

Town of Westfield
Union County, New Jersey

**WESTFIELD ZONING BOARD OF ADJUSTMENT
2007 ANNUAL REPORT**

ADOPTED SEPTEMBER 9, 2008



WESTFIELD ZONING BOARD OF ADJUSTMENT

William Heinbokel, Chairman
Chris Masciale, Vice Chairman
Anthony Cerami
Nancy Reynolds
Robert Burslem
Mark Doherty
Mary Alice Ryan
William West
Ken Soriero

Vincent K. Loughlin, Esq.
Board Attorney

Prepared by:
William H. Drew, P.P., AICP, License No. 3971
Town Planner

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Introduction

The Westfield Zoning Board of Adjustment provides this report in accordance with Section 40:55D-70.1 of the New Jersey Municipal Land Use Law (MLUL), which states the following:

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

The purpose for such reporting is to keep the Planning Board and the Council up to date on variance applications in the Town and on the important decisions made by the Zoning Board of Adjustment regarding them. Because the Board reviews a steady stream of applications seeking approval for deviations from the Zoning Ordinance, it is uniquely positioned to identify instances in which the municipality might be better served by simply amending the Land Use Ordinance. The Zoning Board of Adjustment provides this information to the Planning Board and the Governing Body in order that appropriate action may be taken to keep the Master Plan and the Zoning Ordinance in step with the needs of the community.

A. 2007 Application Summary

The Zoning Board of Adjustment held twelve regular meetings in 2007 (one per month) and eleven special meetings during the course of which it decided a total of 115 applications. The applications included: 87 “c” or bulk variance applications (pursuant to N.J.S.A. 40:55D-70(c)), and 17 “d” variance requests (pursuant to N.J.S.A. 40:55D-70(d)) as indicated in the chart below. Included within the “d” variance applications are two requests for certification of a pre-existing use. The Board granted one certification and denied the other. Also, there were eleven (11) requests for time extensions (all approved) of prior approvals previously granted by the Board. Of the 104 total applications heard (excluding the time extension requests), 91 were approved while thirteen (13) were denied.

Table 1. 2007 Applications

	<i>A- Variances</i>	<i>B- Variances</i>	<i>C- Variances</i>	<i>D- Variances</i>	<i>Total</i>
<i>Approved</i>	<i>0</i>	<i>0</i>	<i>78</i>	<i>13</i>	<i>91</i>
<i>Denied</i>	<i>0</i>	<i>0</i>	<i>9</i>	<i>4</i>	<i>13</i>
<i>Total</i>	<i>0</i>	<i>0</i>	<i>87</i>	<i>17</i>	<i>104</i>

The majority of the applications, 92 of 104, or 88% involved properties in the RS Single Family Residential Zones. The remaining 12 applications were spread about with two in the CBD, two in the P2 zone, one each in the RM8, GB3 and GB1 zones, two in the RM6 zone and one in the RM12 zone. Included in the 12 applications are the two certifications of non-conforming use, one in the GB-3 zone and the other in the RM6D zone.

A.1. RS Single-Family Zone Applications

A breakdown on applications for the RS Single Family Zones appears in Table 2, below. Most prevalent among them, are applications involving additions to existing single-family homes (47%). Listed separately are: new or expanded porches (22%), new or expanded garages and sheds (7%), and various accessory structures including decks, fences, patios, and condenser units (43%). These percentages do not add to 100% due to applications that included more than one improvement. There were three variance applications to construct new houses that involved demolitions of existing structures. The focus on expansion of existing single family-homes represents a substantial investment in the Town's existing housing stock.

Table 2- RS Single Family Zone Applications

Zone District	Total	% of Total	Approved (Denied)	New House	Additions	Porch	Garage Shed	Accessory Structure
RS-6	27	33	22(5)	1 (Demo existing)	15(1)	4	2(2)	6(2)
RS-8	14	17	13 (1)	1 (Demo Existing)	8	6	1	7(1)
RS-10	10	12	10	0	8	0	0	3
RS-12	18	23	17 (1)	0	5	6	0	10(1)
RS-16	7	9	6 (1)	1 (Demo Existing)	3	0	1	2 (1)
RS-24	3	4	3	0	1	0	0	2
RS-40	2	2	2	0	0	2	0	0
TOTALS	81	100%	73(8)	3 (3Demos)	37(1)	18	4(2)	30(5)

A.2. RM & Commercial Zone Applications

Information on applications in the RM and commercial zones appears in Table 3. There were a total of six applications submitted last year. With so few applications submitted, there are no trends that have resulted in 2007.

Table 3. RM6, RM12, CBD, GB-1 and P-2 Applications

Zone District	Total	Approved (denied)	New Building	Additions	Porch	Garage Shed	Accessory Structure
RM-6	1	1		1	1		1
RM-12	1	1				1	0
CBD	2	2					2
GB-1	1	1		1			1
P-2	1	1		1			0
TOTALS	6	6		3	1	1	4

B. 2007 Variances

In considering whether the Board should recommend any changes to the Zoning Ordinance, the Board should report on instances wherein it found existing zoning provisions to be lacking in clarity, obsolete, inapplicable, or simply in error. It is also useful to look for patterns in the record of variances granted over the year. Repeated requests for relief from the same provision, for very similar and valid reasons, may be indicative of a provision that is simply untenable due to prevailing conditions. In that case, a zoning ordinance amendment would be more appropriate than continually granting relief by way of variances. The amendment would not only save time, effort, and expense on behalf of applicants (and Board members), it would further the Town's best interest in that it would establish zoning regulations by ordinance, rather than by variance approvals.

Toward seeking out the errors or omissions and any hidden patterns, the data must be examined by type of variance, applicable zoning district, project proposal, and the specific deviation(s) at issue.

B.1. C-Variances

While the total number of "c" or bulk variance applications in 2007 was 87, many of these sought relief for more than one specific deviation. In sum, 134 specific bulk variances were requested, 127 of which were approved. Tables 4 and 5 below, provide the breakdown on bulk variance relief that was granted, by category, for each of the applicable zone districts.

Table 4- Bulk Variances Requested 2007 (Principal/Buildings/Coverage)

Zone District	Eave Encroachment	Front Yard	Rear Yard	1 Side Yard	2 nd Side Yard	Street Side Yard	Total Bldg Coverage	Total Lot Coverage	Total
GB-1, P-2			1	2					3
RM-6				1			1	1	3
RS-6	3	8	1	12(1)	1	1	11(2)		37(3)
RS-8	0	7	2	2		1	4	1	17
RS-10	2	2	1	4		1	3	1	14
RS-12	0	5	1	8			1		15
RS-16			1	3	1			1	6
RS--24		1						1	2
RS-40	1	1							2
Total	6	24	7	32(1)	2	3	20(2)	5	102

Table 5- Accessory Variances Requested 2007 (Accessory Buildings/Structures)

	Accessory Building				Accessory Structure			
	Sidyard	Rear Yard	Height	Sidyard	Rear/ Front	Seperation Distance	Signs	Parking
CBD							2	
RM 12		1						
RS 6	1							
RS 8								
RS 10								
RS 12				3	1			

A review of the data immediately reveal a pattern of variance relief relating to the RS-6 Zone District. Applications for properties located in the RS-6 Zone comprise 33% of all of the 2007 variance applications (27 of 81, per Table 2, above). Not surprisingly, the district is also represented in the greatest number of variances granted for the year, a tally that equates to 37% of the total. Bulk variance relief for properties in the district is tilted heavily toward principal building requirements, with most requests seeking relief from the required principal building side yard setback, closely followed by total building coverage and front yard setback.

A closer look at the subject RS-6 applications indicates that three of the applications involved undersized lots with insufficient lot depth, while four other lots conformed to lot

area but had insufficient lot depth. The remaining twenty applications were for home additions on conforming lots, all of which actually exceed the 6,000 square foot minimum lot size. The overriding problem appears to lie with the difficulty inherent in developing a typical 50-foot wide lot in conformance with the 10-foot minimum side yard setback standard. Similarly, there were 13 maximum building coverage application requests within the RS-6 zone, two of which were denied. Seven of the approved requests were for less than 1% over the limit, while only one approval was for coverage greater than 2% over the limit.

A similar pattern emerges to a lesser degree for principal building side yard setbacks in the RS-10 and 12 zones, where five of the twelve properties in question were undersized and/or of insufficient width. In certain cases, such lot configurations appear to dominate significant block areas.. Building and total lot coverage problems go hand in hand with undersized lots and appear frequently along with lot width deficiencies.

On an added note, review of permitted building envelope widths for the RS districts reveals that the building envelope width allowance for the RS-12 zone is actually less (at 45 feet) than that provided for the RS-10 district (50 feet).

As to the remaining bulk variance relief, the applications entailed a variety of different circumstances in divergent locations with no identifiable pattern or trend. Applications involved existing conditions, lot configurations, and reasons that differed widely across the board. A number were for irregular and/or non-conforming lots, while others involved corner lot situations, de minimus new encroachments, extensions of existing encroachments, or improvements to older homes that were likely made non-conforming at the inception of the very first Town zoning ordinance.

Recommendations

In light of the findings above, the Board offers the following recommendations for review and possible revision of certain provisions of the Land Use Ordinance:

1. Review the zoning designations of properties throughout the Town of Westfield, to ensure that to the extent feasible, lots are located within appropriate zone districts. Areas having large concentrations of 5,000 to 7,000 square foot lots with 50- to 60-foot lot widths, for instance, should be designated as RS-6 zones.
2. Adjust the setback requirements for the RS-12 zone district to permit a building envelope width of at least 50 feet.

B.4. D-Variances

As noted previously, the Board heard thirteen (13) applications for “d”-variance relief during the 2007 calendar year. Twelve (12) were approved and one (1) was denied. The breakdown appears in Table 6, below.

Table 6. D-Variances 2007 Approved/(Denied)

Zone District	Use	Expansion Non-Conforming Use	Variance from Conditional Use	Floor Area Ratio	Density	Height
P-2	0	0	1	0	0	0
GB-3	1	0	0	1	0	0
RM-6	0	1	0	0	0	0
RM-6D	(1)	0	0	0	0	0
RM-8	0	1	0	0	0	0
RS-6	(1)	0	0	(2)	0	0
RS-8	0	1	0	1	0	0
RS-10	0	0	0	1	0	0
RS-12	0	0	0	2	0	0
RS-24	1	1	1	0	0	0

The most frequently occurring d-variance was that for floor area ratio (FAR). Each of the seven (7) FAR variances pertains to an addition to a single-family home approved in one of the RS zones. No apparent pattern appears, however, and too few are at issue to draw any significant conclusions in any event.

There were four use variances heard by the Board, two of which were requests for certifications of pre-existing non-conforming uses. The Board approved two applications and denied two, one of which was a certification request. That denial has been appealed to the Appellate Division, and the Court's decision is pending. The other use variances heard by the Board do not reflect any pattern that would necessitate a review of the permitted uses within the Town Zoning Ordinance.

Recommendations: