

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF BRICK

Resolution "Establishing Standard Protocols for Remote Public Meetings Held during a Governor-Declared Emergency"

WHEREAS, due to the COVID-19 pandemic, local government entities have been forced to hold public meetings remotely; and

WHEREAS, newly enacted P.L. 2020, c.34 authorizes the Director of the Department of Community Affairs to issue regulations establishing standard protocols for remote public meetings held by a local public body during a Governor-declared emergency; and

WHEREAS, N.J.A.C. 5:39-1.1, et seq. have been adopted as emergency regulations and are proposed for permanent adoption in the October 19, 2020 New Jersey Register; and

WHEREAS, these protocols aim to ensure continuity of government operations and transparency in conducting public business when an emergency requires a Zoning Board meeting to be held remotely, including standard procedures and requirements for public comments and notice.

NOW THEREFORE, BE IT RESOLVED that the Zoning Board of the Township of Brick hereby adopts the Remote Public Meeting Protocol attached hereto, to be followed by the Zoning Board of the Township of Brick.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Brick at a regular meeting of said Zoning Board conducted on October 21, 2020.

Zoning Board Chairman

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF BRICK
REMOTE PUBLIC MEETING PROTOCOL

In accordance with N.J.A.C. 5:39-1.1., et seq., the Zoning Board of Adjustment of the Township of Brick (the "Board") hereby adopts the following meeting protocols whenever a declared emergency requires the Board to conduct a public meeting without physical attendance by members of the public. This protocol has been adopted by resolution of the Board.

1. The Board Chair, in consultation with the Mayor and the Township Manager shall make the determination as to whether a remote public meeting should be held due to a declared emergency that reasonably prevents the Board from safely conducting public business at a physical location with members of the public present.
2. If in-person meeting attendance is restricted due to capacity restrictions, the Board must hold the public meeting in a location with adequate capacity or hold both an in-person and remote public meeting. No in person meeting may proceed if room capacity does not permit any member of the public to attend.
3. Remote meetings shall be conducted with adequate electronic communications technology, at no cost to the public, for attendance of at least 50 public participants (beyond those persons required to conduct business at the meeting).
4. A telephonic conference line shall be provided for the public to dial in to and listen to and provide public comment during meetings. Additional technology is permissible, including video and Internet-accessible technology, but a telephonic conference line must be provided.
5. All members of the public that provide public comment shall first identify themselves.
6. The public shall be provided with similar access to a remote control meetings as members of the local public body, staff, and individuals seeking approvals.
7. A public meeting must be broadcast by video as well as audio if sworn testimony is being taken at the remote public meeting. All individuals giving sworn testimony shall appear by video as well as audio.
8. If documents would be made available at a remote meeting, such documents shall be made visible on a video broadcast or available on the municipal

website. If hard copies of a document would be made available to members while physically attending a meeting, the document shall be made available in advance of the meeting on the municipal webpage near the meeting notice and at the municipal building.

9. Members of the public may make public comments through audio and video (if the meeting is held via video), during the meeting. For matters not involving a public hearing under the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., public comments may be submitted to the Board Secretary via email or written letter if received at least eight (8) hours prior to the meeting. Public comments on matters that are not the subject of a public hearing on an application for development before the Board shall be read at the remote meeting with the same time restrictions of all public comments at the meeting. Duplicative comments may be summarized at the discretion of the Board Chair.
10. The remote meeting must allow for members of the public to be muted and the public to mute themselves.
11. The public comment protocol and muting function shall be announced at the beginning of the remote meeting.
12. The Board Chair may direct that a member of the public that becomes disruptive may be muted and warned that continued disruption may result in their being prevented from speaking or removal from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors such as, but not necessarily limited to, shouting, interruptions, use of profanity and refusing to comply with the directions of the Board Chair.
13. Remote public meetings shall be hosted on FedRAMP Moderate Impact Level Authorized dedicated services or Cloud, or evidence of satisfactory cybersecurity internal controls through an annual SOC2 audit report.
14. Notice shall comply with N.J.S.A. 10:4-8 and shall provide clear and concise instructions for accessing the remote public meetings, means for making public comments, and where relevant documents, if any, are available.
15. Electronic notice of a remote public meeting shall be posted on the municipal website and at the main access door of the municipal building, in a location viewable from outside.
16. If a series of remote public meetings are expected, the annual notice shall be revised at least seven (7) days prior to the next regularly scheduled meeting, indicating which meetings will be remote, and with clear and concise instructions for accessing the remote public meetings, means for making public comments, and where relevant documents, if any, are available. The revised annual notice shall be posted on the municipal website and at the main access door of the municipal building, in a location viewable from outside.

17. At the commencement of every remote public meeting, the Board Chair shall announce publicly, and shall cause to be entered in the minutes, an accurate statement to the effect that:
 - a. both adequate and electronic notice of the meeting has been provided, specifying the time, place, and manner in which such notice was provided; or
 - b. only electronic notice of the meeting has been provided, specifying the time, place, and manner in which such notice was provided, and that discussion and effectuation of public business shall be limited to only those matters requiring decision during the remote public meeting due to imminent time constraints.
 - c. that adequate notice and electronic notice was not provided, in which case such announcement shall state:
 1. the reason or reasons why the matter or matters discussed are of such urgency and importance as contemplated under N.J.S.A. 10:4-9(b)(1), and the nature of the substantial harm to the public interest likely to result from a delay in the holding of the meeting;
 2. that the remote public meeting will be limited to discussion of and acting with respect to such matters of urgency and importance;
 3. the time, place, and manner in which notice of the meeting was provided; and
 4. either that the need for such meeting could not reasonably have been foreseen at a time when adequate notice and/or electronic notice could have been provided, in which event, such announcement shall specify the reason why such need could not reasonably have been foreseen; or that such need could reasonably have been foreseen at a time when adequate notice and/or electronic notice could have been provided, but such notice was not provided, in which event the announcement shall specify the reason why adequate notice and/or electronic notice was not provided.
18. Prior to the commencement of a remote public meeting, a copy of the agenda shall be made available to the public for download through an internet link appearing either on the meeting notice, or near the posting of the meeting notice on the website. The notice shall also be posted at the municipal building prior to the commencement of the remote public meeting
19. Executive session shall be accessed only by these individuals participating in the session. A separate non-public conference line or e-platform session may be employed for this purpose.

20. Before holding a public hearing on an application for development during a remote public meeting, the Board shall determine whether electronic communication technology can sufficiently facilitate due process of the Applicant and any interested party, including the ability to examine exhibits, transcribe testimony and cross-examine witnesses, as well as the ability of the public to comment upon the application. In making this determination, the Board shall consider the scale of the project, the number of approvals requested, the degree of public interest, the number of potential objectors and any other factor the Board deems relevant.
21. If the Board holds a public hearing on one or more applications for development during a remote public meeting, the adequate notice and the electronic notices shall also identify where all plans and documents associated with the hearing or hearings may be accessed by the public and provide clear and concise instructions on accessing the exhibits. The Applicant shall submit all exhibits to the Board Secretary no less than two (2) days in advance of the remote public meeting, and the Applicant shall be responsible for converting all exhibits into an electronic format accessible to the public.
22. Any remote public meeting of the Board with one or more public hearings on the agenda shall be broadcast by video, as well as by audio. All individuals giving sworn testimony at a public hearing held during the remote public meeting shall appear by video in addition to audio.