

TO: Township of West Orange Planning Board

FROM: Malvika Apte, PP, AICP, Planning Board Planner *MAK*
Langley Oudemans, Associate Planner

RE: PB Application 25-09
Planning Review # 1
68 Whittlesey Avenue
Block 129, Lot 58
Minor Subdivision Approval with Variances

DATE: March 2, 2026

As requested, we have reviewed the following materials:

- One (1) copy of Township of West Orange Planning Board Application, dated September 24, 2025;
- Revised Application Letter prepared by applicant's attorney, Alan G. Trembulak, Esq., dated October 15, 2025
- One (1) copy of 200 Foot Buffer Report for Block 129, Lot 58, prepared by the Township of West Orange Office of the Assessor, dated August 20, 2025;
- 68 Whittlesey Avenue Boundary & Topographic Survey prepared by Richard T. Watson of Borre, McDonald & Watson Land Surveyors, dated July 7, 2025, revised October 23, 2025;
- One (1) copy of Township of West Orange Site Plan/Subdivision Checklist for PB-25-09 for applicant Johnny Perez, undated;
- One (1) copy of List of Public Utilities, undated;
- One (1) copy of Verification of Taxes and Sewer Charges Paid, prepared by the Township of West Orange Office of the Tax Collector, dated August 8, 2025; and
- One (1) copy of W-9 Request for Taxpayer Identification Number and Certification, prepared by Johnny R. Perez, dated September 24, 2025.

1. Site Description

The subject property, identified as Lot 58 of Block 129 in the Township, is located at 68 Whittlesey Avenue. The rectangular lot includes approximately 100' of frontage along Whittlesey Avenue. The property measures approximately 10,000 SF or 0.23 acres in area and is currently developed with a single-family home. The building is a 2 ½-story frame dwelling with an attached 1-story section facing the rear yard. The dwelling sits approximately in the center of the lot. The rear yard is enclosed by several fences, some of

which belong to the neighboring properties. In the rear yard, a vinyl fence lines the back of the property between the subject property and Lots 18 and 20. There is also a wood fence present in this area, but it does not line the entire border. A wood fence encloses the southern section of the rear yard starting at the edge of the dwelling and continuing to the edge of the property. This leaves an enclosed grassy side-yard area to the south of the dwelling, which includes a small, framed shed in the back area of the lot. In the rear yard area behind the dwelling, there is an outdoor area with pavers directly adjacent to the 1-story section of the dwelling and another framed shed. This area is enclosed on the north side by a rough wood fence and ruinous fence. The front yard includes a concrete walkway which connects the sidewalk to the front door and to a paved driveway area, which is enclosed from the rear yard by a chain link fence with a gate. A chain link fence also encloses the entire property with a gate at the driveway entrance and at the concrete walkway entrance. There are several small trees throughout the property in the grassy side yard and front yard, and several large trees in the rear yard (which are not noted on the site survey.)

The subject property is in the R-T Two-Family Residential zone. One block to the west is a recreational area called Colgate Field, which includes sports fields and courts, Ginny Duenkel Pool, and a playground. Edison Middle School is directly adjacent to the recreational areas. About four blocks east is a large (~125 acres) cemetery with many trees and maintained lawn known as Rosedale Cemetery. Within a half mile to the north and south of the subject property are two small B-1 Retail Business zones. The rest of the surrounding area is residential in nature.

2. Proposed Project:

The applicant is seeking minor subdivision approval with variances to subdivide the property into two lots and convert the existing one-family dwelling into a two-family dwelling and construct a new two-family dwelling on the subdivided lot. **No floor plans have been provided.**



Subject Site Aerial
Source: NJ Geo Web

3. Existing Deeds and Easements

Applicant to confirm whether any deed restrictions, covenants, easements or land reserved for public use exist for the subject property.

4. Zoning Review:

The subject site is located in the R-T Two-Family Residential zone. The applicant is proposing to subdivide the property into two lots. Proposed lot 58.02 contains the existing single-family dwelling, which is proposed to be converted into a two-family dwelling. The intention of the second proposed lot, lot 58.01, is to construct a two-family dwelling in the future. The proposed two-family use is a permitted use in the R-T district.

5. **Site Plan Review:** The following table notes the bulk regulations that are permitted in the zone and the proposed site plans compliance/non-compliance with the same.

R-T Two-Family Residential Zone				
	Requirements	Existing Lot 58	Proposed Lot 58.02	Proposed Lot 58.01
Minimum Lot Area (sq. ft.)	Two Family: 7,500 (3,750 each)	10,000	5,000 (V)	5,000 (V)
Minimum Lot Width (ft.)	75	100	50 (V)	50 (V)
Minimum Front Yard (ft.)	30	16.71	16.71 (ENC) (V)	TBD
Minimum Side Yard (ft.)	10 + 8	27.69 + 51.67	27.69 + 1.67 (ENC) (V)	TBD
Minimum Rear Yard (ft.)	30	40.95	40.95	TBD
Maximum Building Height	2 ½ stories and not exceeding 35'	2 ½ stories	2 ½ stories	TBD
Maximum Building Coverage (%)	40%	8.3	16.6	TBD
Maximum Impervious Coverage (%)	55%	Unknown	28%	TBD
Setbacks of Accessory Uses (§ 25-8.1a)	No accessory uses shall be located within any minimum required front yard or side yard.	Rear Yard Shed: side yard setback min. = 7.11'	Rear Yard Shed: side yard setback min. = 7.11' (ENC) (V)	TBD

V = Variance Required ENC = Existing Nonconforming Condition TBD = To Be Determined

6. Planning Comments:

- a. Lot Requirements: The Applicant has noted that a new building is not being constructed on Proposed Lot 58.02. However, the Applicant intends to construct a two-family dwelling on Proposed Lot 58.01. It should be noted that this will be a substandard lot for a two-family dwelling, given the lot size, and additional variances may be needed for setbacks and coverage requirements. Since no layout is provided, the new building's compliance with setback requirements cannot be determined. It is recommended that layout of the proposed two-family dwelling be provided to determine compliance.
- b. Floor Plans: The Applicant intends to convert the existing-to-remain single-family dwelling on proposed Lot 58.02 into a two-family dwelling. Floor plans should be provided to determine existence of separate entrances for the two units, along with number of bedrooms for each unit. Additionally, Board would like to review how the single-family dwelling is being converted into two-family dwelling.
- c. Impervious Coverage: It is not clear if the proposed impervious coverage of 28% for proposed Lot 58.02 includes a driveway. This should be reflected in the proposed minor subdivision layout and calculation. Applicant should provide a breakout of impervious surfaces and their areas.
- d. Sheds: As indicated in the subdivision plan, one detached shed, located to the rear of existing lot, is to remain in proposed Lot 58.02. It currently sits within the side yard setback at 7.11' from the property line, which does not comply with the provisions of § 25-8.1a, stating that accessory uses shall not be located within the minimum required side yard. The Applicant should also confirm if the structure is included in the impervious coverage calculation.
- e. Fences: The Applicant must comply with the requirements for fences in § 25-8.4, including that solid fencing in the rear and side yards should be less than 6 feet in height, and fencing that is less than 50% solid in the front yard should be less than 4 feet in height. The Applicant shall confirm the height of the fences in order to determine compliance.



StreetView of the unit from Whittlesey Ave
Source: Google Maps December 2024

- f. Tree Requirements: The proposed subdivision indicates the removal of several trees, but no tree replacement plan or approval from the Township Forester is provided in the application materials, as required per § 28-4. The Applicant must submit a Tree Removal and Replacement Application, a tree replacement plan, and a Tree Removal Neighbor Notification Form.
- g. Building Design: Per §25-9.7a, no building permit shall be issued for any dwelling or residence to be erected in the R-5, R-6 or R-T District if the proposed dwelling is substantially alike in exterior design and appearance with any neighboring dwellings situated on the same or opposite sides of the street within 149 feet of a dwelling then in existence or for which a building permit has been issued or is pending. The distance herein specified shall be construed to mean the distance between the street property lines of the respective properties. No architectural plans have been provided to determine compliance. We recommend the Applicant provide architectural floor plans and elevation drawings to determine compliance.
- h. Minimum Residential Area: Per § 25-9.8a7, two-family dwellings are required to provide a minimum of 1,100 square feet per unit. The space provided per unit of the proposed dwellings should be confirmed.
- i. Parking Requirements: To determine parking compliance, the Applicant should provide the number of bedrooms per proposed unit. If the number of bedrooms is not specified, the requirement of 2.5 spaces per unit shall apply, as per § 25-12.2a1, meaning that the proposed development will require five (5) off-street parking spaces for Lot 58.01 and five (5) off-street parking spaces for Lot 58.02.
- j. Subdivision Filing: Applicant should clarify if the subdivision is to be filed by plat or deed. If by deed, the legal and metes and bound description shall be approved by the Board Attorney and Board Engineer prior to filing.

7. Statutory Criteria:

1. The applicant requires relief for seven (7) c-variances for this application. The applicant shall provide testimony that demonstrates how the request for relief may be granted based on one of the standards provided in the MLUL at N.J.S.A. 40:55D-70c. It is the applicant's responsibility to bear the burden of proof.

In order to satisfy the positive and negative criteria for each c variance enumerated above, the applicant should provide testimony that satisfies either the c(1) hardship criterion or c(2) flexible criterion as set forth in the MLUL.

- a. Positive criteria: There are two types of c variances - the **c(1) hardship** and the **c(2) flexible variance**.

The c(1) *hardship* criteria states that a “hardship” will occur if the variance is not granted. The hardship relates to the physical or topographical features of the property and cannot relate to financial or personal hardship. Hardship relating to property can include:

- i. Narrowness, shallowness, or irregular shape
- ii. An exceptional topographic condition
- iii. Other unique conditions or features affecting the property

The c(2) *flexible variance* states that by granting the variance, the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement and that the benefits of granting the variance substantially outweigh the detriments.

- b. Negative criteria: The applicant must satisfy the two-prong test of the negative criteria;
 - i. The variance can be granted without substantial detriment to the public good; and
 - ii. The variance can be granted without causing substantial detriment to the zone plan.

The applicant’s testimony regarding the negative criteria should address any potential impacts that the proposed variances may have on the neighborhood, as well as how the proposed development is consistent with, or in potential conflict with, both the zoning ordinance and the Township’s Master Plan.