



**BOROUGH OF RINGWOOD
ZONING BOARD OF ADJUSTMENT
2023 ANNUAL REPORT**

Adopted:

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Prepared by:

Allison Winkler, Secretary

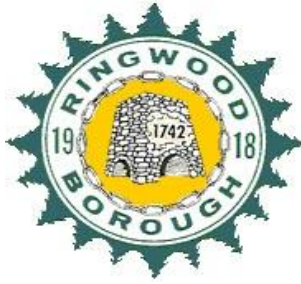


2023 Board of Adjustment Members

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Malcolm Tennant, Vice Chairman
Herb Allen
Francisco Auteri
Diana Buongiorno
Pat Diamond
John Stack
Jack Valenti - Alternate #1
Laura Stern - Alternate #2

Board of Adjustment Professionals

Jameson Van Eck, Board Attorney
David A. Hals, PE, Board Engineer
Jessica C. Caldwell Dykstra, PP, AICP, LEED, GA, Board Planner
Allison Winkler, Board Secretary



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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, 2023 through December 31, 2023, and presents its findings 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 provision which has resulted in numerous variance requests. This information helps to enable the Borough to keep its land use regulations in step 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.

2023 MEETING SUMMARY

The Board of Adjustment met a total of 10 times between February 13, 2023 and December 11, 2023.

2023 APPLICATION SUMMARY

General Overview of Applications Heard

The Board heard a total of 29 applications in 2023. Twenty-seven (27) of the applications were approved, 1 application was withdrawn by the applicant, and 1 application was seeking to modify a condition of approval. The applications included a total of 36 variance requests, comprised of 32 “c”-type or bulk variance requests, 1 “a”-type, and 3 “d”-type variance requests.

At the end of the year, there were no pending complete and scheduled applications carried to 2024.

Type of Variance	# of Applications Filed	Zone
“A” Appeal	1	R-20
“B” Interpretation	0	-----
“C” Bulk	19	R-20
	3	R-40
	2	RT-40
“D” – Use Variance	2	GB-80
	1	NC-15

Types of Variances

There were 27 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.

Front Yard	6
Side Yard	14
Rear Yard	6
Sign	1

There were 3 variances granted in the R-40 zone this year.

Side Yard	2
Height	1

There were 2 variances granted in the RT-40 zone.

Side Yard	1
Front Yard	1

Use Variance and Site Plan Review

On October 16, 2023, the Board granted a d(1) use variance with several terms and conditions for Docket #3119 to permit a forensic toxicology laboratory for urine analysis and drug testing in a 1,500 sq. office space at the Monksville Plaza. The Board found it reasonable to waive site plan approval given there were no proposed improvements, no changes to the previously granted site plan approval, and no negative impact on parking or traffic.

On October 16, 2023, an application for a Use Variance to permit a magazine fulfillment office in an existing building was granted a d(1) variance. Based on testimony from the Board Engineer, the applicant will be required to stripe and properly sign the ADA space and restripe parking spaces in the upper level. The Board found that the limited storage of magazines for the purposes testified by the applicant is an accessory use that does not rise to the level of a warehouse. Any storage beyond that testified, or any further changes to the site, would require further approval from the Board.

An application for a Use Variance for rental of a commercial building for a doggie daycare and boarding facility was filed as Docket #3100. On February 13, 2023, the application was deemed complete conditioned to the submission of a site plan application, a revised site plan, landscape plan, floor plan, and a list of waivers. Following the public hearing, the Board requested a formulated business model with specific details to operations, clarity to procedures, the movement of dogs, and specific gate mechanisms on the fence prior to the next scheduled meeting. The applicant withdrew the application in March.

Appeals, Interpretations, and Certificates of Non-Conformity

T-Mobile Northeast LLC made application to the Zoning Board of Adjustment to appeal the zoning officer's July 6, 2023 denial of a zoning permit for the colocation of a cellular antennae and related equipment at the existing cellular facility located at 30 High Point Lane. Based upon the TCA and the FCC's guidance as set forth in the 2014 Infrastructure Order, the 2020 5G Upgrade Order and other FCC Decisions, the Board found that T-Mobile's permit application qualified as an "eligible facilities request" and would not result in a "substantial change". The Board found that there is no substantial change with regard to the height of the tower and overturned the Zoning Officer's decision.

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

Variance Application Requests

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

- Five applications for a deck
- Three applications for a garden shed
- Two applications for an addition
- Two applications for air conditioner condensers
- Two applications for a front portico
- A single application for the following:
 - Front awning
 - Sign
 - Generator
 - Add-a level
 - Shed

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

- A single application for a detached garage
- A single application for replacement of inground pool
- A single application for a 2-story addition, covered porch, and deck

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

- Two applications for a deck

Modification of Terms or Conditions of Previously Granted Variance

The Board heard one application requesting a modification to a previously granted variance.

On or about February 24, 2023, an application was filed as Docket #3105 seeking permission to modify a condition of approval from the Board's resolution dated March 21, 2022. Specifically, the applicants requested permission to modify Condition #2 which indicated that no new flooring be installed, and that the basement can be only used for storage purposes until such time that the Borough amends its ordinances to address the issue of stories and basement.

Condition #2 states:

Basement shall remain unfinished and may only be used for storage purposes. No furniture or appliances can be in the lower level which includes the sunroom area. The existing Pergo floor can remain and can be repaired, and any areas that need to be patched can be patched. However, no new flooring will be permitted in the lower level. This condition shall only remain in effect for so long as the existing definition of basement and stories in the Zoning Ordinance remains. In the event the Borough revises the definition of basements and stories in the ordinance, such that any future modifications that do not require a variance for the number of stories, in the discretion of and to the satisfaction of the Zoning Officer, this condition would no longer be in effect.

The applicants testified that mold was found beneath the flooring and that it would not be safe or proper to just patch the flooring but rather remove it and install new flooring. They indicated that they installed new Pergo flooring in the basements without realizing that it was a potential issue with the prior approval. They also indicated that they had a cubicle where they were storing children's items and an 8-gallon fish tank and would like to have it determined that these items do not violate Condition #2 and that it be modified to permit these.

The Board found that under the circumstances, it was reasonable and appropriate to modify Condition #2 to strike any sentence or language that indicates that no new flooring will be permitted in the lower level. The Board found that any items shown in the exhibits shall meet the Board's definition of storage under the circumstances unique to this case, and therefore modification is not required but the Board is interpreting and clarifying the condition to allow these items to meet Condition #2.

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.

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.