



**BOROUGH OF RINGWOOD
ZONING BOARD OF ADJUSTMENT
2022 ANNUAL REPORT**

Adopted:

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Prepared by:

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INTRODUCTION

This report was prepared in accordance with the requirements outlined in the New Jersey Municipal Land Use Law, section 40:55D-70.1, which states that:

“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 summarizes the activity of the Borough of Ringwood Board of Adjustment from January 1, 2022 through December 31, 2022, and presents its finding on applications and appeals from land use ordinance provisions.

The Board of Adjustment is uniquely situated to bring to the attention of the Mayor and Council, and Planning Board, land use ordinance provisions which have resulted in numerous variance requests. This information helps to enable the Borough to keep its land use regulations consistent with the needs of the community.

BOARD OF ADJUSTMENT AUTHORITY

Pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et. Seq., a Board of Adjustment has the authority to hear applications for various matters as outlined in the table below.

Type of Application	Zoning Board Jurisdiction
Appeals from decision of Zoning Officer	All Reviews
Interpretations of the Zoning Ordinance	All Reviews
Conditional Use Permits	Ancillary to “D” Type Variances
“C” Type Variances	Not if site plan or subdivision or conditional use is involved; also, ancillary to “D” Type Variances
“D” Type Variances	All Reviews
Permit for structure within public area or street; permit for structure on a lot with no street frontage	Not if site plan or subdivision or conditional use is involved; also, ancillary to “D” Type Variances
Subdivision Applications and Related Code Exceptions	Ancillary to “D” Type Variances
Type of Application	Zoning Board Jurisdiction
Site Plan Applications and Related Code Exceptions	Ancillary to “D” Type Variances
Certification of Legal Non-Conforming Use	All Reviews

As indicated in the table above, the New Jersey Municipal Land Use Law requires that all “d” type variance be heard by the Board of Adjustment. There are six categories of “d” type variances identified in the New Jersey Municipal Land Use Law, which are listed below. Any approval of a “d” type variance requires five affirmative votes from the Board of Adjustment.

- (1) a use of principal structure in a district restricted against such use or principal structure,
- (2) an expansion of a nonconforming use,
- (3) deviation from a specification or standard pursuant to section 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use,
- (4) an increase in the permitted floor area ratio as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4),
- (5) an increase in the permitted density as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unity buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or
- (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.

2022 MEETING SUMMARY

The Board of Adjustment met a total of 11 times between January 24, 2022 and December 12, 2022. Board meetings returned to in-person sessions on March 21, 2022.

2022 APPLICATION SUMMARY

General Overview of Applications Heard

The Board heard a total of 34 applications in 2022. Thirty-two of the applications were approved, 2 applications were dismissed without prejudice, and 1 application was dismissed with prejudice. The applications included a total of 53 variance requests, comprised of 51 “c”-type or bulk variance requests, 1 “b”-type, and 1 “d”-type variance request. (One application was filed in 2021, carried into 2022, and dismissed without prejudice.)

At the end of the year, there were no pending complete and scheduled applications carried to 2023.

Type of Variance	# of Applications Filed	Zone
“A” Appeal	0	-----
“B” Interpretation	1	GB 80
“C” Bulk	41	R-20
	5	R-80V
	5	R-40
“D” – Use Variance	1	C-200

Types of Variances

There were 46 variances granted in the R-20 zone. Historically, side yard variances are the most requested and this year side yard variances remain the most requested.

Rear Yard	8
Side Yard	18
Front Yard	11
Improved Lot Coverage	2
Lot Coverage	1
Consolidated Lot Area	1
Pre-Existing Lot Depth	1
Maximum Disturbed Area	1
Slope	1
Insufficient Lot Area/Depth	1
Height	1

There were 5 variances granted in the R-80V zone this year.

Side Yard	3
Front Yard	2

There were 6 variances granted in the R-40 zone.

Side Yard	6
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Use Variance and Site Plan Review

The Highlands Nature Friends, Inc. made an application for a Use Variance and Amended Preliminary and Final Site Plan approval to allow a portion of an existing building, located in the C-200 zone, to be utilized as office space for the non-profit entity. Given the uniqueness of this site and the non-profit and ecological uses of the premises, the Board concluded that it was appropriate to allow a portion of the building to be used as a general office.

Appeals, Interpretations, and Certificates of Non-Conformity

The Board heard an application for an interpretation of the zoning definition for a microbrewery and a use variance interpretation to permit the use of a small brewery in a smaller, non-industrial, location. The applicant felt that a microbrewery may fall under catering facilities or eating and drinking establishments. The Board unanimously interpreted the production of 50-100 barrels per year of beer to be considered a microbrewery and not a restaurant under the Borough of Ringwood Ordinance. Additionally, the Board advised that brewing beer is only permitted in the industrial zones and the applicant would need to go through the use variance process.

No requests were made this year for appeals or certificates of non-conformity.

Variance Application Requests

The types of applications, located in the R-20 zone, reviewed by the Board include:

- Six applications for generators
- Six applications for a deck
- Five applications for an addition
- Three applications for an add-a-level
- Two applications for a front portico
- A single application for the following:
 - Hot tub
 - Shed

The types of applications, located in the R-40 zone, reviewed by the Board include:

- A single application for a new 2-story dwelling.
- A single application for a detached garage.

The types of applications, located in the R-80V zone, reviewed by the Board include:

- A single application for a front entrance and deck.
- A single application for the installation of an HVAC system and generator.

Dismissals

The Board dismissed two applications without prejudice.

On or about July 19, 2021, an application was filed as Docket #2070/Amended S.P. 2019-#185. The applicant was seeking to amend an application that was heard in 2019 to utilize parking spaces from a neighboring property. They were unable to obtain a lease for those parking spaces and were amending the application to include a parking variance. At the request of the applicant, the application was carried several months until July 18, 2022 where it was dismissed without prejudice.

On or about August 31, 2022, an application was filed as Docket #3089 for the installation of an 18' round above ground pool with variance for 5-foot left side yard setback. At the hearing of September 19, 2022, it was determined that the Health Department would not approve the location of the pool due to its proximity to the septic. The application was carried to allow the Health Department to supplement their memorandum. At the meeting of October 17, 2022, the Health Department provided ordinance § BH 11-1.13 and explained that they cannot approve the location of the pool at which time the applicant withdrew the application.

Modification of Terms or Conditions of Previously Granted Variance

The Board heard two applications requesting a modification to a previously granted variance.

On or about November 20, 2020, an application was filed as Docket #3025 for variances to construct a new 1 ½ story dwelling and to add a ½ story addition to an existing single – car detached garage. In the Memorializing Resolution, dated May 17, 2021, the condition related to the garage states, in part:

The height of the single car detached garage shall be no greater than 21’ and the final structure must be constructed so that there are no more than 1 ½ stories. The footprint of the existing structure shall not be enlarged.

On or about October 28, 2022, an application was filed as Docket #3075 for a modification to the variance granted with regards to the height of the detached garage. The applicant testified that he was unaware the variance allowed for a 1 ½ story garage and constructed a 2-story garage. Concerns were raised as to the applicant’s misunderstanding of the approved variance for a 1 ½ story garage and his rebelliousness in constructing what was originally proposed. The Board saw no hardship for the Board to change the granted variance and the application was withdrawn with prejudice. The applicant was advised that the remaining construction must follow strict variance guidelines.

On or about January 29, 2022, an application was filed as Docket #3074 for variances to construct a new two-story dwelling to replace an existing dwelling, along with variances to approve an existing partially covered dock. In the Memorializing Resolution dated May 16, 2022, one of the conditions states:

The a/c unit must be located behind the dwelling, in close proximity to the rear building wall, and no closer to the right-side lot line than the proposed right building wall.

On or about October 26, 2022, an application was filed as Docket #3094 seeking to modify a condition on a Memorializing Resolution to relocate the A/C condenser to the front of the yard. The applicant testified that with the construction of a rear deck and patio, moving the units to the empty space in the front of the home would aid in a significant reduction of unwanted noise. The application to allow two a/c condenser units to be located adjacent to the front building wall, but no closer to the right-side property line than the right wall of the dwelling, and so requiring an 8ft right side yard variance, was granted.

Recommendations for Zoning Ordinance Amendments or Revisions

The Board does not recommend any change be made to the requirements of the R-20 zone. Since the lots are small and located close to adjacent properties, having to file for a variance provides some control over the development of these lots.

The Board recommends that the Mayor and Council consider revising the basement definition in the Borough ordinance, specifically to address three-story dwellings. The current definition states that a “basement” shall be counted as a story if used for business or dwelling purposes.

Other Observations

The Board notes the actions taken by the Board are not always reflected in the statistics. The Board often works with residents/applicants to reduce the number and scope of variances requested to be more in compliance with town ordinances. In that regard, applications are withdrawn, dismissed, amended and/or modified, or imposed conditions by the Board.