

2016 Year End Report
Board of Adjustment

In accordance with N.J.S.A. 40:55D-70.1 the Board of Adjustment hereby submits its annual report on variances that were heard and decided in 2016. The Municipal Land Use Law requires that the Board of Adjustment review its decisions on applications and appeals for variances and prepare and adopt by resolution an report of its findings on zoning ordinance provisions that were the subject of variance requests. Furthermore, the Board is to provide its recommendations for zoning ordinance amendments or revisions, if any. The MLUL requires that the report be forwarded to the Governing Body and to the Planning Board.

Application Synopsis and Summary

The Board held public hearings and decided the following number of variance application cases in 2016:

Bulk	10	(N.J.S.A.40:55D-70c)
Use	4	(N.J.S.A.40:55D-70d)
Interpretations	1	(N.J.S.A. 40:55D-70b)
Appeals from Zoning Officer	1	(N.J.S.A. 40:55D-70a)

The Board approved four “d” variance requests, and is continuing to review a request for multi-family residential development on Lakeside Road (Fontana). In addition the Board heard and favorably acted upon the following requests in 2016:

- Major Site Plan in conjunction with the use variance applications
- Interpretation of the Zoning Ordinance with respect to a Non-Conforming Use (Fontana)
- Appeal from the zoning officers decision on an accessory apartment (Hardy)

Below is the type of bulk, or “c” variances requested and the action taken by the Board:

	Front Yard	Side Yard	Rear Yard	Coverage	Accessory Bldgs.
Variance Requests	2	4	1	2	6
Variances Approved	2	4	1	2	6
Variances Denied					

The “d” variance applications heard by the Board were for the following improvements:

- Multi-family development (redevelopment)
- Church Expansion
- Marina Expansion
- Religious Retreat Expansion

The types of variances requested and the zone in which the properties are located is outlined below.

Zone	Front yard	side yard	rear yard	coverage	accessory bldgs.
LR					1
R-1		1		1	4
R-2		1	1	1	1
R-3	1				
R-4	1	1			

Analysis – Accessory Buildings

The bulk variances in 2016 were concentrated in the area of accessory buildings. Most of the variances concerned the setback requirements or distance between buildings. There is currently no height restriction on accessory buildings so accessory building height was not addressed by the Board except when discussing other variances. The majority of the accessory building variances occurred in the R-1 zone this past year where the majority of these variances occurred in the LR zone in 2015.

There is a continuing discussion concerning accessory buildings and their location on smaller lots in the LR and R-1 (central sewer and water) zones. The current side and rear setback requirement in both zones is 10 feet. The requirement for 15 feet between buildings does appear to be acceptable.

The issue of accessory building height has not been addressed by the governing body and should be discussed. The height of accessory garages in the LR district where the accessory buildings are in the front yard needs to be assessed. This occurs in the lake communities where the location of the accessory garage necessitates its location in the front of the property. This, however, does lead to issues of acceptable building height, separation from adjacent residential structures and changing the character of the neighborhood.

The Board could consider, for example, reducing the setback requirements for the smaller lots and requiring setback distances equal to the height of the accessory structures in the larger lot zones of the R-1 and R-2 districts. Of course, height restrictions would be desirable to avoid overdevelopment, particularly in the smaller lot zones (LR and R-1). In the lake communities, accessory buildings in the front yard and the effect they have on the streetscape should also be analyzed.

Isolated Lots

The zoning ordinance permits an existing non-conforming lot to be developed if it conforms to the zoning ordinance of 1969. In the R-10 zone, for example, a 10,000 square foot lot is required with 20% coverage allowed, with a 30 foot front and rear setback and a 10 side yard setback. Building height up to 35 feet is also permitted. But isolated lots less than 10,000 square feet make zoning decisions challenging between granting approvals for substantially undersized lots and denying the use of property.

If contiguous lots are held by the same owner and one or more do not conform to the 1969 ordinance, they are merged with some exceptions. This has resulted in smaller undersized lots, particularly in the lake communities where sewer and water facilities may not be available. The Township should make an effort to merge the undersized lots it controls to the adjacent land owner. This would increase the size of existing residential lots while preventing a continuation of undersized lot development.

Recommendations

Based on the above, the Zoning Board of Adjustment recommends that the Township Council:

1. Refer to the attached report to the Planning board regarding the Board of Adjustment position on modifications to the accessory building standards and isolated lot variances.
2. Consider the acquisition of under-sized lots located within the LR zone for public space or consider for sale to adjacent properties.

Robert A. Brady, Chairman
Zoning Board of Adjustment