

TO: Township of West Orange Zoning Board

FROM: Malvika Apte, PP, AICP, Planning Board Planner 
Hanah Davenport, PP, AICP, Senior Planner
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RE: ZBA Application 26-01
Completeness/Planning Review # 3
15 Alan Street
Block 146, Lot 72
"D(1)" Use Variance and "C" Variance Application

DATE: August 14, 2026

The most recent submission of this application was triggered by a determination that the proposed expansion of the garage would be used for a home occupation by the Applicant. The detached garage is considered an accessory structure, and home occupations are only permitted in principal structures. As a result, the Applicant requires a d(1) use variance to permit a home occupation use in the accessory structure. This memo represents the third Planning Review of this application. Previous memos regarding this application were submitted on April 23, 2026 and May 19, 2026, respectively.

1. Materials Reviewed

As Requested, we have reviewed the following newly submitted materials since our previous review on April 23, 2026:

- One (1) sheet of Final Plans for Garage Expansion – 15 Alan Street prepared by Max Grossman, dated May 6, 2026;
- Two (2) pages of Tree Protection Plan 15 Alan Street – Garage Expansion, prepared by Max Grossman, dated May 6, 2026;
- Nine (9) pages of Soil Movement Calculation and Soil Erosion and Sediment Control Plan prepared by Max Grossman, dated May 4, 2026;
- Seven (7) pages of Updated Variance Application forms, prepared by Max Grossman, dated May 6, 2026;
- Three (3) pages of Updated Variance Proposal prepared by Max Grossman, undated.

The following materials were previously reviewed:

- Seven (7) pages of Township of West Orange Zoning Board Application for "C2" Variance at 15 Alan Street, dated March 19, 2026;
- Six (6) pages of 200' Property Buffer Report dated February 25, 2026;
- Three (3) pages of Proposal Memo for Max Grossman, 15 Alan Street, undated.
- Four (4) pages of Reasons for Relief Memo for Max Grossman, 15 Alan Street, undated;
- One (1) page of W-9 for Max Grossman, dated February 25, 2026;

- One (1) page of Verification of Taxes & Sewer Charges Paid, prepared by the Township of West Orange Office of the Tax Collector, dated February 25, 2026;
- Five (5) sheets of Garage Expansion at West Orange, NJ, prepared by Sanjay Patel of Seva Engineering, dated February 27, 2026;
- One (1) sheet of Site Survey prepared by Richard J Hingos, Inc. Professional Land Surveyors, dated November 19, 2018;
- Unsigned and Undated Drawings include:
 - One (1) sheet of elevation drawings, "Existing Conditions, No House"
 - One (1) sheet of "Proposed New Garage, plan from west"
 - One (1) sheet of "Proposed New Garage on Lot, no house"
 - One (1) sheet of, "Proposed New Garage, with house and tree"
 - One (1) sheet of, "Proposed New Garage"
 - One (1) sheet of, "Proposed Survey Overlay with Tree"
 - One (1) sheet of "Height Comparison"

2. Site Description and Surrounding Land Uses

The subject property is an interior lot, identified as Lot 72 in Block 146, located at 15 Alan Street between Valley Way and Mississippi Avenue. The rectangular-shaped lot includes 40 feet of frontage on Alan Street and is approximately 4,784.8 square feet in area. The property is currently used as a residential property with a garage in the rear yard. The garage is 1.5 stories with a height of 15 feet, and measures approximately 18.5 feet by 18.5 feet. The property also includes a paved driveway from the street to the garage. The subject property is surrounded on all sides by residential uses.

3. Proposed Project

The applicant, Max Grossman, is proposing to expand the existing garage from a 1.5-story garage with a footprint measuring 18.5' x 18.5', or 342.25 square feet, to a 2-story garage with a footprint measuring 18.5' x 27', or 499.5 square feet. The expansion will extend the footprint of the garage into the existing driveway area. The proposed height will increase from 15 feet to 20.6 feet. The proposal also includes (a) a roof replacement to incorporate a gambrel roof with a shed dormer, in order to blend more with the architectural character of the immediate area, and (b) removal of an existing garage extension located on the rear of the garage. The Applicant is proposing this expansion in order to accommodate parking for their truck and provide space needed for a woodworking studio, which is their hobby and part-time business.



Subject Site Aerial
Source: NJ Geo Web

4. Completeness

This Application Completeness Checklist is included below. Based on the files provided, this application is **capable of being deemed complete**.

Completeness Requirement	Complete	Incomplete	Waiver Request	Not Applicable
Administrative Requirements § 25-51.2				
a. Properly completed application forms	X			
b. Plans, maps and construction details as required	X			
c. Fees and escrow deposits paid (See Section 25-55) We defer to Board Secretary to confirm.				
d. Payment of taxes, liens and assessments. Verification of taxes dated 2/25/2026.	X			
e. Site inspection authorization form.	X			
f. Compliance with legal notice requirements. This is an ongoing condition.				
g. Corporation or partnership form.				X
h. Affidavit of ownership/authorization form.				X
i. Copies of approvals of other government/agencies as may be required or an affidavit indicating that application has been made to such agencies.				X
j. A listing of all variance requests, waiver requests of miscellaneous design standards and checklist waiver requests.	X			
k. If the site is located within a community or development in which any bona fide board or association exists, the written proof that the board or association has received notice of the application for development is required.				X
l. All plans and legal documents for compliance with all West Orange COAH Ordinances included in Chapter 25 , Section 25-18 must be submitted to the Township.				X
"C" Variance Requirements § 25-51.9				
a. A map, either in conformance with subsections 25-51.3 , 25-51.4 , 25-51.5 , 25-51.6 and 25-51.7.1 or if the application is to be bifurcated, a separate map, signed and sealed by an architect, engineer, planner or surveyor which provides sufficient data (i.e., setbacks, lot area, existing and proposed structures, etc.) upon which a decision can be based.	X			
b. A statement or legal brief which clarifies why the "c" variance should be granted. Particular attention should be paid to the contents of N.J.S.A. 40:55D-70c, applicable case law and relevant Township Ordinances and N.J. Statutes.	X			

5. Zoning Review

- A. **Proposed Use:** The subject property is located within the R-T Residential Zone wherein private garages are permitted accessory uses. The applicant is proposing an expansion of the existing detached garage located in the rear yard, to be used for vehicle parking on the first floor and woodworking space on the second floor.
- The garage is intended to be used for a part-time woodworking home occupation. Home occupations are permitted accessory uses in the R-T Zone, provided they occur in the principal structure and meet the supplemental provisions enumerated in §25-9.9. ***Because the proposed home occupation use will take place in the accessory structure, and not in the principal structure, a d(1) use variance is required.***
- B. **Supplemental Provisions for All Districts (§ 25-8):**
- No accessory building shall be taller than 1.5 stories or 15 feet. ***Does not conform, applicant is proposing to expand the accessory building height to 2 stories and 20.6 feet. See table below.***
 - No accessory building shall cover more than 1/3 of the minimum required rear yard. ***Based on a lot width of 40 feet and a minimum rear setback area of 30 feet, the required rear yard area is 1,200 square feet. The proposed accessory garage has a footprint of 506 square feet, which takes up approximately 42% of the rear yard area. See table below.***
 - No accessory building shall be used as a living or sleeping quarters. ***Conforms. Building is intended to be used as a woodworking studio and car garage and, therefore, no living or sleeping quarters are proposed.***
 - No accessory building shall be located within 15 feet of any principal building, except as otherwise provided in this chapter. ***Conforms. The existing garage is located more than 15 feet from the principal structure, and the proposed expansion does not alter this distance.***
 - No accessory structure, building, storage area, off-street parking area or truck loading space shall be permitted within five feet of a property line. ***Does not conform. The accessory structure is presently located 10 inches from the rear property line due to an existing rear addition, which the applicant now proposes to remove. In doing so, the structure will have a resulting setback of 4.65 from the rear property line. Although the accessory structure, as proposed, will be located within 5 feet of the rear property line, we note that the proposed removal of the existing rear addition will render the structure less of a nonconformity. See table below.***
- C. **Bulk Conditions:** The following table provides bulk requirements in the R-T Zone and the existing and proposed conditions as noted on the plans. ***Five (5) variances related to accessory structure height, accessory structure setback, accessory coverage, lot coverage, and roof overhang are noted.***

R-T Two Family Residential Zone				
	Ordinance Requirements	Existing Conditions	Proposed	Variance Required
Minimum Lot Area (SQFT) (§ 25-7.1)	One family: 5,000	(40x119.62) = 4,784.8	No Change	ENC
Minimum Lot Width (ft.) (§ 25-7.1)	One family: 50	40	No Change	ENC
Minimum Front Yard (ft.) (§ 25-7.1)	30	17.73	No Change	ENC
Side Yard Setback (ft.) (§ 25-7.1)	10 + 8	8.89 + 3.64 (Principal)	No Change	ENC
Rear Yard Setback Principal Building (ft.) (§ 25-7.1)	30	Approximately 66	No Change	No
Accessory Structure Height (§ 25-8.1f)	1.5 stories/15 ft.	1.5 stories/15 ft.	2 stories/20.6 ft.	Yes (V)
Accessory Structure Setback (ft.) (§ 25-8.1)	5	<u>Side:</u> 5.13 + approximately 16.8 <u>Rear:</u> 10 inches	<u>Side:</u> No Change <u>Rear:</u> 4.65	<u>Side:</u> No <u>Rear:</u> Yes (V)
Accessory Coverage (§ 25-8.1f)	<33% of Rear Yard Rear Yard = 2,640 SF x 1/3 = 871.2 SF	375.8 SF (14.4%)	499.5 SF (19%)	Yes (V)
Proximity to Principal Building (ft.) (§ 25-8.1e)	Greater than 15	42.75	34.75	No
Maximum Lot Coverage (§ 25-7.1)	55%	61.5% (2,940 SF)	60.6% (2,900)	Yes (V)
Maximum Building Coverage (§ 25-7.1)	40%	26.3% (1,260.2 SF)	29.2% (1,395.6 SF)	No
Maximum Roof Overhang (ft.)	2	1	1' on North side (back) 1' 8" on East and West side 1' tapering to 3'11" on south side (front)	Yes (V)

V = Variance ENC = Existing Non-Conforming Condition

6. Statutory Criteria

1. The applicant requires a d(1) use variance for this application to allow a home occupation in an accessory structure. 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 40:55-70.d. The applicant must satisfy both the positive and negative criteria associated with variance relief for the D(1) variance:

- a. Positive Criteria: The applicant must demonstrate that the project generally advances the purposes of zoning and that special reasons exist for the granting of the variance. These special reasons can be one of the following:
 - i. The proposed use will inherently serve the public good;
 - ii. The owner would suffer an undue hardship if compelled to use the property in conformance with the standards of the zone; or
 - iii. The proposed site is particularly suited for the proposed use.
- b. Negative Criteria: The applicant must demonstrate that the project will not be a substantial detriment to the public good, and that it will not substantially impair the intent and purpose of the zoning plan.

The applicant's testimony regarding negative criteria should address any potential impacts the proposed use may have on the neighborhood, as well as whether the proposed use is consistent with, or in potential conflict with, the zoning ordinance and the Township's Master Plan.

2. The applicant requires relief for five (5) 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.

3. Regarding height variances of accessory structures:

- a. If the proposed height variance does not apply to a principal structure, that is, to a building or structure in which it is conducted or which constitutes the principal use of the lot on which it is located, then it is not within the sole jurisdiction of the zoning board of adjustment. In other words, the height of an accessory structure will be a c variance matter and will thus fall within the ancillary power of the planning board pursuant to N.J.S.A. 40:55D-60 which allows the planning board to exercise c variance authority in conjunction with its exercise of authority over site plans, subdivisions and conditional uses.