

**RESOLUTION  
BOARD OF ADJUSTMENT  
TOWNSHIP OF MONTCLAIR**

**ADOPTING 2012 ANNUAL REPORT**

**WHEREAS**, the Municipal Land Use Law (the “MLUL”), specifically, N.J.S.A. 40:55D-70.1, requires the Board to review its decisions on applications and appeals for variances and to 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 revisions, if any;

**WHEREAS**, the MLUL requires that the Board send copies of its Annual Report and resolution of adoption to the Governing Body and the Planning Board;

**WHEREAS**, the Board has reviewed its decisions on cases heard during 2012 and has prepared the annexed report thereon.

**NOW, THEREFORE, BE IT RESOLVED** by the Township of Montclair’s Board of Adjustment, as follows:

1. The Board’s 2012 Annual Report, a copy of which is annexed hereto, is hereby formally adopted.

2. The Secretary of the Board is hereby authorized and directed to transmit a copy of the said Annual Report as well as a copy of the within resolution, to the Governing Body and the Planning Board of the Township of Montclair.

Offered by: Mr. Whipple

Seconded by: Mr. Fleischer

Vote: 6-0 (Chair Harrison, Ms. Checca, Mr. Edwards, Mr. Fleischer, and Mr. Kenney, and Mr. Whipple)

Date: September 18, 2012

# Montclair Board of Adjustment 2012 Annual Report



## Township of Montclair

Prepared by:

The Township of Montclair Board of Adjustment

2013

**2012 Montclair Board of Adjustment**

William F. Harrison, Jr., **Chair**

John Whipple, **Vice Chair**

Joseph Fleischer

Betty Holloway

Paul Burr

Paul Edwards

Joan Checca

Sherwin Tsai, First Alternate

Thomas Reynolds, Second Alternate

Michael Kenney, Third Alternate

Michael Sullivan, Esq., Board Attorney

W. Thomas Watkinson, PE, PP, Board Engineer

Janice Talley, P.P., AICP, Secretary

Richard Charreun, Assistant Secretary

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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 2012 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 2012. No special meetings were held in 2012. A total of 30 applications were decided by the Board of Adjustment during the 2012 calendar year.

## II. Summary (continued)

Of the 30 total applications decided in 2012, two (2) applications were decided pursuant to N.J.S.A. 40:55D-70a regarding an appeal of a decision of a zoning administrative officer. The other 28 decisions in 2012 involved variance requests described below.

Four (4) applications for use variances, or 'd' variances, were decided in 2012 pursuant to N.J.S.A. 40:55D-70d. Of the 4 use variance applications decided, 2 involved a request for a new use not permitted in the zone, 1 involved the expansion of an existing nonconforming use, and 1 involved deviations from conditional use standards.

Twenty-four (24) applications solely for bulk variances, or 'c' variances, were decided in 2012 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 relief from N.J.S.A. 40:55D-35, 36 regarding a proposed dwelling on a lot not fronting on a public street. One (1) of the 4 use variance applications decided in 2012 also requested variances pursuant to N.J.S.A. 40:55D-70c for exceptions from bulk standards.

Two (2) applications for preliminary and final site plan approval were decided in 2012 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 2 of the 4 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 does not have any recommended zoning changes or amendments to the zoning ordinance based on the applications reviewed in 2012.

**IV. Application Summary**

2012 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances/Relief Required	Decision
Jan 18		No decisions memorialized				
Feb 15	2252	Michael Dyer 67 Greenwood Avenue	R-2	Appeal the decision the Zoning Admin. Officer requiring the dismantling of 3 illegal apts for a property on record as a 2 Family dwelling	<u>N.J.S.A. 40:55D-70a</u> <ul style="list-style-type: none"> <li>Appeal to Board of Adjustment</li> </ul>	Affirmed the Decision of Zoning Admin. Officer
Feb 15	2256	Matthew & Rachel Poggie 545 Park Street	R-1	Additions to the 2 <sup>nd</sup> floor of the dwelling and to construct a deck. Corner lot	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Front yard setback</li> <li>Dwelling width</li> <li>Side yard setback</li> <li>Exceed 2½ stories</li> </ul>	Approved
Feb 15	2257	C.J. & Jaime Duffy 19 Capron Lane	R-1	Additions to the 2 <sup>nd</sup> floor of the dwelling and to construct a deck	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Dwelling width</li> <li>Rear yard setback</li> </ul>	Approved
Mar 21		No decisions memorialized				
Apr 18	2263	Edward & Pamela Moed 5 Stonebridge Court	R-1	Reconstruct a dwelling on an existing foundation Home destroyed by fire	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Dwelling height</li> <li>Dwelling width</li> </ul>	Approved with condition

2012 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances/Relief Required	Decision
Apr 18	2259	Gene & Elana Silverman 17 Mt. Vernon Road	R-1	Additions onto the dwelling	<u>N.J.S.A. 40:55D-70c</u> • Dwelling width	Approved
Apr 18	2261	Mary Jane Weldon 2 Chester Road	R-1	Back-up electrical generator in front yard Corner lot	<u>N.J.S.A. 40:55D-70c</u> • Accessory structure in front yard	Denied
Apr 18	2262	Michael Steere 18 Warfield Street	R-1	Pergola in front yard "L" shaped lot with double frontage.	<u>N.J.S.A. 40:55D-70c</u> • Accessory structure in front yard	Approved with condition
May16	2258	360 Cycling Studio, LLC 4 Lackawanna Plaza	C-1	Business Identification signage	<u>N.J.S.A. 40:55D-70c</u> • Paint sign directly on building • Exceed sign area • Sign height • Outside of sign band	Denied sign area. Modified and approved sign height. Approved painting directly on building and sign band.
May16	2264	Tony Walia 110 Haddon Place	R-1	Addition onto the easterly side of the dwelling	<u>N.J.S.A. 40:55D-70c</u> • Front yard setback	Approved
Jun 13	2274	Paul & Nora Carlson 408 Up. Mountain Avenue	R-1	Roof covering for the existing front entrance of the dwelling	<u>N.J.S.A. 40:55D-70c</u> • Front yard setback	Approved
Jun 13	2271	Eric Carlson & Bridget Eklund 303 Highland Avenue	R-0	Addition on the northerly side the dwelling	<u>N.J.S.A. 40:55D-70c</u> • Front yard setback	Approved with conditions

2012 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances/Relief Required	Decision
Jun 13	2241	Valley National Bank 529 and 539 Valley Road	N-C	Underground pneumatic tube system and extend drive through canopy  Site Plan approval	<u>N.J.S.A. 40:55D-70d(2)</u> <ul style="list-style-type: none"> <li>Expansion of nonconforming use</li> </ul> <u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>parking setback from the front property line</li> <li>number of parking spaces</li> </ul>	Approved with conditions
Jun 13	2266	54 Plymouth Street, LLC 54 Plymouth Street	R-1	Permit general/professional office use on the second floor of the building	<u>N.J.S.A. 40:55D-70d(1)</u> <ul style="list-style-type: none"> <li>Use variance</li> </ul>	Approved with conditions
Jul 18	2268	Elaine Fiveland 262 North Fullerton Avenue	R-1	Addition at the rear of the dwelling	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Side yard setback</li> </ul>	Approved
Jul 18	2275	Matthew & Marisa Beneventi 44 College Avenue	R-1	Addition onto the 2 <sup>nd</sup> floor of the dwelling	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Front yard setback</li> </ul>	Approved
Jul 18	2277	Kumar Singh 16 Rosedale Avenue	R-2	Landing and stairway to the second floor at the rear of the dwelling	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Side yard setback</li> <li>Principal structure coverage</li> </ul>	Approved with conditions
Jul 18	2276	Joseph Martella & Susan Baer 21 Norman Road	R-1	Construct a taller roof onto the existing detached garage in the rear yard	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>Side yard setback</li> <li>Rear yard setback</li> </ul>	Approved with conditions

2012 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances/Relief Required	Decision
Jul 18	2272	Samantha & Adam Kaplan 251 South Mountain Avenue	R-0	Demolish the existing single-family dwelling and construct a new single-family dwelling	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>• Lot width</li> <li>• Exceed 2½ stories</li> <li>• Driveway gradient</li> </ul>	Approved with conditions
Aug 15	2254	Frank & Marcia Haimbach Park Street (vacant lot - Block 2804 Lot 38)	R-1	New single family dwelling on vacant lot that does not front on a public street	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>• No public frontage</li> </ul> <u>N.J.S.A. 40:55D-35, 36</u> <ul style="list-style-type: none"> <li>• Permit a building not on a street</li> </ul>	Approved with conditions
Sept 19	2314	Savita & Matthew Lepore 137 Cooper Avenue	R-1	Detached garage to replace storm damage garage	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>• Side yard setback</li> <li>• Rear yard setback</li> </ul>	Approved with condition
Sept 19	2283	James Ackerman 141 Upper Mountain Avenue	R-0	Construct an addition onto the rear of the dwelling	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>• Side yard setback</li> </ul>	Approved with conditions
Sept 19	2285	Roger Drill & Lettie Teague 131 North Mountain Avenue	R-1	Detached garage to replace existing smaller garage	<u>N.J.S.A. 40:55D-70c</u> <ul style="list-style-type: none"> <li>• Rear yard setback</li> </ul>	Denied
Sept 19	2287	Clifford H. & Karen Goldman 145 Highland Avenue	R-0	Appeal the decision the Zoning Admin. Officer that a proposed structure was not a permitted accessory use	<u>N.J.S.A. 40:55D-70a</u> <ul style="list-style-type: none"> <li>• Appeal to Board of Adjustment</li> </ul>	Affirmed the Decision of Zoning Admin. Officer



2012 Board of Adjustment Decision on Applications and Appeal for Variances						
Date	File	Applicant	Zone	Description	Variances/Relief Required	Decision
Oct 17	2288	Santo & Lourdes Ricciardi 70-72 Forest Street	R-2	Construct a driveway and parking area for 2 vehicles in the front yard	<u>N.J.S.A. 40:55D-70c</u> • Parking area in front yard	Denied
Oct 17	2292	Michael & Michelle Lepak 316 North Fullerton Avenue	R-2	Construct a roofed wrap-around front porch Corner lot	<u>N.J.S.A. 40:55D-70c</u> • Front yard setback	Approved
Nov 14	2286	Essex Holdings Management, LLC 174 Harrison Avenue	R-1	Demolish the existing dwelling and construct a two-family dwelling	<u>N.J.S.A. 40:55D-70d(1)</u> • Use variance	Denied
Nov 14	2295	Kevin & Tara Griswold 97 Mt. Hebron Road	R-1	Construct a roofed entry landing at the front of the dwelling Corner lot	<u>N.J.S.A. 40:55D-70c</u> • Front yard setback	Approved
Nov 14	2297	Rogier Intres 23 Chester Road	R-1	Construct decking in the rear yard on the southerly side of the dwelling	<u>N.J.S.A. 40:55D-70c</u> • Rear yard setback	Approved with conditions
Nov 14	2299	Ellen Sander 12 Garden Street	R-1	Fence along a section of the westerly side property line	<u>N.J.S.A. 40:55D-70c</u> • Height of fence	Approved
Dec 19	2290	Montclair Kimberly Academy Foundation 40 Upper Mountain Avenue	R-0	New turf athletic field, new field house and parking area Site Plan approval	<u>N.J.S.A. 40:55D-70d(3)</u> • Conditional use variances	Approved with conditions