

BY LAWS
OF
JOINT LAND USE BOARD
OF THE
BOROUGH OF DUMONT,
NEW JERSEY
(Adopted May 18, 2023)

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**PART I
ADMINISTRATION**

Rule 1:1. Organization, Officers, General Provisions

1:1-1. Title of the Board. The Title of the Board shall be: “The Joint Land Use Board of the Borough of Dumont, New Jersey” (hereinafter referred to as “Board”)

1:1-2. Annual Meeting; Officers. The annual meeting of the Board shall be held at the first regularly scheduled meeting of the Board in January of each year; at which time the Board shall elect, from among its members, a Chairperson and a Vice-Chairperson. A Recording Secretary shall be selected and employed. The Board shall also select a Board Attorney, Board Planner and a Board Engineer, all of whom shall serve for one (1) year and until their successors have been appointed. The Board may appoint such other officers or assistants 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 or she shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally appertaining to his or her office. He or she or a designee shall swear all witnesses giving testimony before the Board. He or she may demand that any person whose conduct is disruptive to the conduction of business of the Board leave the meeting and upon the refusal of such person to do so, have that person removed. The Chair may adjourn the meeting at 11:00 P.M. or as may be appropriate and practicable. The Chair may eliminate any repetitive questions, arguments, testimony or any other tactics deemed by the Chair to be unproductive or inconsiderate of the Board’s time.

1:1-4. Vice-Chairperson. The Vice-Chairperson shall preside at all Board meetings and hearings in the absence of the Chairperson. In the absence of the Chairperson and Vice-chairperson the member with the most aggregate time on the Board shall conduct the meeting as the Chair.

1:1-5. Recording Secretary.

(a) The Recording Secretary (“Secretary”) to the Board shall attend all meetings of the Board, conduct all official correspondence, other than that pertaining to legal matters, which the Board Attorney is empowered to send, compile the required records, maintain and keep in order the necessary files and indices, and generally perform the administrative work of the Board, notify the Municipal Clerk and the Officer charged with enforcement of the Zoning Ordinance of all meetings of the Board, shall provide them with a list of the matters scheduled for hearing at each meeting, give all notices of meetings required to be given by the Open Public Meetings Law, and the Municipal Land Use Law or any other applicable law or ordinance and shall have

the care and custody of all records, documents, maps, plans and papers of the Board, for the care and custody of which no other provision is made by statute. When the “yeas” and “nays” are taken, the Secretary shall call the roll in the order of the arrangement of the seats of the members beginning with the first at his or her left, and the Chairperson shall be called last. The Secretary to the Board may delegate his or her authority and duties at any time to such other person as the Secretary deems appropriate.

(b) The Secretary 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 of the minutes of that meeting. The Secretary shall issue notices of meetings and shall perform such other duties as usually appertain to the office of the Secretary to the Board.

(c) The Secretary shall publish the notice and serve copies of the Board’s resolution as provided in Rule 2:8-5.

Rule 1:2. Meetings

1:2-1. Regular Meetings. The regular meetings of the Board shall be held at the Municipal Building, as may be scheduled by the Board at the Municipal Hall, 50 Washington Avenue, Dumont, New Jersey, at such time and date as may be fixed by the Board from time to time. The Secretary shall annually furnish a copy of the regular meeting dates for the year to the news media designated by the municipal governing body in accordance with the Open Public Meetings Law, N.J.S. 10:4-6 et seq.

1:2-2. Special Meetings. Meetings may be called by the Chairperson, or in his or her absence by the Vice-Chairperson, at any time or upon the written request of two (2) members, provided notice thereof be mailed or given to each member of the Board at least two (2) days prior thereto, and to the public as required by the Open Public Meetings Law, N.J.S. 10:-6 et seq.

1:2-3. Meetings Open to Public. All meetings shall be open to the public, except such executive sessions as authorized by law.

1:2-4. Order of Business. The order of business at all meetings shall be as follows:

- (a) Roll Call
- (b) Communications
- (c) Approval of minutes of previous meeting
- (d) Applications for adjournment of scheduled cases
- (e) Calendar of Business (Applications)
- (f) Payment of bills
- (g) Other business
- (h) Adjournment

The order of business may be altered by the Chairperson in his or her discretion.

1:2-5. Record of Proceedings. As required by N.J.S.A. 40:55D-10(f), the Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means, or both. The Board, upon written request and deposit to insure reimbursement for the cost, shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party at such party's expense. All stenographers' notes, electronic recordings or other verbatim records of meetings shall be retained by the Board for a period in accordance with law or until the termination of any proceedings relating to such matter in the Superior Court or the Supreme Court of the State of New Jersey, whichever is longer.

1:2-6. Agenda. The agenda for each meeting of the Board shall be in the discretion of the Chairman subject to any time limitations imposed by law.

1:2-7 Hearings

- a. At the time of the hearing, the applicant may appear in his/her own behalf or be represented by his/her counsel, unless it is a corporation, in which case, it must be represented by an attorney.
- b. All witnesses shall testify under oath.
- c. The applicant or his/her representative may make an initial statement outlining the nature of his/her request prior to introducing evidence.
- d. Evidence shall be presented to the Board in the following order:
 - i. Chairman or Board Attorney may give restatement of case if applicant's or his/her representative's initial statement needs clarification.
 - ii. Applicant presents evidence.
 - iii. Board examines applicant's witnesses.
 - iv. Objectors and public cross-examine applicant's witnesses.
 - v. Objectors and public present evidence.
 - vi. Applicant cross-examines objectors' and public's witnesses.
 - vii. Board examines objectors' and public's witnesses.
 - viii. Rebuttal by objectors and public.
 - ix. Rebuttal by applicant.

- x. Evidence by Board, if any.
- e. The Board shall not be bound by the strict rules of evidence, but it may exclude irrelevant, immaterial, incompetent, or unduly argumentative repetitious testimony or evidence. Petitions shall not be admitted into the record for any purpose.
- f. The Chairman, with the advice of the Board Attorney, shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board. When any hearing before the Board shall carry over two or more meetings, a member of the Board who was absent for one or more of the meetings shall be eligible to vote on the matter upon which the hearing was conducted notwithstanding his/her absence from one or more of the meetings; provided, however that such Board member has available to him or her a transcript or recording of the meetings from which he was absent, and certifies, in writing, to the Board that he or she has read such transcript or listened to such recording.

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 (5) members. In the absence of a quorum, the members present may adjourn the meeting, and the hearing on any motion or application, to another date.

1:3-2. Motions. All motions shall require a second; a motion which does not obtain a second shall be deemed to be rejected.

1:3-3. Voting. All votes, except motions to go to closed session, to accept minutes or to adjourn, shall be taken by roll call and the vote and name of the person casting the vote shall be recorded in the minutes.

1:3-4. Voting by Previously Absent Member. Pursuant to N.J.S.A. 40:55D-10.2, a member of the Board who was absent for one or more of the meetings at which a hearing was held or was not a member of the Board at that time, shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such Board member has available to him or her the transcript or recording of all of the hearings from which he or she was absent or was not a member, and certifies in writing to the board that he has read such transcript or listened to such recording.

Rule 1:4. Members

1:4-1. Regular Members. In accordance with State statute, the Board shall consist of nine (9) members and four (4) alternative members named by the Mayor as required by N.J.S.A. 40:55D-23. Membership shall be classified according to the following categories:

Class I: The Mayor, who shall serve for the duration of his or her elected term or his or her designee.

Class II: A Borough official, other than a member of the Governing Body, appointed by the Mayor, whose term shall be for one (1) year or terminate at the completion of his or her respective term of office or employment with the Borough.

Class III: A member of the Governing Body to be appointed by it

Class IV: Other citizens of the Borough appointed by the Mayor, who shall hold no other municipal office, except that one of such members may be a member of the of the Historic Preservation Commission (if such Commission exists); one of the members may be a member of the Board of Education and one of the members must be a member of the Environmental Commission (if such Commission exists). There shall be six (6) Class IV members appointed for staggered four (4) year terms, to the extent practicable, each term expiring on December 31st of the appropriate year.

Rule 1:4.-2. Removal of Member

1:4-2.1. Grounds; Recommendation. Whenever a member of this Board shall absent himself from four (4) consecutive meetings or 8 consecutive weeks (whichever is longer) of the Board, without just cause, or for a period deemed detrimental to the conduct of Board business, the Board may recommend to the Mayor and governing body of the Borough, in writing, that such member be removed in accordance with the provisions of law. N.J.S.A. 40A:9-12.1.

Rule 1:5. Alternate Members, Voting, Recusal

1:5-1. Designation. The four (4) alternate members of this Board appointed by the Governing Body shall be designated by the appointing authority as “Alternate No. 1” and “Alternate No. 2,” etc., respectively, and each Alternate shall retain said designation during each term of appointment.

1:5-2. Appointment of Alternate to serve on case. During the absence or disqualification of any regular member, the Chairperson shall appoint one of the alternate members to serve in the place of said regular member, provided, however, that where the alternate member is designated to serve in place of the regular member, who is disqualified from participating in the hearing of a particular case, the alternate member shall be designated to serve only with respect to such case.

1:5-3. Alternate to serve until final disposition. An alternate member who has been designated to sit in place of a regular member and who has participated in any hearing or matter coming before the Board shall continue to act in the place of such regular member until the final disposition of said matter by the Board.

1:5-4. Alternate No. 1 to vote. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote, then Alternate No. 2, 3 and 4.

1:5-5. Alternate not to serve at adjourned or continued hearing unless present at prior hearings. When a regular member has been present and has participated in the first hearing on any matter, no alternate member shall be designated to serve during the absence of such regular member during any adjourned or continued hearing or hearings on the same matter unless said alternate member was present at such first hearing or any prior adjourned or continued hearing on such matter.

1:5-6. Rights and privileges. An alternate member who has been designated to serve in the place of an absent or disqualified regular member shall, during the period of his/her service, enjoy all the rights and privileges and shall be subject to all of the duties and disabilities pertaining to regular members.

1:5-7. Participation in discussions; voting. Alternate members may participate in discussion of the proceedings, but may not vote except in the absence or disqualification of a regular member, nor shall any vote be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

1:5-8 Voting on Resolutions. Only those members who voted in the affirmative for an action may vote on the form of the resolution memorializing the decision.

1:5-9 Any Board member who makes a motion must vote affirmatively for the motion or else the motion shall be deemed void ab initio.

1:5-10 Recusal. Any member of the Board who has any interest, direct or indirect, personal or financial, in a matter before the Board shall not vote thereon and shall remove himself/herself from any meeting or hearing at which said matter is under consideration. A disqualifying conflict of interest shall be deemed to exist.

- a. When the Board member is the spouse of the applicant or is related to the applicant within the third degree of consanguinity or is the husband or wife of someone so related;
- b. When the applicant is the employer, employee or partner of the member, or is a corporation in which the member is a shareholder or has a financial interest;
- c. When the member, or any of those persons identified in sections a and b herein, owns property within 200 feet of the property which is the subject of the application.

PART II DISMISSAL

Rule 2:1. Dismissal of Applications

2:1-1. Voluntary. Any applicant may at any time before the commencement of hearing, voluntarily withdraw his/her application, in which case the action shall be dismissed without prejudice.

2:1-2. Non-appearance. When, at the time set for the hearing or continued hearing on any application, neither the applicant nor any one in his/her or her behalf appears or if the applicant by its own actions is not prepared to go forward or if no adjournment has been requested, the action may be dismissed without prejudice.

2:1-3. Infraction of Rules. For failure to comply with the provisions of these rules, and for failure to comply with any other rule, the Board may dismiss an application.

PART III COMMUNICATIONS

Rule 3:1. Communications

3:1-1. Prohibited Contact with Board Members. Applicants, interested person(s) and their representatives, shall not communicate with any Board Member outside of the hearing, as to the substance of any pending or filed application.

3:1-2. Prohibited Discussions among Board Members. Board members shall not communicate with one another outside of the hearing as to the substance of any pending or filed application.

3:1-3. Procedures. In the event of any such communication, the board member shall immediately discontinue such communication. In the event of any perceived attempt to influence a Board Member the Member shall notify the Chair and Attorney to the Board for appropriate action.

PART IV MISCELLANEOUS PROVISIONS

Rule 4:1. Relaxation of Rules

4:1-1. 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 4:2. Meaning of Certain Terms

4:2-1. 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 by law.

Rule 4:3. Laws Applicable

4:3-1. Laws Applicable. The provisions 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 applicable law.

The Board shall be governed by the New Jersey Municipal Land Use Law, N.J.S.A. 40:1 et. seq. and where a conflict between these rules and the Statute exists the Statute shall take priority.

Rule 4:4. Citation of Rules and Decisions

4:4-1. Citation.

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

(b) Decisions of the Board shall be cited as “Matter of X,” X being the name of the principal applicant.

Rule 4:5. Amendments and Suspensions

4:5-1. Amendments. Amendments to these rules may be made by the Board at any regular meeting by a majority vote of the entire membership of the Board, provided notice of such amendment has been given in writing to all members 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.

4:5-2. Suspensions. These By Laws may be suspended by a majority vote of the Board.

Rule 4:6. Personnel

4:6-1. Clerks. The Board may employ a clerk or clerks to assist the Secretary in the performance of his or her duties and to perform such other duties as may be assigned to him or her by the Chairperson.

4:6-2. Other Personnel. The Board may employ such staff, experts and consultants as it sees fit to aid it in its work, to the extent provided by law.

The Board designates to its Engineer the obligation to determine Completeness under the Municipal Land Use Law for all “D” variances requests and any commercial application. Single family residential applications shall have Completeness determined by the Recording Secretary in consultation with Board Counsel.

Rule 4:7. Applicant’s Unreadiness to Proceed.

4:7-1. Declaration of Applicant’s Unreadiness to Proceed. The Board may declare any Applicant unready to proceed at any hearing if any required or requested submissions to the Board are not received by the Secretary by the close of business of the tenth (10th) day prior to the scheduled hearing.

4:7-2 No Vote Until Complete Final Plans are Submitted. The Board shall not vote to approve any application unless and until complete final plans have been submitted at least ten (10) days in advance of the hearing at which the vote is taken. There shall be no vote to approve an application subject to revisions to any plans unless there is first, a separate and favorable majority vote, to permit an exception to this rule.