



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: December 1, 2023 – *revised March 13, 2024*

RE: **ZB 23-11 / De Oliveira**
Block: 55.06; Lot: 1.01; Zone: R-5
31 Bradford Avenue
Seeking “c” variance approvals for retaining walls and fences

This memorandum supplements my updated review memorandum dated December 1, 2023. New information is denoted in **bold**, deletions are shown in ~~striketrough~~.

INTRODUCTION/ LAND USE

The applicant is seeking approval of “c” variances to allow already constructed retaining walls and fences to remain on the property.

The subject property is a corner lot located on the north side of Bradford Avenue and the east side of Northfield Avenue. The lot is 10,996 square feet (0.25 acres) in area and developed with a single-family dwelling and related improvements. Photographs of the subject property are included at the end of this memorandum. The area surrounding the subject property is developed primarily with single-family detached dwellings.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Engineering plans (2 sheets)	Mirza Baig, P.E.	8/14/23
Survey of property	Daniel E. Parker, P.L.S.	4/19/23



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VARIANCES REQUIRED

SECTION /REQUIREMENT	PERMITTED /REQUIRED	PROPOSED	VARIANCE
25-8.4 Maximum height of fence or wall	6 feet	Retaining wall up to 12 feet, 4 inches 9 feet, 6 inches , plus 6 foot fence on top	"c"

PROPOSED DEVELOPMENT

The applicants have constructed a series of retaining walls and fences along the southeastern side property line and in the northeast corner of their property. There is a single wall with varied height (up to 9 feet, 3 inches according to the application, **but shown as over 12 feet on the submitted plans**) along the northeast property line, and two stepped retaining walls separated by four feet along the southeast property line.

DISCUSSION/RECOMMENDATIONS

The subject property is located in the R-5 single-family residential zone district. A one-family detached dwelling is a permitted principal use in the zone, and fences and dividing walls are permitted accessory uses. However, the following requirements of Section 25-8.4b of the Land Use Regulations Ordinance are applicable:

Solid walls and fences not higher than six feet are permitted in the rear yard and on the side property line up to the rear line of the applicant's house. If the distance on each side of such a fence is more than five feet to each adjacent house, such solid fence may be located in the side property up to the front of the applicant's house.

An applicant for a "c" variance must comply with the requirements of the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c. A "c" variance applicant must demonstrate that there is either undue hardship or practical difficulty associated with the strict application of the requirements of the Zoning Ordinance in connection with this specific piece of property; or that one or more purposes of zoning would be advanced by the deviation and the benefits of granting the variance for this specific piece of property would substantially outweigh any detriment. In addition, a variance applicant must address the "negative criteria," and affirmatively demonstrate that the 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.



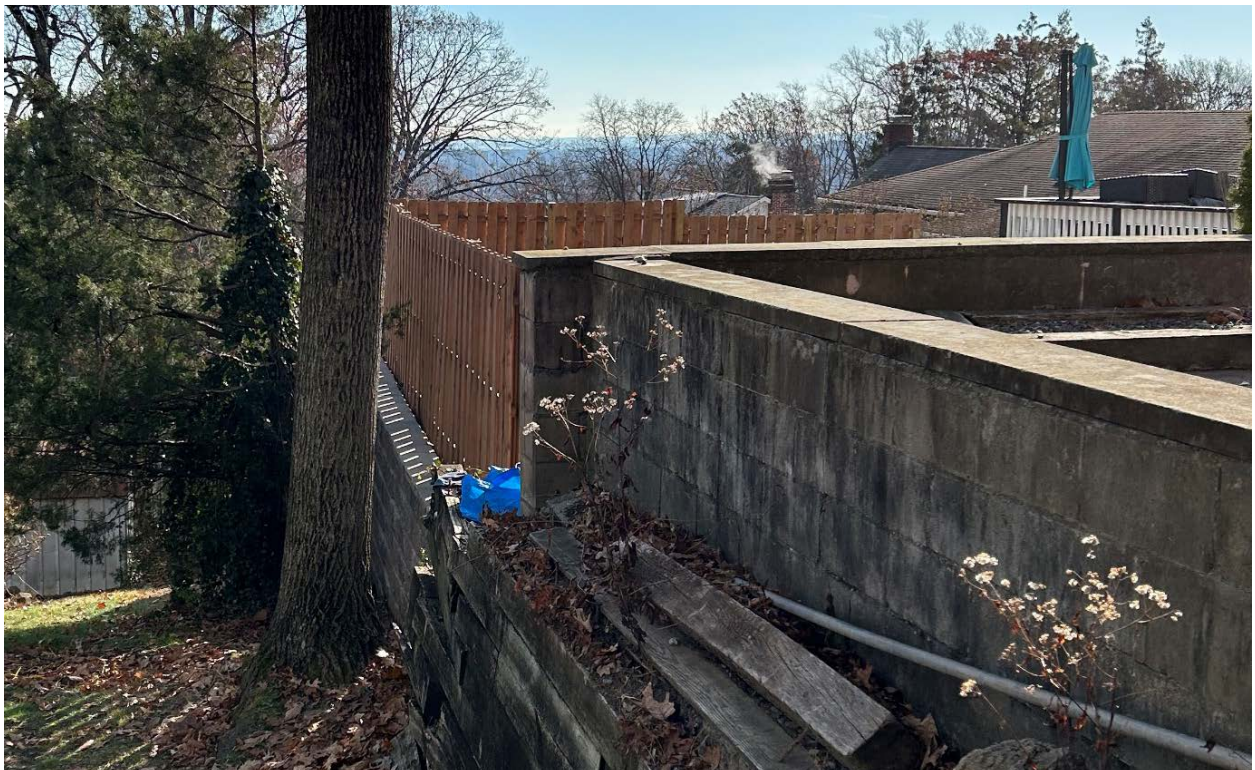
The application indicates there was previously a railroad tie retaining wall on the lot that failed, and that the new walls are necessary due to the site's topography. Testimony should be provided regarding this information and the history of the construction of the walls and fences.

It is noted that the submitted plans show the constructed wall encroaching on an adjacent property (Block: 55.06, Lot 2.01). The applicant should provide additional information regarding this encroachment and whether the adjoining property owner provided permission for the construction of the wall on Lot 2.01.





Fence atop rear yard retaining wall



Looking towards fence from Northfield Avenue along property line



