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For Notice Under Sunshine Law**

**MOUNTAIN LAKES ZONING BOARD OF ADJUSTMENT  
AGENDA  
January 4, 2024**

**NOTICE:** Please take notice that the regular meeting of the Zoning Board of Adjustment of the Borough of Mountain Lakes will be held on January 4, 2024 at 7:30 p.m. **as a remote meeting only.** Formal action may be taken.

**To Participate** via computer please use the following link to join the webinar:

<https://zoom.us/j/94321697504>

Or use iPhone one-tap: US: +13126266799,,94321697504# or +19292056099,,94321697504#

Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 943 2169 7504

If calling into the meeting by telephone, the following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom meeting:

\*6 - Toggle mute/unmute

\*9 - Raise Hand (Once hand is raised, it cannot be lowered - if you change your mind and choose not to speak, when called upon, please let the host know that you have changed your mind and no longer wish to speak)

International numbers available: <https://zoom.us/u/acNqOSGPrm>

1. CALL TO ORDER & OPEN PUBLIC MEETING ADVERTISEMENT NOTICE
2. ROLL CALL
3. REORGANIZATION:
  - Election of Chair, Vice-Chair
  - Appointment of Board Attorney, Engineer, Planner, Administrative Officer/Secretary
  - Designation of Official Newspapers, Meeting Dates
  - Re-adoption of By-Laws
4. REVIEW OF MINUTES: December 7, 2023
5. MEMORIALIZING RESOLUTIONS: Justin and Annie Peters Appl. #23-753
6. PUBLIC HEARINGS:
  - Carried Application: (requesting to be carried to February 1, 2024)
  - Junmeng Chen and Selina Shi Appl. #23-751
  - 19 East Shore Road Blk. 23, Lot 17
  - Improved Lot Coverage, Side Setback R-AA zone
  - Floor Area Ratio
7. OTHER MATTERS / PUBLIC COMMENT
8. ADJOURNMENT



Cynthia Shaw, Administrative Officer

Dated: December 21, 2023

Distribution:

Board Members  
Citizen & Daily Record

Board Attorney  
Website

Bulletin Board  
Council Liaison

Applicants  
Borough Clerk

**MINUTES OF A MEETING  
ZONING BOARD OF ADJUSTMENT OF  
THE BOROUGH OF MOUNTAIN LAKES  
December 7, 2023**

James Murphy called the remote meeting to order and announced: Adequate notice of this remote meeting has been provided in accordance with the Open Public Meetings Act by publishing the remote meeting notice in The Citizen and The Morris County Daily Record on January 11, 2023 and by filing the same with the Borough Clerk and posting it on the Borough Office bulletin board on January 09, 2023 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:31PM

**ROLL CALL:**

Present: Murphy, De Nooyer, Leininger, Peters, Vecchione, Paddock, Caputo and Astrup

Absent: McCormick

Also, Present: Attorney, Michael Sullivan

**REVIEW OF MINUTES:** James Murphy made a motion to approve the minutes from the November 2, 2023 meeting. Annie Peters provided the second; the minutes were approved by voice vote by all eligible members present.

**RESOLUTION:**

James Nichols

Appl. #23-754

Jake DeNooyer made a motion to memorialize the resolution of approval; Mark Caputo seconded the motion. The resolution was adopted by a vote of 6 – 0 with members Murphy, Vecchione, Caputo, Peters, DeNooyer and Astrup voting in favor.

**PUBLIC HEARINGS:**

Justin and Annie Peters

Appl. #23-753

74 Tower Hill Road

Blk. 40, Lot 9

Side & Rear Setback, Height

R-AA zone

Since Annie Peters is a member of the Zoning Board, she recused herself from acting on the application. They were requested a waiver from providing the topography of the property. J. Murphy made a motion and the second was provided by B. Paddock. The waiver was granted by voice vote of all members present.

Elana Koplík, a licensed architect in the state of NJ, presented the Peters application for 74 Tower Hill Road. She shared exhibit A-1 consisting of 8 pages showing historic photos, an enlarged site plan and the proposed floor plans. The applicant was filed under the Historic Preservation Ordinance. Currently there are 2 existing accessory structures in the back right corner of the property. The existing non-conforming garage is 7.5ft to the rear property line with a patio at .17ft. The rear of the lot backs up to the tourney. The existing non-conforming accessory structure has a height of 22.825ft where 20ft is allowed. The existing side yard setback to the concrete pad is 12.7ft and 20ft to the existing building where 25ft is required. E. Koplík shared photos of both building

interiors. J. Murphy asked what the scope of the work would be. They would remove the existing plaster, sistering the frame for support, and insulating to code. The walls are structurally sound.

E. Koplik showed the Board a 2012 photo of the building with the shed removed by the previous owners. They would like to rebuild the shed and provided information to support doing so. (historic photos and the previous resolution that sets the side setback at 12ft). The buildings are separated by 2.7ft and would like to fill that space in. The space falls under the accessory roof line and does not add any additional lot coverage since there is already a sidewalk between the two buildings. This addition will not be seen from the street. The concrete stairs & landing will be removed creating a net reduction in ILC. The lot coverage is 21.25% and will become 21.23%. The 124sqft shed will hold the mechanicals.

Stephen Vecchione asked if they could tell how old the buildings were. The carriage house looks the same age as the home. Later a garage was added, and then the shed. The variance granted in 2000 showed the storage shed on the site plan at 12ft. The Peters wanted to fix the inside of the space and keep the charm of the existing buildings. Brett Paddock asked if the space had A/C and water? No, it did not but at one time it did have water. They will add A/C and new plumbing fixtures. B. Paddock was worried about the location of the A/C condenser. The applicant agreed to update plans to include the condenser and maintain a side setback of 12ft. M. Leininger asked what the chimney was for. E. Koplik said they we will be removing it. J. DeNooyer asked how far the neighbor's house was from the property line. It was about 25ft to the neighbor's garage from the property line. J. DeNooyer did not like the ceiling to floor windows planned for the 2.7ft space between the buildings. They wanted the natural light, and it mimics the shape of the windows on the front of the house.

No one from the public was present to comment on the application.

The Board agreed the resolution would have the standard conditions plus a condition to revise the plans to include the A/C condenser location. S. Vecchione found preexisting non-conforming variances annoying. He liked the plan. Mark Caputo agreed the benefits outweighed the detriments. He made a motion to approve the application with the conditions discussed. Steve Vecchione provided the second. The Board voted 7 – 0 to approve the application with Murphy, De Nooyer, Leininger, Vecchione, Paddock, Caputo and Astrup voting in favor.

**Other Matters / Public Comment:**

Public Comment – No one was present to make a public comment.

Master Plan Committee – The Planning Board memorialized the resolution to adopt the Master Plan Reexamination Report on December 14th.

Ordinance Subcommittee – They met on November 30<sup>th</sup> and had a very productive meeting.

Economic Development – Brett Paddock reported the committee plans to put out a survey to see how the town would like to develop the Midvale area. They are also looking into updating the website to attract businesses to Mt Lakes.

Steve Vecchione made a motion to adjourn the meeting and Annie Peters provided the second. The meeting was adjourned at 8:38PM.

Respectfully submitted,

Cynthia Shaw

DRAFT

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

Application No. 23-753  
Justin and Annie Peters  
74 Tower Hill Road  
Block 40, Lot 9

**WHEREAS**, Justin and Annie Peters, as owners, did make, as amended, application to the Zoning Board of Adjustment of the Borough of Mountain Lakes to construct additions and renovations to the accessory structures in the rear of the above-captioned property located in the R-AA Zone; and

**WHEREAS**, the applicants requested variances pursuant to N.J.S.A. 40:55D-70c as follows:

1. To permit a northerly side yard setback of 12 feet to the accessory building addition and air conditioning condenser where a minimum of 20 feet is required pursuant to Mountain Lakes Code Section 40-49C.
2. To permit a rear yard setback of 0.17 feet to the concrete patio and 7.5 feet to the accessory building where a minimum of 25 feet is required pursuant to Mountain Lakes Code Section 245-19/Schedule I.
3. To permit accessory building height of 22 feet 8¼ inches where a maximum of 20 feet is allowed pursuant to Mountain Lakes Code Section 245-19/Schedule I.

**WHEREAS**, the applicants submitted a Plot Plan & Zoning Chart, Existing & Proposed Floor Plans, Proposed Exterior Elevations prepared by M. Shatken, AIA / E. Koplík, AIA consisting of three sheets dated November 2, 2023 as well as a survey prepared by Jeffrey S. Grunn, PLS of Lakeland Surveying consisting of one sheet dated March 2, 2023; and

**WHEREAS**, this matter came on to be heard at a regular meeting of the Zoning Board of Adjustment held on December 7, 2023, at which time it was established that notice was properly published and that the property owners within 200 feet of the property in question had properly been served notice; and

**WHEREAS**, the Board carefully reviewed the testimony presented and established the following findings of fact and conclusions of law:

1. The subject property is located on the westerly side of Tower Hill Road and contains lot area of 50,589 square feet. The property is improved with a 2½ story single-family dwelling, two accessory structures in the rear and related site improvements.
2. The applicants propose to (a) infill 50 square feet between the two existing accessory structures to connect the interior spaces of the buildings; (b) add a 124 square foot single-story shed roof for storage and to contain mechanical equipment; (c) install an air conditioning condenser along the northerly side of the accessory building and (d) removal of concrete apron, pad and stairs.
3. The dwelling has been determined to be a “contributing dwelling” by the Zoning Officer in a report dated November 16, 2023 meeting the eligibility requirements in Mountain Lakes Code Section 40-49B and entitled to the modified bulk requirements contained in Mountain Lakes Code Section 40-49C.
4. The applicants’ plan does not alter the overall scale or massing of the existing structures. The improvements do not alter the existing street-facing façade and there is a slight reduction in impervious coverage as a result of the scope of the work.
5. Approval of the application represents an appropriate modernization and upgrade of the existing accessory structures and advances the purposes of the Municipal Land Use Law

contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a) and provides adequate light, air and open space (-2c).

6. The property contains a number of preexisting nonconforming setbacks namely; side yard setback of 12 feet to the accessory building addition; rear yard setbacks of 0.17 feet to the concrete patio and 7.5 feet to the accessory building and accessory building height of 22 feet 8¼ inches. Based upon the location of structures lawfully existing on the property, the strict application of the zoning requirements results in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the applicants.

7. Based upon the Board's particular knowledge of local conditions, approval of this application is consistent with the character of the neighborhood and will not adversely impact area properties.

8. Approval of this application is not inconsistent with the intent and purpose of the zone plan and zoning ordinance which seeks to preserve the residential character of the neighborhood.

**WHEREAS**, the Board, based on the aforementioned findings, concluded that the applicants met the positive criteria and proved peculiar and exceptional practical difficulties and exceptional and undue hardship pursuant to requirements of N.J.S.A. 40:55D-70c(1); and

**WHEREAS**, the Board, based on the aforementioned findings, concluded that the applicants proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and



**WHEREAS**, the Board, based on the aforementioned findings, concluded that the applicants met the negative criteria in that approval of the application will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Adjustment of the Borough of Mountain Lakes that the within application of Justin and Annie Peters for a front yard setback, rear yard setback and building height variances, as outlined herein, is hereby approved subject to the following conditions:

1. The plans shall be revised to depict the proposed air conditioning condenser located on the northerly side of the existing accessory building with a minimum side yard setback of 12 feet.

2. This approval is limited to compliance with the plans submitted to the Board (as modified herein) which are attached hereto and shall not be construed to permit any renovations not shown on the approved plans.

3. An as-built survey shall be submitted to the Construction Office for confirmation of compliance with zoning and engineering requirements, if required by the Construction Official.

4. The applicants shall be bound by all representations made at the public hearing.

5. Compliance with the Tree Management Plan set forth in Sections 102-35 and 102-36 of the Code of the Borough of Mountain Lakes.

6. The application shall comply with Mountain Lakes Code Section 40-49B(4) which reads:

Retention of original structure. After completion of the proposed alterations:

(a) One hundred percentage of the existing street-facing façade width and height must be retained intact consistent with the other requirements of this §40-49B.

(b) At least 75% of the floor area of the original structure as it existed on December 31, 1938 must remain. Interior renovations and any restoration to match the original will not be deducted in determining compliance with the 75% requirement.

Offered by:

Seconded by:

Vote:

Date:

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**APPOINTING AND RETAINING BOARD ATTORNEY**

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

**WHEREAS**, the Board has determined it has the need to retain an attorney to provide legal services including, but not limited to advice and consultation, attendance at meetings, preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

**WHEREAS**, the appointment of the attorney may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because legal services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Borough of Mountain Lakes that it does hereby appoint Michael D. Sullivan, Esq. as Board Attorney to serve from January 1, 2024 to December 31, 2024 or until a successor is appointed; and

**BE IT FURTHER RESOLVED** that the officers of the Zoning Board of Adjustment are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Borough Clerk; and

**BE IT FURTHER RESOLVED** that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**APPOINTING AND RETAINING ADMINISTRATIVE OFFICER/  
BOARD SECRETARY**

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-71b, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

**WHEREAS**, the Board has determined it has the need to retain the current Administrative Officer/Board Secretary, Cynthia Shaw, for the calendar year 2024.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Borough of Mountain Lakes that it does hereby appoint Cynthia Shaw as Administrative Officer/Board Secretary to serve from January 1, 2024 to December 31, 2024.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**APPOINTING AND RETAINING THE BOROUGH PLANNER**

**WHEREAS**, the Municipal Land Use Law, provides that the Board may employ a Planner as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

**WHEREAS**, the Board has determined it has the need to retain a planner to provide professional services including, but not limited to advice and consultation, attendance at meetings when requested, Master Plan review and preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

**WHEREAS**, the appointment of the planner may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because planning services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

**WHEREAS**, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment for the Borough of Mountain Lakes that it does hereby appoint Paul Phillips of Phillips Preiss Grygiel Leheny Hughes, LLC as Board Planner to serve from January 1, 2024 to December 31, 2024 or until a successor is appointed; and

**BE IT FURTHER RESOLVED** that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**APPOINTING AND RETAINING BOARD ENGINEER**

**WHEREAS**, the Municipal Land Use Law, provides that the Board may engage the services of an Engineering Firm as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

**WHEREAS**, the Board has determined it has the need to retain an engineer to provide professional services including, but not limited to advice and consultation, attendance at meetings, plan review and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

**WHEREAS**, the appointment of the engineer may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because engineering services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

**WHEREAS**, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Borough of Mountain Lakes that it does hereby appoint William Ryden, of Anderson and Denzler Associates, Inc., as Board Engineer to serve from January 1, 2024 to December 31, 2024 or until a successor is appointed; and

**BE IT FURTHER RESOLVED** that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**SCHEDULED MEETINGS FOR THE YEAR 2024 AND THE FIRST MEETING 2025**

**WHEREAS**, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and herein designated as the “Open Public Meetings Act”, requires notification of meetings of public bodies, as therein defined, in the manner therein set forth;

**NOW, THEREFORE, BE IT RESOLVED**, that the schedule of regular meeting dates, being as hereby declared to be the official list of dates of regular meetings to be held by the Zoning Board of Adjustment for the calendar year 2024 and the first meeting 2025 and formal action may be taken on public business at 7:30 p.m. on each of the dates set forth below. On February 1, 2024 the Zoning Board meeting will be held via Zoom as per the link below.

The balance of the year the Zoning Board meetings will be held at the Borough Hall, 400 Boulevard, Mountain Lakes, NJ:

March 7, 2024	August 1, 2024
April 4, 2024	September 5, 2024
May 2, 2024	October 3, 2024
June 6, 2024	November 7, 2024
July 11, 2024	December 5, 2024
	January 2, 2025

If the Board does not have any public hearings and only has administrative business to conduct, e.g., adoption of minutes and resolutions, the meeting will be held as a remote meeting via Zoom. To participate via computer, use the following link: <https://zoom.us/j/94321697504> Or use iPhone one-tap: US: +13126266799,,94321697504# or +19292056099,,94321697504# Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 Webinar ID: 943 2169 7504

This change will appear on the Borough website, calendar, bulletin board and will be sent out via the Borough eblast 48 hours prior to the meeting.

**BE IT FURTHER RESOLVED** that the Board Secretary is hereby directed to post said schedule on the official bulletin board of the Borough Hall; transmit same to the official newspapers of the Borough and file same with the Borough Clerk.

**BE IT FURTHER RESOLVED** that any additions or changes to the schedule shall be posted, mailed, and filed by the Board Secretary as required by law.

**BE IT FURTHER RESOLVED** that during remote meetings members of the public will be given an opportunity to make comments by audio or by audio and video during the public comment periods noted on the agenda and during public hearings on applications.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**DESIGNATION OF OFFICIAL NEWSPAPERS**

**WHEREAS**, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and herein designated as the “Open Public Meetings Act”, requires notification of meetings of public bodies, as therein defined, in the manner therein set forth, and

**WHEREAS**, N.J.S.A. 10:4-8 requires public bodies to designate which newspapers shall serve as “Official Newspapers” in their jurisdiction,

**NOW, THEREFORE, BE IT RESOLVED**, for the purpose of compliance with the aforesaid “Open Public Meetings Act” and N.J.S.A. 10: 4-8, that the Zoning Board of Adjustment of the Borough of Mountain Lakes hereby makes the following designations for the calendar year 2024:

1. The Morris County Daily Record, and/or The Citizen, as the newspapers to receive notices of meetings as required by any and all sections of the “Open Public Meetings Act”, and N.J.S.A. 10:4-8, that those newspapers are most likely to inform the local public of such meetings.
2. The location for posting of notice of meetings shall be on the bulletin board of the Borough Hall, 400 Boulevard, Mountain Lakes, New Jersey.
3. The sum of \$25.00 is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 14 of the “Open Public Meetings Act” and N.J.S.A. 10:4-19.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024



**RESOLUTION  
BOROUGH OF MOUNTAIN LAKES  
ZONING BOARD OF ADJUSTMENT**

**READOPTION OF BY-LAWS**

**WHEREAS**, the Municipal Land Use Law, specifically, N.J.S.A. 40:55D-8, provides that every municipal agency shall adopt and may amend reasonable rules and regulations which are not inconsistent with law, for the administration of its functions, powers and duties and in accordance with N.J.S.A. 40:55D-10b every municipal agency shall make rules governing hearings;

**WHEREAS**, the Board determined that the By-Laws attached hereto are reasonable and consistent with law and should be adopted as the rules and regulations for the year and shall continue in effect until and unless otherwise replaced or amended;

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of Adjustment of the Borough of Mountain Lakes as follows:

1. The By-Laws as attached hereto are hereby readopted and shall govern the administration of the Board's functions, power and duties for the year 2024 and shall continue in effect until and unless otherwise replaced or amended.
2. Copies of the By-Laws shall be maintained in the office of the Administrative Officer and Board Secretary and shall be available to any person who requests same upon payment of a reasonable fee for such copy.

Offered by:

Seconded by:

Vote:

Date: January 4, 2024

**BY-LAWS OF THE  
ZONING BOARD OF ADJUSTMENT  
OF THE BOROUGH OF MOUNTAIN LAKES, NEW JERSEY**

**PART I  
ADMINISTRATION**

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

- 1:1-1. Title of the Board.
- 1:1-2. Annual Meeting; Officers.
- 1:1-3. Chairperson.
- 1:1-4. Vice-Chairperson.
- 1:1-5. Secretary.

**Rule 1:2. Meetings**

- 1:2-1. Regular Meetings.
- 1:2-2. Special Meetings.
- 1:2-3. Meetings Open to Public.
- 1:2-4. Order of Business.
- 1:2-5. Record of Proceedings.
- 1:2-6. Time Limitation.

**Rule 1:3. Quorum and Voting**

- 1:3-1. Quorum.
- 1:3-2. Motions.
- 1:3-3. Voting.

**Rule 1:4. Alternate Members**

- 1:4-1. Designation.
- 1:4-2. Appointment of alternate to serve on case.
- 1:4-3. Participation in discussions; voting.

**PART II  
RULES OF PRACTICE**

**Rule 2:1. Commencement of Action; Service and Filing of Papers**

- 2:1-1. Commencement of Action.
- 2:1-2. Certification of Completeness.
- 2:1-3. Application Number.
- 2:1-4. Amended Applications.

**Rule 2:2. Hearing Date**

- 2:2-1. Hearing Date.
- 2:2-2. Adjournment.
- 2:2-3. Bifurcation.

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

- 2:3-1. Notice; Upon Whom Served.
- 2:3-2. List of Owners Supplied by Clerk.
- 2:3-3. Proof of Service.

**Rule 2:4. Applications and Appeals**

- 2:4-1. Form.
- 2:4-2. Affidavit of Ownership.
- 2:4-3. Applications by Corporation or Partnership, Disclosure of Stockholders or Ownership Interests.

**Rule 2:5. Hearings**

- 2:5-1. Appearances.
- 2:5-2. Oath.
- 2:5-3. Order of Presentation.
- 2:5-4. Examination by Board; Testimony.
- 2:5-5. Closing of Hearing; Continuances.

**Rule 2:6. Evidence**

- 2:6-1. Competent Evidence.
- 2:6-2. Documents and Exhibits.
- 2:6-3. Judicial Notice.
- 2:6-4. Burden of Proof.

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

- 2:7-1. Voluntary.
- 2:7-2. Nonappearance.
- 2:7-3. Infraction of Rules.
- 2:7-4. Reports.
- 2:7-5. Transfer of Actions.

**Rule 2:8. Decision; Resolution of Board**

- 2:8-1. Time.
- 2:8-2. Form.
- 2:8-3. Relief Granted.
- 2:8-4. Conditions.
- 2:8-5. Publishing Notice; Service of Copy of Resolution.

**Rule 2:9. Disqualification of Members of the Board**

- 2:9-1. Disqualification of Members of the Board

**Rule 2:10. Record of Testimony**

- 2:10-1. Stenographic or Other Records; Transcripts.

**Rule 2:11. False Testimony**

- 2:11-1. Perjury.

**PART III  
MISCELLANEOUS PROVISIONS**

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

- 3:1-1. Where Rules may be Relaxed.

**Rule 3:2. Meaning of Certain Terms**

- 3:2-1. Person; Interested Person.
- 3:2-2. Gender.

**Rule 3:3. Application of Certain Laws**

3:3-1. Laws Applicable.

**Rule 3:4. Removal of Member**

3:4-1. Grounds; Recommendation.

3:4-2. Automatic Vacancy.

**Rule 3:5. Amendments**

3:5-1. Amendments.

**Rule 3:6. Effective Date**

3:6-1. Effective Date.

**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 Zoning Board of Adjustment of the Borough of Mountain Lakes, New Jersey."

**1:1-2. Annual Meeting; Officers.** The annual meeting of the Board shall be held on the first Thursday of January of each year or at such other time as designated by the Board, at which time the Board shall elect, from among its members, a Chairperson and a Vice-Chairperson. The Board shall also appoint a Secretary, and a Board Attorney, all of whom shall serve for one 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. Only the Chairperson and Vice-Chairperson must be members of the Board.

**1:1-3. Chairperson.** The Chairperson, subject to these rules, shall decide all points of order and matters of procedure governing the meetings, unless otherwise directed by a majority of the Board in session at the time. He shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally appertaining to this office. He or his designee shall swear all witnesses giving testimony before the Board.

**1:1-4. Vice-Chairperson.** The Vice-Chairperson shall preside at all Board meetings and hearings in the absence of the Chairperson.

**1:1-5. Secretary.** (a) Subject to these rules, and under the direction of the Chairperson, the Secretary shall conduct all official correspondence, compile the required records, maintain and keep in order the necessary files and indices, and generally perform the secretarial work of the Board. He shall notify the Municipal Clerk and the Officer charged with enforcement of the Zoning Ordinance of all meetings of the Board and shall provide them with a list of the matters scheduled for hearing at each meeting. He shall give all notices of meetings required to be given by the Open Public Meetings Law, the Municipal Land Use Law or any other applicable law or ordinance.

(b) The Secretary shall attend all meetings of the Board, 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, he shall call the roll of the members and the Chairperson shall be called last.

(c) He shall make records 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 the meeting. He shall issue notices of meetings and shall perform such other duties as usually appertain to his office.

(d) He 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, 400 Boulevard, Mountain Lakes, New Jersey, at 7:30 P.M. on the 1<sup>st</sup> Thursday of each month or at such other time as designated by the Board. In the event the Board’s agenda is limited to administrative duties including but not limited to adoption of minutes and resolutions, such meetings may be held remotely via Zoom. The information on how to access each meeting will be set forth on the agenda of the Zoning Board of Adjustment meeting which will be posted on the Borough website [www.mtnlakes.org](http://www.mtnlakes.org), post on the bulletin board and filed with the clerk of the municipality. 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.** Special meetings may be provided for at the call of the Chairperson or at the request of any two Board members. Such meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.

**1:2-3. Meetings Open to Public.** All meetings shall be open to the public, except such executive sessions as authorized by N.J.S. 40:55D-9b and N.J.S. 10:4-6 et seq.

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

- (a) Call to order and open public meeting advertisement notice
- (b) Roll Call
- (c) Review of minutes
- (d) Memorializing resolutions
- (e) Public hearings
- (f) Other matters/Public comments (limited to five minutes per speaker)
- (g) Adjournment

**1:2-5. Record of Proceedings.** The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means, or both. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party at such party's expense.

**1:2-6. Time Limitation.** The Board shall take no new testimony during a hearing beyond 10:30 p.m.

**Rule 1:3. Quorum and Voting**

**1:3-1. Quorum.** A Quorum shall be four members. No action shall be taken at any meeting without a quorum being present.

**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 shall be taken by roll call and the vote and name of the person casting the vote shall be recorded in the minutes.

**Rule 1:4. Alternate Members**

**1:4-1. Designation.** Alternate members of this Board appointed by the Governing Body shall be designated by the appointing authority as "Alternate No. 1", "Alternate No. 2", etc. as appropriate, and each alternate shall retain said designation during the term for which he was appointed.

**1:4-2. Appointment of alternate to serve on case.** During the absence or disqualification of any regular member, the Chairperson shall recognize 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.

**1:4-3. Participation in discussions; voting.** Alternate members may participate in discussions 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 members shall vote in the order of their numerical designations.

**PART II**  
**RULES OF PRACTICE**

**Rule 2:1. Commencement of Action; Service and Filing of Papers**

**2:1-1. Commencement of Action.** (a) **Appeals.** An action in the nature of an appeal alleging that there is error in any order, requirement, decision or refusal made by the building inspector, zoning officer, or other official based on or made in the enforcement of the zoning ordinance shall be commenced by the filing of a notice of appeal, in accordance with the provisions of the statute within 20 days from the date of the order, decision or refusal appealed from, which notice of appeal shall be filed with the officer from whom the appeal is taken and shall specify the grounds of such appeal. Said officer shall immediately transmit to the Board Secretary all papers constituting the record upon which the action appealed from was taken and the Board Secretary shall proceed to place the matter on the calendar. The applicant shall pay at the time of such filing the fee required by ordinance.

(b) **Applications to Board of Adjustment.** An application for a variance or for any other relief shall be commenced by the filing of an application with the Secretary of the Board together with (1) the fee required by ordinance and (2) all matters of documents required by the checklist established by ordinance.

(c) **Other Requirements.** 1. Any maps or documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the municipal clerk. This filing shall be in addition to the maps and other documents required to be filed with the application, as set forth in the application form and the checklist of items required by ordinance.

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

3. When an application is made for any variance relating to a use or structure which is not permitted in the district in which the lands are located or for other relief pursuant to N.J.S. 40:55D-70(d), the applicant may submit at the time of filing his application for a variance, an application for site plan review or for subdivision approval, prepared in accordance with all applicable ordinance requirements and regulations together with fees and deposits required by ordinance. Application for site plan review need not be filed at the time of filing an application for a use variance, but any use variance granted by the Board shall be subject to proper submission of a site plan in accordance with the municipal ordinances.

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

1. In accordance with the provisions of the municipal subdivision and site plan review ordinances, an applicant shall, in connection with an application involving site plan or subdivision approval, pay, in addition to the fees

hereinabove specified, deposits to cover special expenses incurred by the Board for the rendering of services by its planning consultant, engineer, attorney and other experts in the amounts set forth in said ordinance.

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

**2:1-2. Certification of Completeness.** The Board Secretary or other authorized designee of the Board shall examine each application to ascertain that all checklist items required by municipal ordinance are shown or furnished in the application or accompanying documents, or that otherwise a waiver has been requested. If all checklist items are provided and no waivers requested the application shall be deemed complete and the applicant shall be so notified. If waivers are requested as to any items the Board shall, at its next ensuing regular or special meeting held not later than 45 days from the date of submission of such application decide whether to grant or deny the waiver or waivers requested and applicant shall be notified promptly. If an application is neither found to be complete nor found to be incomplete and applicant notified of the deficiencies within 45 days from the date of filing, the application shall be deemed to be complete as of the 45<sup>th</sup> day following the date of its submission.

**2:1-3. Application Number.** The Secretary shall assign to each new action an application number, which number shall thereafter appear on all subsequent papers filed in the case.

**2:1-4. Amended Applications.** An applicant may, prior to the commencement of a hearing, amend his application without leave of the Board and in all such cases new notice shall be given in accordance with Rule 2:3 as in the case of an original application. After commencement of hearing, an application may be amended only with leave of the Board. If the amendment after commencement of hearing is for the purpose of reducing the nature or extent of the variance sought, no new notice will be required. Otherwise, new notice shall be given in accordance with Rule 2:3.

## **Rule 2:2. Hearing Date**

**2:2-1. Hearing Date.** As soon as any complete appeal or application is filed in accordance with the foregoing rules, the case shall be placed on the calendar. The applicant shall be notified of the date and time set for the hearing thereon.

**2:2-2. Adjournment.** The time for hearing may be adjourned from the time fixed therefor, for good cause, upon the motion of the applicant or other person interested in the action, or on the Board's own motion, provided, however, that where such adjournment would extend the statutory period within which the



Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

**2:2-3. Bifurcation.** An applicant seeking a variance pursuant to N.J.S. 40:55D-70(d) may either simultaneously file an application for any required site plan or subdivision approval or may make a subsequent application to this Board for such approval. The Board may consider the variance request before dealing with the subdivision or site plan.

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

**2:3-1. Notice; Upon Whom Served.** Notice of hearing shall be given to all persons and officials entitled thereto by the requirements of N.J.S. 40:55D-12.

**2:3-2. List of Owners Supplied by Clerk.** Where the Clerk of the municipality (or other authorized official) has furnished applicant with a list of the property owners entitled to notice pursuant to the provisions of N.J.S. 40:55D-12(c), a copy of the official certification and list shall be annexed to applicant's proof of service.

**2:3-3. Proof of Service.** The service and publication of notices as hereinabove provided is a jurisdictional requirement, and proof of the service and publication of all required notices in accordance with these rules shall be made by affidavit of the person or persons who actually served or mailed said notices as required by law, and by the authorized official of the newspaper which published same.

**Rule 2:4. Applications and Appeals.**

**2:4-1. Form.** Every appeal or application shall be filed on the appropriate form provided to the applicant by the Board's Secretary.

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

**2:4-3. Applications by Corporation or Partnership, Disclosure of Stockholders or Ownership Interests.** A corporation, partnership or any legally recognized entity other than an individual applicant or applicants applying for relief from this Board, which involves subdivision of a parcel of land into six (6) or more lots, or a variance to construct a multiple dwelling of twenty-five (25) or more family units, or for approval of a site plan for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least ten (10) percent of the stock of any class or at least ten (10) percent of the interest

in the partnership as the case may be, in accordance with the requirements of N.J.S. 40:55D-48.1.

**Rule 2:5. Hearings**

**2:5-1. Appearances.** At the hearing upon the application, the applicant, or any other party, shall appear in person, or may be represented by an Attorney-at-Law of New Jersey. Every corporation other than a "sole proprietor" shall be represented by an Attorney-at-Law of New Jersey in accordance with the rules of the Superior Court of New Jersey.

**2:5-2. Oath.** At the hearing, the applicant and all witnesses shall be sworn by the Chairperson or his designee before giving testimony.

**2:5-3. Order of Presentation.** (a) The hearing is called to order by the Chairperson.

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

(c) Following each witness, the Board and then any other persons interested in the action shall have the right to cross-examine the witnesses.

(d) Any other persons interested in the action shall then be heard and may present any relevant testimony or evidence.

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

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

**2:5-4. Examination by Board; Testimony.** The applicant and every other person appearing and presenting testimony at any hearing may be examined by any member of the Board and the Board Attorney for the purpose of eliciting any relevant information which may assist the Board in deciding the issue. Any member of the Board may testify as to any relevant matter of which he has personal or official knowledge for the purpose of amplifying the record, including facts ascertained from a viewing of the premises in question and the general area.

**2:5-5. Closing of Hearing; Continuances.** (a) When the applicant and all other interested persons have had an opportunity to be heard, the Chairperson may declare the hearing to be closed. Thereafter, no further evidence will be received in the action unless the matter is reopened in accordance with these rules.

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

(c) In cases where the Board feels that testimony or other evidence should be received in the public interest from any municipal, county, or state official or

from any other persons to assist in rendering a just decision, the Board may, on its own motion, continue the hearing to another day certain for such purposes.

#### **Rule 2:6. Evidence**

**2:6-1. Competent Evidence.** Technical rules of evidence are not enforced before the Board, the applicant's right to the relief sought shall be based upon the consideration of any facts or matters which are in the record, unless they be such as to which the Board is entitled to take judicial notice. The Board may exclude irrelevant, immaterial or redundant testimony.

**2:6-2. Documents and Exhibits.** When any papers, documents or exhibits are admitted into evidence during a hearing, they shall be marked by the Secretary or Attorney and may be retained by the Board until the termination of the matter, at which time they shall be returned by the Secretary to the person who offered them.

**2:6-3. Judicial Notice.** The Board may take judicial notice of the provisions of any ordinance of the municipality, any public statute of the State of New Jersey and any officially reported judicial decision.

**2:6-4. Burden of Proof.** It is the applicant's responsibility to supply competent and credible evidence that it is entitled to the relief sought.

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

**2:7-1. Voluntary.** Any applicant may at any time before the commencement of hearing, voluntarily withdraw his application, in which case the action shall be dismissed without prejudice. After commencement of the hearing a voluntary dismissal may be taken only with the approval of the Board.

**2:7-2. Nonappearance.** When, at the time set for the hearing or continued hearing on any application, neither the applicant nor anyone in his behalf appears, and no adjournment has been previously requested, the action may be dismissed without prejudice.

**2:7-3. Infraction of Rules.** For failure to comply with the provisions of any rule, the Board may dismiss the application.

**2:7-4. Reports.** (a) The Board may, at any time, request a written report on any particular matter from any officer, board, or agency in connection with a pending case provided, however, that a copy of any such report shall be made available to the applicant.

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

**2:7-5. Transfer of Actions.** Whenever an application is filed with the Zoning Board of Adjustment, which pursuant to the provisions of the Municipal Land Use Law ought to have been filed with the Planning Board, the Zoning Board of Adjustment may, by motion or resolution, cause said application to be transferred to the Planning Board at the next regular meeting of said Board making public announcement of the time and place thereof at the meeting.

**Rule 2:8. Decision; Resolution of Board**

**2:8-1. Time.** The Board of Adjustment shall render a decision not later than 120 days after the date:

- (1) an appeal is taken from the decision of the administrative officer, or
- (2) of the certification of completeness of an application to the Board, unless the applicant has consented in writing or on the record to an extension of time. Failure of the Board to render a decision within such 120 day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant. Every decision shall be made by proper motion duly made and seconded, with the votes of all members recorded on a roll-call vote.

**2:8-2. Form.** The judgment of the Board shall be in the form of a written resolution containing findings and conclusions which shall be adopted within forty-five (45) days of the decision. Whenever a resolution of memorialization is adopted in accordance with the provisions of N.J.S. 40:55D-10, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filing and publications required by statute.

**2:8-3. Relief Granted.** Where an applicant has demonstrated his right to relief, the Board may grant such relief as it may deem appropriate and in keeping with the intent and purpose of the zone plan and zoning ordinance, even though the relief granted may be different in kind or degree from that asked for in the appeal or application.

**2:8-4. Conditions.** The resolution of the Board granting any variance, may subject such grant to such conditions as the Board may impose in the public interest for the purpose of furthering any of the purposes of zoning.

**2:8-5. Publishing Notice; Service of Copy of Resolution.** (a) A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Zoning Board of Adjustment for a reasonable charge. The applicant may also arrange for such publication. Notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

(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

request it and who have paid the prescribed fee. A copy of the decision shall also be filed in the office of the administrative officer, who shall make a copy of such filed decision available for public inspection during his office hours and a copy available to any interested party upon payment of a fee calculated in the same manner as those established for copies of the other public documents in the Borough.

**Rule 2:9. Disqualification of Members of the Board.**

**2:9-1. Disqualification of Member.** (a) any member of the Board of Adjustment shall disqualify himself from sitting on the hearing of any matter in which he has a disqualifying interest, such as, but not limited to, the following situations:

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

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

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

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

(b) When a member fails to disqualify himself, any interested party may move the Board for an order or determination that such member is disqualified to act and the Board may thereupon hold a hearing on the matter and take whatever action it may deem appropriate.

**Rule 2:10. Record of Testimony**

**2:10-1. Stenographic or Other Records; Transcripts.** In accordance with the provisions of N.J.S. 40:55D-10f, the Board shall provide for the verbatim recording of all hearings by either a stenographer, or by mechanical or electronic means. A transcript or duplicate recording in lieu thereof shall be furnished to any interested party at his expense.

**Rule 2:11. False Testimony**

**2:11-1. Perjury.** Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J.S. 2A:67A-1 et seq.), be guilty of perjury. The Board shall submit a transcript of testimony it believes may be perjurious to the County Prosecutor for investigation.

**PART III  
MISCELLANEOUS PROVISIONS**

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

**3:1-1. Where Rules may be Relaxed.** For good cause shown, or where the strict application of any rule would work surprise or injustice, the Board may relax the requirement of such rule, except where the provisions of the rule are also statutory requirements.

**Rule 3:2. Meaning of Certain Terms**

**3:2-1. Person; Interested Person.** Whenever in these rules reference is made to “any person,” “any interested person,” “any persons interested in the action” or the like, such term refers to any “interested party” as defined in N.J.S. 40:55D-4.

**3:2-2. Gender.** The use of the masculine gender in these Rules shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

**Rule 3:3. Application of Certain Laws**

**3:3-1. 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 N.J.S. 40:55D-8, and subject generally to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey.

**Rule 3:4. Removal of Member**

**3:4-1. Grounds; Recommendation.** Whenever a member of this Board shall absent himself from meetings of the Board, without just cause, for a period deemed detrimental to the conduct of Board business, the Board may recommend to the (governing body of the municipality) in writing that such member be removed in accordance with the provisions of N.J.S. 40:55D-69.

**3:4-2. Automatic Vacancy.** In accordance with the provisions of N.J.S. 40A:9-12.1(g) any Board member who, without being excused by a majority of the authorized members of the Board, fails to attend and participate at meetings of the Board for a period of four consecutive regular meetings shall be considered to be no longer a member of the Board and a vacancy on the Board shall be deemed to exist, provided that the Board shall notify the governing body in writing of such determination and further provided that the Board may refuse to excuse only with respect to those failure to attend and participate which are not due to legitimate illness.

**Rule 3:5. Amendments**

**3:5-1. Amendments.** Amendments to these rules may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board at least three days prior to such meeting.

**Rule 3:6. Effective Date**

**3:6-1. Effective Date.** These rules take effect upon adoption and supersede any prior rules of the Board.

Adopted: May 4, 2006

Amended: January 7, 2010

Amended: January 5, 2017

Amended: January 4, 2024