



TOWN OF WESTFIELD ZONING BOARD OF ADJUSTMENT 2015 ANNUAL REPORT

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Prepared by:
Donald B. Sammet, PP/AICP, License No. 5758
Town Planner



2015 Board of Adjustment Members

William Heinbokel, Chairman
Chris Masciale, Vice Chairman
Andrew Wasserman
John DeSena
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Robert Whitehead
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Edward Stellingwerf, Alternate #2

2015 Zoning Board of Adjustment Professionals

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William H. Drew, PP/AICP, Board Planner (1/1/2015 to 4/20/2015)
Gordon Meth, PE/PTOE, Board Traffic Engineer
Kathy Nemeth, Board Secretary
Kathleen Neville, Zoning Officer
Donald B. Sammet, PP/AICP, Board Planner (4/6/2015 to Present)



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INTRODUCTION

This report was prepared in accordance with the requirements outlined in the New Jersey Municipal Land Use Law, section 40:55D-70.1, which states that:

“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.”

This report summarizes the activity of the Westfield Board of Adjustment from January 1, 2015 through December 31, 2015. Included is a summary of applications and appeals from land use ordinance provisions. Also included is a series of recommended amendments to the Town’s Land Use Ordinance, based upon the observations of the Board, during its course of business throughout the year.

The Board of Adjustment is uniquely situated to bring to the attention of the Mayor and Council, and Planning Board, land use ordinance provisions which have resulted in numerous variance requests. Successive appeals for the same types of variance are very often an indication of an outdated ordinance provision, or a regulation which is not reflective of existing, prevailing conditions. This information helps to enable the Town to keep its land use regulations in step with the needs of the community.

BOARD OF ADJUSTMENT AUTHORITY

Pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., a Board of Adjustment has the authority to hear applications for various matters as outlined in the table below.

Type of Application	Zoning Board Jurisdiction
Appeals from decision of Zoning Officer (“A” Type variances)	All Reviews
Interpretations of the Zoning Ordinance (“B” Type variances)	All Reviews
Conditional Use Permits	Ancillary to “D” Type Variances
“C” Type Variances	Not if site plan or subdivision or conditional use is involved; also, ancillary to “D” Type Variances
“D” Type Variances	All Reviews

Type of Application	Zoning Board Jurisdiction
Permit for structure within public area or street; permit for structure on a lot with no street frontage	Not if site plan or subdivision or conditional use is involved; also, ancillary to "D" Type Variances
Subdivision Applications and Related Code Exceptions	Ancillary to "D" Type Variances
Site Plan Applications and Related Code Exceptions	Ancillary to "D" Type Variances
Certification of Legal Non-Conforming Use	All Reviews

2015 MEETING SUMMARY

The Board of Adjustment met a total of 13 times between January 16, 2014 and December 18, 2014, and rendered a decision on a total of 57 applications. Of the 13 meetings held, two were special meetings of the Board.

At the end of the calendar year, there were only three pending complete applications carried to 2016, one of which was carried at the request of the applicant. This is an indicator that the Board was readily able to review applications submitted in a timely manner, providing efficient service to applicants.

2015 APPLICATION SUMMARY

General Overview of Applications Heard

As noted earlier, the Board did hear and decide a total of 57 applications. The applications included a total of 161 variance requests, comprised of 143 "c"-type or bulk variance requests, and 18 "d"-type variance requests. Fifty-four of the applications decided were approved, and the remaining 3 denied. One application was dismissed by the Board due to lack of prosecution, but the applicant reapplied and the application was heard and decided.

Variance Application Requests - 2015

	"A" Type Variances	"B" Type Variances	"C" Type Variances	"D" Type Variances	Total
Approved	0	0	133	18	151
Denied	0	0	10	0	10
Total	0	0	143	18	161

Fifty-three of the 57, or 93% of applications heard in 2015 involved property containing single family residential use. Of these, most involved additions to existing, single family dwellings (40 of the 57, or 70% of the applications heard in 2015). Examples of other applications involving property containing single family dwellings included two

associated with the construction of new homes, and various other requests such as those related to permitted fence height. This is a clear indicator of a continued, substantial investment in the Town's existing housing stock and properties occupied by it.

Site Plan Review

The Board considered a total of 4 site plan applications in conjunction with applications for "d"-type variances. Two of the site plan applications were for mixed residential and commercial use within the same building. Of these and of note is the proposed redevelopment of the so-called "Jolly Trolley" building, where the existing structure will be razed and in its place 20 residential units on upper stories and ground floor retail space will be constructed. The second mixed-use project will result in the expansion of an existing mixed-use building by way a full third story addition, resulting in a larger dwelling unit. These projects are both located within, or adjacent to the Town's central business district. Both applicants expressed a desire to the Board to provide residential use close to the amenities that the central business district provides, including mass transit service.

The remaining two site plan applications reviewed included installation of telecommunications equipment where the proposed equipment installation did not meet all conditions contained within the conditional use ordinance; and, alterations to an existing building in conjunction with a tenant fit-out for a proposed non-conforming use.

Subdivision Review

The Board of Adjustment did not hear any subdivision applications ancillary to "d" type variance requests in 2015.

Appeals, Interpretations, and Certificates of Non-Conformity

The Board did not hear any applications of appeals from the decision of the Zoning Officer in 2015, nor were any applications made requesting an interpretation of the Town's Land Use Ordinance. The Board was also not asked to decide upon any requests for certificates of non-conformity.

C-Type Variance Application Summary

An analysis of the types of variance requests by zone district could reveal outdated sections of the Land Use Ordinance, or sections of the Ordinance which are not in-line with prevailing conditions. Since the majority of applications reviewed by the Board involved additions to single family dwellings, a careful review of the types of variances requested in the single family zone districts is warranted. Looking for patterns in the record of variance requests, such as, repeated requests for variances from the same ordinance section may be indicative of a need for revision. The following table summarizes bulk type variance requests from the Land Use Ordinance.

Zone District	Total Applications	Number of Variance Requests							
		Front Yard	Rear Yard	Side Yard	Street Side Yard	Max. Continuous Wall Length	Permitted Number of Stories	Building Coverage	All Improvement Coverage
RM-6	2	1	0	0	0	1	0	0	0
RS-10	7	2	1	2	0	3	0	3	0
RS-12	13	1	0	6	0	3	2	5	0
RS-16	2	2	1	2	0	2	0	0	0
RS-24	1	1	0	0	0	0	0	0	0
RS-40	1	0	0	0	0	0	0	0	1
RS-6	16	5	2	10	2	7	1	8	0
RS-8	11	6	4	4	1	2	0	13	1
CBD	2	0	0	0	0	0	0	0	0
GB-2	1	0	0	0	0	0	0	0	0
P-1	1	0	1	0	0	0	0	0	1
Total	57	18	9	24	3	18	3	29	3

As seen in the table above, variances were most requested from building coverage, side yard setback, front yard setback, and maximum continuous wall length provisions. There is no particular pattern evident at this time, however, it is recommended that variance requests from these provisions be monitored closely to determine if ordinance modifications are necessary or warranted.

Particular attention and should be given to the monitoring of variance requests from the maximum continuous wall length provision in the ordinance. The Land Use Ordinance allows for a maximum continuous length for walls of a building or structure located adjacent to a side yard property line of 25 feet. This provision is the same regardless of the residential zone district. Applicants have indicated to the Board that meeting this requirement often becomes difficult when additions are to be constructed onto existing dwellings, due to existing floor plans/interior layouts.

D-Type Variance Application Summary

As with c-type variance requests, an analysis of the types of variance requests by zone district could reveal outdated sections of the Land Use Ordinance, or sections of the Ordinance which are not in-line with prevailing conditions. Important when reviewing the number of requests for d-type variances that were before the Board, is noting that a d-type variance does not only involve requests for uses which are not permitted. Many d-type variance requests are as a result of other factors, such as not meeting a conditional use standard, or exceeding permitted floor area ratio. Notably, a variance request from not having a required garage parking space(s) for a single family dwelling is classified as a d-type variance, even when the single family dwelling is a principal permitted use.

Zone District	Total Applications	Number of Variance Requests					
		Use	Expansion of Non-Conforming Use	Conditional Use	FAR	Density	Principal Building Height
RM-6	2	0	0	0	1	0	0
RS-10	7	0	0	0	0	0	0
RS-12	13	0	0	0	2	0	0
RS-16	2	0	0	0	0	0	0
RS-24	1	0	0	0	0	0	0
RS-40	1	0	0	0	0	0	0
RS-6	16	4	0	0	2	0	0
RS-8	11	0	0	0	4	0	0
CBD	2	2	0	0	0	0	0
GB-2	1	0	0	1	0	0	0
P-1	1	1	0	0	1	0	0
Total	57	7	0	1	10	0	0

The Board reviewed a total of 10 d-type variance requests from floor area ratio requirements. Floor area ratio requirements are on a sliding scale, based upon lot sizes and not zone district classification. Therefore, it is the size of an individual property and not the zone district in which it lies which specifies the allowable floor area ratio.

The variance requests that the Board heard from floor area ratio requirements were de minimis in nature and were related to additions to single family dwellings. The Board's review of the applications included the potential impacts of additional building mass on adjoining property. All requests for variances from floor area ratio requirements were approved.

The table above shows that a total of 7 "use" variances were requested. Four of these were related to additions to existing dwellings where no garage space was present. As such, they were not variances to allow for a non-permitted use. When the Board reviews these application types, it is very cognoscente of a property's potential to add a garage space in the future.

Of the remaining 3 d-type variances requested, 1 involved the use of basement space as part of a dwelling unit, and a second involved utilizing a greater square footage of a mixed-use building for residential that the ordinance permits. The third was a variance to allow for a use not permitted in the zone district. The application involved utilization of the ground floor of a building within the CBD for a medical office.

At this time, there is no particular pattern is evident that would suggest ordinance changes are necessary as a result of the d-type variances requested in 2015.

RECOMMENDATIONS FOR ZONING ORDINANCE AMENDMENTS OR REVISIONS

The Board of Adjustment is responsible for reporting on instances where it has found existing zoning provisions to be lacking in clarity, obsolete, inapplicable, or simply in error. To do so, it is 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, or modern standards of living. In that case, a land use 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 land use regulations by ordinance, rather than by variance approvals.

As noted in the body of this report, there are no clear patterns which would indicate a need for Land Use Ordinance amendments at this time. However, it is recommended that there be a continued monitoring of requests from building coverage, side yard setback, front yard setback, and maximum continuous wall length provisions.

OTHER OBSERVATIONS

Although not evident due to the Board's 2015 application record, the Board notes the following concerns with provisions contained within the Town Land Use Ordinance.

1. The allowance of fences located within front and street side yards can have a negative aesthetic impact on the streetscape. Front and street side yard fences should be prohibited, except by way of variance, so that the Board could determine style, composition, and placement.
2. The allowance of garage parking in both principal and accessory structures on the same lot can have a negative aesthetic impact. Such a condition on property could lead to over-massing issues and negative aesthetic impacts associated with multiple parking locations on a single lot.
3. The allowance of decks within the street side yard of corner properties can have a negative aesthetic impact on the streetscape. Measures to require landscaping and/or other review to soften impact should be considered.

APPENDIX: 2015 BOARD OF ADJUSTMENT APPLICATIONS

