

**RESOLUTION
BOARD OF ADJUSTMENT
TOWNSHIP OF MONTCLAIR**

March 20, 2019

2018 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 2018 and has prepared the annexed report thereon.

NOW, THEREFORE, BE IT RESOLVED by the Township of Montclair's Board of Adjustment, that the Board's 2018 Annual Report, a copy of which is annexed hereto, is hereby formally adopted and that a copy of this resolution be transmitted to the Township Manager, Township Council, Township Clerk, and Township Planning Board.



Graham Petto P.P., AICP
Assistant Secretary, Board of Adjustment

Montclair Board of Adjustment 2018 Annual Report



Township of Montclair

Prepared by:

The Township of Montclair Board of Adjustment

March 2019

2018 Montclair Board of Adjustment

- William F. Harrison, Jr., Chair
- Joseph Fleischer, Vice Chair
- Thomas Reynolds
- Jonathan B. Moore
- Kevin Allen
- John McCullough
- Jerry Simon, First Alternate
- Angela Harris, Second Alternate
- John Caulfield, Third Alternate
- Michael Sullivan, Esq., Board Attorney
- W. Thomas Watkinson, P.E., P.P., Board Engineer
- Janice Talley, P.P., AICP, Secretary
- Graham Petto, P.P., AICP, Assistant Secretary

Table of Contents

I.	Introduction.....	1
II.	Summary.....	1
III.	Recommended Zoning Changes & Amendments.....	2
IV.	Application Summary.....	3-5
V.	Maps.....	6-7

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 2018 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 2018. In addition, the Board held 2 special meetings in 2018. A total of 33 applications were decided by the Board of Adjustment during the 2018 calendar year.

Ten (10) applications involving “d” variances were decided in 2018 pursuant to N.J.S.A. 40:55D-70d. The 10 “d” variances decided as part of the applications by the Board were distributed as follows:

- | | | |
|----|--|---|
| 1. | d(1) use variances: | 7 |
| 2. | d(2) expansion of non-conforming use: | 1 |
| 3. | d(3) deviation from conditional use standards: | 1 |
| 4. | d(6) height variance: | 1 |

Twenty-one (23) applications were decided in 2018 pursuant to N.J.S.A. 40:55D-70c included bulk variances, or ‘c’ variances. All 23 of these applications were for properties located in residential zones.

Six (6) applications, seeking site plan approval in connection with a “d” variance, were decided in 2018 pursuant to N.J.A.C. 5:21-3.1. One (1) application involved a request for a minor subdivision pursuant to N.J.S.A. 40:55D-76(b).

III. Recommended Zoning Changes or Amendments

1. The Board of Adjustment recommends a review of the parking requirements set forth in the Zoning ordinance in context of current parking standards. The Board has received much testimony from applicants seeking parking variances that existing parking requirements of the Township are not consistent with actual parking demand.
2. The Board recommends that the properties in the OR-4 zoning district, on the east side of Valley Road south of Bloomfield Avenue, be rezoned as recommended in the adopted Land Use & Circulation Element of the Township Master Plan.
3. The Board recommends that the Governing Body act to implement all recommendations of the adopted Land Use & Circulation Element of the Township Master Plan that it supports as soon as possible. For those recommendations that will be immediately implemented by the Governing Body, a resolution affirming or rejecting each such recommendation in the Land Use & Circulation Element of the Township Master Plan should be adopted.
4. The Board recommends the definition of half-story, contained within the story definition, be more clearly defined. In addition, the ordinance should be clarified so that only where at least 50% of a floor is above grade shall it be considered to be a story.
5. The Board recommends clarification of the restriction on front yard parking when contained within a building. The Board has encountered questions about front yard parking when only an attached garage is projecting into the front yard with no other living space.
6. The Board recommends a modification of the required minimum lot frontage/width be made to establish compliance of existing lots of record.
7. The Board recommends that the front yard setback calculation be modified disregard adjacent principal structures that have a front yard setback of more than twice the front yard setback of the other adjacent principal structures.

IV. Application Summary

Date	App. No.	Applicant	Address	Description	Variance Relief Required	Decision
1/24/18	2523	JU, LLC.	25 Valley Road	Commercial - Retail/Service use in OR-4	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
3/28/18	2540	Margaret Valentine	28 Carteret Street	Residential - Bulk variance of accessory structure side yard setback	N.J.S.A. 40:55D-70c	Approved, with conditions
3/28/18	2539	Vivek Bharagava	8 Christopher Court	Residential - Maximum Building Coverage	N.J.S.A. 40:55D-70c	Approved, with conditions
3/28/18	2528	Sustainable Sanctuary Homes, LLC	41 Plymouth Street	Residential - Two-family dwelling in R-1 Zone	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
4/11/18	2536	Michael & Michelle Lepak	316 North Fullerton Avenue	Residential - Bulk variance of accessory structure in front yard	N.J.S.A. 40:55D-70c	Approved, with conditions
4/11/18	2522	Willow Street Partners, LLC	40 South Fullerton Avenue	Residential - Subdivide church property and create two single family lots	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
4/25/18	2549	Claudia & Seth Riegelhaupt	338 Highland Avenue	Residential - Bulk variance of accessory structure in front yard	N.J.S.A. 40:55D-70c	Approved, with conditions
4/25/18	2547	Charbel & Nicole Chalfoun	114 Upper Mountain Avenue	Residential - Bulk variance of accessory structure side and rear yard setback	N.J.S.A. 40:55D-70c	Approved, with conditions
4/25/18	2537	Sustainable Sanctuary Homes, LLC	21 Plymouth Street	Residential - Three-family dwelling in R-1 Zone	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
5/16/18	2542	Erie Street Partners, LLC	151 Forest Street	Commercial - Health Club/Gym in R-2 Zone	N.J.S.A. 40:55D-70d(1)	Denied
5/16/18	2532	Montclair Kimberly Academy	224 Orange Road	Institutional - Conditional Use Variance for addition to school building	N.J.S.A. 40:55D-70d(3)	Approved, with conditions
6/20/18	2554	Imbar Meidani	12 Willowdale Court	Residential - Bulk variances of principal and accessory side yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
6/20/18	2553	Peter J Derba III	284 Park Street	Residential - Bulk variance of principal structure rear yard setback	N.J.S.A. 40:55D-70c	Approved
7/18/18	2556	Michelle Bender & Robert Posada	4 Macopin Avenue	Residential - Bulk variances of accessory side and rear yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
7/18/18	2555	MDZ Management, LLC d/b/a Nicolo's Bakery	6-12 Baldwin Street	Commercial - Expand wholesale use in N-C Zone	N.J.S.A. 40:55D-70d(2)	Approved, with conditions

Date	App. No.	Applicant	Address	Description	Variance Relief Required	Decision
7/18/18	2552	Jamie Anthony	3 Eagle Rock Way	Residential - Bulk variances of principal structure side and rear yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
8/15/18	2561	Walnut Grove Ptrs LLC & Greenwood Ptrs LLC	111-113 Grove Street & 63 Walnut Street	Commercial - Site plan for previous use variance for new comm. Building	N.J.S.A. 40:55D-70d(6)	Approved, with conditions
8/15/18	2560	Steven Lerner	11 Montclair Avenue	Residential - Bulk variances of accessory side and rear yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
9/12/18	2576	Carmel Loughman	26 Walnut Street	Residential - Bulk variances of accessory side and rear yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
9/12/18	2568	Mary Clark & Alexis Charnee	31 Stephen Street	Residential - Bulk variance of accessory structure side yard setback	N.J.S.A. 40:55D-70c	Approved, with conditions
9/12/18	2551	Neena & Dinesh Shah	167 Highland Avenue	Residential - Bulk variances of principal structure front and side yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
10/17/18	2570	Cheryl Oberdorff	4 Inwood Terrace	Residential - Front yard parking	N.J.S.A. 40:55D-70c	Approved, with conditions
10/17/18	2571	Jeh Johnson & Susan DiMarco	30 Porter Place	Residential - Maximum permitted fence height	N.J.S.A. 40:55D-70c	Approved, with conditions
10/17/18	2564	441 Bloomfield Ave Montclair, LLC	441 Bloomfield Avenue	Commercial - Professional office, first floor in C-1 Center Area Zone	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
11/7/18	2581	Peter Lin	52 Llewellyn Road	Residential - Bulk variance of principal structure side yard setback	N.J.S.A. 40:55D-70c	Approved
11/7/18	2583	Emanuel Goldman & Naomi Weinsinker	27 Mulford Lane	Residential - Bulk variance of accessory structure side yard setback	N.J.S.A. 40:55D-70c	Approved
11/7/18	2580	Samuel Stewart (Honor You Memorial)	451-455 Orange Road	Commercial - Manufacturing use in R-1 Zone	N.J.S.A. 40:55D-70d(1)	Approved, with conditions
11/7/18	2579	202 Watchung Avenue, LLC	202 Watchung Avenue	Residential - Bulk variances of principal structure front and side yard setbacks	N.J.S.A. 40:55D-70c	Approved, with conditions
11/7/18	2573	Willow Street Partners, LLC	40 South Fullerton Avenue	Residential - Site Plan for previous use variance for two single family lots	N.J.S.A. 40:55D-70c	Approved, with conditions
11/7/18	2563	John Giorgi	430 Upper Mountain Avenue	Residential - Bulk variance of principal structure front yard setback	N.J.S.A. 40:55D-70c	Approved, with conditions
11/7/18	2559	Zachary & Lauren Zeltzer	35 Afterglow Way	Residential - Bulk variance of max building width	N.J.S.A. 40:55D-70c	Denied
12/19/18	2585	Ram Bhadur	20 Montclair Avenue	Residential - Bulk variance of principal structure front yard setback	N.J.S.A. 40:55D-70c	Approved, with conditions

Date	App. No.	Applicant	Address	Description	Variance Relief Required	Decision
12/19/18	2584	Adrienne Himmelberger	10 Godfrey Road	Residential - Bulk variance of principal structure side yard setback	N.J.S.A. 40:55D-70c	Approved
12/19/18	2578	Heidi Daus Enterprises, LLC	68 Forest Street	Commercial - Expand office use in R-2 Zone	N.J.S.A. 40:55D-70d(1)	Approved, with conditions

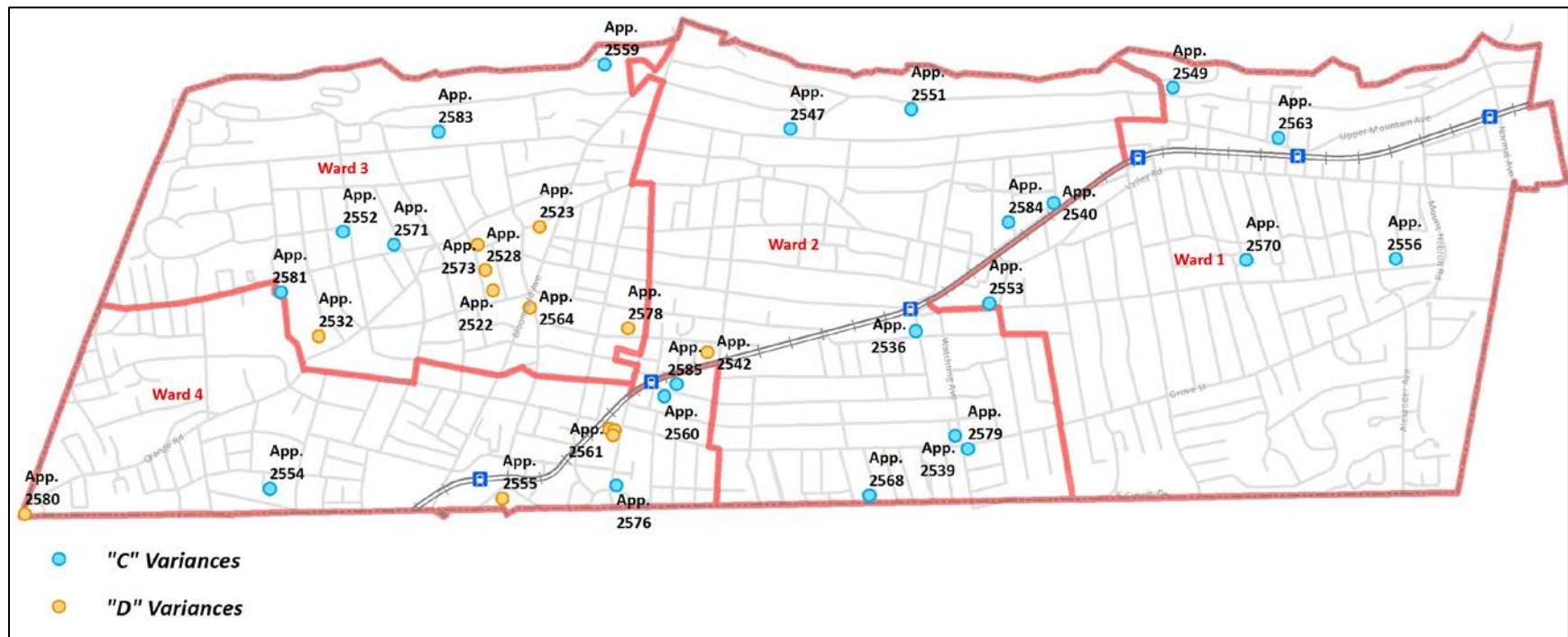


Figure 1 - Map illustrating location of variance applications, prepared by Department of Planning & Community Development, February 2019

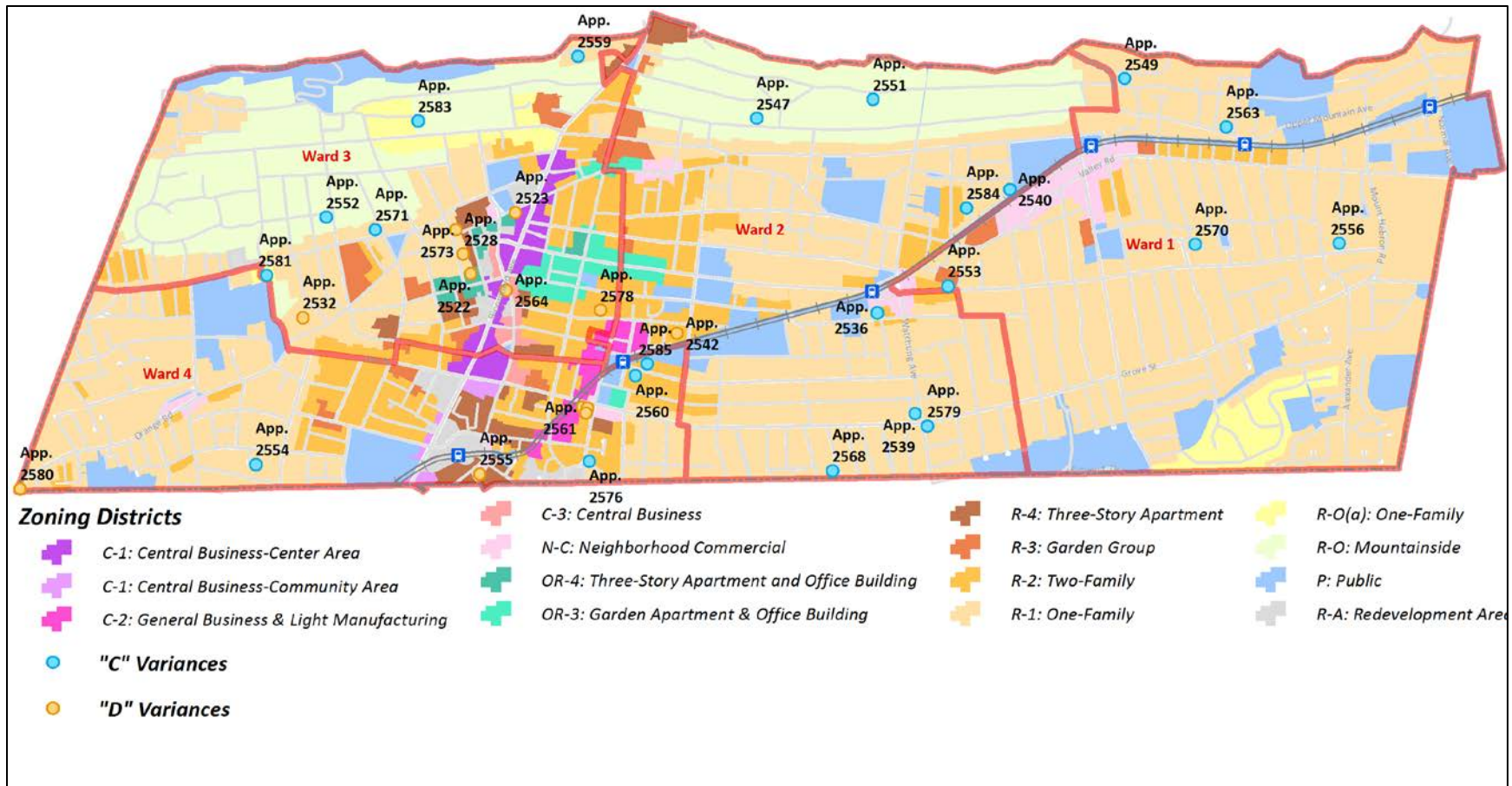


Figure 2 - Map illustrating location of variance applications and zone districts, prepared by Department of Planning & Community Development, February 2019