

Montclair Board of Adjustment 2011 Annual Report



Township of Montclair

Prepared by:
The Township of Montclair Board of Adjustment
January 2012

2011 Montclair Board of Adjustment

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I. Introduction

This report is prepared pursuant to N.J.S.A. 40:55D-70.1 of the Municipal Land Use Law that requires the Board of Adjustment to review its decisions on applications and appeals for variances each year. A list of applications decided in 2011 and a summary is provided. Also included in this report is a list of recommended amendments to the zoning ordinance to be considered by the Planning Board and Township Council.

II. Summary

The Board held 12 regularly scheduled meetings in 2011. No special meetings were held in 2011. A total of 33 applications were decided by the Board of Adjustment during the 2011 calendar year.

II. Summary (continued)

Of the 33 total applications decided in 2011, no (0) applications were decided pursuant to N.J.S.A. 40:55D-70a regarding an appeal of a decision of a zoning administrative officer. The 33 decisions in 2011 involved variance requests described below.

Six (6) applications for use variances, or 'd' variances, were decided in 2011 pursuant to N.J.S.A. 40:55D-70d. Of the 6 use variance applications decided, 2 involved a request for a new use not permitted in the zone, 3 involved the expansion of an existing nonconforming use, and 1 involved deviations from conditional use standards.

Twenty-six (26) applications solely for bulk variances, or 'c' variances, were decided in 2011 pursuant to N.J.S.A. 40:55D-70c. Those applications predominantly involved additions to single-family dwellings or the reconstruction of detached garages. One (1) application for a 'c' variance also involved a request for exceptions from the New Jersey Residential Site Improvement Standards 5:21-4.2 pursuant to N.J.A.C. 5:21-3.1, regarding the required improvements to an unimproved Residential Access Road. All 6 of the use variance applications decided in 2011 also requested variances pursuant to N.J.S.A. 40:55D-70c for exceptions from bulk standards.

Five (5) applications for preliminary and final site plan approval were decided in 2011 pursuant to N.J.S.A. 40:55D-76(b). These requests for site plan approval and

subdivision came before the Board of Adjustment in connection with 5 of the 6 of the use variance applications described above. No (0) applications involving a request for a major or minor subdivision were reviewed pursuant to N.J.S.A. 40:55D-76(b).

III. Recommended Zoning Changes or Amendments

The Board of Adjustment recommends the following zoning ordinances be reviewed and revised by the Planning Board and the Township Council:

1. Consider revising the minimum rear yard setback requirement in the R-1 and R-2 zones by changing the percentage of the lot depth required for the minimum rear yard setback from 30% to 25%:

*Minimum rear yard: 25 feet, or ~~30%~~ **25%** of the depth of the lot, whichever is greater.*

2. Review the permitted uses in the zones that permit commercial uses (C-1, C-2, N-C, OR-3 and OR-4) to better clarify, distinguish, and categorize certain similar or related uses, such as: health clubs, gyms, personal trainers, yoga, pilates, exercise classes, certain medical offices, massage therapy, acupuncture, etc.

3. Consider revising the current wireless telecommunications to include a condition that the top of any rooftop equipment cabinets or boxes also not exceed the maximum height for principal buildings in the zone.

III. Recommended Zoning Changes or Amendments
(continued)

4. The Township Council should consider developing a comprehensive plan for wireless telecommunications equipment within the Township as the technological requirements within the wireless telecommunications industry evolve. A consultant should be utilized to work with the industry and provide guidance to Township in finding ways to locate wireless telecommunication facilities and minimize their visual impact while providing the benefits to the Township's residents. This process should include looking into using Township owned properties, the railroad right-of-way, and also working with adjoining towns in looking for opportunities to achieve these goals.

5. The zoning ordinances for the single family and two family zone districts relating to the principal structure width, the number of stories, and the definitions and regulations for corner lots should be reviewed further and potentially modified in order to achieve the desired overall goal of the ordinances while eliminating some potentially unnecessary variances.

IV. Application Summary

2011 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances Required	Decision
1/19/11	2181	Timothy T. Foster Vacant lot at the southeasterly corner of Fairfield Street and Essex Avenue	R-1	New single family dwelling; corner lot; Essex Avenue front yard setback	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved with conditions
2/16/11	2197	Hillside Square, LLC 8 Hillside Avenue	R-1	Convert majority of church building into office building and expand parking lot Site plan approval	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> exceed 2½ stories parking in front yard parking deficiency business signage in R-1 Zone fence height	Front yard parking denied; all other relief approved with conditions
2/16/11	2195	Michael & Mary Fourte 331 Orange Road	R-2	Fence height in side yard and front yard	<u>N.J.S.A. 40:55D-70c</u> fence height	Fence height denied in front yard; approved in side yard;
2/16/11	2199	Diahann Homer 9 Crestview Court	R-0(a)	Additions to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback rear yard setback principal structure width principal structure coverage	Approved with conditions
3/16/11	2200	The Montclair Foundation 21 Van Vleck Street	RO & R-1	Parking area for 12 vehicles with a new driveway from No. Mountain Ave; and a two story accessory building Site plan approval	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> accessory building height parking in front yard parking deficiency	Approved with conditions

2011 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances Required	Decision
3/16/11	2207	Brian & Laura Lokker 41 Elston Road	R-1	Detached garage rebuild	<u>N.J.S.A. 40:55D-70c</u> side yard setback of garage rear yard setback of garage	Approved with conditions
3/16/11	2209	Serge & Chandra Hunkins 643 Grove Street	R-1	Detached garage rebuild	<u>N.J.S.A. 40:55D-70c</u> height of garage	Approved with conditions
4/13/11	2211	Bart & Patricia Krupp 300 Upper Mountain Avenue	R-0	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> rear yard setback	Approved
4/13/11	2215	Steven J. Halasz 312 Linden Avenue	R-1	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved
4/13/11	2204	Joyce Fleissner 36 Mountainside Park Terrace	R-1	Complete required roadway improvements and create parking for single family dwelling; de minimis exceptions from RSIS 5:21-4.2	<u>N.J.S.A. 40:55D-70c</u> parking area in front yard <u>N.J.A.C. 5:21-3.1</u> RSIS: ROW less than 50 ft width RSIS: cartway less than 28 ft width	Approved with conditions
5/18/11	2219	Micha Levi & Aya Izraely-Levi 134 Watchung Avenue	R-1	New larger detached garage	<u>N.J.S.A. 40:55D-70c</u> side yard setback	Approved with conditions
5/18/11	2214	Mr. & Mrs. William Lenchinsky 23 Woodmont Road	R-0(a)	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> exceed 2½ stories front yard setback	Approved

2011 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances Required	Decision
6/15/11	2217	John DiGeronimo; Richard DiGeronimo; Angelo Benfante 170-172 Pine Street	R-2	Enlarge existing building containing 4 dwelling units. Enlarge and improve parking area. Site plan approval	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> front yard setback side yard setback principal structure width principal structure coverage parking area setback driveway setback accessory structure side yard setback (trash enclosure) less than 1/3 garaged parking	Approved with conditions
6/15/11	2218	Walter Kos 21 Forest Street	R-2	Addition to two family dwelling	<u>N.J.S.A. 40:55D-70c</u> side yard setback principal structure width	Approved with conditions
6/15/11	2220	David Adleman 115 Buckingham Road	R-1	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> side yard setback	Approved
6/15/11	2223	Colette Dunworth 13 Stonehenge Road	R-1	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved
7/20/11	2231	Beatrice Price 6 Jefferson Place	R-1	New larger detached garage on property containing lawful nonconforming two-family dwelling	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> side yard setback of garage rear yard setback of garage	Approved with conditions
7/20/11	2227	David & Karen Gash 290 Park Street	R-1	Addition to single family dwelling; corner lot	<u>N.J.S.A. 40:55D-70c</u> front yard setback side yard setback	Denied

2011 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances Required	Decision
7/20/11	2228	Philip & Leslie Hatch 137 Montclair Avenue	R-1	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved
7/20/11	2229	Latifah Jannah 19 Wheeler Street	R-2	Addition to two family dwelling	<u>N.J.S.A. 40:55D-70c</u> side yard setback principal structure coverage	Approved
7/20/11	2230	Brianne Johnson 30 William Street	R-2	Additions to two family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback side yard setback (both) principal structure width principal structure coverage	Approved with conditions
8/17/11	2236	Ross Roudez 8 Carlton Drive	R-1	Reconstruct single family dwelling; corner lot	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved
8/17/11	2237	Jack & Jennifer Abuhoff 54 Prospect Avenue	R-0	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> side yard setback	Approved with conditions
8/17/11	2225	Montclair Kimberly Academy Foundation 201 Valley Road	R-1	Addition to private school building and site changes Site plan approval	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> height of screen wall	Approved with conditions
8/17/11	2239	Dennis & Leslie Massuzo 132 Alexander Avenue	R-1	Addition to single family dwelling; corner lot	<u>N.J.S.A. 40:55D-70c</u> front yard setback rear yard setback	Approved
8/17/11	2235	Jason Luther 2 Vera Place	R-1	Central air conditioning unit in front yard; corner lot	<u>N.J.S.A. 40:55D-70c</u> accessory structure in front yard	Approved
8/17/11	2240	Michael Cucka 14 Edgecliff Road	R-1	Addition to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback exceed 2½ stories	Approved

2011 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances Required	Decision
9/21/11	*****	No decisions memorialized 9/21/11.	*****	*****	*****	*****
10/19/11	2245	Catherine Bebout 222 Fernwood Avenue	R-1	New larger detached garage; corner lot	<u>N.J.S.A. 40:55D-70c</u> height of garage rear yard setback of garage garage in front yard	Height variance denied; other relief approved with conditions
11/16/11	2246	French Institute Alliance Francaise 37 North Mountain & 323 Claremont Avenue	R-3	Utilize the first floor of the carriage house as a French language school Site plan approval	<u>N.J.S.A. 40:55D-70d</u> use variance <u>N.J.S.A. 40:55D-70c</u> Business signage in residential zone	Approved with conditions
11/16/11	2244	Nigel & Amber Gilbert 3 Bellaire Drive	R-1	New parking area; corner lot	<u>N.J.S.A. 40:55D-70c</u> Parking area in front yard	Approved with conditions
11/16/11	2222	Alex Davies 250 Upper Mountain Avenue	R-0	Additions to single family dwelling	<u>N.J.S.A. 40:55D-70c</u> front yard setback	Approved with conditions
11/16/11	2247	Christopher & Krekamy Craig 111 Elm Street	R-2	New detached garage	<u>N.J.S.A. 40:55D-70c</u> height of garage rear yard setback of garage garage in front yard	Height variance denied; other relief approved with conditions
11/16/11	2248	David Koschik & Izumi Hara 52 Wayside Place	R-0	Addition to single family dwelling and new detached garage; corner lot	<u>N.J.S.A. 40:55D-70c</u> rear yard setback garage in a side yard side yard setback of garage rear yard setback of garage	Approved
12/14/11	*****	No decisions memorialized 12/14/11	*****	*****	*****	*****