

**2017 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 2017. 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 a 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 2017:

Bulk	15	(N.J.S.A.40:55D-70c)
Use	6	(N.J.S.A.40:55D-70d)
Interpretations	0	(N.J.S.A. 40:55D-70b)
Appeals from Zoning Officer	0	(N.J.S.A. 40:55D-70a)

The Board approved five “d” variance requests which included requests for a residential conversion of an existing hotel, an apartment above commercial space, two accessory apartments and expansion of a public water supply as a conditional use.

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

	Front Yard	Side Yard	Rear Yard	Coverage	Acc. Bldgs.	Decks	Signs
VariANCES	5	3	3	6	3	3	1

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

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

Accessory Buildings

This section is a repeat from the 2016 annual report and is still applicable to the 2017 applications reviewed by the Board of Adjustment this year. The bulk variances in 2017 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 therefore, accessory building height was not addressed by the Board except when discussing other variances. The majority of the accessory building variances occurred in the LR zone this past year.

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 and the appearance of neighborhoods should also be analyzed.

Decks

It became apparent this year that zoning ordinance does not have specific regulations concerning decks. Decks are not included in the list of accessory uses in the residential section of the zoning ordinance. There are no specific criteria for regulating decks such as the percentage of the lot that can be used for decks, there are no setback requirements for side or rear separation from adjacent properties. The Board recommends that specific requirements for the placement of decks be established in the zoning ordinance.

Accessory Apartments

Accessory apartments are permitted accessory uses in all residential zones, except the Lakeside Residential and Planned Neighborhood zones. The basic development criteria for accessory apartments includes the following (§500-19):

- Lot Size – 1 Acre
- Maximum Apt. Size – 600 sq. ft. or 30% of the existing residential floor area
- The primary residential unit must be owner occupied
- Maximum Occupancy – 3 people per 1 bedroom unit
- No appearance changes to the external structure
- Two parking space provided per apartment

Applications have been made for accessory apartments in the Lakeside Residential zone and commercial zone. These are use or “d” variances since accessory apartments are expressly not permitted in these zones. However, in all other residential zones, a variance from the criteria is a conventional “c” variance requirement. The implications of an accessory apartment in the planned subdivisions, Olde Milford Estates, for example, can have more serious consequences than the “c” variance criteria is designed to address. It is recommended that the Council and Planning Board consider making accessory apartments a conditional use. A deviation from the conditional use criteria is a “d” variance and would require a more thorough analysis of the positive and negative tests than the current “c” variance criteria offers.

Secondly, it is recommended that the lot size requirement be discussed by the Planning Board and Council. It is apparent that within the subdivisions where the lot sizes are approximately 0.5 acres and where the existing homes are more expansive (some with walkout basements), that the demand for accessory apartments is increasing as the primary residents increase in age, children leave the residence

when reaching adulthood and space becomes available. Providing for a greater opportunity to create accessory apartments can be a positive element of the Master Plan for the Township, but it would need to be closely regulated so that the composition of neighborhoods is not substantially altered. The conditional use option would serve to provide that protection.

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 with adjacent land owners. This would increase the size of existing residential lots while preventing a continuation of undersized lot development.

Robert A. Brady, Chairman
Zoning Board of Adjustment