

Township of Montclair
Planning Board and Zoning Board of Adjustment
DEVELOPMENT APPLICATION PROCEDURES

1. FILING THE APPLICATION:

An application for development is an application certified as complete by the Secretary of the Board. An application will not be considered complete until all required forms, fees and plans have been submitted. Different types of applications require different submissions. The submission requirements are indicated on the application form. A written waiver request is required if an applicant does not provide all of the submission requirements for their application.

2. SCHEDULE OF MEETINGS:

The Board Secretary will notify the applicant of the date that the application is scheduled to be heard by the appropriate Board.

The Planning Board's regularly scheduled meetings are held on the second Monday of every month at 7:30 P.M. in the Council Chamber, 1st floor of the Municipal building, 205 Claremont Avenue, Montclair. Special meetings are held at the call of the chairman, as provided by law.

The Board of Adjustment's regularly scheduled meetings are held on the third Wednesday of every month at 7:30 P.M. in the Council chamber, 1st floor of the Municipal building, 205 Claremont Avenue, Montclair. Special meetings are held at the call of the chairman, as provided by law.

3. PUBLICATION OF NOTICE OF HEARING

The applicant is responsible for publication of the notice of hearing in the Montclair Times. In cases that are not represented by an attorney, the hearing notice will be prepared by the Planning Department and e-mailed to the applicant. The applicant will then e-mail or fax the hearing notice to the Montclair Times for publication. The notice must appear in the Montclair Times at least ten (10) calendar days before the dated of the hearing. If the notice does not appear in the Montclair Times at least ten days in advance of the hearing, the application will not be heard on the scheduled date. The deadline for sending the notice to the Times is noon on Tuesday prior to Thursday's publication.

Applicants should know that the Montclair Times requires prepayment before the notice can be published. The applicant must contact the Montclair Times to set up an account, discuss the procedure for publication and request a Proof of Publication. The Proof of Publication must be submitted to the Planning Department at least five (5) days before the scheduled hearing date. The contact information for the Montclair Times is as follows:

Phone: 973-569-7416
Fax: 973-569-7441
publicnotices@northjersey.com
1 Garret Mountain Plaza
PO Box 471
Woodland Park, NJ 07424-0471

4. NOTICE TO PROPERTY OWNERS:

The responsibility for proper processing of notices and the preparation of an affidavit of proof of service lies with the applicant and **NOT** the Planning/Zoning Board. The staff, however, makes every effort to assist applicants with any problems they may have.

Notice of the hearing shall be given to the owners of all real property, as shown on the current tax duplicate, located within 200 feet of the property which is the subject of such hearing. Notice shall be given by: 1) serving a copy of said notice on the affected property owner, or the agent in charge of the property, of 2) mailing a copy of said notice by certified mail to the affected property owner. The staff will provide the applicant with a certified list of names and addresses of owners to be notified by the applicant.

NOTICE BY THE APPLICANT TO AFFECTED PROPERTY OWNERS MUST BE GIVEN AT LEAST 10 DAYS PRIOR TO THE DATE OF THE HEARING. FAILURE TO GIVE TIMELY NOTICE WILL RESULT IN A POSTPONEMENT OF THE HEARING.

Notice to a partnership owner shall be made by service upon any partner. Notice to a corporate owner shall 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.

When the subject property is located within 200 feet of an adjoining municipality, notice shall be given by personal service or by certified mail to the clerk of such municipality. The applicant is required to obtain a certified list of property owners **FROM THE ADJOINING TOWN**. Those property owners must receive the same notice sent to the property owners on the certified list for Montclair no later than 10 days prior to the hearing.

In addition, when the subject property is on a county road, notice shall be given by personal service or certified mail to the Essex County Planning Board.

5. AFFIDAVIT OF PROOF OF SERVICE:

The applicant must prepare an affidavit to prove that notice of the hearing has been served on all owners of property within 200 feet of the subject property. The affidavit should follow the form of the sample affidavit. **THE SAMPLE AFFIDAVIT MUST BE RETYPED.** Copies of all certified slips with postal date stamp must be submitted with affidavit of service.

If more than one person serves notice to property owners, then separate affidavits must be prepared listing the property owners served by each person.

It is recommended that you complete distribution of the notices to all affected property owners, prepare the necessary affidavit, and present it for review by the Board staff prior to expiration of time for service (10 days prior to the hearing) so that you have sufficient time to correct any errors. However, affidavits **MUST** be presented to the Board staff for review no later than two days before the hearing.

SAMPLE

AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY

COUNTY OF ESSEX

_____, of full age, being duly sworn, on his/her oath deposes that he/she is the applicant before the Planning Board/Zoning Board of Adjustment of the Township of Montclair, and that on the _____ day of _____, 20____, he/she served notice, of which the attached is a true copy, on each of the property owners as shown on the attached certified list by certified mail/hand delivery. (YOUR AFFIDAVIT OF SERVICE MUST SPECIFY HOW NOTICE WAS SERVED, EITHER CERTIFIED MAIL OR HAND DELIVERY).

Applicants signature

Sworn and subscribed to before me
this _____ day of _____, 20_____.

Notary Public

6. PAYMENT OF TAXES:

Every application to the Planning Board and Board of Adjustment must be accompanied by proof that no taxes or assessments for local improvements are due or delinquent of the property which is the subject of the application. The Planning Department staff will obtain a tax statement from the Tax Collector. If it is shown that taxes or assessments are delinquent, any approval or other relief granted by the board must be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provisions for the payment thereof.

7. SUBMISSION OF PLANS:

At least twenty copies of drawings must be submitted showing in detail exactly what is proposed. Drawings must be clear and precise. Rough sketches will not be accepted. All drawings and other documents considered part of the application must be on file in the office of the Planning Board/Board of Adjustment at least 25 days prior to the day of the hearing. In most cases, architectural or engineering drawings are required.

If the application involves site plan review, the plans must be in sufficient detail to indicate the nature of use, building design, refuse storage area, number, size and location of any nonresidential use, the arrangement of the use upon the lot, traffic flow and parking facilities, signs, landscaping, lighting and drainage of the lot. Consult the Site Plan Ordinance for a complete list of details required for submission. Two copies of a recent property survey should also be submitted.

If the subject property is on a county road, a site plan application must be submitted to the Essex County Planning Board.

In the case of a subdivision, twenty copies of a subdivision map recently prepared by a licensed professional engineer or licensed land surveyor are required. At a minimum, this subdivision map must show all dimensions and bearings, any buildings involved in the subdivision with the appropriate dimensions and bearings to demonstrate compliance with the Zoning Ordinance, and all lands involved in the subdivision and any adjacent lands in common ownership. Consult the Subdivision of Land Ordinance for a complete list of details required for submission.

All subdivisions must be submitted to the Essex County Planning Board. Application forms may be obtained from the Board Staff.

8. ATTENDANCE AT HEARING:

The applicant is required to appear before the Board in person or be represented by an attorney or agent to present his or her case before the Board. A corporation **MUST** be represented by an attorney. A partnership is not required to be represented by an attorney.

9. DECISIONS:

In most cases, at the conclusion of the public hearing on an application and after discussion by the Board, an immediate voice vote of the members will be taken. A formal written resolution approving, approving and modifying or denying the application will then be drafted and formally adopted at the next regular Board meeting. A copy of the written decision will be mailed to the applicant or their attorney if they are represented by one.

10. RECORDING OF SUBDIVISIONS:

In the case of a minor subdivision, a plat or deed describing the approved subdivision must be signed by the chairman and Secretary of the Board and must then be filed by the applicant with the Essex County Register of Deeds and Mortgages, the Montclair Township Engineer and the Montclair Tax Assessor within 190 days of the date of approval. The approval will expire unless the subdivision is recorded within the 190 day time period.

In the case of a major subdivision, a plat describing the approved subdivision must be signed by the Chairman and Secretary of the Board and must be filed by the applicant with the Essex County Register of Deeds and Mortgages within 95 days from the date of signing of the plat, otherwise the approval shall expire. The Board may for good cause shown extend the period for recording by an additional 95 day period.

11. BUILDING PERMITS:

If construction work or change of use is involved, the applicant **MUST** apply for all building permits after Board approval is granted. All conditions attached to Board approval must be fulfilled before permits can be issued.

12. AFFORDABLE HOUSING FEES

The Township's "Development Fees Ordinance" (§ 202-39 — § 202-48) and "Inclusionary Zoning Ordinance" (§ 347-151 — § 347-170) may require a payment to the Montclair Affordable Housing Trust Fund and/or the development of affordable housing units. Payment of these fees, if required, must be completed before issuance of a building permit or a Certificate of Occupancy. Please review the full text of the ordinances in the Township Code. Below is a brief explanation of each ordinance. Please note that a development is only subject to the requirements of one ordinance or the other and not both.

13. REFUND OF FEES

Board of Adjustment and Planning Board fees are established by the Township Council pursuant to the Municipal Land Use Law. Applicants should take note of this refund policy in the event they decide to withdraw their application and seek a refund.

Minimum Charge – A minimum of \$50.00 will be charged by the Township as a non-refundable processing fee. This is to cover counter items and questions answering in reference to the application. The \$25.00 fee for a certified list of property owners is not refundable if prepared.

Refund Amount - Minimal Work – If the Planning staff determines that minimal work was done on the application, especially if the application is withdrawn shortly after submission and before the application is processed for inclusion as an agenda item, then the balance of the fee exclusive of the \$50.00 minimum charge can be refunded. In this case no further Township action is required other than retaining the \$50.00 fee.

Refund Amount - Major Preparatory Work – If the Planning staff has done significant work in processing the application, such as field research, office time, or written reports for the respective Board's attention, then all or a major portion of the application fee will be retained to reimburse the Township for expenses in connection with the application. In this case, the Planning staff will send a recommendation to the Council that a percentage of the fee, up to and including the entire amount, be retained. The Township Council will then decide by resolution what portion of the fee should be retained, and the applicant notified.

14. OTHER MATTERS

If you have any questions, please telephone the Planning Department office at (973) 509-4954.