

CITY OF HOBOKEN



5/15/2017

ZONING BOARD OF ADJUSTMENT ANNUAL REPORT

2016

City of Hoboken Zoning Board of Adjustment

CITY OF HOBOKEN**ZONING BOARD OF ADJUSTMENT ANNUAL REPORT 2016**

INTRODUCTION

One of the responsibilities of the Zoning Board of Adjustment is to prepare an annual report or summary of the decisions made during the year. As identified in N.J.S.A. 4D:55D-7D.1, *"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 the zoning ordinance provisions which were the subject for variance requests and its recommendation for zoning ordinance amendments or revisions, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board."*

The report provides an opportunity for the Zoning Board to transmit information and their knowledge gleaned from the hearings in the previous calendar year. The intent is that through this sharing of information, the governing body can re-evaluate the zoning ordinances and improve the ordinances if and as they see fit.

In 2016, the Zoning Board received 23 applications and held 17 hearings. In 2015, the City Council adopted changes to the zoning ordinance which changed and/or corrected numerous bulk standards, including front yard setback (corrected to match the predominant conditions on the block) and height (modified to take flood zones into account). In so doing, a considerable number of applications which the Zoning Board would have heard in past years were instead routed to the Planning Board or made as-of-right and without need for any Board approvals at all in 2016.

ACTIONS OF THE ZONING BOARD

Of the 23 applications submitted in 2016, (4) were withdrawn (138 Park Ave, 601-619 Newark Street and 660 1st Street and 302 Garden Street appeals), though 6 have not yet been acted on. Of those applications heard in 2016, 12 were submitted in 2015 and one was from 2014. A total of 20 applications were approved and 5 denied (down from 2015, where 28 applications were approved and 13 denied).

The Board made 26 decisions in 2016. The applications by type and approvals were as follows:

	Approved	Denied
Non-Site Plan (1 & 2 family, etc.)	9	3
Minor Site Plan	4	2
Preliminary Major Site Plan	1	0
Site Plan Amendments	1	0
Final Major Site Plan	4	0
Appeals & Interpretations	0	0
Extension	1	0

The applications acted on in 2016 resulted in the approval of a total of 133 dwelling units, nearly 62,000 square feet of commercial, educational, and/or office space, and an additional 761 new parking spaces were also added to the City’s inventory. It should be noted, however, that these numbers do include final approvals which were accounted for previously. ***New approvals account for 35 dwelling units, nearly 56,000 square feet of commercial, etc. space, and 665 parking spaces.*** A considerable portion of this difference is a result of the final approval granted in November, 2016, for Wonderlofts at 720 Clinton Street, which itself contained 68 residential units.

D variances granted in 2016 were as follows:

	Approved	Denied
Use	5	1
Expansion of non-conforming use	0	0
Conditional Use	1	0
FAR	1	0
Density	4	2
Height	2	1

NOTEWORTHY PROJECTS OF 2016

- 1) The largest residential project approved was a FINAL Major Site Plan for the Wonderlofts factory, an adaptive reuse at 720 Clinton Street. Preliminary approval was granted a year earlier on January 20, 2015 and Final was granted on November 22, 2016. Approval was for 68 residential units, 2,375 sf of commercial space, 119 parking spaces, and requires 6 units of affordable housing to be built off-site (approved by Planning Board this past year).
- 2) Also granted Final approval was 1410 Grand Street/1405-1411 Adams Street, with 44 units (including 4 affordable), 1,930 square feet of commercial/retail space and 1,200 square feet of theater-related educational space.
- 3) The Babbio Garage (Stevens Institute) received Final approval on the first phase of their project. Ultimately, this project will contain 436 parking spaces, an education building (“CESI”) to wrap the garage, and the realignment of Fifth Street and Sinatra Drive. The 2016 approval is Phase I and was limited to the construction of the four-story parking garage.
- 4) A vertical addition of 2 stories was approved at 50 Harrison Street (Hoboken Business Center), which includes 46,156 sf of additional office space, a green and landscaped roof, as well as site and parking lot improvements.
- 5) Other 2016 approvals were generally modest in size, with fewer than ten units and minimal retail space.

CHANGES FOR CONSIDERATION

The City’s planning documents, Master Plan, and Reexamination Report espouse the importance of open space, landscaping and green infrastructure. These principles hold true for the City on the macro level but also on the micro level for the Board of Adjustment when evaluating variance applications seeking relief (lot coverage, rear yard setback, landscaping of the “donut”), as all have an impact on the City’s open spaces.

As in 2015, in 2016 the Board continued to grapple with requests for additional lot coverage and donut intrusions in the form of building coverage and rear yard decks. The Board’s challenge continues to be striking a balance between the needs for safety, modernization, and outdoor living, while maintaining the donut for light, air, open space both on-site and relative to neighbors, and for stormwater mitigation. As a consequence of 2015 zoning amendments allowing for a zero foot front yard setback but a retention of 60% lot coverage and 30 foot/30% rear yard setback requirements, these parameters are still slightly at odds. (Zero front yard plus a 30 foot rear yard would equal 70% coverage.)

The Board suggests the ordinance should be reconciled in a way to provide the greatest amount of open space in the rear yard to protect the “donut” while providing the maximum light, air and area for stormwater retention. To this end, consideration should be given to increasing the rear yard setback to 40 feet or 40%. This increase also would help mitigate the increased building heights and possible shadowing due to the ABFE. Again, any inconsistency in the code should be guided by the City’s planning documents and viewed through the environmental/quality of life lens rather than justified with a simple mathematical solution.

A second issue deals with conditional use apartments in the Court Street area. While the zoning code does anticipate these residential units above detached garages, the code has them classified as conditional uses. No conditions are identified, however, and case law has determined that such a situation results in the uses being prohibited and necessitating a D1 use variance. In order to rectify this situation, clear and measurable conditions need to be incorporated into the code for accessory apartments in the CS zone, or the accessory apartments need to be reclassified as permitted or accessory uses.

In addition to the lack of conditional use standards for Court Street apartments, there are other conditional uses in Chapter 196 that similarly have no standards. Exhibit A lists 23 conditional uses with specific standards set forth in Article X "Conditional Uses;" Exhibit B highlights the zone districts with those conditional uses having no standards.

A third issue deals with the landscape improvements in the front of buildings which affects both Boards as well as the City Council. This issue remains from the 2015 annual report. It is well recognized that landscaping significantly contributes to a city’s health and wellness by beautifying the street, softening building facades, providing natural habitat, and improving air and water quality and storage, just to name a few. While the ordinance change to the front yard setback has helped to “sync up” the building facades on the streets, the change has now forced any front landscape improvements into the public ROW. This places the post-Board approvals before the City Council to review these requests, which vary widely in size, quality and design. Standardized materials and minimum design/landscaping requirements based on sidewalk width or other conditions would help ensure some consistency as well as support the green infrastructure initiatives in the community.

Finally, the biggest challenge for the Board and its applicants has been the use and density variance applications. While most requests were located in an industrial zone, others were located within designated Areas in Need of Redevelopment or Rehabilitation which do not have a completed plan or zoning ordinance. This was further complicated in applications that, by their lot area or the magnitude of the development proposed, could be construed as constituting a zone change.

RECOMMENDATIONS

1. Increase in the rear yard setback requirements. An increase to the rear yard setback from 30 feet or 30%, to 40 feet and 40% of the linear depth of the lot (*for the cases where the lot depth is greater than 100' it should be 40% of the linear depth of the lot*) would harmonize the setbacks, accommodate the addition of an open fire escape (at the minimum dimensions required by code), and improve the light, air and open space on-site, as well as protect the collective "donut". Additionally, an increased setback would allow a greater area for stormwater detention as well as help offset any loss of light and air resulting from the greater building heights due to the required ABFE. In all cases, any inconsistencies in the code should be guided by the City's planning documents and viewed through an environmental & quality of life lens.
2. Address accessory apartments as conditional uses in the CS zone, either by providing clear conditions, or by reclassifying them as permitted or accessory uses.
3. Review the Reexamination Report recommendations regarding the Industrial zones and possible redevelopment changes. If the City wishes to maintain the Industrial zones, the permitted uses should be expanded and refined to reflect changing industrial and manufacturing trends, including small scale manufacturing (e.g. industrial kitchens), artisan/light industrial, craftsman uses, commercial recreation as well as other uses reflecting up and coming urban uses and innovations in these areas. Comprehensive definitions for these uses should be clearly delineated to allow future uses to be contemplated and classified.
4. Adopt zoning in the remaining Redevelopment Areas. The City's intent for those areas would be clarified with the adoption of zoning, helping to ensure that the Board's review is cognizant of and evaluated with deference to the City's vision.
5. Provide a guidance document or ordinance changes for streetscape, open space, and green area best management practices (BMPs) for design, planting materials, street furniture, sidewalk patterns and width; rain garden materials, design and appropriate locations; and minimum landscaping requirements based on sidewalk widths for areas both adjacent to a building, in open space and green areas, and within the street tree pit area.
6. Develop a reference document of recommended native species of plants and planting bed materials appropriate for Hoboken's rear yards, shading and open spaces for use by both the Zoning and Planning Boards as well as city residents.

7. Consideration of incorporating the following improvements into the zoning ordinance as they are routinely requested by the Board: electric charging stations, bike racks and/or bike storage, visual ground lite warning strips for parking areas' egress, as well as industry standard accepted best practice green roof details with recommendations for continued maintenance.
8. Revise lighting standards to mandate dark sky compliant installations, limit pedestrian glare, and reduce/eliminate light trespass (illumination shining into neighboring properties including yards or windows).
9. The Historic Sites Inventory and Historic Districts should be amended to include additional structures and expansion of the districts. Additional mechanisms should be added to the Historic Preservation Ordinance to support the retention of these buildings. Of particular concern for the Board are the structures and adaptively reused buildings which help to inform the streetscape of the City's industrial past. Lack of protection for the historic fabric of Hoboken combined with the applicant's propensity for copying older historical styles devalues the authentic historical properties. This propensity for nostalgic mimicry dilutes the quality of the limited remaining historical fabric of Hoboken.

Appendix A

§ 196-38 Standards for particular use.

- A. Automobile laundry.
- B. Automobile sales or rental area.
- C. Automobile service station.
- D. Bar.
- E. Club, lodge, social or fraternal organization.
- F. Commercial garage.
- G. Essential utility or public service.
- H. Factory outlet stores.
- I. Funeral home or mortuary.
- J. Instructional use.
- K. Loft building.
- L. Nursery school.
- M. Nursing home.
- N. Office buildings.
- O. Restaurants.
- P. Helistop.
- Q. (Reserved)

(Editor's Note: Former Subsection Q, Sidewalk cafe, added 5-19-1982 by Ord. No. C-212, was repealed 11-13-2012 by Ord. No. Z-220.)

- R. Major parking facilities.
- S. Riverborne public transportation.
- T. Maritime industrial use, including shipping facilities.
- U. Transportation terminal facilities.
- V. Public parking facility.

- W. Conditional uses in the R-1(E) Subdistrict. Any part of any building or facility containing auditoriums and lecture halls with 100 or more seats, non-university laboratories and offices, physical plant, facilities maintenance and other similar buildings and parking facilities

R-1 District; R-1(E) Subdistrict; R-1(CS) Overlay District; R1(H)(CPT) [§196-14]

D. Conditional uses shall be as follows:

(1) R-1 District:

- (a) Bars.
 - (b) Clubs and community centers.
 - (c) Educational uses not otherwise mentioned.
 - (d) Essential utilities or public services.
 - (e) Funeral homes.
 - (f) Instructional uses.
 - (g) Clinics and nursing homes.
 - (h) Nursery schools.
 - (i) Office buildings.
 - (j) Places of worship, associated residences and schools.
 - (k) Public buildings and uses, such as schools, libraries, parks and playgrounds.
 - (l) Professional or business offices, other than home occupations, when located above street level.
 - (m) Public parking facilities.
 - (n) Restaurants.
 - (o) (Reserved)[1]
- [1] Editor's Note: Former Subsection D(1)(o), Sidewalk cafes, was repealed 11-13-2012 by Ord. No. Z-220.
- (p) Accessory uses customarily incident to a principal permitted use but not on the same lot.

(2) R-1(E) Subdistrict:

(a) Auditorium and lecture halls with 100 or more seats.

(b) Hospitals or health clinics.

(c) Physical plant, facilities maintenance and other similar buildings.

(d) Scientific or research laboratories and offices of corporations, institutions and other agencies engaged in the following: research, development, design, management consulting services or experimentation.

(e) Parking facilities whether owned exclusively by Stevens Institute or owned and operated jointly with the City or other governmental entities; such facilities may be accessory, public or a combination of both. Facilities for more than 50 vehicles will be subject to §§ 196-26 and 196-38R.

(3) R-1 (CS) Subdistrict:

(a) Accessory apartments.

(b) Other uses as in the R-1 District. (**Note: no standards for c, g, j, l, p in R-1 District**)

(4) R-1(H)(CPT) Subdistrict:

None.

R-2 District [§196-15]

D. Conditional uses shall be as follows:

(1) Educational uses not mentioned above.

(2) Essential utility or public services.

(3) Funeral homes.

(4) Clinics and nursing homes.

(5) Loft buildings.

(6) Nonprofit club or recreation use.

(7) Nursery school.

(8) Office buildings.

(9) Professional or business offices, other than home occupations, when located above street level with the exception of those accessory uses listed in § 196-15C(5) above. (*)

(10) Public parking facilities.

(11) Restaurants.

(12) (Reserved)[1]

[1] Editor's Note: Former Subsection D(12), Sidewalk cafes, added 5-19-1982 by Ord. No. C-212, was repealed 11-13-2012 by Ord. No. Z-220.

(13) Accessory uses customarily incidental to principal permitted use, but not on the same lot with the exception of those accessory uses listed in § 196-15C above. (*)

(*)

§ 196-15C

Other uses customarily incidental to hospital uses (such as related clinics, health treatment and administrative uses; offices and labs for private doctors and/or health maintenance organizations, pharmacies, flower and gift shops) located on a lot within 100 feet of the lot on which the principal use is located.

R-3 District [§196-16]

D. Conditional uses shall be as follows:

(1) Bars.

(2) Clubs and community centers.

(3) Essential utility or public services.

(4) Clinics and nursing homes.

(5) Loft building.

(6) Planned unit residential developments.

(7) Public parking facilities.

(8) Restaurants.

(9) (Reserved)[1]

[1] Editor's Note: Former Subsection D(9), Sidewalk cafes, added 5-19-1982 by Ord. No. C-212, was repealed 11-13-2012 by Ord. No. Z-220.

(10) Accessory uses customarily incidental to principal permitted uses, but not on the same lot.

I-1; I-1(W) Subdistrict [§196-17]

D. Conditional uses shall be as follows:

(1) I-1 District:

(a) Automobile service stations.

(b) Commercial garages.

(c) Building supply and lumber yards.

(d) Factory outlet stores.

(e) Planned industrial development. [Does §196-17,E(2)(b) for I-1(W) apply?]

(f) Manufacturing and processing operations wherein additional evidence is required to demonstrate ability to comply with minimum performance standards, as set forth in Article XII.

(g) Public parking facilities.

(h) Intermediate material recovery facility for solid waste that meets but does not exceed the requirements of the 1979 Hudson County Solid Waste Management Plan, provided that all operations and storage are carried on entirely within enclosed buildings.

(i) Accessory uses customarily incidental to a principal permitted use but not located on the same lot or parcel or, if contiguous, within the same zoning district.

(2) I-1(W) Subdistrict:

(a) Essential utility and public services.

(b) Public or accessory parking garages.

(c) Marinas.

(d) Bars.

(e) Restaurants.

(f) Retail business or service.

(g) Riverborne public transportation.

I-2 District [§196-18]

D. Conditional uses shall be as follows:

- (1) Automotive sales.
- (2) Automobile service stations.
- (3) Automobile laundries.
- (4) Bars.
- (5) Commercial garages.
- (6) Public parking facilities.
- (7) Railroad-related shipping terminals.
- (8) Manufacturing and processing operations, wherein additional evidence is required to demonstrate ability to comply with minimum performance standards as set forth in Article XII.
- (9) Accessory use customarily incidental to a principal permitted use, but not located on the same lot or parcel or, if contiguous, within the same zoning district.

2016 ZONING BOARD ANNUAL REPORT ADOPTING RESOLUTION

**RESOLUTION
ANNUAL REPORT FOR THE YEAR 2016**

BOARD OF ADJUSTMENT
City of Hoboken

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF HOBOKEN, COUNTY OF HUDSON AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, N.J.S.A. 40-55D-70.1 requires the Zoning Board of Adjustment to make an annual analysis of its decisions for the prior year, and to make recommendations, if any; and

WHEREAS, the Zoning Board directed its Planner to make a report of its activity for the year 2016 and to make recommendations to change the Ordinance based upon the Zoning Board's experiences; and

WHEREAS, the Zoning Board Planner drafted a report containing recommendations to the Governing Body and Planning Board; and

WHEREAS, the Zoning Board examined these recommendations and hereby adopts them.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board, on this 23rd day of May, 2017 hereby adopts the 2016 Annual Report of the actions of the City of Hoboken Zoning Board of Adjustment and the recommendations contained in those reports attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this Resolution and the attached reports be provided to the Mayor, Council and Planning Board.

ADOPTED, this 23rd day of May, 2017.

MOVED BY: *Phil Cohen*


SECONDED BY: *Owen McAnuff*

THOSE IN FAVOR: *All in favor*

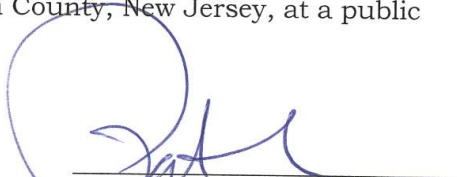
THOSE OPPOSED: *None*

CERTIFICATION

I hereby certify this to be a true and correct copy of the Annual Report Resolution for the year 2016, adopted by the City of Hoboken Zoning Board of Adjustment, Hudson County, New Jersey, at a public meeting held on May 23, 2017.



JAMES ABBEL
Chairman
City of Hoboken
Zoning Board of Adjustment



PATRICIA CARCONE
Secretary
City of Hoboken
Zoning Board of Adjustment