each application for development, and amendments, revisions, or adoption of the Master Plan or Zoning Ordinance. Each Board shall make the rules governing such hearings.
- B. Any maps and documents for which approval is sought at a hearing shall be on file with the Administrative Officer and available for public inspection during normal business hours at least ten (10) days before the date of the hearing. If maps or related material are to be revised as a result of any Planning or Zoning Board meeting, the appropriate number of copies shall be filed in accordance with Article VIII of all revised maps and related material, with revision date noted on same, prior to the meeting of the Planning or Planning Board at which discussion and/or hearing is scheduled to take place.
- C. Other documents, records or testimony may be presented at the hearing to substantiate or clarify or supplement the previously filed maps and documents, at the discretion of the Board.
- D. The officer presiding at the hearing, or his or her designee, shall have 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, N.J.S.A. 2A:67A-1 et seq.* shall apply.
- E. 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.

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

**SECTION 704. DECISIONS.**

- A. Findings & Conclusions. The Planning or Zoning Board of Adjustment, as the case may be, shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Board shall provide the findings and conclusions through:
  - 1. A resolution adopted at a meeting held within the time period provided in this section for action by the respective Board on the application for development; or
  - 2. A memorializing resolution adopted at a meeting held not later than forty-five (45) days after the date of the meeting, at which the Board voted to grant or deny approval.
    - a. Only the members of the Planning Board or Zoning Board of Adjustment who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.
    - b. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member.
    - c. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
    - d. The vote on any such resolution shall be deemed to be a memorialization of the action of the Planning and Zoning Board and not to be an action of the Board; however, the date of the adoption of the resolution shall constitute the date of the decision for the purposes of the mailings, filings, and publications required by §710.
- B. Failure to Adopt Resolution. If the Planning or Zoning Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested person may appeal to the Superior Court in a summary manner for an order compelling the Planning or Zoning Board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorneys' fees, shall be assessed against the municipality.

**SECTION 705. PUBLIC NOTICE OF A HEARING.**

The following public notice requirements shall apply to all hearings of the Planning Board and Zoning Board of Adjustment.

- A. Notice Required. Public notice of a hearing shall be given for development applications requesting the following:
  - 1. Informal or Conceptual Review;
  - 2. General Development Plan (GDP) approval;
  - 3. Variance (*N.J.S.A. 40:55D-70*);
  - 4. Preliminary Major Subdivision Plan approval;
  - 5. Preliminary Major Site Plan approval;
  - 6. Minor Site Plan approval;
  - 7. Conditional Use approval;
  - 8. Interpretation of the Zoning Ordinance or Zoning Map;
  - 9. Request for a certificate of Non-Conforming Use (*N.J.S.A. 40:55D-68*).
  - 10. Issuance of a Permit to Build within the Bed of a Mapped Street or Public Drainage Way or on a Lot Not Abutting a Street (*N.J.S.A. 40:55D-34 and -35*);
  - 11. Any site plan approval involving a variance, conditional use permit or certificate of non-conformity;

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12. Any subdivision plan approval involving a variance, conditional use permit or certificate of non-conformity; and
  13. Any request for a zoning change not part of a general reexamination of the Master Plan or Master Plan adoption.
- B. No Notice Required. Public notice shall not be required for the following applications:
1. Appeals, pursuant to *N.J.S.A. 40:55D-70a*.
  2. Minor Subdivision Plan
  3. Final Major Subdivision Plan.
  4. Final Major Site Plan.
  5. Site Plan Waiver.
  6. Any other type of application or action by the Board not specifically listed in §705.A.
- C. Notice of Application or Action. The secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, shall provide written notification to the applicant at least two weeks prior to the public hearing for the subject application. Notice of a hearing requiring public notice shall be given by or on behalf of the applicant at least ten (10) days prior to the date of the hearing in the following manner:
1. Newspaper. By publication in the official newspaper of the municipality or in a newspaper of general circulation in the municipality; and
  2. Property Owners. Written notice shall be given to interested parties by personal service or certified mail per *N.J.S.A. 40:55D-1*; a return receipt is not required to be obtained. Notice shall be deemed complete upon mailing. The following shall constitute interested parties that require notice:
    - a. Property Owners. All owners of real property, as shown on the current tax record located in the State and within two hundred (200') feet in all directions of the property, which is the subject of the hearing; and
    - b. Partnership. A partnership owner or corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation, as shown on the current tax record located in the State, within two hundred (200') feet of the subject property of the hearing; and
    - c. Condominium Association. A condominium association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by serving a copy on the property owner, as shown on the current tax record, or his or her agent in charge of the property; or by mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax record, within two hundred (200') feet of the subject property of the hearing; and
    - d. Surrounding Municipalities. The clerk of any adjoining municipality or municipalities when the property involved is located within two hundred (200') feet of said adjoining municipality or municipalities; and
    - e. Camden County Planning Board. The Camden County Planning Board when the application for development involves property adjacent to an existing county road or proposed road shown on the county official map or the Camden County master plan or adjoins other county land, or is situated within two hundred (200') feet of a municipal boundary; and
    - f. NJDOT. The Commissioner of the New Jersey Department of Transportation (NJDOT) when the property abuts a State highway; and
    - g. State Plan. The State Planning Commission when the hearing involves an application for development of property that exceeds one hundred and fifty (150) acres or five hundred (500) dwelling units, in which case the notice shall include a copy of any maps or documents required to be on file with the Administrative Officer; and

- h. Utilities. The public utilities, local utilities, and cable television companies when such entity possesses a right-of-way or easement within the municipality and has registered with the municipality (pursuant to *N.J.S.A. 40:55D-12.1*) ; and
  - i. Additionally, the applicant shall be responsible for giving proper notice to all property owners who do not reside within the municipality.
- D. Property List. Upon the written request, the Department of Community Development shall, within seven (7) days, make and certify a list from current tax records of names and addresses of owners within the municipality. A cost for the list in accordance with §901.A shall apply. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner (as listed in §705.C.2) not on the list shall not invalidate any hearing or proceeding.
- E. Proof of Service. The applicant shall file an affidavit or proof of service with the Planning Board or Zoning Board of Adjustment, as the case may be, a minimum of three (3) days before the subject hearing.
- F. Contents of Notice. The notice shall state, at a minimum, the following items:
1. The date, time and place of the hearing, and
  2. The nature of the matters to be considered, and
  3. The specificity of all known variances, and
  4. An identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax records, and
  5. The location and times at which any maps or documents for which approval is sought are available for inspection, including any referencing application number.

#### **SECTION 706.            STANDARDS FOR REVIEW OF APPLICATIONS.**

Development plans shall be so designed consistent with the Master Plan and subsequent Reexamination Reports, as to enhance the general appearance of the Township and to promote the harmonious use of land; to lessen congestion in the streets; to secure safety from fire, panic, or other dangers; to promote the general health, safety, and welfare; to provide adequate light and air; to prevent the overcrowding of land, buildings and roadways by an undue concentration of population; to encourage development which would facilitate pedestrian access and the use of mass transit; to encourage creative development and design consistent with the policies of the Master Plan of the Township of Cherry Hill, and the regulations promulgated herein. Applications for development shall be reviewed so as to the standards for development contained within this Ordinance and more particularly the following specific objectives:

- A. Development Compatibility. All development shall permit and encourage only those uses of the land which, through the standards adopted in this Ordinance, provide for flexibility in planning and development and that respect the natural character of the land, the drainage system, soil capabilities, groundwater and aquifer recharge quality, and to include only those uses that are compatible with allowed uses in the zone and existing uses on adjacent lands. Such compatibility shall be determined on the basis of inventories of the natural features of the site, plans indicating the physical relationship among types of uses and any natural or human-made barriers, existing or planned, between different uses both within and adjacent to the proposed development, and sufficient information to determine the effect of such development upon the quality of life in the Township of Cherry Hill.
- B. Relationship to Master/Reexamination Plan. All development shall be planned and designed to achieve the goals and objectives for land development as are or may be set forth in the Cherry Hill Township Master Plan and subsequent reexaminations duly adopted by the Planning Board with regard to conservation, historic preservation, community facilities, recreation, open space, recycling, affordable housing, circulation, land use, fiscal impact, economic development, and the goals for development of adjacent municipalities, Camden County, and the State.

- C. Relationship to Development Patterns. All development shall be planned and designed to achieve the Township goals of permitting and encouraging a population density and a development pattern in the municipality that facilitates the provision of public utilities and services, including public water and public sewerage, storm drainage systems, emergency services, public services, recreation areas, public schools, state, county, and local roads, in an orderly, functional and economical manner.
- D. Conservation of Open Space. Common open space and adequate recreation areas shall be set aside in suitable locations to provide for the recreation needs of the residents and the owners of the development and those portions of the project that, because of their natural features, constitute important visual amenities and environmental resources. Development is intended to create after completion a continuity of open space resulting from the integration of upland, wetland, floodplain and surface water areas in accordance with the goals and objectives of the Master Plan and subsequent reexaminations.
- E. Appearance & Aesthetic Control. All development shall be planned and designed to promote and achieve aesthetically pleasing views from and to various land uses. The creation and promotion of such aesthetic conditions shall strengthen and preserve the Township's unique environmental heritage and promote the civic pride, prosperity, and general welfare of the residents of the development, the municipality, and visitors thereto.
- F. Review Guidelines. The following guidelines shall be used in the review of any application for development or conditional use:
1. Natural Features. All residential and non-residential uses shall be designed with regard to the topography and natural features of the site. The effects of prevailing winds, seasonal temperatures and hours of sunlight on the physical layout and form of the proposed buildings shall be taken into account. Special consideration shall be given to the preservation of natural features, including large trees, stands of specimen vegetation, groves, waterways, aquifer recharge areas, scenic, paleontological, archaeological, cultural, and historic sites and other community assets within the site area, and the reduction of impacts on wildlife. The development shall be designed and programmed so as to minimize tree clearance and the destruction of natural amenities associated with the same.
  2. Site Layout. All housing and supporting uses shall be sited so as to enhance privacy for residential uses, ensure natural light for all principal residential rooms, and to the greatest extent possible be designed to promote passive solar energy technology. Building layout shall be reviewed for arrangement, efficiency and aesthetic quality.
  3. Community Facilities. Housing shall be conveniently served by community facilities and open space.
  4. Circulation. The pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, the movement of people, goods and vehicles from access roads within the site, between buildings and between buildings and vehicles. In particular the applicable Board shall ensure compliance in site design with the *Americans with Disabilities Act* (A.D.A.), as it may be amended or superseded. The Planning and Zoning Board shall ensure that all parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site. The circulation shall be consistent with Township, County, and State requirements.
  5. Open Space. Open space within all developments shall be planned and designed to achieve the Township goal of insuring that adequate recreation areas are set aside in suitable locations to provide for the recreation needs of the residents and owners of the development. Those portions of the Township that, because of their natural features, constitute important visual amenities and environmental resources are maintained in accordance with sound conservation practice.
  6. Sustainability. Development that furthers the goals of climate protection, increased energy efficiency, reduced emissions, and utilization of green building methods shall be encouraged.

7. Landscaping. Landscaping shall be reviewed for the ability to integrate the site elements of topography, water, buildings, parking and loading areas, and the buffering of incompatible uses, as well as sustainability, diversity, including species, function, sculpture, fencing, walls, and other landscaping elements.
8. Lighting. Adequate lighting for the function of the site shall be reviewed for the safe movement and security of persons and vehicles. Particular attention shall be made to the minimization of glare and impact upon adjacent property, as well as minimizing upward light pollution.
9. Signs. Signs shall be for identification purposes only, and shall be evaluated for the aesthetics of their design and their harmony with other signs on- and off-site, the architectural design of the building or buildings to which they relate and the type of development or pattern of the built environment surrounding the location of the sign or signs. The location of signs shall be reviewed, in part, for the purpose of removing any hazard to pedestrians, cyclists, or motorists.
10. Utilities, Solid Waste & Recycling. Storm drainage, sanitary and solid waste disposal including recycling, water supply, electricity supply, telephone and cable television service shall be reviewed and considered. Emphasis shall be given on the adequacy of existing systems and the need for improvements, both on- and off-site to adequately provide for the development's needs. The application of stormwater non-structural strategies and best management practices are best.
11. Compatibility. Applications for development and conditional uses shall be designed to assure the compatibility of residential and non-residential uses by:
  - a. Providing commercial uses with appropriate space and, in particular, sufficient depth from a street to satisfy the needs of contemporary uses including the provision of adequately landscaped off-street parking, buffer areas between commercial and residential use areas, pedestrian and bicycle circulation systems connecting the commercial uses to office, residential and open space uses;
  - b. Protecting non-residential development and nearby residences against fire, explosions, toxic and noxious matter, radiation and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare and other objectionable influences;
  - c. Protect residential and non-residential development from the noise; exhaust emissions, and other negative aspects of congestion of vehicular traffic.

**SECTION 707. STANDARDS FOR VARIANCE RELIEF.**

- A. No variance or other relief may be granted under the terms of this Article, including a variance or other relief involving an inherently beneficial use, 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 Master Plan, subsequent Reexamination Report, and Zoning Ordinance.
- B. The applicant bears the burden of proving both the positive and negative criteria made in all variance applications
- C. Case law recognizes three categories of circumstances in which 'special reason' for a use variance may be found:
  1. The proposed use inherently serves the public good, such as a school, hospital or public housing facility; or
  2. The property owner would suffer 'undue hardship' if compelled to use the property in conformity with the permitted uses in the zone.
  3. The use would serve the general welfare because, the "proposed site is particularly suitable for the proposed use."

**SECTION 708. APPEALS & APPLICATIONS TO THE ZONING BOARD OF ADJUSTMENT.**

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- A. Appeals. Appeals to the Zoning Board of Adjustment may be taken by an interested party affected by any decision of the Administrative Officer of the municipality based on or made in the enforcement of the zoning provisions of this Ordinance or Zoning Map. Such appeal shall be made within twenty (20) days by filing a written notice of appeal to the Administrative Officer from whom the appeal was taken, specifying the grounds of such appeal. The official from whom the appeal is taken shall immediately transmit to the Board and professionals all the papers constituting the record upon which the action appealed from was taken.
- B. Applications. A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to the Administrative Officer.
1. Whenever an application for development requests relief pursuant to *N.J.S.A. 40:55D-70d*, the Zoning Board of Adjustment shall grant or deny approval of the application within one hundred and twenty (120) days after submission by an applicant of a complete application to the Administrative Officer or within such further time as may be consented to by the applicant.
  2. In the event that the applicant elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance.
  3. The period for granting or denying any subsequent approval shall be as otherwise provided in this Ordinance.
  4. Failure of the Zoning Board of Adjustment to act within the period prescribed shall constitute approval of the application. Upon which, a certificate of the Administrative Officer as to the failure of the Zoning Board of Adjustment to act shall be issued on request of the applicant. It shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

### **SECTION 709. APPEAL OF A ZONING BOARD DECISION.**

- A. Right of Appeal. Any interested party may appeal to the Township Council any final decision of the Zoning Board of Adjustment approving an application for a use (d) variance (*N.J.S.A. 40:55D-70d*). All other appeals of such decisions shall appeal to Superior Court, as provided for by law.
- B. Time for Appeal. Such appeal shall be made within ten (10) days after the date of publication of the decision pursuant to §611 by serving upon the Municipal Clerk personally or by certified mail a written notice of appeal specifying the grounds thereof and the name and address of the appellant, and, if represented, his or her attorney. A copy of such notice shall also be filed by the appellant with the Zoning Board of Adjustment. The notice served upon the Municipal Clerk shall be accompanied by a payment to the municipality of a fee in accordance with §901.A.
- C. Stay of Proceedings. An appeal to the Township Council shall stay all proceedings in furtherance of the action in respect of which the decision appealed from was made. However, unless the Zoning Board of Adjustment certifies to the Township Council after the notice of appeal has been filed with such Board, that by reasons of facts stated in the certificate a stay would (in the Zoning Board's opinion) cause imminent peril to life or property. In such a case, proceedings shall not be stayed other than by order of the Superior Court on application upon notice to such Board and on good cause shown.
- D. Basis of Appeal. An appeal shall be decided by the Township Council only upon the record established before the Zoning Board of Adjustment.
- E. Appellant Requirements. The appellant shall, within five (5) days of service of the notice of appeal pursuant to §709.B, arrange for a transcript for use by the Township Council and pay a deposit of \$50.00 or the estimated cost of the transcript, whichever is less; or within thirty-five (35) days of service of the notice of appeal, submit a transcript as otherwise arranged to the Municipal Clerk. Otherwise, the appeal may be dismissed for failure to prosecute.



- F. Notice. Notice of the hearing to review the record below shall be given by the Township Council by personal service or certified mail to the appellant, to those entitled to notice of the Zoning Board of Adjustment's decision, pursuant to §711, and to the Zoning Board of Adjustment, at least ten (10) days prior to the date of the hearing.
- G. Decision of the Governing Body. Township Council may affirm, with or without the imposition of conditions, reverse or remand the final decision appealed from the Zoning Board of Adjustment. The affirmative vote of a majority of the full authorized membership of Township Council shall be necessary to reverse, remand, or affirm, with or without conditions the same. A tie vote shall constitute affirmance.

**SECTION 710. TIME LIMITS FOR DECISIONS.**

- A. Effect of Variance Request. Whenever an application to the Planning Board or Zoning Board of Adjustment, as the case may be, for approval of a subdivision plan, site plan, or conditional use includes a request for a hardship variance or special permit, the Planning Board shall grant or deny approval of the application within one hundred and twenty (120) days after the date of submission by a developer of the complete application to the Administrative Officer or within such further time as may be consented to by the applicant. For all site plan and subdivision applications only, once the determination of completeness is made and certified, the Planning Board or Zoning Board of Adjustment, as the case may be, then has the following time period to act:
  - 1. 45 days for a subdivision of ten or fewer lots (per N.J.S.A. 40:55D-48)
  - 2. 95 days for subdivision of more than ten (10) lots (per N.J.S.A. 40:55D-48);
  - 3. 45 days for approval of a minor site plan or minor subdivision (per N.J.S.A. 40:55D-46.1 and 40:55D-47, respectively);
  - 4. 45 days for the approval of a site plan of ten (10) acres of land or less and ten or fewer dwelling units (per N.J.S.A. 40:55D-46);
  - 5. 95 days for a site plan of more than ten (10) acres or more than ten dwelling units (per N.J.S.A. 40:55D-46); and
  - 6. 95 days for approval of a conditional use (per N.J.S.A. 40:55D-61).
  - 7. 95 days to grant or deny a general development plan (per N.J.S.A. 40:55D-45.3)
- B. Variance Bifurcation. In the event that an applicant elects to submit separate consecutive applications, the one hundred and twenty (120) day limitation shall apply to the application requesting approval of a variance or special permit. The period for granting or denying any subsequent approval shall be as otherwise provided in this Ordinance.

**SECTION 711. NOTICE OF DECISIONS.**

Notice of any decision of the Planning Board or Zoning Board of Adjustment when acting upon an application for development, as well as any decisions of Township Council when acting upon an appeal shall be given notice in the following manner:

- A. Mailing of Decision. A copy of the decision shall be sent to the applicant and to the appellant (if the appellant is a differing interested party) or, if either or both is represented, then to the respective attorney(s) without charge, and for a reasonable charge to any other interested person who has requested it, within ten (10) days after the date of the memorialization of the resolution.
- B. Newspaper Notice of Decision. A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publications shall be arranged by the administrative officer. The notice shall be sent to the official newspaper for publication within ten (10) days after the resolution is memorialized.
- C. Filing of Decision. A copy of the decision and all submitted documents of record shall be filed with the Administrative Officer.

**SECTION 712. EXPIRATION OF APPROVALS.**

- A. Variances. Any bulk (c) and/or use (d) variance hereafter granted by the Planning Board or Zoning Board of Adjustment, as the case may be, shall be subject to the following:
1. Any variance hereafter granted by the Planning Board or Zoning Board of Adjustment, which permits the construction 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 ever structure permitted by variance, or unless such permitted use has actually commenced, within one year from the date of the adoption of the Planning Board or Zoning Board of Adjustment resolution. The determination as to whether construction has actually commenced shall be made by the Administrative Official. The running of the period of limitation hereby established shall be tolled from the date of the filing of an appeal from the decision of either the Planning Board or the Zoning Board of Adjustment to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.
  2. Whenever any variance hereafter is granted by the Zoning Board of Adjustment or the Planning Board is related to subdivision or site plan approval, such variance shall remain in effect so long as the related subdivision or site plan approval remains in effect.
  3. An applicant may apply for, and the Planning Board or the Zoning Board of Adjustment may grant, extensions on such variance approval for additional periods of one year but not to exceed a total extension of three years from what would otherwise be the expiration date, if the applicant proves to the reasonable satisfaction of the appropriate Board that the applicant was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the applicant applied promptly for and diligently pursued the required approvals. The applicant may apply for the extension either before or after what would otherwise be the expiration date of the variance approval. The extension shall begin on what would otherwise be the expiration date.
- B. Preliminary Approval. Preliminary approval of a major subdivision or site plan shall expire simultaneously with expiration of the rights conferred on the applicant three (3) years from the date on which the resolution of preliminary approval is adopted, unless (a) prior to expiration of those rights, the applicant has submitted an application for final approval, and (b) final approval is granted within one (1) year after the date on which the application for final approval is submitted; provided, that the Board with which the application for final approval is filed may extend the one (1) year period for good cause shown as set forth above in §712.A.3. Nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as it relates to public health and safety.
- C. Final Approval. Final approval of a major subdivision or site plan shall expire simultaneously with expiration of the rights conferred on the developer two years after the date on which the resolution of final approval is adopted unless, prior to expiration of those rights, construction of the project has substantially commenced pursuant to a validly issued construction permit or other necessary approval. In the event of a dispute as to whether any construction has substantially commenced, the Administrative Official may refer the matter to the Board that granted the underlying approval for a determination for good cause shown as set forth above in §712.A.3. In the case of a major subdivision, the rights conferred by this section shall expire if the plan has not been duly recorded within 95 days from signing, unless within said period the plan was recorded in the Camden County Clerk's Office.