

Chapter 215

LAND USE PROCEDURES

GENERAL REFERENCES

Planning Board — See Ch. 89.

Subdivision of land — See Ch. 297.

Site plan review — See Ch. 285.

Zoning — See Ch. 335.

§ 215-1. Conflicts of interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter and not participate in any discussion or decision relating thereto.

§ 215-2. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled not less than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of a quorum, except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with Chapter 231, Laws of New Jersey 1975.¹

§ 215-3. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney; the action taken by the Board; and the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

1. Editor's Note: See N.J.S.A. 10:4-6 et seq.

§ 215-4. Fees. [Amended 12-10-1998 by Ord. No. 98-38]

Fees for applications of the rendering of any service, including publication costs, by the Planning Board or Zoning Board of Adjustment or any member of their administrative staffs, shall be provided by ordinance. The fees associated with any expert testimony required by the Board, or any expert or professional review required by the Board, shall be borne by the applicant and paid out of escrow funds established in accordance with the Lacey Township Code.

§ 215-5. Hearings.

- A. Public inspection. Any maps and 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 Planning Coordinator.
- B. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies, which rules shall not be in consistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- C. Oaths. The officer presiding at the hearing or such person as he may designate 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, P.L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- D. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- E. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- F. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer or mechanical or electronic means, and the Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

§ 215-6. Notice requirements for hearing. [Amended 12-2-1977; 1-26-1978; 8-13-1987 by Ord. No. 28-87; 2-14-1991 by Ord. No. 5-91; 3-26-1992 by Ord. No. 92-17]

Whenever a hearing is required on an application for development, pursuant to N.J.S.A. 40:55D-1 et seq. or any amendments thereto, which requires notice pursuant to this section, or in the event that there is an application for development requesting preliminary or final site plan or for preliminary or tentative approval of a major subdivision review pursuant to this chapter or there is a request for relief pursuant to the ancillary powers granted either to the Planning Board and/or to the Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-60 and 40:55D-76 or any supplements or amendments thereto, the applicant shall give notice as set forth below.

- A. Public notice of a hearing on an application for development shall be given to the owners of all real property as shown on a current tax duplicate or duplicates, which list shall be obtained from the Tax Assessor not more than 30 days prior to the notice provided for

herein, located within 200 feet in all directions for lands lying east of the Garden State Parkway and within 300 feet for lands west of the Garden State Parkway of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located; provided that this requirement shall be deemed satisfied by notice to the 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. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his agent in charge of the property or by mailing a copy thereto, by certified mail, to the property owner at his address as shown on said current tax duplicate or his agent in charge of the property. Notice to a partnership owner may be made by service upon any member of the partnership. Notice to a 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. Failure to secure a certified list shall automatically invalidate any notice to property owners and shall be cause for rejection of the application.

- B. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection A of this section to the owners of land in such adjoining municipality which is located within 200 feet of the subject premises.
- C. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within 200 feet of a municipal boundary.
- D. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Administrative Officer pursuant to N.J.S.A. 40:55D-10b.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given, by personal service or certified mail, of a hearing on an application of development of a property within the Pinelands Area in accordance with § 335-122 of this Code.
- G. Public notice on an application for development, including an application for preliminary or final site plan approval, and an action pursuant to N.J.S.A. 40:55D-70a or b shall be given by the applicant by publication in the official newspaper of the Township, if there is one, or in a newspaper of general circulation in the municipality.
- H. All notices herein specified in this section shall be given at least 10 days prior to the date fixed for the hearing. The applicant shall file, at least three days prior to the date of the hearing, an affidavit of proof of service and publication with the appropriate Board holding the hearing on the application for development.

- I. Any notice made by certified mail, as hereinabove required, shall be deemed complete upon mailing, in accordance with the provisions of N.J.S.A. 40:55D-14.
- J. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development both by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available for inspection as required by law.
- K. Public notice of a hearing shall be given for an extension of approvals for five or more years under subsection d. of § 37 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-49) and subsection b. of § 40 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-52), for a modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice. Public notice shall also be required for appeals of determinations of administrative officers pursuant to subsection a. of § 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70), and for request for interpretation pursuant to subsection b. of § 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). **[Added 12-10-1998 by Ord. No. 98-38]**
- L. Notice of hearings on applications for approval for a major subdivision or a site plan not defined as a minor site plan under this section shall be given in case of a public utility, cable television company or local utility which possess a right-of-way or easement within the municipality and which has registered, to the municipality in accordance with N.J.S.A. 40:55D-12.1 by serving a copy of the notice upon the person whose name appears on the, registration form on behalf of the public utility, cable television company or local utility or by mailing a copy thereof, by certified mail, to the person whose name appears on the registration form at the address shown on that form. **[Added 12-10-1998 by Ord. No. 98-38]**

§ 215-7. List of property owners. [Amended 3-26-1992 by Ord. No. 92-17; 6-8-1995 by Ord. No. 95-24]

Pursuant to the provisions of N.J.S.A. 40:55D-12, the Secretary of the Board of Assessors shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee of \$10, make and certify a list from the current tax duplicate of the names and addresses of owners of properties within 200 feet to whom the applicant is required to give notice pursuant to this chapter. In the event that properties within the two-hundred-foot radius are not located in Lacey Township, the applicant shall be required to obtain additional certified list(s) from the municipality or municipalities in which such properties are located.

§ 215-8. Decisions; copies.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board which shall include findings of fact and legal contentions based thereon.
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of the decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be

filed in the office of the Planning Coordinator, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

- C. Notices of decisions within the Pinelands Area shall be provided to the Pinelands Commission in accordance with Chapter 335, Zoning, of this Code. **[Added 2-14-1991 by Ord. No. 5-91]**

§ 215-9. Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Planning Coordinator of the Planning Board or the Secretary of the Zoning Board of Adjustment, as the case may be. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 215-10. Payment of taxes. [Amended 5-22-1986 by Ord. No. 25-86; 12-10-1998 by Ord. No. 98-38]

Pursuant to provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or Zoning Board of Adjustment shall be accompanied by proof that no municipal liens, taxes or assessments for local improvements are due or delinquent on the property which is the subject of the application. No application shall be deemed complete until such proof has been received by the secretary of the Board before which the application is being made, unless the applicant requests, and is granted, a waiver of this requirement by the appropriate Board. In the event that such a waiver is granted, the appropriate Board shall require as a condition for any approval that all taxes or assessments for local improvements be paid for the property which is the subject of the application.

§ 215-11. Off-tract improvements.

- A. Improvements to be constructed at the sole expense of the applicant. In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit thereby, the Board may require the applicant, as a condition of approval, at the applicant's expense, to provide for and construct such improvement(s) as if such were on-tract improvements in the manner provided hereafter and as otherwise provided by law.
- B. Other improvements.
- (1) In cases where the need for any off-tract improvement is necessitated by the proposed development application and where the Board determines that properties outside the development will also be benefited by the improvement, the Board shall forthwith forward to the governing body a list and description of all such improvements, together with its request that the governing body determine and advise the Board of the procedure to be followed in the construction or installation thereof. The Board shall withhold action upon the development application until receipt of the governing body's determination or until the expiration of 90 days after the forwarding of such list and description to the governing body without such determination having been made, whichever occurs sooner.

- (2) The governing body, within 90 days after receipt of said list and description shall determine and advise the Board whether:
 - (a) The improvement or improvements are to be constructed or installed by the municipality:
 - [1] As a general improvement, the cost of which is to be borne at general expense, except as hereinafter otherwise provided as to a contribution thereto by the applicant.
 - [2] As a local improvement, all or part of the cost of which is to be specially assessed against properties benefited thereby in proportion to benefits conferred by the improvements in accordance with law, except as hereinafter otherwise provided as to a contribution thereto by the applicant.
 - (b) The improvement or improvements are to be constructed or installed by the applicant under a formula for partial reimbursement, as hereinafter set forth.
- (3) If the governing body shall determine that the improvement or improvements shall be constructed or installed under Subsection B(2)(a)[1] of this section, the Board shall estimate, with the aid of the Municipal Engineer or such other persons as have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the proposed development, will be specially benefited thereby, and the applicant shall be liable to the municipality for such excess. Further, the governing body shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements in a manner consistent with the obligation of the applicant for any excess of total cost over total benefits conferred, as set forth above.
- (4) If the governing body shall determine that the improvement or improvements shall be constructed or installed under Subsection B(2)(a)[1] of this section, the Board shall, as provided in Subsection B(3) of this section, estimate the difference between the total costs to be incurred and the total amount by which all properties to be benefited thereby, including the development property, will be specially benefited by the improvement, and the applicant shall be liable to the municipality therefor, as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. Further, the governing body shall adopt an ordinance authorizing and providing for the financing of the improvement or improvements and the assessment of benefits arising therefor in a manner consistent with the obligation of the applicant with respect thereto, and proceedings under said ordinance shall be in accordance with law, except to the extent modified by the obligation of the applicant for any excess of total cost over total benefits conferred, as set forth above.
- (5) If the governing body shall determine that the improvement or improvements are to be constructed or installed by the applicant under Subsection B(2)(b) of this section, the Board shall in like manner estimate the amount of such excess and the applicant shall be liable to the municipality therefor as well as for the amount of any special assessments against the development property for benefits conferred by the improvement or improvements. However, the applicant shall be entitled to be reimbursed by the municipality for the amount of any special assessments against the property, other than the development property, for benefits conferred by the

improvement or improvements, such reimbursement to be made if, as and when the special assessments against such other property are received by the municipality. Further, the governing body shall adopt an ordinance authorizing and providing for the assessment against all properties, including the development property, of benefits conferred by the improvement or improvements, and proceedings under said ordinance shall be in accordance with law. However, any such assessment against the development property shall be marked paid and satisfied in consideration of the construction or installation of the improvement or improvements by the applicant.

- (6) If the governing body shall not adopt such an ordinance or resolution within said time, the final development proposal shall be designed accordingly, and the Board shall thereupon grant or deny final approval.
 - (7) Nothing contained within this section shall be construed to require the governing body to install improvements at any time. **[Added 12-10-1998 by Ord. No. 98-38]**
- C. Performance guarantees. The applicant shall be required to provide, as a condition for final approval of his development application, a performance guarantee running to the municipality as follows:
- (1) If the improvement is to be constructed by the applicant under Subsection B(2)(b) of this section, a performance bond with surety in an amount equal to the estimated cost of the improvement, or as to any part of said improvement that is to be acquired or installed by the municipality under said Subsection A of this section, a cash deposit equal to the estimated cost of such acquisition or installation by the municipality.
 - (2) If the improvement is to be constructed by the municipality as a local improvement under Subsection B(2)(a)[2] hereinabove, a cash deposit equal to the amount referred to in the preceding Subsection C(1) immediately above, plus the estimated amount by which the development property will be specially benefited by the improvement.²
- D. Deposit of funds. All moneys paid by an applicant pursuant to this chapter shall be paid over to the Municipal Chief Financial Officer who shall provide a suitable depository therefor. Such funds shall be used only for the improvements for which they are deposited or improvements serving the same purpose.
- E. Redetermination of assessment upon completion of improvement. Upon completion of off-tract improvements required pursuant to this chapter, the applicant's liability hereunder shall be recalculated in accordance with the actual, as compared with the estimated, cost of the improvements. To the extent that such recalculation shall increase the amount of any cash deposit made by the applicant hereunder, the applicant shall forthwith pay the amount of such increase to the municipality. To the extent that it shall decrease the amount thereof, the municipality shall forthwith refund the amount of such decrease to the applicant. In cases where improvements are specially assessed against all benefited properties, recalculation shall be made by the municipal assessing authority in the course of the special assessment proceedings. In other cases, it shall be made by the Municipal Engineer.

2. Editor's Note: Former Subsection D, which immediately followed this subsection and provided for a refund of the off-site improvement deposit when improvements are not authorized within five years, was repealed 7-12-1979 by Ord. No. 19-79.

§ 215-12. Appeals.

- A. Appeal to the governing body of decision of Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d). Any interested party may appeal to the Township Committee any final decision of the Board of Adjustment approving an application, pursuant to N.J.S.A. 40:55-70(d). The appeal shall be made, pursuant to N.J.S.A. 40:55D-17, within 10 days of the publication of the final decision of the Board of Adjustment. The appellant shall arrange for a transcript to be prepared at the appellant's expense and shall pay to the Municipal Clerk the sum of \$50 as the fee for an appeal to the Township Committee pursuant to N.J.S.A. 40:55D-8(b)(2). When an appeal of an application for development within the Pinelands Area is made to the governing body, the procedures set forth in Chapter 335, Zoning, of this Code shall be followed. **[Amended 2-14-1991 by Ord. No. 5-91]**
- B. All other decisions of the Planning Board and Board of Adjustment. All other decisions of the Planning Board and Board of Adjustment shall be deemed final and shall not be appealable to the Township Committee.

§ 215-13. Environmental impact statement. [Added 5-10-1990 by Ord. No. 19-90]

- A. The primary purpose of an environmental impact statement (EIS) is to compile information that will assist the Planning Board or the Board of Adjustment, in conjunction with the Environmental Commission, in determining whether or not a proposed development may cause an adverse environmental impact. This information will also be useful to the applicant in planning and designing the project so as to minimize adverse effects on the environment.
- B. No application for a major subdivision or site plan shall be approved unless it has been affirmatively determined that the proposed project will not result in a significant adverse impact on the environment. Applications shall not be deemed complete for filing until the completed EIS has been submitted to the Environmental Commission in seven copies by registered mail, return receipt requested. For purposes of this section, the term "Environmental Commission" shall mean either the Lacey Township Environmental Commission or the Lacey Township Environmental Advisory Committee. Said environmental impact statement shall include the following minimum information and be reviewed and either approved or denied as follows:
- (1) A description of the project, which shall specify what is to be done and how it is to be done, during construction and operation, as well as a recital of alternative plans deemed practicable to achieve the objective.
 - (2) An inventory of existing environmental conditions at the project site and in the immediate surrounding region, which shall describe air quality; water quality; water supply; hydrology; geology; physical soil borings and properties thereof, including their capability and limitations; sewerage systems; topography; slope; vegetation; wildlife habitat; aquatic organisms; noise characteristics and levels; demography; land use; aesthetics; and history. Air and water quality shall be described with reference to standards promulgated by the Department of Environmental Protection of the State of New Jersey, and soils shall be described with reference to criteria contained in the Soil Conservation District Standards and Specifications.

- (3) An evaluation of any adverse environmental impacts which cannot be avoided. Particular emphasis shall be placed on air or water pollution; increase in noise, storm drainage, sedimentation and siltation; effect upon vehicular and pedestrian traffic; increase in Township services and consequences to the Township tax structure; and damage to flora and fauna.
 - (4) A description of steps to be taken to avoid or minimize adverse environmental impacts during construction and operation, including maps, schedules and other explanatory data which clarify and explain these steps.
 - (5) The aforesaid inventory shall be based upon actual visitation and inspection of the site proposed for development. The inventory shall be prepared by a person who is qualified and able to recognize the evidence of the presence of a species of flora or fauna by sight, sound, sign and habitat. Prior to the actual performance of the inventory, an applicant may present the qualifications of a proposed expert to the Environmental Commission for acceptance.
 - (6) The inventory required by this section shall be accompanied by a log indicating the dates, times, weather conditions and specific site locations of the on-site inspections required by this section. If evidence is detected of the presence of any endangered or threatened species as shown on any federal or New Jersey endangered or threatened species list, the inventory shall set forth specific strategies and procedures to protect and preserve any such endangered or threatened species.
- C. Notwithstanding the foregoing, the Planning Board or Board of Adjustment may, at the request of an applicant, waive the requirement for an environmental impact report if sufficient evidence is submitted to support a conclusion that the proposed development will have a negligible environmental impact. Portions of such requirement may likewise be waived upon a finding that the complete report need not be prepared in order to evaluate adequately the environmental impact of a particular project. An application for exemption of any activity or project from an environmental impact statement shall be based upon consideration by the Planning Board or the Board of Adjustment of that data supplied in Charts 1, 2 and 3, which accompany this section,³ after being properly completed by the applicant. The Planning Board or Board of Adjustment shall refer the waiver request to the Environmental Commission for review and comment.
- D. Additional costs. If the Planning Board, the Board of Adjustment or the Environmental Commission finds that, on the basis of the environmental impact statement or other evidence, the proposed development may cause an adverse environmental impact, the Boards aforesaid may require the developer to pay, in addition to regular fees, additional amounts to cover the reasonable costs of reports by experts selected by the Board regarding the environmental impact of the proposed development. The application shall not be approved by the Planning Board or the Board of Adjustment until a complete and accurate statement is submitted to and reviewed by the Environmental Commission, unless a waiver is granted by the Planning Board or the Board of Adjustment under this section.

§ 215-14. Miscellaneous provisions.

- A. Definitions of terms.

3. Editor's Note: Charts 1, 2 and 3 are located at the end of this chapter.

- (1) Whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1 et seq., such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this chapter.
 - (2) Wherever the term "owner," "applicant" or "subdivider" is used herein, it shall be deemed to include all those persons who are defined as a "developer" in N.J.S.A. 40:55D-4.
 - (3) In any of the ordinances dealing with subdivisions of land or wherever the term "secretary" is used, it shall be deemed to mean the Planning Coordinator which is defined in § 79-60 of the Code of the Township of Lacey.
- B. Repeals. All sections of Chapter 297, Subdivision of Land, Chapter 335, Zoning, Chapter 285, Site Plan Review, or any other ordinance of the Township of Lacey which contains provisions contrary to the provisions of this ordinance shall be and are hereby repealed but only to the extent of such inconsistency.
- C. Ordinances continued. Pursuant to the provisions of Chapter 291, Laws of New Jersey 1975,⁴ the substantive provisions of the Chapter 297, Subdivision of Land, and Chapter 285, Site Plan Review, of the Code of the Township of Lacey and the development regulations set forth therein not inconsistent with this ordinance shall continue in full force and effect until further amended in accordance with said Act.

§ 215-15. Technical checklist. [Added 5-10-1990 by Ord. No. 21-90; amended 12-10-1998 by Ord. No. 98-38; 9-14-2006 by Ord. No. 2006-40]

In addition to any other requirement established by law, an applicant must complete a general development plan administrative checklist, as well as a checklist for any of the following categories of the developmental approvals containing the requirements as set forth in the schedule attached to this chapter and made a part hereof. All checklists shall be placed on file in the office of the Director of Community Development.⁵

- A. Conceptual plans (informal review).
- B. Sketch plats for major subdivision (informal review).
- C. Minor site plans.
- D. Major site plans (and conditional uses).
- E. Minor subdivision plats.
- F. Preliminary plats, major subdivision.
- G. Final plats, major subdivision.

§ 215-16. Landscaping requirements. [Added 10-24-1991 by Ord. No. 61-91; amended 3-27-1997 by Ord. No. 97-11; 12-10-1998 by Ord. No. 98-38]

4. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

5. Editor's Note: The checklists are included at the end of this chapter.

- A. Applicants shall submit along with a major subdivision application or a site plan application to the Planning Board or Zoning Board of Adjustment a complete landscaping plan designed, prepared and duly signed by an experienced landscape architect or designer. The Planning or Zoning Board may, in its discretion, determine that the landscaping plan be submitted for review to the Shade Tree Advisory Committee. The plan shall be submitted in quadruplicate and shall specify the location of planting material, their minimum sizes, quantity and variety and species by botanical and common name. The landscaping plan shall show the location of all existing shade trees of eight inches caliper or greater, measured three feet above ground level, and of all existing ornamental trees of four inches caliper or greater, measured one foot above ground level, and shall show all trees which necessarily shall be removed. For applications in the Pinelands Area, landscaping plans shall incorporate the elements set forth in § 335-25, Vegetation and landscaping, of Chapter 335 of this Code.
- B. If the landscaping plan is submitted by the Planning or Zoning Board to the Shade Tree Advisory Committee, the Shade Tree Advisory Committee shall review the plans submitted by the applicant will make recommendation to the Planning Board or Zoning Board of Adjustment, consistent with § 297-48 of the Code of the Township of Lacey entitled "Shade trees," as to the proposed removal and planting of shade and ornamental trees.
- C. In the event that the Planning Board or Zoning Board of Adjustment refers a landscaping plan required under this section to the Shade Tree Advisory Committee, an owner, developer or his agent shall not be permitted to excavate land or remove trees, shrubs and other plantings from a proposed building site or tract of land to be subdivided or other undeveloped land on which an application is pending before the Planning Board or Zoning Board until a landscaping plan has been reviewed by the Shade Tree Advisory Committee, except that 10% of the trees and plantings of any tract may be removed to facilitate preliminary engineering associated with an application by the developer to the Planning Board or Zoning Board of Adjustment.

§ 215-17. Classification of applications. [Added 3-26-1992 by Ord. No. 92-17]

All applications shall be reviewed by the Administrative Officer to determine jurisdiction, completeness of the application and the nature of the application sought.

§ 215-18. Completeness review. [Added 3-26-1992 by Ord. No. 92-17]

- A. Upon submission to the Administrative Officer of an application for development, said Administrative Officer shall review the application, together with all documents to be submitted with said application, and if the application for development is found to be incomplete, the developer shall be notified, in writing, within 45 days of the original submission of such application of any deficiencies. In the event that no notification is received within 45 days, said application shall be deemed to be properly submitted.
- B. The applicant must first receive notification from the Administrative Officer that the submission of the application for which approval is sought is complete before the applicant may give notification to property owners pursuant to the provisions of this chapter.
- C. The applicant may request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days.

- D. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency.
- E. In the event that the Board of Jurisdiction or any other reviewing board or agency having review authority requires any substantial amendment to the layout of improvements proposed by the applicant which have been the subject of a hearing, an amended application for development shall be submitted and acted upon, as in the case of an original application for development.

§ 215-19. Time for decision. [Added 3-26-1992 by Ord. No. 92-17]

- A. Upon submission to the Administrative Officer of a complete application for development, the appropriate Board shall grant or deny approval within the following time periods of such complete application or within such further time as may be consented to by the developer.
 - (1) Forty-five days for a site plan application which involves 10 acres of land or less and 10 dwelling units or fewer.
 - (2) Forty-five days for a minor site plan application.
 - (3) Forty-five days for a subdivision application which involves 10 or fewer lots.
 - (4) Forty-five days for a minor subdivision application.
 - (5) Ninety-five days for a site plan application which involves more than 10 acres or more than 10 dwelling units.
 - (6) Ninety-five days for a subdivision application which involves more than 10 lots.
 - (7) Ninety-five days for a conditional use application.
 - (8) One hundred twenty days for an application pursuant to N.J.S.A. 40:55D-34, 40:55D-35 and 40:55D-36.
 - (9) One hundred twenty days for a variance application pursuant to N.J.S.A. 40:55D-70c or d.
 - (10) One hundred twenty days for an appeal to the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70a.
- B. If an application for development includes a simultaneous request for a variance pursuant to N.J.S.A. 40:55D-70c or d, the Board must grant or deny approval within 120 days of submission of a complete application.

- C. If the Board of Adjustment has granted a variance pursuant to N.J.S.A. 40:55D-70d and is considering a separate subsequent application for a site plan or subdivision approval, the applicable time period for the subsequent application shall apply.
- D. In the event that there is no action taken by the Board within the time period provided for herein, said Board shall be deemed to have granted approval of the application.

§ 215-20. Informal or conceptual review. [Added 3-26-1992 by Ord. No. 92-17]

- A. At the request of the applicant, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by a concept plan for which review is requested, and the Planning Board shall not be bound by any such review.
- B. The applicant for informal or conceptual review shall submit to the Board of Jurisdiction a plan containing the information set forth on the checklist within this chapter. In order for the application to be deemed complete and listed for hearing, the applicant shall supply the information required herein, together with the general administrative checklist requirements, unless waivers of the submission requirements are granted or unless the Board authorizes the application to be listed for hearing.

§ 215-21. Procedure for variance applications. [Added 3-26-1992 by Ord. No. 92-17; amended 12-9-1993 by Ord. No. 93-101; 6-8-1995 by Ord. No. 95-24; 7-27-2006 by Ord. No. 2006-39; 2-9-2012 by Ord. No. 2012-04]

- A. The applicant for a variance pursuant to N.J.S.A. 40:55D-70c or d shall submit a plan containing the minimum information set forth in this section. In order for the application to be deemed complete and listed for hearing, the applicant shall submit the information required herein, together with the general administrative checklist requirements and fees, unless waivers of the submission requirements are granted or unless the Board authorizes the application to be listed for hearing. The applicant shall submit the following information:
 - (1) Application.
 - (2) Certificate of paid taxes from the Tax Collector's office.
 - (3) Except for an application on an accessory structure for a single-family home, a two-hundred-foot-radius map showing the relationship to all affected lands, structures and the property in question. The plan shall be notarized, if prepared by the applicant, as to the truthfulness and accuracy thereof or be certified by an engineer or land surveyor licensed to do business in the State of New Jersey. No combined plot plan and two-hundred-foot-radius maps will be accepted.
 - (4) Plans or rendering for the intended use or variance, showing any building or structure to be erected, with an elevation of each side of the building being shown. If a new principal structure is proposed, including a structure on an undersized lot, a set of plans that demonstrates compliance and adequately describes its appearance so as to allow the Board to determine its compatibility with the character of the surrounding district.

- (5) A certified list of property owners within 200 feet of the subject property obtained from the Tax Assessor's office.
 - (6) Form of notice to be mailed certified to all property owners within 200 feet at least 10 days prior to the public hearing.
 - (7) Affidavit of service with the attached postmarked certified mailing receipts.
 - (8) Proof of notice to the general public, which notice must be given by publication in the official newspaper of the Board at least 10 days prior to the public hearing.
 - (9) Photographs of the property in question and structures within 200 feet and displayed in the format provided by the Board.
- B. A plot plan of the lot in question, prepared by a licensed land surveyor or engineer, clearly depicted on a sheet size no smaller than 8 1/2 inches by 11 inches, drawn to an appropriate scale, not greater than one inch equals 50 feet, which shall include the following:
- (1) Eleven copies of a plot plan of the property in question based on a survey prepared by a licensed land surveyor or engineer containing sufficient information regarding the application, drawn to scale, showing applicable setbacks, elevation, lot size, lot coverage and other bulk requirements:
 - (a) Drawn to an appropriate scale not greater than one inch equals 50 feet and not to be combined with the two-hundred-foot-radius map.
 - (b) Clearly depicted on a sheet no smaller than 8 1/2 inches by 11 inches.
 - (2) For all applications, except additions or improvements to existing single-family dwellings, the following additional information is required:
 - (a) A current survey of the property with the lot, metes and bounds, and the direction and distance to the nearest intersecting street.
 - (b) All existing or proposed easements and/or lands dedicated to public use.
 - (c) All existing or proposed buildings and structures, with all dimensions and with front, side and rear yard setback dimensions indicated, and with required setback lines shown.
 - (d) All buildings and structures located on all adjacent properties with dimensions and setbacks noted.
 - (e) Any existing or proposed sidewalks and driveways.
 - (f) The name of the street(s) and the composition of the surfaces of the street(s) which the lot abuts.
 - (g) Sufficient street elevations (center-line, gutter and top-of-curb, if applicable) and existing and proposed lot elevations specifying those for the finished first-floor and garage-floor elevations of the proposed structure related to the abutting street elevations. The lowest floor of any structure, including garage, first floors and any floor area intended as usable space other than area conforming to the definitions set forth in the IBC (International Building Code), Uniform

Construction Code, and according to NAVD (North American Vertical Datum of 1988), and the source of datum so noted.

- (h) Drainage flow arrows shall be provided to clearly depict the directions of stormwater runoff.
 - (i) If applicable, grading or the creation of sump conditions on adjacent lots shall be shown together with permission specifically granted by the owner of said adjacent lots.
 - (j) The limits of clearing and soil disturbance, any trees to be saved and, in general, the requirements as specified in the Lacey Township Tree Ordinance (Chapter 98).
 - (k) The location of any freshwater wetlands or statement on the plan that none exist.
- C. For currently undeveloped properties which require variances by virtue of being undersized, including undersized properties that have had dwellings demolished and are thereby considered undeveloped, the following information is required in addition to that preceding:
 - (1) Information in the form of title binders or similarly constructed documents which clearly trace the chain of ownership of the property from the adoption of the Zoning Ordinance which made the property nonconforming. All documents shall be duly signed and sealed by the owner, purchaser and/or applicant and shall be duly witnessed by a Notary Public of the State of New Jersey.
 - (2) Contract of sale for the property should it be under contract for purchase.
 - (3) A grading and stormwater management plan prepared in accordance with the following standards and requirements:
 - (a) Methods or provisions to abate or prevent any adverse surface drainage or stormwater runoff impacts or conditions to adjacent and/or downstream lots.
 - (b) Drainage calculations using the United States Department of Agriculture Soil Conservation Service TR-55 analyses for the twenty-five-year-frequency rainfall of 6.2 inches in 24 hours. Calculations indicating capacities requiring volumes and rates of recharge shall be prepared and certified by a New Jersey licensed professional engineer.
 - (4) Certification. Prior to the issuance of any certificate of occupancy to any dwelling, the developer or holder of the building permit shall cause to have the lot grading and stormwater management plan certified by a New Jersey licensed professional engineer that the final as-built grading and construction on the lot is in compliance with the approved plan.
- D. For properties which require variances by virtue of not abutting an improved street, the following information is required in addition to that contained in Subsections A and B:
 - (1) Submission requirements. The following items are required upon submission of a variance application seeking relief pursuant to N.J.S.A. 40:55D-36 for properties not fronting on an improved street. These items are in addition to any other plot plan or

submission requirements for variance or general construction permit application. All plans and calculations must be signed and sealed by a professional engineer licensed to practice in the State of New Jersey.

- (a) Plan and profile of the proposed access road extending at minimum to the center line of the nearest intersection beyond the property proposed to be developed. (The plan and profile shall be based on a survey and topography of the road extending at minimum across its entire right-of-way width.)
- (b) Constriction details.
- (c) Road restoration details for any existing roads that will be disturbed during improvement of the proposed access road in question.
- (d) All utilities within 100 feet of the proposed access road shall be shown.
- (e) All existing stormwater management facilities that would be affected by the access road and all proposed stormwater management facilities that are necessitated by the improvement of the Township of Lacey.
- (f) Stormwater calculations in conformance with the stormwater management requirements of the Township of Lacey.
- (g) Referral of the application, plans and calculations to the Department of Public Works for reviews by the Director and the Township Engineer as to the suitability of the proposed access to the subject property or properties meeting the following standards:
 - [1] Access for fire-fighting equipment, ambulances and other emergency vehicles.
 - [2] Access for public works purposes, including but not limited to collection of trash and recyclables, snow plowing and general maintenance.
 - [3] Protection of health and safety.
 - [4] Protection of any future street layout shown on the Official Map or the Circulation Element of the Township Master Plan. Letters from the individual emergency service organizations or contractors providing public works services will not be accepted. Any specific comment on behalf of an applicant must be by a sworn witness providing testimony at a public hearing.
- (2) Construction requirements. Upon approval of any variance for properties not fronting on an improved street and after any necessary compliance reviews by the Board of Adjustment Engineer, the following items are required to be submitted to the Department of Public Works for a road building permit for any road improvement requirements imposed by the Board's approval:
 - (a) Board of Adjustment resolution of approval.
 - (b) Final compliance review letter and construction cost estimate, as prepared by the Board Engineer.

- (c) Road improvement application form.
- (d) Road improvement application fee.
- (e) Performance guaranty.
- (f) Inspection fees.
- (g) Certificate of liability insurance.
- (h) Plan showing any required detours.
- (i) Schedule of operations indicating anticipated dates of street openings.
- (j) A written statement indicating the disposition of any excess materials generated by the project and proof that said disposition is in accordance with all applicable statutes.

E. Additional requirements.

- (1) Any applications for subdivision or site plan approval must comply with the checklist for completion approved by the Planning Board for the respective application. A copy of the approved checklist is on file with the Planning Board Secretary.
- (2) No road building permit will be issued to any applicant unless written approval or letters of exemption have been obtained from the Lacey Municipal Utilities Authority and the Ocean County Soil Conservation District.