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PLANNING EVALUATION

RE: **Max Grossman** Board of Adjustment Application ZB 26-01
15 Alan Street, Block 146, Lot 72, Township of West Orange

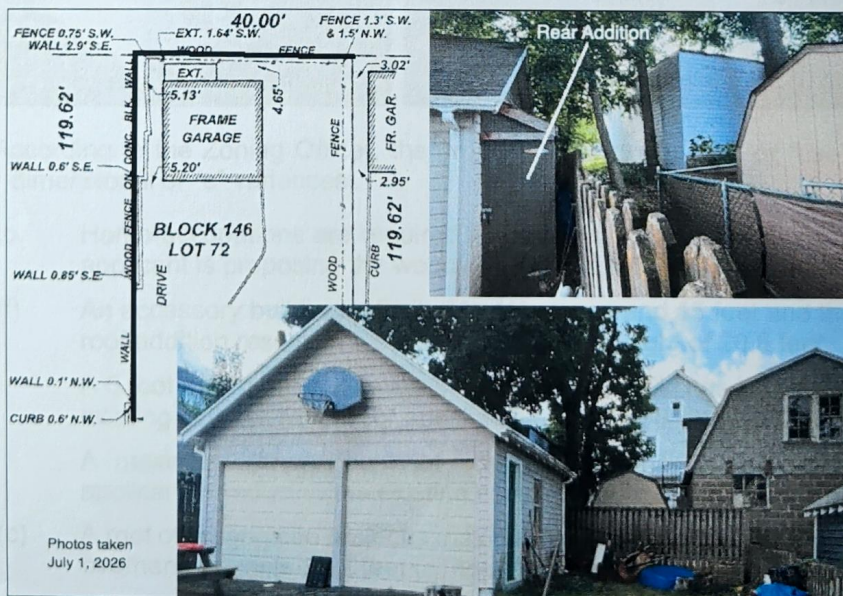
Introduction

Max Grossman and his wife reside in the single-family dwelling at 15 Alan Street. He is seeking approval from the Board of Adjustment to expand his free-standing garage in the rear of the property by increasing the "footprint" 8 feet further to the front and by adding a second level under a gambrel roof with a dormer. The purpose of the expansion is to better accommodate his existing accessory woodworking hobby and home occupation. (Mr. Grossman has been the woodshop teacher at West Orange High School for the last 11 years.) Because the proposed expansion involves variances from the dimensional standards for an accessory structure and the home occupation standards, Mr. Grossman is potentially seeking both "use" and dimensional variances.

This Planning Evaluation has been prepared on behalf of Mr. Grossman. It concludes that the statutory proofs are present that warrant approval of the requested variances. This Planning Evaluation is being provided in advance of planning testimony.

Description of Existing Conditions

Lot 72 in Block 146 is a 40.00 foot by 119.62 foot rectangular lot with an area of 4,784.8 square feet. It is situated on the north side of Alan Street, one lot in from the intersection with Valley Way. The lot contains a small single-family dwelling and a two-car garage. The garage has a side setback of 5.13 feet and a rear setback of 4.65 feet with a further intrusion into the rear setback built by the prior owner. Without the small rear addition, the garage has dimensions of 18.74 feet in width by 19.18 feet in depth.



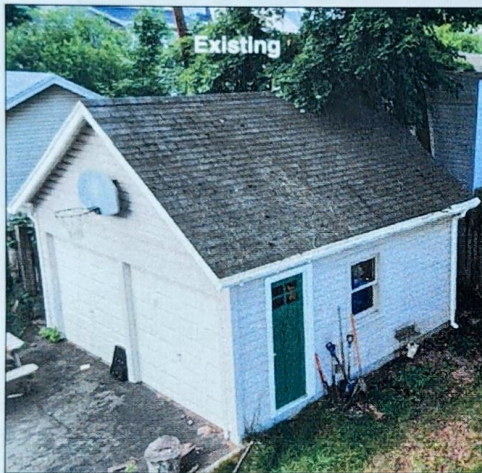
Description of Existing Use

As previously indicated, Mr. Grossman is a woodshop teacher at West Orange High School. He uses his woodworking skills at home for his own enjoyment and as an accessory home occupation. In his garage he creates unique pieces of furniture, repairs furniture, and crafts other wood items such as toys and kitchen utensils for his own use and for sale. He has been engaged in this activity since 2018 with no signage and with no adverse comments from anyone in the area.

Description of Proposed Development

Because of the limited depth of the existing garage, Mr. Grossman cannot store his pickup truck inside. However, his prime motivation for a second level is to shift some of his woodworking and metal fittings equipment to that upper level to free-up space on the ground floor to handle larger projects such as the creation of a dining room table.

To accommodate these needs, he is applying to expand the garage 8 feet to the front and add a second level under a gambrel roof with a side shed dormer. Because of the integrity of the existing structure, the first floor walls will need to be reconstructed on the existing foundation with a new foundation constructed to support the 8 foot front extension. The small rear addition is being removed.



According to the Zoning Officer, the proposal involves one "d" or "use" variance and four dimensional or "c" variances:

- §25-9.9.b. Home occupations are required to be within the principal building and the applicant is proposing the woodworking use in his freestanding garage.
- §25-8.1(f) An accessory building is limited to 1½ stories and 15 feet and the gambrel roof addition results in a second story and a height of 20.6 feet.
- §25-8.1 A 5 foot minimum rear setback for accessory buildings is required and the existing setback (after rear addition is removed) is only 4.65 feet.
- §25-7.1 A maximum (impervious) lot coverage of 55% is permitted and the applicant is reducing the existing coverage from 61.5% to only 60.6%.
- §25-8.2(c) A roof overhang can project a maximum of 2.0 feet, and the proposed front overhang projects 3.92 feet (although not into a required yard).

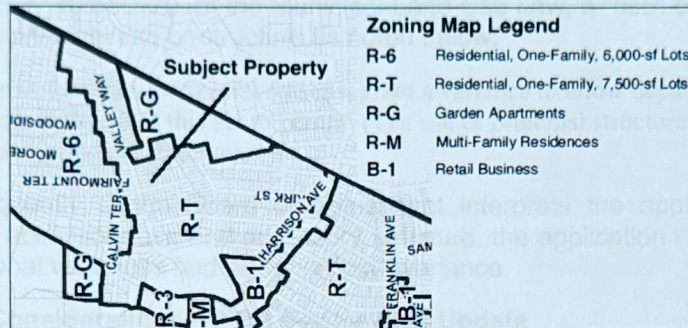
Description of the Surrounding Area

The subject property is located in a primarily residential area having one and two-family dwellings. The abutting dwelling to the west is a three-family dwelling, and the Vanderhoof & Sons charter bus facility is also located to the northeast on Wilfred Street. In the immediate area, the subject garage is flanked by other garages and sheds. As shown on page 1, one of the garages to the rear has a height and style similar to what is proposed.



Zoning Considerations

The subject property is in the R-T Zone which allows one-family dwellings on 5,000 square foot lots with a 50 foot width. Two-family dwellings are permitted on 7,500 square foot lots with a 75 foot width. The two-family homes in the neighborhood are typically on nonconforming lots. The subject lot with a 40 foot width and an area of 4,784.8 square feet is an existing non-conforming lot.



The Ordinance has a specific definition of a home occupation and regulations for such accessory uses as noted below. Craft making is one of the uses specifically identified as a permissible home occupation. An accessory use is defined as a "use naturally and normally incident and subordinate to the principal use of the premises or lot."

§ 25-4. DEFINITIONS.

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.

§ 25-9.9. Home Occupations.

No home occupation may be conducted in a legal owner-occupied one family residence unless the following conditions are met:

- a. A simplified site plan indicating the location of the use on the premises within the principal structure and written description of the occupation to be conducted shall be submitted to the Building Department and Zoning Official. A Certificate of Continued Occupancy, Certificate of Occupancy, or Certificate of Habitability shall be required for home occupations.
- b. The proposed activity shall comply with the following:
 1. Only one such activity shall be permitted on the premises within the principal structure; and such use must not be incompatible with or disturb the adjacent residential neighborhood.
 2. The activity shall be conducted solely by a person or persons, and members of his/her immediate family, all of whom shall be residing fulltime and permanently on the premises, and by no other person or persons living off the premises.
 3. Not more than 12.5% or 1/8 of the floor area of the principal structure shall be used for such activity.
 4. No display or advertising of products or services shall be visible from outside of the principal structure in which the activity takes place.
 5. No outside storage any way related to the activity shall be visible from outside of the principal structure in which the activity takes place.
 6. No pick-up or delivery of materials to or from the premises in which the activity takes place shall be made, except by private passenger vehicle, licensed package delivery service, or US Postal Service.
 7. The activity, including deliveries as described in Subsection 6, shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m.
 8. The activity shall not give rise of the need for on-street parking which shall interfere with the residential parking on the street adjacent to the principal structure in which the activity is permitted.

It is noted that there is a difference between the nature of the relief needed as identified by the West Orange Zoning Officer (who indicates that a "use" variance is needed along with dimensional variances) and planning consultant Malvika Apte in her May 19, 2026 Completeness / Planning Review #2 (who does not identify a "use" variance, but only dimensional variances).

In N.J.S.A. 40:55D-70. of the Municipal Land Use Law, a "use" or "d(1)" is limited a request for a principal use or structure as noted below:

d. In particular cases for special reasons, grant a variance to allow departure from pursuant to article 8 of this act to permit: (1) a use or principal structure restricted such use or principal structure.

Consequently, if the Board of Adjustment interprets the applicant's variance request for an accessory use and accessory structure, the application necessitates only "c" or dimensional variances and no "d" or "use" variance.

Master Plan Considerations – 2019 Master Plan Update

The 2019 Master Plan Update endorsed the current R-T Zone that applies to the subject property. No specific comments or recommendations were offered with respect to home occupations. Among the goals was to improve and maintain residential neighborhoods by encouraging the rehabilitation of existing dwellings and new residential construction at suitable densities.

Planning rationale supporting variance approval

In advance of planning testimony to be presented at an upcoming Board of Adjustment hearing, several comments are offered below.

Assuming the Board of Adjustment concludes that a "d" or "use" variance is involved, the applicant must demonstrate special reasons, particular suitability, and satisfy the negative criteria under the "enhanced quality of proof" standard established by the Medici Decision and view the dimensional requests as subsumed by the "use" variance request. If the Board concludes that only "c" or dimensional variances are involved, then a rationale is advanced that the benefits of granting the variances substantially outweigh any potential detriments.

Not a full-time occupation

Initially it is observed that the home occupation regulations in §25.9.9 appear to be intended for a homeowner engaging in the home occupation as his or her principal occupation as opposed to a part time activity. Mr. Grossman's full time occupation is as the woodshop teacher in West Orange High School. Consequently, the home occupation sought by Mr. Grossman is necessarily diminished in scale.

Woodworking is a traditional home-based activity

Woodworking is a traditional accessory home-based activity that occurs in single-family basements and in garages. Hence, the handling, sawing, planing, joining, and finishing of wood and incidental metal fittings is not an unusual activity occurring in the single-family residences and can comfortably be included within the classification of craft making.

There are unusual aspects of the proposed activity

The applicant, because of his expertise and personal interest, essentially engages in the same type of activities as craft making but occasionally handles larger projects such as a dining room table which requires more space than can typically be accommodated within a small single-family dwelling.

Reconstructing the garage has benefits

To accommodate his part time activity, the applicant intends to improve his garage space to handle both the woodworking activity as well as the interior storage of his pickup truck. Although it is often that garages fall into disrepair before the home itself does because of the less stringent construction standards in the 1920's and 1930's for garages, the applicant is proposing a context sensitive design that fits within the area and masks the second level as being under a gambrel roof and being 1½ stories. (The applicant is also a member of the West Orange Historic Preservation Commission.) The renovations include a header on the right side of the garage so that a second overhead door can be installed by the current or a future homeowner who desires a two-vehicle garage.

As special reasons, several Municipal Land Use Law purposes are advanced.

Approval of the application would advance the following purposes of the MLUL found in N.J.S.A. 40:5D-2:

- b. To secure safety from fire, flood, panic and other natural and man-made disasters.

The reconstructed garage will result in an upgrade to current building codes and remove a rear section that is only 10 inches from the rear property line.

- 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.

The reconstructed garage is in a location that is not fully visible from Alan Street and is situated in a cluster of garages and sheds which render the proposed garage as a compatible structure.

- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement.

The proposed design is an aesthetic improvement in itself and, additionally, is designed to accommodate the applicant's pick-up truck.

The reconstructed garage is particularly suited to the property

The applicant will continue to use the principal building as a single-family dwelling in the neighborhood that has a fair incidence of two-family dwellings and in a zone that allows both one and two-family dwellings. The location of the subject garage in a cluster of sheds and garages makes the property particularly suited for the proposed development.

The negative criteria are fully satisfied

The application can be approved without substantial detriment to the public good and without substantial impairment to the zone plan (the master plan) and the Zoning Ordinance based on the following:

- The gambrel roof design results in the appearance of a one and one-half story building.
- The proposed height and design is similar to the accessory building located in the rear of the property to the northeast as shown on page 1.
- The protruding rear addition is being removed resulting in a rear setback of 4.65 feet is only 4.2 inches short of the required rear setback.
- The removal of the rear addition will slightly reduce the amount of lot coverage.
- Approval will result in an overall upgrade of the subject property and better assure its contribution as part of the residential neighborhood.
- As a part-time home occupation, the duration of the requested use is more limited compared to a full-time home occupation.

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