

**RESOLUTION OF THE BOROUGH OF TENAFLY BOARD OF ADJUSTMENT
ADOPTING EMERGENCY REMOTE MEETING PROTOCOLS, PROCEDURES AND
REQUIREMENTS FOR PUBLIC PARTICIPATION AT REMOTE MEETINGS**

WHEREAS, the purpose of N.J.A.C. 5:39-1 et seq., Emergency Remote Meeting Protocol for Local Public Bodies, is to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public; and

WHEREAS, a “declared emergency” means a public health emergency pursuant to the Health Powers Act, N.J.S.A. 26:13-1 et seq., or a state of emergency, pursuant to P.L. 1942, c. 251 or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

WHEREAS, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

WHEREAS, if during a declared emergency the Board of Adjustment of the Borough of Tenafly (the “Zoning Board”) holds a physical meeting in a location where, pursuant to State/Federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting, the Zoning Board shall either:

- 1) Hold the public meeting at another location with adequate capacity for the reasonable expected attendance by the public; or
- 2) Hold the public meeting as both an in-person and remote public meeting; and

WHEREAS, a public meeting held solely in-person without a remote access alternative provided shall not prohibit members of the public from attending in person; and

WHEREAS, adequate notice of the remote public meeting shall also include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting, the means for making public comment and how to access any public documents on the Borough’s website in the manner set forth at N.J.A.C. 5:39-1.5; and

WHEREAS, at the commencement of a remote public meeting the Chair or the Chair’s designee, or in his or her absence, the Secretary, shall announce publicly and shall cause to be entered into the minutes an accurate statement regarding adequate and electronic notice or an explanation of the reason or reasons such notice was not adequately provided as set forth in N.J.A.C. 5:39-1.5(g); and

WHEREAS, prior to the commencement of a remote public meeting, the Zoning Board shall make a copy of the agenda available to the public for download on the Borough’s website and shall post a copy of same at the building where the meeting would otherwise be held, including

posting of same at any designated and clearly delineated handicap accessible entrance to the building, by no later than 3:00 PM on the date of the meeting; and

WHEREAS, the content of the electronic notice shall be posted on the main access door of the building where the public would routinely attend public meetings of the local public body in person and the notice must be viewable from the outside; and

WHEREAS, the electronic communications used for a remote public meeting shall have a function that allows the Zoning Board to mute the audio of all members of the public, as well as allow members of the public to mute themselves, and same shall be announced at the beginning of every remote public meeting; and

WHEREAS, pursuant to N.J.A.C. 5:39-1, if the Zoning Board holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in business settings that can be accessed by the public at no cost and with participant capacity consistent with the reasonable expectations of the Zoning Board for the type of public meeting being held, and such participant capacity shall, at minimum, not be limited to fewer than 50 public participants (not including persons required to be present to conduct business at the meeting such as the Board members, Board professionals, and all members of the Applicant's team and any objector); and

WHEREAS, remote public meetings may be held by the Zoning Board in a format as selected by the Zoning Board, by means including, but not limited to, electronic communications platforms with video and audio or live streaming via the internet and shall, additionally, provide a telephonic conference line to allow members of the public to dial in by telephone to listen and to provide public comment; and

WHEREAS, when the Zoning Board holds a remote public meeting, it shall allow members of the public to ask questions by audio or by audio and video if the meeting is being held over both; and

WHEREAS, any remote public meeting where sworn testimony is being taken shall be broadcast by video, as well as audio, and all individuals giving sworn testimony, including members of the public making comments, shall appear by video; and

WHEREAS, any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Borough or made visible during the video broadcast of the remote public meeting; and

WHEREAS, in addition to making public comments at any remote public meeting, the Zoning Board, in advance of the remote meeting shall allow public comments to be submitted to the Zoning Board Secretary by electronic mail and in written letter form to be read aloud and addressed during the remote public meeting, except that such written public comments shall not be treated as testimony and shall not be considered by the Zoning Board in its decision during any quasi-judicial hearings on land development applications or similar public hearings; and

WHEREAS, written public comments shall be submitted in accordance with the following requirements:

- a. Written public comments may be submitted by email to vnicolosi@tenafly.net or to [such other person who may be the permanent Secretary of the Zoning Board](#) with the subject line “Written Public Comment”, or by regular mail to:

Valerie Nicolosi, Acting Secretary
100 Riveredge Road
Tenafly, New Jersey 07601

- b. All written public comments must be received at least twenty-four (24) hours prior to the beginning of the Board meeting to be read aloud.
- c. A time limit of three (3) minutes shall be allotted to the reading of each written public comment to ensure that all public comments have a fair opportunity to be heard.
- d. Written public comments that are duplicative of previously-submitted comments shall be noted for the record and their content shall be summarized rather than read in full.

WHEREAS, a reasonable time limit shall be placed on the reading of individual written comments, all of which shall be read from the beginning until the established time limit is reached; and

WHEREAS, in support of, and respect for, an open, fair and informed decision-making process, the Zoning Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and

WHEREAS, in an effort to preserve the intent of open government and maintain a positive environment for citizen input and Zoning Board decision making, policies and rules shall be established to promote civility and maintain decorum at in-person public meetings and remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h); and

WHEREAS, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair’s designee, or in their absence the Secretary, shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting; and

WHEREAS, disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, and use of profanity; and

WHEREAS, any member of the public who continues to act in a disruptive manner at a remote public meeting after receiving an initial warning, may be muted while other members of the public are allowed to proceed with their questions or comments; and

WHEREAS, if time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make comment and, if the person still remains disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting; and

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of the Borough of Tenafly, that the standards and procedures for emergency remote meetings, as set forth in this resolution and as codified in N.J.A.C. 5:39-1 et seq., are hereby established and adopted; and

BE IT FURTHER RESOLVED that procedures and requirements for public participation are hereby established and adopted in order to safeguard public participation in any in-person or remote public meetings of the Zoning Board in the Borough of Tenafly and shall apply to all members of the public in attendance at any in-person public or remote public meeting of the Zoning Board of the Borough of Tenafly.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board as follows:

- Section 1. The foregoing recitals are incorporated herein as if set forth in full;
- Section 2. This Resolution shall take effect immediately.

I hereby certify that this is a true copy of a resolution of the Borough of Tenafly Zoning Board duly adopted at a regular public meeting held on December 7, 2020.

Valerie B. Nicolosi

Valerie B. Nicolosi, Acting Secretary
Borough of Tenafly Zoning Board