



TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

Department of Planning and Development

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TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Township Planner

DATE: March 2, 2023 – *revised August 4, 2023*

RE: **ZB-23-02/Robert and Rachel Ciottariello/Creative Concepts Landscaping**
Block: 170; Lot: 15.4; Zone: R-2
606 Mount Pleasant Avenue
Seeking use and bulk variances and minor site plan approval for mix of residential and commercial uses

The applicant has submitted revised plans and additional information in response to initial review comments and questions at the initial public hearing on the application. This memorandum supplements my original review memorandum dated March 2, 2023. New information is denoted in **bold**, deletions are shown in ~~strikethrough~~.

INTRODUCTION

The applicants are requesting approval for a “d(1)” use variance and “c” or bulk variances and minor site plan approval to permit a landscaping vehicle, equipment and materials storage yard on the same lot as an existing home in a single-family residential district. The property is irregular in shape, with a 50-foot wide front portion extending approximately 145 feet in depth before the lot widens to 160 feet. The distance from the street to the rear lot line is 272 feet. The lot area is 27,338 square feet (0.63 acres). A two-story frame dwelling is located on the front portion of the property while the rear portion has a masonry garage, paved areas, concrete walls and other improvements related to the existing landscaping use. The property slopes downward from front to rear. Photos of the subject property are attached.



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LAND USE

The subject property is located in an area developed with a mix of single-family residences, multifamily residential, public uses and educational facilities. Single-family homes are located on either side of the subject property, which also borders the rear lot lines of two residences, and on the opposite side of Mount Pleasant Avenue. The Township of West Orange's Environmental Center is located to the rear and further east along Mount Pleasant Avenue. There is existing vegetation along the property line to the Environmental Center, along with a significant grade change. A veterinary hospital is located two lots to the west of the subject property.

SUBMISSIONS

ITEM

SIGNED BY

DATE/REVISION

Site Plan (6 sheets)
Planning Evaluation

Anthony Marrucci, P.E., P.P.
Peter Steck, P.P.

7/25/23
2/9/23

VARIANCES REQUIRED

<i>"d(1)" Variances</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Permitted Use	Various residential and other uses	Single-family residence	Single-family residence and landscaping storage yard
25-8.12 More than one principal use upon any single lot	Only permitted in the B-1, B-2, P-C, O-R and I Districts	One principal use	Two principal uses
<i>"c" Variances</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Maximum lot coverage	30%	79.82%	87.46%
25-12.1 a. Paving of off-street parking areas	Required	N/A	Not provided
25-12.1 b. Curb around parking area perimeter	Required	N/A	Not provided
25-12.1 c. Parking area markings	Required	N/A	Not provided



DISCUSSION/RECOMMENDATIONS

Description of Proposal

The applicants propose to modify an existing single-family residential property to add a landscaping vehicle, equipment and materials storage yard on the rear portion of the property for a landscaping company owned by one of the applicants. This portion of the property is already utilized for this or a similar operation, based on site inspections and shown on the attached photographs. According to the application, the residence is currently occupied by an employee of the landscaping company and his family, although later in the application it is stated two employees of the company live in the house.

There is an existing garage that is proposed to be retained and utilized as part of the commercial operation. The vehicles and equipment proposed to be stored on the property include up to three dump trucks, two pickup trucks and seven trailers. Proposed operating hours are 7:30 AM to 6 PM weekdays and 8 AM to 4 PM Saturdays. In terms of other site improvements, the existing fencing in fair condition at the entrance to the rear commercial portion of the property is proposed to be replaced and four concrete storage bins and a retaining wall are proposed to be constructed. Five “conceptual” unstriped parking spaces are proposed in the rear commercial portion of the site, and three such spaces are proposed for residential use to the south of the dwelling. A row of Thuja Green Giant arborvitae trees is proposed to be planted along the rear lot lines of Lots 15.01 and 15.02, the adjacent residential properties to the east and northeast.

The site plan was revised following the June 15, 2023 public hearing on the application to address some of the questions and issues raised at it, as well as in the initial engineering and planning reviews of the application. Some of the changes to the plans are as follows:

- **The storage bins abutting the rear property lines of Lots 15.01 and 15.02 have been shifted 12 feet from the property line.**
- **A second row of Thuja Green Giant arborvitae trees has been added in this area.**
- **A six-foot high chain link fence is proposed around the perimeter of the commercial storage area on the rear portion of the property.**
- **A drywell system has been added in the southeast corner of the property.**
- **Modifications are proposed to the grading of the driveway behind the building at the rear of the property.**
- **Details have been added to the plans for the proposed fencing, sliding gate and plantings.**



Variance Proofs

The subject property is located in the R-2 Residential zone district. As noted, use variances are required for the proposed landscape contractor's storage yard and to permit more than one principal use on a single lot. Certain "c" or bulk variances are also required as listed above.

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) enables a board of adjustment to grant a variance to permit "a use or principal structure in a district restricted against such use or principal structure." An applicant for a "d" variance must comply with the requirements of the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d. A "d" variance may be granted only "in particular cases for special reasons." The applicant's planner indicates that this criterion is satisfied, as "the proposed use encourages the most appropriate use of land and is particularly suited to the subject property."

In addition, the MLUL at N.J.S.A 40:55D-70c permits a board of adjustment to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a "d" variance. A "c(1)" variance is for cases of hardship due to factors such as shape or topography, or due to "an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon." A "c(2)" variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a "c(2)" variance must include benefits to the community as a whole, not just the applicant or property owner.

For all of the above variances, the applicant must also address the "negative criteria," and affirmatively demonstrate that each variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the municipality.

Site Plan and Other Issues

The applicant has also requested a waiver from providing an Environmental Impact Statement, but has not provided any basis for the request. **The Board agreed to this waiver request at the June 15, 2023 hearing.** Further, while the applicant has submitted a completed Sustainability Checklist, it has simply stated "None proposed." in response to all questions, without indicating reasons why sustainable design features are not proposed.

The applicant's planning report indicates that the additional lot coverage "can be accommodated with the proper stormwater management." However, no stormwater management facilities appear to be proposed. Testimony should be provided regarding this issue. **As noted, a drywell system has been added.**



According to the existing conditions plan and the proposed site plan, there is a continuous “broken macadam/gravel area” that extends from the rear of the subject property some distance onto the abutting Township property to the south. Fencing is not shown along this property line to preclude access to the adjacent lot. This off-site area would also appear to be necessary to enable trucks and other vehicles to turn to access the portion of the subject property to the south and east of the existing garage and proposed retaining wall. Additional information must be provided regarding this layout and whether there is any formal agreement permitting encroachment on the Township property. **As noted, a six-foot high chain link fence has been added along the rear property line, as well as around the perimeter of the rear portion of the property. This fence would preclude encroachment on the Township property.**





