



TOWNSHIP OF WEST ORANGE
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PLANNING & DEVELOPMENT

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Zoning Board of Adjustment Annual Report 2020

Introduction

The New Jersey Municipal Land Use Law, at N.J.S.A. 40:55D-70.1, states:

“The Board of Adjustment shall, at least once a year, review its decisions and applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendments or revision, if any. The Board of Adjustment shall send copies of the report and resolution to the governing body and Planning Board.”

The intent of this legislation is to encourage the Zoning Board to examine issues and questions regarding the zoning ordinance discussed in conjunction with these applications, look at patterns that point out zoning ordinance inconsistencies or deficiencies, and suggest appropriate changes to eliminate or reduce variance applications.

Applications

During the period from January 1, 2020 to December 31, 2020 the Zoning Board of Adjustment held ten (10) regular meetings (two (2) in Council Chambers and eight (8) virtual) and one (1) virtual special meeting. Also, during this period, two (2) regular meetings were cancelled.

During this period, sixteen (16) applications were submitted for consideration. A total of eight (8) applications were voted on. Nine (9) applications remain pending, which includes one (1) application that was submitted in 2019 and one (1) withdrawn.

Also, one (1) application from 2019 is on hold.

**Zoning Ordinance Provisions Which Were the Subject of Variance Requests
Are as Follows:**

25-7.1

Use

Maximum Building Height

Maximum Number of Stories

Minimum Rear Yard

Minimum Front Yard

Minimum Side Yard

Maximum Lot Coverage

Maximum Building Coverage

25-8.1

Minimum Off-Street Parking

Minimum Parking setback from lot line

25-8.2a

Projection of Uncovered Terrace in Rear Yard

25-8.4b

Solid Fence Location

25-8.12

Maximum Principal Use on One Lot

25-12.1.1

Parking location

25-12.1.a

Five Foot Sidewalk between Building and Parking Area

25-12.2b.1

Minimum off-street parking spaces

25-12.4.b.2

Maximum Portion of Front, Side, Rear Yard Used as Parking

25-12.3.(a).1

Minimum Number of Loading Space

25-15.3. (c).2.(b)

Maximum Number of Signs on the Façade

25-15.3 (c)(2)(d)

Maximum Number of Freestanding Signs

25-15.4.a

Maximum number of signs permitted

25-24.2.b.1. (b)

No Parking in Required Front, Rear, Side Yard (Conditional Use)

25-24.2.b.1. (j)(1)

Minimum Building Setback from Property Line

25-24.2.b.2. (i)(2)

Minimum Setback from Lot Line of another Fast Food Restaurant

25-24.2.b.2. (i)(3)

Minimum Distance from Building to a Residential District Boundary

25-24.2.b.2. (i)(4)

Minimum Street Frontage

25-24.2.b.2. (i)(6)

Minimum Distance between Driveways

25-24.2.b.2. (i)(8)

Five Foot Landscape Median between Drive-thru and Circulation Lanes

25-24.2.b.2. (i)(10)

Minimum Number of Parking Spaces

25-28.8.b

Development on Steep Slopes

Specific Applications:

Major Site Plan Approval with “D” and “C” Bulk Variances

Harvey Management Corp., seeking “d” use and “c” variances for modifications to an existing fast food restaurant.

Approved “C” Bulk Variances

Luxenberg, Barbara, seeking “c” variance for front yard setback for the expansion of an existing dining room.

Odegov, Yevgeniyy, seeking “c” variances to expand an existing driveway.

Miller, seeking “c” variance to construct a deck.

Master Form Engineering, seeking a “c” front yard setback variance for the expansion of a dining room.

Morris Union Holdings, Inc., seeking “c” variance for number of parking spaces to construct a surgical center.

Meseha, Kyrillos, seeking “c” variance to install a privacy fence.

Giannetti, Joseph, seeking “c” variances to construct a swimming pool.

Withdrawn Applications

Klein, Lee, seeking “c” variances to reconstruct and expand an existing driveway.

Litigation

The Zoning Board of Adjustment was not involved in any litigation during this period.

Recommendations for Amendments or Revisions to the Zoning Ordinance

A number of revisions were made to the Land Use Regulations Ordinance in 2020 to implement recommendations in the 2019 Master Plan Reexamination. The following are recommendations for potential revisions to the Land Use Regulations Ordinance:

- Definitions, Section 25-4:
 - Modify the definitions of “Basement,” “Cellar” and/or “First Story” so that a building’s floor level that is effectively an above-grade “story” is not considered a “cellar.” This could be accomplished by amending the definition of a “First Story” to include a cellar as well as a basement, and to lower the threshold at which a basement or cellar is considered the first story of a building (currently 12 feet).
 - 25-4 Definition of construction equipment needs to be broader. It cites examples of equipment which should be deleted from the definition
 - 25-4 definition of building coverage should be clarified. Currently it does not include decks. Should decks be included?
- Fence and wall regulations in Subsection 25-8.4 need to be revised to provide separate residential and non-residential standards, to clarify where 6 foot high fencing is permitted so it is easier for residents to understand and to provide standards for land where structures are not present.
- Evaluate Subsection 25-12.5, “Nonapplicability to Existing Buildings and Uses,” as it could currently be read as exempting any building or use that existed prior to January 25, 1978 from compliance with certain off-street parking standards.

Adopted: