

Understanding Montclair Land Use Boards & Applications

Township of Montclair

Department of Planning & Community Development

Montclair Land Use Boards

- **Planning Board**
 - Nine member Board, Two alternate members
 - Four classes of members including: Mayor (or designee), one municipal official, one Council member, citizen members not employed by municipality nor serving as elected official
- **Board of Adjustment**
 - Seven member Board, Four alternate members
 - All citizen members not employed by municipality nor serving as elected official
- **Development Review Committee**
 - Five member Committee, reviews Applications for Development involving site plan only
 - Membership includes: 2 Planning Board members, 1 Board of Adjustment member, Planning Director, & Planning Board Engineer
- **Historic Preservation Commission**
 - Seven member Commission, Two alternate members
 - Three classes of members: Class A, B & C

Source: Montclair Codes § 202-1(A), § 202-10.2, § 202-12, & § 347-129

Planning Board Responsibilities

Planning Board Responsibility	Planning Board Permitted Action
Prepare Township Master Plan	Prepare, adopt or amend a master plan to guide land use in the Township in a manner that protects public health and safety and promotes general welfare
Zoning Ordinance	Propose or make recommendations to Township Council on all proposed zoning ordinance changes
Applications for Development: Subdivision & Site Plan	Approve Applications for Development for subdivision and site plan. (one- and two-family dwellings are exempt)
Applications for Development: Variances & Conditional Use Approval	Grant “bulk” variances and conditional use approval only as part of Applications for Development for subdivision & site plan
Redevelopment Plans	<ul style="list-style-type: none">• If directed by Township Council, prepare draft redevelopment plans and submit to Council for adoption.• If not directed by Council to prepare the plan, review draft plans for consistency with the Master Plan and provide comment to Council

Board of Adjustment Responsibilities

Board of Adjustment Responsibility	Board of Adjustment Permitted Action
Hear appeals of decisions made by Administrative Officer	Whenever a party believes that the administrative officer has made a mistake in enforcing the zoning ordinance, they may appeal the issue to the zoning board of adjustment
Interpret Zoning Ordinance & Zoning Map	Hear and decide requests for interpretation of the zoning ordinance or map
Applications for Development: Hear requests for “C” variances	“Bulk” variances; predominantly for one- and two-family dwellings
Applications for Development: Hear requests for “D” variances	Grant variances for deviation of (requires 5 affirmative votes): <ol style="list-style-type: none"> 1. use or principal structure in a district regulated against such use or building 2. An expansion of a nonconforming use 3. Deviation from the standards for a conditional use 4. An increase in the permitted floor area 5. An increase in permitted density 6. The height of a principal structure that exceeds by 10 feet or 10% the height permitted in the district for a principal structure.
Applications for Development: Subdivision & Site Plan when a “D” variance is required	The Planning Board hears most applications for subdivision & site plan approval. However, when the application includes a “D” variance, the Board of Adjustment hears the application.

Development Review Committee Responsibilities

Development Review Committee Responsibility	Development Review Committee Permitted Action
<p>Applications for Development (Site Plan Only): Compliance with zoning requirements, development regulations and design standards</p>	<p>The Development Review Committee may review Applications for Development involving a site plan to determine compliance with the Township's zoning requirements, development regulations and design standards. The Committee may make recommendations to applicants regarding compliance with zoning requirements, development regulations and design standards.</p>
<p>Applications for Development (Site Plan Only): Design and technical elements review</p>	<p>The Development Review Committee may make recommendations to the applicant on the design and technical elements of Applications for Development involving a site plan</p>
<p>Applications for Development (Site Plan Only): Conduct formal hearings on minor site plans that do not include any variances</p>	<ul style="list-style-type: none"> • The Planning Board may choose to refer Applications for Development for minor site plan approval without any variances to the Development Review Committee for approval. • An applicant may request to have the minor site plan approval referred to the Planning Board for action. • If a minor site plan approval is denied by the Development Review Committee, it is automatically referred to the Planning Board for action. • If there is opposition to the minor site plan approval expressed by opponents appearing before the Development Review Committee, it is automatically forwarded to the Planning Board for action.

Historic Preservation Commission Responsibilities

HPC Responsibility	HPC Permitted Action
Propose Historic Landmarks	Propose to the Township Council buildings, structures, objects, sites and districts in the Township which are worthy of landmark designation
Historic Preservation Element (HPE) of Master Plan	Make recommendations to the Planning Board in the preparation and periodic updating of the historic preservation element of the Master Plan for the Township.
Zoning Ordinance	Make recommendation to Planning Board & Township Council on historic preservation implications of any proposed zoning ordinance change
Applications for Certificates of Appropriateness	Approve or disapprove applications for a Certificate of Appropriateness
Applications for Development in historic zoning districts, sites or properties identified in HPE	Commission provides advice on the Application for Development to the respective Board (either Planning Board or Board of Adjustment)

Types of Applications

- Application for Development
- Application for a Certificate of Appropriateness

Application for Development

Application for Development

The application form and all accompanying documents required by ordinance to the Planning Board or the Zoning Board of Adjustment of the Township for approval of a:

- Major or Minor Subdivision plat
- Site plan*
- Planned development
- Conditional use
- Zoning variance
- Direction of the issuance of a permit

*Only site plan applications require referral to the Development Review Committee

Source: Montclair Code § 347-128 and Montclair Code § 202-10.2

Application for Development: Time to Act

- After an application is deemed complete, Planning Board must act on application within
 - 45 Days for minor subdivisions/site plans, preliminary major site plans of fewer than 10 dwelling units, final major site subdivisions/site plans
 - 95 Days for preliminary major site plans of more than 10 dwelling units
 - Failure of the board to render a decision within the stated time period shall constitute a favorable decision to the applicant
- Board of Adjustment must act on application within
 - 120 Days for all subdivision and/or site plan applications
 - Failure of the board to render a decision within 120 days shall constitute a favorable decision to the applicant

Source: N.J.S.A. 40:55D-1, et seq. (Municipal Land Use Law)

Application for Development: Referral to HPC

The **Planning Board** and **Board of Adjustment** shall refer to the **Historic Preservation Commission** every **Application for Development** submitted to either board for development in *historic zoning districts or on historic sites designated on the zoning or official map or identified in any component element of the master plan (this includes the HPE)*.

This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. *Failure to refer the application as required shall not invalidate any hearing or proceeding.* The **Historic Preservation Commission** may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

Source: Montclair Code § 347-142 & N.J.S.A. 40:55D-110

Application for a Certificate of Appropriateness

Application for a Certificate of Appropriateness

Application form and all accompanying documents to obtain that document issued by the Historic Preservation Commission required before work commences on any [landmark](#) or any building, structure, site or object located within a [landmark district](#).

Source: Montclair Code § 347-128

Application for a Certificate of Appropriateness: Actions Requiring Review

Actions Requiring Review

A certificate of appropriateness issued by the Commission shall be required before a permit is issued for any of the following or, in the event that no other type of permit is required, before any work can commence on any of the activities listed below in this subsection involving any landmark or any *building, structure, site or object located within a landmark district*.

1. Demolition or improvement.
2. Relocation.
3. Change in the exterior elevation or any improvement by addition, alteration or replacement.
4. Any new construction of a principal or accessory structure.
5. Any change in existing, or addition of new, signs or exterior lighting.

HOWEVER

Work associated with an Application for Development approved by the Planning Board or Zoning Board of Adjustment is exempt from this requirement.

Source: Montclair Code § 347-136

Application for a Certificate of Appropriateness: Actions NOT Requiring Review

Actions NOT Requiring Review

A certificate of appropriateness is not required for:

1. Changes to interiors.
2. Changes not visible to the public other than relocation or demolition.
3. Repair or exact replacement of any existing improvement, provided that the work does not alter the exterior appearance. The following activities are permitted as repairs:
 1. Identical replacement of existing windows and doors.
 2. Repairs of existing windows and doors and the installation of storm doors and windows that do not change their design, scale or appearance.
 3. Maintenance and repair of existing roofing materials involving no change in the design, scale or appearance of the structure.
 4. Structural repairs which do not alter the exterior appearance.
 5. Replacement of existing clapboards, shingles or other siding with identical material.
 6. Maintenance and repair of existing clapboards, shingles or other siding (including masonry) involving no change in the design, scale or appearance.
 7. Exterior or interior painting.

Source: Montclair Code § 347-136

Application for a Certificate of Appropriateness

Emergency Repairs

When a landmark or a building, structure, object or site located within a landmark district requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, ***emergency repairs may be performed in accordance with Township codes without first obtaining a certificate of appropriateness.***

Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of its occupants or others and/or to maintain habitability. A request for the Commission's review shall be made simultaneously with the onset of emergency work, and no work in addition to the emergency repairs shall be performed on the structure until an appropriate request for approval is made and approval is obtained in accordance with the procedures set forth in this article.

Source: Montclair Code § 347-136