

TOWN OF BOONTON LAND USE BOARD 2017 ANNUAL REPORT



PREPARED BY:



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A. STATUTORY REQUIREMENT

The Zoning Board of Adjustment (ZBA) is required to review its actions on an annual basis. This report is submitted in accordance with the requirements of the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D 70.1, set forth below.

40:55D 70.1: *Report on variance applications, amendment recommendations. The board of adjustment shall, at least once a year review its decisions on applications and appeals for variances and 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 revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board.*

This report provides information on **ALL** applications before the Town's Land Use Board.

B. DISCUSSION OF APPLICATIONS IN 2017

1. #2016-8. Park Woods. The application proposed to construct 21 townhouses on a parcel split-zoned for single-family residential (R-1A) and partially for business (B-4). Per the Town's zoning code, neither zone permits townhouses which is a separately defined use from a multi-family building, and it was the opinion of H2M that the applicant requires a use variance. In addition, the site plan application requires several bulk variances related to common area space, private yard depth, and building distance from a public roadway. There are also several waivers required for steep slope disturbance.

Status – Extended. In a letter dated August 30, the applicant communicated its intent to modify the plan based on Board feedback.

2. #2016-12. Jam E. Masjid Islamic Center. This application was submitted in late 2016, but adjudicated in 2017. The application required a use variance for a 2-family home in a zone where only single-family homes are permitted. Because of the number of units being applied for, the application also requested a waiver in the number of parking spaces required. In its decision, the Board determined the application did not meet the positive criteria standards required by the MLUL. Further, the application would hinder the zone plan by intensifying the use in a zone that is envisioned to support single-family homes

Status – Denied.

3. #2017-1. DACO. The application required a use variance for multiple uses on a single block and lot in an I-1 zone, where one principle use is permitted. The original application would have provided for 3 additional uses in addition to the current use as a DACO facility. The application was later amended to include 2, rather than 3, additional principle uses. As a result of the multiple uses, several bulk variances are required as a result of each use needing to meeting all bulk requirements as if each use were its own block and lot.

Status – Extended. Factors related to access to the proposed uses via the Division Street extension, a private roadway, need to be resolved prior to a determination being made.

4. #2014-2. Prazen/Syles. The hearing that took place on May 10, 2017 was an amended site plan for additional soil disturbance and an alternate retaining wall design.

Status - Approved.



5. #2017-2. Visioli. The application for 213 Marc Boulevard required bulk variances for the expansion of pre-existing nonconforming conditions of the minimum side yard setback, maximum building coverage, and maximum lot coverage required related to the expansion of an attached garage and driveway.

Status – Approved.

6. #2017-3. Monrad. The application for 310 Taft Street required a bulk variance for a pre-existing nonconforming condition related to a side yard setback. The applicant proposed to construct an addition to its 2nd floor over an existing 1st floor.

Status – Approved.

7. #2017-4. Paper Perfect. The application at 302 Boonton Avenue was for minor site plan approval for a wallpaper sales and installation business within a B-2 zone, adjacent to an R-3A zone. The application was approved subject to modified locations for the dumpster and ADA parking space, and an extension of fence screening along the property line adjacent to the residential area.

Status – Approved.

8. #2017-5. 204 Washington, LLC. The application at 204 Washington Street required a use variance and a conditional use variance to construct a convenience store with fueling operations, and a second story office. In addition, several design standard waivers were requested for parking spaces and off-street loading space. Several of the conditions required of a motor service vehicle station in a B-2 zone were not met.

Status – Denied.

9. #2017-6. Strauss. This application was a minor subdivision at 472 Lathrop Avenue. As part of the project, sections of the home currently on the site would be removed to convert it from a non-conforming two family home to a single-family home. The proposed lots conformed to the bulk standards within the R-2A zone.

Status – Approved.

10. #2017-7. Ryan. The application for 123/129 Glover Street was a lot line change as a result of a section of 129 Glover Street acquired by the applicant, who lives at 123 Glover Street. The intent of the lot line change was to “square off the property.

Status – Approved.

11. #2017-9. 217 West Main St, LLC. The application for 217 West Main Street was for site plan approval of a medical office building to be located within a B-4 zone. The existing use was a single-family home. The application required design waivers for the number of parking spaces and the dimensions of the spaces. As conditions of approval, the applicant agreed to widen and stripe the public alleyway as the first phase of the project. In addition, the applicant would pay for an extension of the curb of the adjacent property, subject to that property owners approval, and expand the existing hedgerow to provide more screening for adjacent residential properties. Additional traffic arrows and parking signage would be provided. The application was approved.

Status – Approved.

C. SUMMARY OF APPLICATIONS IN 2017

In 2017, there were a total of eleven (11) applications heard by the Planning Board, of which six (6) required a variance. Four (4) of the applications required a use variance. Of those use variances, two applications were denied, and two have been extended into 2018. Five (5) of the applications required a bulk variance. Of these, two are the applications which have been granted extensions, and three were approved.

D. RECOMMENDATIONS FOR AMENDMENTS OF REVISIONS TO THE ZONING ORDINANCE

Based on the applications heard in 2017, we make the following recommendations for revisions to the Town of Boonton Zoning Ordinance:

1. Revise §300, *Attachment 1: Schedule of Requirements* to remove “multifamily dwellings” as a permitted Primary Principal Use in the B-4 zone. The ordinance for the B-4 zone does not explicitly allow for multifamily dwellings in the zone. However, the B-4 zone allows any use permitted in the R-2 zone as regulated in that district. The R-2 district permits any use permitted in the R-1 district, and townhouses in the R-2B district only. The R-1 district permits townhouses in the R-1B district only. Neither the R-1 or R-2 district expressly permits multifamily dwellings in the district, creating confusion as to how multifamily dwellings were extended as a permitted use within the B-4 District.

2. Revise *Article XXII: District Regulations* to eliminate “nesting” within the zoning code. We recommended removing the nesting (i.e. R-1 district permits A, B, C and D uses. R-2 district permits all uses permitted in the R-1 district, plus X, Y, and Z uses.). This will remove confusion as to whether certain uses that have been exclusively permitted within a sub-district are wholly permitted in another district. Recommendation #1 is an example of such an instance.

3. Further separate regulations and definitions related to townhouses and multifamily dwellings. Requirements for multifamily dwellings are provided within §300-104B, and different standards related to townhouses are covered in §300-102C; however, §300-104A(3) regulates multifamily dwellings using both the multifamily standards and townhouse standards.

4. Develop a definition for pervious surfaces and ordinance for permitting and calculating lot coverage for man-made pervious surfaces. While the final application did not include credit for porous pavers, application #2017-2 originally included the removal of a certain percentage of lot coverage. An existing asphalt driveway was proposed to be replaced with porous pavers, of which the applicant originally intended to take 100% credit for the removal of lot coverage for the driveway despite the proposed expansion of the driveway. As building material which provides some permeability is being used more abundantly, it is recommended the Town develop more specific definitions for impervious and pervious surfaces, while creating criteria in how much credit an applicant may take towards lot coverage when using pervious material.

5. Review current permitted uses in the business zones and refine and expand as necessary to meet modern business classifications. There are two instances where permitted uses did not strictly meet the definition of the nature of the business within the application.

A. While not requiring a variance, application #2017-4 (Paper Perfect) was a wallpaper supply company that included a storage and installation component. In the B-1 zone, retail stores where products or services are sold to the ultimate consumer does not address aspects of the business



where a company may be contracted by someone else for the goods, or where part of the business includes the installation of such material.

B. In #2017-5, the applicant proposed to construct a convenience store with retail fueling operation. In a strict interpretation of the existing codes, the combination of these two uses should be considered separate principal uses, in which two principal uses on one lot are not permitted. In addition, *Article XXI: Conditional Uses, §300-101A – Motor Vehicle Service Stations* requires any lot containing such a use to be devoted entirely to the service station, thereby prohibiting a convenience retail component. However, many new gas stations are being constructed to include a convenience store aspect that is part of the business operations (for example, Mobile, Quickchek, or Speedway).

6. Better coordinate parking standards with permitted uses. Article XXII governs District Regulations where permitted uses are listed, and §300-60K(2) regulates off-street parking requirements. There are instances where a use may be permitted, but the required parking standards are not defined. Examples include motor vehicle service station, supermarkets, artist and musician studios. Further, some uses with parking regulations (hardgood sales) are not explicitly defined within the code are listed as a permitted use within Article XXII. As a result, interpretations must be made as to how a use is permitted within a zone and which parking standard is applied to the proposed use.

7. Remove any reference to the I-2 Industrial District from the Zoning Code. The I-2 District was eliminated when the ordinance establishing the Adaptive Re-Use (ARU) District was adopted by the Board of Aldermen.