

**2014 Year End Report**  
Board of Adjustment

In accordance with N.J.S.A. 40:55D-70.1 the Board of Adjustment hereby submits its annual report on variances that were heard and decided in 2014. The Municipal Land Use Law requires that the Board of Adjustment review its decisions on applications and appeals for variances and prepare and adopt by resolution an report of its findings on zoning ordinance provisions that were the subject of variance requests. Furthermore, the Board is to provide its recommendations for zoning ordinance amendments or revisions, if any. The MLUL requires that the report be forwarded to the Governing Body and to the Planning Board.

**Application Synopsis and Summary**

The Board held 11 public hearings and decided the following number of variance application cases in 2014:

Bulks	(N.J.S.A.40:55D-70c)	18
Use	(N.J.S.A.40:55D-70d)	4

The Board approved three “d” variance requests, and denied one request for two houses (principal structures) on one lot.

In addition the Board heard and favorably acted upon the following requests in 2009:

Major Site Plan in conjunction with	
Pre-existing non-conforming use	1
Major conditional use site plan	1
Minor subdivision in conjunction with a conditional use	1

Below is the type of bulk, or “c” variances requested and the action taken by the Board:

	Front Yard	Side Yard	Rear Yard	Coverage	Fence height	Lot Dimension
Variance Requests	6	4	1	1	1	5*
Variances Approved	6	4	1	1	1	5
Variances Denied	0	0	0	0		

\*Lot size (2), lot width, lot frontage and lot depth

The “c” variance applications heard by the Board were for the following improvements:

Expansions to existing churches	2
Residential additions	3
Above Ground Pool	1
Fence Height	1
Front Porch	1
Free standing sign	1

## Analysis by Variance

The statute provides boards with the power to hear and decide “c” cases for reasons of exceptional narrowness, shallowness, or shape of a specific piece of property; for exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or for an extraordinary and exceptional situation uniquely affecting a specific property [collectively known as c(1) variances.]

Seven of the variance applications that were approved by the Board were based upon the c(1) criteria. Two of the c(1) findings were based upon unique features of the site (through lot and corner lot); One for the exceptional shape of the subject property (Melione) and two for unique topographic reasons (Melione and Clarke). The other two variance applications heard and approved under this criteria were due to existing house location and inability to purchase additional property.

The c(2) variance is another category of “c” variances. The statute allows a variance to be granted when the purpose of the MLUL would be advanced by a deviation from the zoning ordinance and the benefits of the deviation substantially outweigh the detriment. The Board decided one case, finding that the granting of the requested variance enabled the applicant to make traffic and site improvements that improved safety and aesthetics.

The types of variances requested and the zone in which the properties are located is outlined below.

Zone	Front yard	side yard	rear yard	lot coverage	lot area	lot width	lot frontage	lot depth
LR	1							
R-1	2	0	0	1	0	0	0	0
R-3	1	2	0	0	0	0	0	0
R-4	2	2	1	0	1	0	0	0
CC	1	0	0	0	0	0	0	0
HC	0	0	0	0	1	1	1	1

The statute also provides Boards of Adjustment with the power to hear and decide (d) or use variances which means that in particular cases for special reasons, the Board may grant a variance to allow departure from the regulations with respect to use. The Board heard four use variance applications in the past year. Two requests were expansion of existing churches. One variance request was for a “d”2 a use not permitted within the zone. This property is situated within the CC Community Commercial Zone. The other was a “d”3 variance from the conditional use provisions for churches. One application was for the location of two existing principal uses on a lot. This case involved approval of two existing houses on one lot, which the Board denied. The Board also approved a deviation from the free standing sign provisions to permit two signs on one property within the HC zone.

## Analysis

The past year did not follow the long standing trend of most variance applications being for properties located within the LR zone. While three applications did involve the LR zone, one was approved, one denied (the use for two principal structures on one lot), and the third was withdrawn by the applicant.

This occurrence does not, in any way, diminish the Board's past and ongoing recommendations regarding the LR zone standards. In fact, The Planning Board this year drafted a new Land Use Element to the master plan and forwarded the draft to the Board of Adjustment for comment. This draft document has mention of the year end reports from this Board and the recommendations made therein. The Board reviewed and discussed the draft findings and forwarded their comments in a report prepared in July 2015. It is recommended that report be included herein as an attachment for reference purposes.

Further, the Board reiterates its suggestion from the six previous Year End Reports that the Town Council contact the Environmental Commission to investigate using open space money to purchase under-sized lots for public use, such as pocked parks, in lieu of having these lots before the Board in applications for variance relief.

As for the "d" variances, the Board notes no special pattern occurred in 2014 that might warrant zoning changes.

#### **Other Board Concerns**

The Zoning Ordinance does not have specific provisions controlling the height and size for accessory structures in the LR Zone. This must be rectified immediately.

#### **Recommendations**

Based on the above, the Zoning Board of Adjustment recommends that the Township Council:

1. Refer to the attached report to the Planning board regarding the Board of Adjustment position on modifications to the LR zone standards.
2. Contact the Environmental Commission to explore the feasibility of using open space money to purchase under-sized lots located within the LR zone for public space or consider for sale to adjacent properties.

Robert A. Brady, Chairman  
Zoning Board of Adjustment