

2018 ANNUAL REPORT

of the

MILLSTONE TOWNSHIP ZONING BOARD OF ADJUSTMENT

This Annual Report covers the Board's actions from January 1, 2018 through December 31, 2018. During this time span, the Millstone Township Zoning Board of Adjustment (Zoning Board) conducted seven (7) regular meetings and one (1) specially scheduled meeting.

The Zoning Board rendered decisions on the merits on five (5) applications, one (1) application (Petschauer) was withdrawn without prejudice before the Board voted on the application. This is an decrease of five (5) application from 2017. The Board also is in the process of hearing one application (Noreika), which is for Use Variance, Major Site Plan and Major Subdivision Approval. The applicant's first hearing on their revised application was heard at a special hearing on December 12, 2018 and was carried to 2019, for the applicant to revise their proposal. Thus, the second Noreika application is still pending before the Board.

Many applications included more than one variance request as reflected below in Table 1. The Zoning Board approved four (4) applications. Tables 1 illustrate variance and application request information by respective zoning districts and type of variance requested. A summary of each application is also attached. The Board denied one (1) application. (Norieka). One (1) applicant (Petschauer) withdrew their application.

The Zoning Board reviews applications with an eye toward reducing the intensity and quantity of variances by working with applicants to develop improved designs. Through this process, the number of variances that are initially requested is often reduced.

TABLE 1: VARIANCES & APPLICATIONS APPROVED-2018

TYPE →	1 acre Non- Env	Use	Lot Area	Setback Front/Side Rear Yard	Wire less	# of Signs	Fence Variance Height	Lot Depth	Bld. Height	Size of Accessory Structure
ZONE ↓										
PCD										
HC										
R-130										
HC-1		2		1		1				
BP		1		1						
R-80				2			1			
Totals		3		4		1	1			

2018 SUMMARY

"D" VARIANCES

Applicants requested four (4) D Variances from the Zoning Board in 2018. The Board granted three (3) Use Variances and denied one (1); they are set forth below:

APPROVALS

McDONALD'S CORPORATION

1. Use ("D-3") variance, because the site violates the following conditional use criteria:
 - a. Minimum lot size 6 acres, lot is 3.48 acres (Existing Condition)
 - b. Maximum lot coverage permitted 25%, 56.04 % existing, 55.97 % proposed.
 - c. Maximum 60 seats, 112 seats existing. (Existing Condition)

DP INVESTMENTS

1. Use ("D") variance, because accessory structures (shed) are not permitted in the Business Park Zone.

MILLSTONE RIVERMART, LLC.

1. Use ("D") variance, because "Restaurant Drive-Thru" use is not permitted in the Highway Commercial Zone.

DENIAL

CHARLES NOREIKA

1. D-1 Use Variance: The applicant requests the commercial structure to contain multiple commercial uses not permitted in the R-80 Zone.
2. D-1 Use Variance: The applicant requests an apartment unit above the commercial structure which is not permitted in the R-80 Zone.
3. D-2 Variance: The applicant is proposing to substantially expand the existing non permitted commercial use on the lot.
(The Board denied the Use Variance for the commercial structure. As a result, no factual or legal determinations were made with respect to the D-1 Apartment Use, D-2 Expansion of Non-Permitted Use or the variances associated with the subdivision application or the site plan application.

“C” VARIANCES

The following are the list of the specific “C” Variances granted with each application. A review of all the “C” Variances do not reflect a pattern of one or more ordinances that relief is being requested from by numerous applicants.

McDONALD’S CORPORATION

1. Minimum Front Yard Setback, a minimum of 100 feet is required, where 96.6 feet is existing and only 95.8 feet is proposed.
2. Number of Signs Variance, only 1 façade sign permitted, 1 Existing and a total of 2 are proposed.

ELENA GOYANES

1. Fence height variance, a maximum of 4 feet in the front yard is permitted. Applicant proposes a 6 foot fence in front yard facing Clarksburg Road.
2. Front Yard Setback Variance, pools are not permitted in a front yard. Applicant proposes a pool in the front yard facing Clarksburg Road.
3. Front Yard Setback Variance, basketball courts are not permitted in a front yard. Applicant proposes a basketball court in the front yard facing Clarksburg Road.

DP INVESTMENTS

1. Front Yard Variance: generators are not permitted in the front yard.

RECOMMENDATIONS

1. The Board recommends that the Township Committee consider amending the township ordinances to allow drive through restaurants in appropriate zones and with appropriate restrictions that align with the purposes and goals of the Township Master Plan. This year and in the previous year, the BOA granted use variances to two restaurant establishments located in highway commercial zones to allow drive through windows. In granting these use variances, the Board noted the following benefits to the public of the drive through window:

- a. The drive through window provided a more convenient way for the public to make small purchases (e.g. coffee, donuts, breakfast sandwiches, etc...) at the restaurant without needing to exit their vehicle. This is especially beneficial in scenarios where the customer has young children (as they cannot be left alone in the vehicle) or in inclement weather.
- b. The drive through window enhanced public safety by enabling the customer to make their purchases by following an orderly traffic flow in a drive through lane instead of parking and traversing a busy parking lot – again possibly with young children.

The Board did not find any negative impacts to the intent and goals of the master plan as a result of the drive through window uses for these specific applications.

2. The Board recommends that the Township Committee consider amending the township ordinances to allow accessory structures on commercial properties in appropriate zones and for a limited set of uses. This year the Board approved a use variance for a “shed” on a commercial property in the Business Park zone. In approving this use variance the Board noted the following:

a. The building owner used the shed to store materials and equipment needed to maintain the building and grounds (e.g. landscaping equipment, snow removal equipment, and associated supplies). The Board deemed the storage of these items on site to be an appropriate use for the particular property in question. The building owner testified that the shed was not used by tenants.

b. The building owner testified that the storage of these materials inside the primary building was not practical as he would need to reclaim space from tenants and also gain access to their premises to retrieve the materials when necessary. Thus, he purchased the shed to contain the equipment and materials subsequently locating it next to the site’s garbage dumpsters.

c. The Board found that an adjoining property also has an accessory structure used for storing materials which was approved by the BOA via variance several years ago.

The Board did not find any negative impacts to the intent and goals of the master plan as a result of the shed being used for the purposes identified by the owner.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to send a certified copy of the Board of Adjustment 2018 Annual Report to the Township Clerk and the Township Committee and the Planning Board. The Secretary shall further post a copy of the 2018 Annual Report on the Township Web Site.

1/23/2019
DATED


MICHAEL NOVELLINO, CHAIRMAN
Millstone Township Board of Adjustment

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Board of Adjustment Annual Report adopted by the Zoning Board of the Township of Millstone at a meeting held on January 23, 2019.



Pamela D'Andrea, Secretary
Board of Adjustment Township of Millstone

The vote on the Motion to approve the 2018 Annual Report:

Motion: A. Consenti

Second: A. Ferrara

Roll Call: Consenti, Ferrara, Barthelmes, Morelli, Mostyn and Novellino

Approve: 6

Oppose: -0-

Abstain: -0-

Absent: 2