

TOWN OF PHILLIPSBURG PLANNING BOARD

**RESOLUTION NO. 2021-1 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. entitled "Emergency Remote Meeting Protocols 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. 26:13-1, et. seq., and controlling law, or a state of local disaster emergency which has been declared by the Governor of the State of New Jersey 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, pursuant to N.J.A.C. 5:39-1.3, if during a declared emergency, the Town of Phillipsburg Planning Board ("the Board") holds a physical meeting in a location where, pursuant to State and/or Federal regulations and guidelines meant to mitigate risk of contagious infection, capacity restrictions are required to reduce the number of individuals that can be reasonably be expected to be present in a meeting, the Board shall either:

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

WHEREAS, pursuant to N.J.A.C. 5:39-1.4(c), an in-person meeting shall not proceed if the room capacity does not permit any members of the public to attend; and

WHEREAS, pursuant to N.J.A.C. 5:39-1.4(c), 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 requirements of N.J.S. 10:4-6, et. seq., the "Open Public Meetings Act," the following: (i) clear and concise instructions for accessing the remote public meeting; (ii) the means for making public comment; and (iii) the manner of accessing any public documents on the Town's website in the manner set forth in N.J.A.C. 5:39-1.5; and

WHEREAS, pursuant to N.J.A.C. 5:39-5(g), at the commencement of the remote public meeting, the Chairman, or the Chairman's designee or in his or her absence, the Secretary, shall announce, 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 Board shall make a copy of the agenda available to the public for download on the Town's website and shall post a copy of the agenda on the public bulletin board in the building where the meeting will be held, including posting of the same at any designated and clearly delineated handicap access entrance to the building, and posted on the main access door of the building where the meeting would routinely be held; and

WHEREAS, the electronic communications used for a remote public meeting shall have a function that allows the 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 Board holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in academic, business and professional settings that can be accessed by the public at no cost and with participant capacity consistent with reasonable expectations of the Board for the type of public meeting being held, and such participant capacity shall not be limited to fewer than 50 public participants (not including persons required to be present to conduct business at the meeting such as Board Members, Board professionals and all members of the Applicant's team); and

WHEREAS, remote public meetings may be held by the Board in a format as selected by the 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 provide public comments; and

WHEREAS, when the Board holds a remote public meeting, it shall allow members of the public to ask questions by audio and video if the meeting is being held over both mediums; 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 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 Town's website, or made visible during the video broadcast of the remote public meeting; and

WHEREAS, except for quasi-judicial hearings on land development applications or similar public hearings, in addition to making public comments at any remote public meeting, the Board, in advance of the remote meeting shall allow public comments to be submitted to the Secretary by electronic mail and in written form by a reasonable deadline to be established and posted on the website in advance of the remote public meeting; and

WHEREAS, expect for quasi-judicial hearings on land development applications or similar public hearings, public comments submitted prior to the remote public meeting through electronic or regular mail shall be read aloud and addressed during the remote public meeting in a manner audible to all meeting participants and the public; and

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 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 to maintain a positive environment for citizen input and 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; and

WHEREAS, pursuant to N.J.A.C. 5:39-1.4(h), if a member of the public becomes disruptive during remote public meeting, including during any period of public comments, the Chairman, or the Chairman's designee or in their absence the Board of Secretary, shall mute or continue muting or direct appropriate staff to mute or continue meeting 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

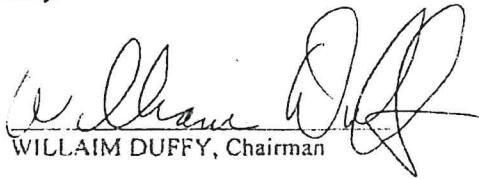
WHEREAS, pursuant to N.J.A.C. 5:39-1.4(h), disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behavior including, but not necessarily limited to shouting, interruption and use of profanity; and

WHEREAS, pursuant to N.J.A.C. 5:39-1.4(h), any member of the public who continues to act in a disruptive manner at a remote public hearing 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, pursuant to N.J.A.C. 5:39-1.4(h), 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;

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Town of Phillipsburg, County of Warren, on this 28 day of January 2021, as follows:

1. That the standards and procedures for emergency remote meetings, as set forth above in this Resolution and codified in N.J.A.C. 5:39-1, et. seq. are hereby established and adopted.
2. That the 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 in the Town of Phillipsburg and shall apply to all members of the public on attendance at any in-person or remote meeting in Town of Phillipsburg.
3. The forgoing recitals as set forth above in this Resolution are incorporated by reference as if set forth in full and at length herein.
4. This Resolution shall take effect immediately.


WILLIAM DUFFY, Chairman