



MONTCLAIR REAL ESTATE
LAW GROUP

JAMES H. ASHENFELTER
JASH@MONTCLAIRLAW.COM

ALAN G. TREMBULAK
ATREMBULAK@MONTCLAIRLAW.COM

LORENE E. GOLIA
LGOLIA@MONTCLAIRLAW.COM

OF COUNSEL:
CALVIN O. TREVENEN
CTREVENEN@MONTCLAIRLAW.COM

December 13, 2023

Diana Chandler, Secretary
West Orange Zoning Board of Adjustment
West Orange Municipal Building
66 Main Street
West Orange, New Jersey 07052

Re: Board of Adjustment Application
Applicants: Blair and Aja Washington
Property: 4 Harvard Terrace
Block 41.01 Lot 123

Dear Ms. Chandler:

Enclosed are the following documents in connection with the above application:

1. W-9 Form
2. Planning Report prepared by The Nishuane Group

Thank you for your courtesies.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alan G. Trembulak', is written over the typed name.

ALAN G. TREMBULAK

AGT/hf

cc: Aja Washington (via email)

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Aja Washington	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☒ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ►	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions. 4 Harvard Terrace 6 City, state, and ZIP code West Orange, New Jersey 07052	7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
[REDACTED]								
or								
Employer identification number								
[REDACTED]								

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ► <i>Aja Washington</i>	Date ► <i>12/12/23</i>
------------------	--	------------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Professional Planning Report

4 Harvard Terrace, Township of West Orange, NJ

Block 41.01, Lot 123

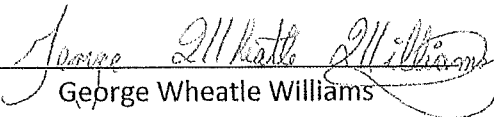
Zoning District: One-Family Dwellings on 6,000 square foot lots (R-6)

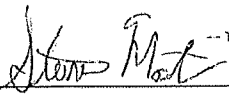
Applicant: Blair and Aja Washington

Zoning Board of Adjustment

Public Meeting Date: TBD, 2023

Signed and Sealed by:


George Wheatle Williams
NJ PP # 33L10054470


Steven Martini
NJ PP # 33LI00633000



December 6, 2023

Table of Contents

Planning/Land Use Analysis3

 Project Location 3

 Project Description 3

 Surrounding Land Uses..... 3

 Zoning Designation and Analysis 4

 Relief Sought..... 5

 Master Plan Review/Consistency 5

 Proofs 6

Planning/Land Use Analysis

Project Location:

The project site is located at 4 Harvard Terrace in the Township of West Orange, specifically along the eastern side of Eagle Rock Avenue. The project site consists of one tax lot: Block 41.01, Lot 123, which contains approximately 7,500 square feet of land, with dimensions of 50 feet in width and 150 feet in depth. A 2-story single-family residential dwelling stands on the property. This is also a detached garage located at the end of the driveway as well as another accessory structure. The property is located within the R-6 District (One-Family Dwellings on 6,000 square foot lots). According to Essex County tax records, the dwelling was constructed in 1915.

Project Description:

The proposed project involves utilizing a detached accessory structure for the purposes of an early learning center/social emotional learning practice (herein after referred to as 'learning center'). Currently, this home occupation is operating in the basement of the single-family dwelling. Although 'home occupation' is a permitted accessory use in the R-6 District, a home occupation is required to be operated in a 'owner-occupied one-family residence'.

The applicant is requesting approval for a D-1 Use variance.

Surrounding Land Uses:

Generally, the area surrounding the project site is characterized as primarily residential neighborhood. Immediately north of the project site is a 2.5-story single-family residential dwelling and to the south, there is also a 2.5-story single-family residential dwelling. Directly east, along the western side of Oxford Terrace, there is a 2.5-story single-family residence, and across the opposite side of Harvard Terrace to the west, there is a 2.5-story residential dwelling. It is important to note that each of these surrounding residences contain a detached accessory structure on the property, mainly utilized as an accessory garage.

Zoning Designation and Analysis

The project site is located in the R-6 District. As noted in Section 25-7.1 of the Land Use Regulations, the following are the permitted principal uses, accessory uses and conditional uses of the R-6 District:

- a) Principal permitted uses:
 - i. Retail store
 - ii. One family, detached dwelling
 - iii. Water reservoir, well tower filter bed
 - iv. Federal, state, county or township building
 - v. Golf course and golf club house
 - vi. Farm, nursery, greenhouse and similar uses
 - vii. Hospital
- b) Accessory uses:
 - i. Required accessory parking
 - ii. Private garage
 - iii. Home occupation
 - iv. Horticultural or agricultural building
 - v. Customary accessory building or structure
 - vi. Private swimming pool
 - vii. Private recreation facility
 - viii. Home occupation
 - ix. Home professional office
 - x. Signs
 - xi. Fences and dividing walls
 - xii. Private storage sheds
 - xiii. Greenhouses
- a) Conditional uses:
 - i. Public school
 - ii. Private school
 - iii. Library
 - iv. Museum
 - v. Park or playground
 - vi. Public utility building or structure
 - vii. Telephone exchange
 - viii. Private club, other than a golf club
 - ix. House of worship
 - x. Banquet and conference centers
 - xi. Additional off-street parking

Relief Sought

As noted on the application, the Applicant is requesting approval for a **D-1 Use variance** (as the proposed 'home occupation' – learning center is not a permitted use within an accessory structure in the R-6 District)

Relevant Definitions (Section 25-4 of the Township Zoning Ordinance)

Home occupation shall mean any lawful activity not otherwise prohibited by this chapter performed in a legal owner-occupied one-family residence, including without limitation, consulting, telemarketing, dressmaking, manicuring, craft making or drafting. Home cooking for commercial purposes is not permitted.

Master Plan Review/Consistency:

2019 Master Plan Re-examination Report

The proposed project is consistent with the Township's **2019 Master Plan Re-examination Report**. The following goals and objectives are furthered through the implementation of this application:

- 3. Provide and Preserve Adequate Light, Air and Open Space (pg. 7)
 - **COMMENT:** The current status of this goal in the 2019 Report notes that it is valid. The proposed project will allow for the home occupation/ social and emotional learning practice to operate in a small accessory building independent of the single-family dwelling. Open space will continue to be provided in the rear yard.
- 7. Provide Sufficient Space for Balanced Growth and Development (pg. 8)
 - **COMMENT:** The current status of this goal in the 2019 Report notes that it is valid and "it is imperative that adequate open space and community facilities are provided to accommodate residential and business growth." The proposed social and emotional learning practice is small in scale; however, it will bring alternative educational opportunities for children in the Township. It will not cause any disturbance to any nearby neighbors.
- 9. Provide a Desirable Visual Environment (pg. 9)
 - **COMMENT:** The proposed social and emotional learning practice will provide a well-lit, attractive building for an appropriate and pleasant learning environment for children.

Based on these relevant goals and objectives, the proposed use would further the Township's **2019 Master Plan Re-examination Report**. There is no substantial detriment to the public good or impairment to the Master Plan as the project will not negatively impact the R-6 District or adjacent residential dwellings.

Proofs

Statutory criteria as set forth in the Municipal Land Use Law (Section 40: 55D-70d)

Positive Criteria

In accordance with the Municipal Land Use Law [Section 40: 55D-70d(1)], relief is sought for the proposed home occupation. For the grant of a D-1 use variance the applicant must establish both the positive and the negative criteria. The former is typically achieved by the demonstration of **Special Reasons**. Special Reasons may be found where a variance would serve any of the purposes of zoning **or** if the applicant can show that the proposed use is peculiarly suited to a particular piece of property. In demonstrating the positive criteria, proofs shall consist of special reasons and particular cases how the proposed use will be beneficial the general welfare of the community. .

The following Purposes of Zoning, as stated in the MLUL 40:55D-2, will be advanced through the implementation of this project:

- **Section a:** To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the health, safety, morals, and general welfare.
- **Section c:** To provide adequate light, air and open space.
- **Section g:** To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.
- **Section i:** To promote a desirable visual environment through creative development techniques and good civic design and arrangement.

Particular Suitability:

In the context of the positive criteria, site suitability is not concerned with ordinance zoning criteria but is instead focused on special reasons: (1) why the location of the site within the municipality or region is particularly suited to the use despite the zoning and/or? (2) What characteristics of the site itself make it particularly appropriate for the proposed use rather than a permitted use?

The *Smart SMR v. Fair Lawn* court cases recognized that Special Reasons could also be demonstrated when the proposed use would serve the general welfare because the “proposed site is particularly suitable for the proposed use”. The proposed learning center within an accessory structure should be considerate incidental to the residential dwelling. It would allow for the property owner, whose profession is as an educator, to offer these services in a small, safe and functional building apart from the dwelling. This will allow for a distraction-free learning environment and allows for the practice to be separate from that of the dwelling. This home occupation is akin to a social worker providing therapy sessions, an art/music teacher instructing lessons, or a small daycare facility. There will be no impacts regarding noise, light or traffic. This would also ease the cost for the property owner as they would not have to lease a commercial space to conduct their practice, and further, would not require a large space, and the specific limited space necessary could be difficult to find locally. These space are likely to be too large of a floor area footprint and will usually be located adjacent to other

commercial uses, which typically generate some noise during business hours. That could be disruptive to this specific practice, since children who attend this practice could have special needs whether its mentally, physically or emotionally (i.e., autism, ADHD, cerebral palsy, developmentally delayed), and thus could have issues related to an overstimulated sensory environment. This allows for a quiet, calmer location for the practice to occur, rather than in a commercial area, where there are large parking lots, numerous vehicles, and frequent patrons. To that end, the quaint nature of this property along Harvard Terrace creates a safe, natural and distraction-free setting fitting for child to learn, grow and develop. Lastly, it is important to note that the proposed use is permitted in the zoning district and on the property, but not in an accessory structure.

Negative Criteria

In terms of the negative criteria, there are two prongs that must be met. The first prong is that there will be no substantial detriment to the public good. The second is that proposed project will not substantially impair the intent of the zoning ordinance or the Township Master Plan. As previously identified in this report, numerous goals, objectives and excerpts stated in the Master Plan will be advanced through the implementation of this project (see page 5 of this report).

Based on these relevant goals and objectives, the proposed project would further the Township's 2019 Master Plan. There is no substantial detriment to the public good as the project will not negatively impact the R-6 Zone or adjacent uses. The operation of a social and emotional learning practice within an accessory building will allow for the instruction, tutoring and educational sessions to take place at a small building outside of the dwelling. This will permit each use to function separate from each other without any conflicts. Further, the design and layout of the accessory dwelling and proposed use will not negatively impact any neighboring residential properties. It will have numerous positive impacts, including offering alternative educational opportunities for children and promoting an attractive, safe and aesthetically pleasing environmental, and not cause substantial detriment to the public good. It is a better zoning alternative than the strict application of the R-6 District standards.

APPENDIX I: Maps

Map 1: Aerial Map

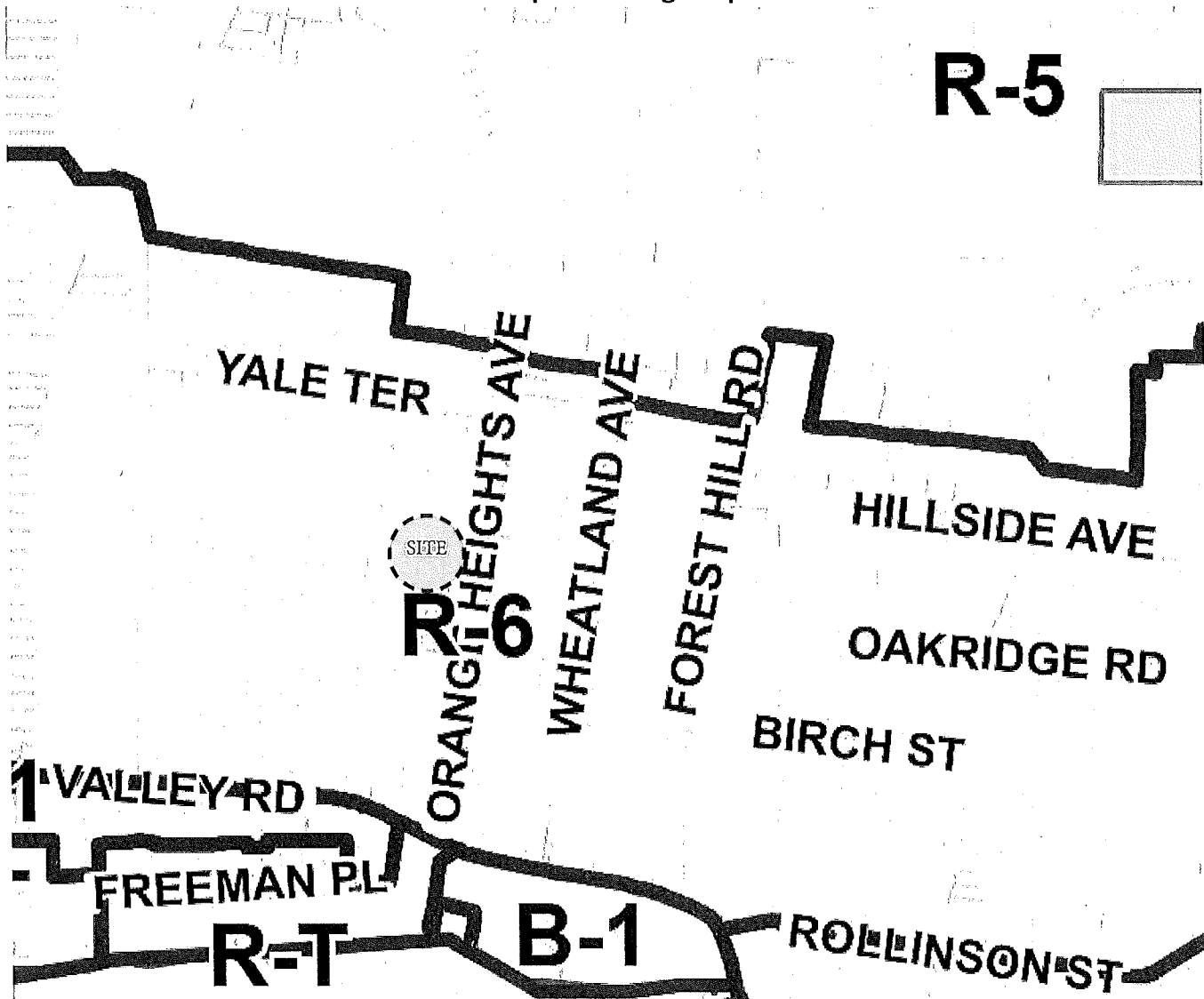
Map 2: Zoning Map

Map 1: Aerial Map



The project site is located along the eastern side of Harvard Terrace. (Source: NJ GeoWeb, accessed December 2023).

Map 2: Zoning Map



The project site is located within the R-6 District (Source: Township of West Orange Zoning Map dated 2020).