

CITY OF LINDEN
ZONING BOARD OF ADJUSTMENT



ANNUAL SUMMARY REPORT
2014

TABLE OF CONTENTS

- **EXECUTIVE SUMMARY**
- **MEETING DATES**
- **BOARD MEMBERSHIP**
- **BOARD ATTENDANCE**
- **ORDINANCE (57-04) for “Clothing Donation Bins”.**
- **CASE LOG**
- **SUMMARY OF ACTIVITY AND ACTIONS TAKEN BY
THE BOARD OF ADJUSTMENT**
- **RECOMMENDATIONS**



City of Linden

Union County, New Jersey

Board of Adjustment

Brian C. Fritzsche
Secretary of the Board
(908) 298-3819

Donald Bladzinski
CHAIRMAN

Susanne Miskiewicz
VICE-CHAIRMAN

Burton Zitomer, Esq.
LEGAL COUNSEL

EXECUTIVE SUMMARY

The Linden Board of Adjustment was established for the purposes of hearing and deciding appeals regarding decisions or determinations made by the Building and Zoning Administrator in the enforcement of the Zoning Code. Subsequently, if the Administrator's literal translation of the Code is determined to have resulted in an unnecessary or undue hardship, the Board of Adjustment has the authority to grant certain variances within specific guidelines. The board consists of seven (7) regular members, and two (2) alternate members, whom have demonstrated their civic interest, general knowledge of the community, independent judgment, and availability to prepare for and attend meetings.

This annual brief enables the board of adjustment to bring to the attention of the planning board and governing body particular provisions of the zoning ordinance, which has created problems for the Board of Adjustment during the year.

Meetings are generally held on the second Monday of each month, at 7:00 p.m., in the Planning Board Room, 3rd Floor in City Hall.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Brian C. Fritzsche", is written over the typed name.

Brian C. Fritzsche
Member & Secretary of the Board



Board of Adjustment

RESOLUTION FIXING THE REGULAR MEETING DATES OF THE ZONING BOARD OF ADJUSTMENT FOR CALENDAR YEAR 2014

BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF LINDEN, that the Regular Meetings of the Linden Board of Adjustment will be held in the Planning Room, on the third floor of City Hall, Linden, New Jersey. All meetings shall be held on the second Monday of each month, (*) with the exception of October, convening at 7:00 PM, or as soon thereafter as the Board assembles.

Monday, January 13, 2014
Monday, February 10, 2014
Monday, March 10, 2014
Monday, April 14, 2014
Monday, May 12, 2014
Monday, June 09, 2014
Monday, July 14, 2014
Monday, August 11, 2014
Monday, September 08, 2014
Monday, October 20, 2014 (*)
Monday, November 10, 2014
Monday, December 08, 2014

PUBLIC HEARINGS BEGIN AT 7:00 P.M.

Be it further resolved, that the procedure at all meetings for the year 2014 shall be governed by Robert's Rule of the Order and are subject to the Open Public Meeting Act and conducted accordingly.

Brian C. Fritzsche
Secretary of the Board
Linden Zoning Board of Adjustment

Cc: Mayor's Office
City Clerk's Office
Department of Public Property
Worrall Community Newspaper

Ref: Membership, Linden Board of Adjustment

**BOARD OF ADJUSTMENT
CITY OF LINDEN 2014**

Effective: October 2014

	NAME	ADDRESS	CITY	ST	ZIP	PHONE	TERM Expires
Chairman	Donald Bladzinski	1308 Sunnyfield Drive	Linden	NJ	07036	908-925-4491	December 31, 2014
Member	Richard Guerra	2512 Orchard Terrace	Linden	NJ	07036	908-868-7285	December 31, 2015
Member	Nicholas Nigro	440 Ainsworth Street	Linden	NJ	07036	908-862-0194	December 31, 2017
Member	Thomas Boland	10 North Wood Ave, Apt# 608	Linden	NJ	07036	908-862-2741	December 31, 2015
Member	John Langan	2001 N. Stiles Street	Linden	NJ	07036	908-925-7641	December 31, 2014
Vice-Chairman	Susanne Miskiewicz	43 Palisade Road	Linden	NJ	07036	908-486-0501	December 31, 2017
Secretary&Member	Brian Fritzsche	2515 Verona Avenue	Linden	NJ	07036	908-587-0355	December 31, 2016
Alt #1 Member	Gregory Cierpail	126 Rosewood Terrace	Linden	NJ	07036	908-925-1355	December 31, 2015
Alt #2 Member (*)	Louis Coy Braxton	1202 E. St. Georges Avenue	Linden	NJ	07036	908-986-7253	December 31, 2014
Legal Counsel	Burton Zitomer, Esq	14 Pine Gove Road	Berkeley Heights	NJ	07922	(973) 805-7335	N/A
CSR	Virginia Guinta	P.O. Box 184	Rocky Hill	NJ	08553	609-477-9342	N/A

(*) Was never confirm by the Board

FIRST READING: January 22, 2013

ORD. NO: 57-04

2ND & FINAL READING: February 19, 2013

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER XXXI, ZONING,
OF AN ORDINANCE ENTITLED, AAN ORDINANCE ADOPTING AND
ENACTING THE REVISED GENERAL ORDINANCES OF THE CITY OF
LINDEN, 1999," PASSED NOVEMBER 23, 1999 AND APPROVED NOVEMBER
24, 1999
AND AS AMENDED AND SUPPLEMENTED

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LINDEN:

That Chapter XXXI, Zoning, shall be and the same is hereby amended as follows:

ADD:

REVISE §31-20 GENERAL REGULATIONS

ADD SECTION 31-20.26, "CLOTHING DONATION BINS"

Purpose

The City of Linden has determined that it is necessary to regulate the placement of clothing bins to ensure that the placement and use of such bins promote the public welfare of the community. In the past, clothing donation bins of questionable origin and purpose have been proliferating throughout the City of Linden, some of which appear to be associated with for-profit entities. Furthermore, clothing donation bins have been placed on private and municipally owned properties without authorization of the respective property owners and many clothing donation bins are not regularly collected, overflow and become depositories for discarded items or other uncollected refuse.

Definitions.

a. CLOTHING DONATION BIN – Any receptacle or container no larger than 6 feet in width by 6 feet in height made of metal, steel, or any other similar non-combustible material designed or intended for the collection and temporary storage of donated clothing or other materials, but excluding wood, cardboard, and similar materials.

Minor Site Plan Approval & Permit Required.

- a. Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a clothing donation bin, within the City of Linden, for solicitation purposes, unless:
 1. They have obtained minor site plan approval and a permit issued by the City Clerk.

General Requirements.

- a. Clothing donation bins. Clothing donation bins may be placed on City owned property, on nonresidential property in the C-1A, ED and the C-2 (100) districts, subject to the following conditions:
 1. Minor site plan approval is required.
 2. Minimum lot area: 3 acres.
 3. Donation bins shall be devoted for nonprofit purposes.
 4. Clothing bins shall be located a minimum of 100 yards f from any place that stores large amounts of, or sells, fuel or other flammable liquid or gases.
 5. Except on City owned property, a maximum of two (2) used clothing bins, placed in a manner that they abut on another, are permitted.
 1. The bin(s) shall be appropriately located so as not to interfere with circulation sight triangles, on-site circulation and existing landscaping.
 2. All clothing bins must be located in such a manner that they do not reduce the number of parking spaces required for the property below the minimum number of parking

spaces required either by application of the parking requirements under the zoning ordinance, by a previously granted variance, by developer's agreement, or otherwise.

3. The licensee shall arrange for the pickup and emptying of the contents of all bins permitted herein at least once per week so that it does not overflow, resulting in used clothing being strewn about the surrounding area.
4. The bin(s) shall be accessory to an existing non-residential use. The placement of clothing bins shall be such that the meet the minimum setback requirements for all accessory structures within the zone in which they are being placed, and otherwise meet all other zoning requirements for accessory structures within the zone in which they are being placed. All such clothing bins are encouraged to be painted in earth tone colors of gray, black, green and brown so as to be non obtrusive to the neighborhood.
5. There may be no more than three lots within any one zone upon which clothing bins may be placed, and clothing bins may not be placed upon any lot within 1,000 feet of a lot upon which one or more clothing bins exist.
6. The City Clerk or his designee shall refer each application to the Zoning Officer, which shall be responsible to confirm compliance with this ordinance by each owner of a clothing bin.
7. Clothing donation bins shall comply with Section 3-18 of the City's Police Regulations.

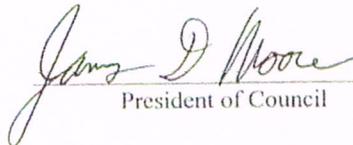
Section 2. The remaining provisions of the Chapter hereby amended and supplemented shall continue in full force and effect to the same extent as if herein fully repeated.

Section 3. If any section, subsection, provision, clause, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such adjudication shall not affect the remaining sections, subsections, provisions, clauses, or portions, which shall be deemed severable therefrom.

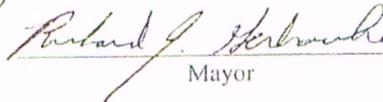
Section 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 5. This ordinance shall take effect in the manner provided by law.

PASSED: February 19, 2013


President of Council

APPROVED: February 20, 2013


Mayor

ATTEST:


City Clerk

RECOMMENDATIONS

Section: 31-9.7 – Development Regulations for Single-Family Attached Homes

The current zoning code and Schedule of Limitations does not provide a schedule where this use is permitted / allowed.

Therefore, the Board of Adjustment suggests that the city council amend the Schedule of Limitations to indicate where Single-Family Attached Homes are permitted.

Because single-family attached structures are not a permitted use in the zone, a use variance was required. From a planning perspective, this variance is mostly technical in nature and is stemmed from the applicant's desire to construct a two-family style building with each unit on a separate piece of property. Building each unit on separate lots has several potential advantages which were considered by the Board.

For a two-family residence, the R-2b district requires a minimum lot area of 6,000 sq. ft., a minimum lot width of 60 feet, a minimum side yard (both) of 20 feet and a maximum height of 30 feet. As the applicant is seeking to develop the property as attached single-family units, bulk variances were also required to permit 0-foot side yard setbacks, for providing lot widths of 35 feet where 40 feet is required and to permit a 27-foot tall building where a maximum of 26 feet is permitted.

The Board's recommends to grant this use in the R-2a and R-2b districts with conditions on the applicant to provide how the building will be maintained uniformly in future years, separate driveways for each unit and the subdividing of the properties. These conditions are to be listed on the deed of the units.

CASES HEARD IN 2014

Case# ZBA-08-2013

(Use for an Attached single family home, Sub-division, Site Plan, Area, Yard & Bulk)

Applicant: DOMENICO & FELIX LETTINI

Represented by: Gregory M. Juba, Esq.

Property: 436 – 440 Brook Street, Block 248 / Lot# 20 and 21

Zone: R-2B

Proposed – Attached Single Family Home

Rejected:

Attached Single family use not permitted

Site Plan Approval

Schedule of Limitations

Area, Yard & Bulk for lot width, side yard and building height (26 feet allowed, 27 feet requested)

Status: [Approved, \(March 10, 2014\)](#)

Case# ZBA-09-2013

(Multi-Business Uses on a non-residential lot)

Applicant: LINDEN REALTY ASSOCIATES, LLC (Yidel Weiss)

Represented by: Gregory M. Juba, Esq.

Property: 721 West Linden Avenue, Block 469 / Lot# 41

Zone: H-I (Heavy Industrial)

Proposed – Use for Multiple Business/Office Buildings on one lot

Rejected:

Permitted Principal Uses (Mixed Uses)

General Regulations

Site Plan Approval

Status: [Case is Open, pending revision by the applicant.](#)

Case# SP-ZBA-02-2013

(Site Plan Application, Use was approved on October 12, 2013)

Applicant: JOSEPH PRINCIPATO

Represented by: Stephen C. Leonard, Esq.

Property: 813 North Wood Avenue, Block 241 / Lot# 03

Zone: OPT (Office-Professional Transitional)

Proposed – Use for multi-family in OTP zone

Rejected:

31-26.1: Site Plan Approval

Status: [Site Plan Approved, \(January 13, 2014\)](#)

Case# ZBA-10-2013

(Multi-Business – Use for a Health Club)

Applicant: LINDEN COMMONS RETAIL, LLC

Represented by: Marc D. Policastro, Esq. from Giordano, Halleran & Ciesla

Property: 1701 West Edgar Road, Block 580 / Lot# 12.01

Zone: C1-A / Commercial District

Proposed – Multi-tenant commercial/retail

Rejected:

31-4.1 Permitted Principal Uses (Mixed Uses) / General Regulations, Schedule of Limitations

31-20.25(a) Health Club is not a permitted use within zone

31-26.1 Site Plan Approval

Status: [Approved, \(February 10, 2014\)](#)

Case# ZBA-01-2014

(Height Variance and Lot Coverage)

Applicant: DEVENDRA & NALINI ASHAR

Represented by: Pro Se

Property: 421 Livingston Road, Block 362 / Lot# 14

Zone: R-1A

Proposed – Addition to Single Family Home

Rejected:

Maximum allowed height is 26 feet; proposed is 27'1" requested - Schedule of Limitations

Lot Coverage; 2000 Sq ft (40%) allowed, proposed 2,017 Sq ft (40.34%)

Minimum habitable area for 2 stories 1,250 Sq ft and proposed are 2,181 Sq ft.

Status: [Denied, \(February 10, 2014\)](#)

Case# ZBA-02-2014

(Zoning Interpretation § 31-36.1 b and 31-20)

Applicant: JEANNE YOUNG

Represented by: Charles N. Winetsky, Esq.

Property: 22 West 19th Street, Block 549 / Lot# 13

Zone: R-2A

Proposed – Close in a porch on a single family home

Rejected:

31-36.1b – Expansion of a non-conforming building is not permitted

31-20 – General Regulations

Status: [Affirmed, \(March 10, 2014\)](#)

Case# ZBA-03-2014

(Use for an Attached single family home, Sub-division, Site Plan, Area, Yard & Bulk, & Density)

Applicant: P.J.V. BUILDERS

Represented by: Gregory M. Juba, Esq.

Property: 1105 Woodlawn Avenue, Block 524 / Lot# 67

Zone: R-2A

Proposed – Attached Single Family Home

Rejected:

Attached Single family use not permitted, Site Plan Approval, Schedule of Limitations

Area, Yard & Bulk for lot width, side yard and building height (26 feet allowed, 28.08 feet requested)

Status: [Approved, \(June 9, 2014\)](#)

Case# ZBA-04-2014

(4-Family House attached is not permitted)

Applicant: JUZEFYK BROTHERS CONSTRUCTION

Represented by: Gregory M. Juba, Esq.

Property: 112-114 W. Morris Avenue, Block 460 / Lot# 7 and 8

Zone: R-2A

Proposed – Attached Two Family Homes

Rejected:

An attached two-four family (4-Family House) is not permitted

Status: [Denied, \(September 08, 2014\)](#)

Case# ZBA-05-2014

(Use and Bulk)

Applicant: CVS PHARMACY

Represented by: Stephen Leonard, Esq.

Property: 1000 St. Georges Avenue, Block 419 / Lot# 20, 21, 23

Zone: C-2 & R1-A

Proposed – Uses and Bulk as noted

Rejected:

31-20.19(a) - No more than 35% of front yard for use as driveway

31-20.19(b) - Access Driveway in a residential zone is prohibited

31-27.19 - Off street parking requirements

31-25.89(b) - Maximum height of freestanding sign

31.26.1 - Site plan required

Status: [Approved, \(September 8, 2014\)](#)

Case# ZBA-06-2014

(Bulk variance for a 10' Security fence)

Applicant: ELECTRIC GUARD DOG, LLC

Business is BILKAY'S EXPRESS

Represented by: Stephen Leonard, Esq.

Property: 2400 Bedle Place, Block 478 / Lot# 2

Zone: R-2b

Proposed – 10 foot high security fence

Rejected:

31-20.9 – Fences and Walls

Status: [Approved, \(October 20, 2014\)](#)

Case# ZBA-07-2014

(Use for an Attached single family home, Sub-division, Site Plan, Area, Yard & Bulk)

Applicant: LETTINI & SONS

Represented by: Gregory M. Juba, Esq.

Property: 126 – 130 Liberty Street, Block 447 / Lot# 3.01 and 3.02

Zone: R-2A

Proposed – Attached Single Family Home

Rejected:

Attached Single family use not permitted, Site Plan Approval, Schedule of Limitations

Area, Yard & Bulk for lot width, side yard and building height (26 feet allowed, 27 feet requested)

Status: [Approved, \(December 8, 2014\)](#)

ZONING BOARD OF ADJUSTMENT - CASE LOG - (YEAR 2014)

CASE#	NAME OF APPLICANT	USE	NONCON	BULK	SUBDIV	SITE	CPLAN	INTERP	EXT	STATUS	ZONE
SP-ZBA 02 2013	JOSEPH PRINCIPATO					1				GRANTED	OPT
ZBA 08 2013	DOMENICO & FELIX LETTINI	1		1		1				GRANTED	R-2B
ZBA 09 2013	LINDEN REALITY ASSOCIATES, LLC (Yidel Weiss)	1				1				Open	H-I
ZBA 10 2013	LINDEN COMMONS RETAIL, LLC	1				1				GRANTED	C1-A
ZBA 01 2014	DEVENDRA & NALINI ASHAR	1		1						DENIED	R-1A
ZBA 02 2014	JEANNE YOUNG							1		GRANTED	R-2A
ZBA 03 2014	P.J.V. BUILDERS	1		1		1				GRANTED	R-2A
ZBA 04 2014	JUZEFYK BROTHERS CONSTRUCTION	1				1				DENIED	R-2A
ZBA 05 2014	CVS PHARMACY	1		1		1				GRANTED	C-2 & R1-A
ZBA 06 2014	ELECTRIC GUARD DOG FENCE, LLC	1		1						GRANTED	R-1B
ZBA 07 2014	LETTINI & SON, INC.	1		1		1				GRANTED	R-2A

TOTALS	8	0	3	3	7	0	1	0		
	36.36%	0.00%	13.64%	13.64%	31.82%	0.00%	4.55%	0.00%		

Denied:	2	18.18%
Approved:	8	72.73%
DWP:	0	0.00%
Moved PD:	0	0.00%
Open:	1	9.09%
AW:	0	0.00%
CASES:	11	100.00%

DWP = Dismissal Without Prejudice
 "W" = Waived
 RD = Reserved Decision
 PBd = Application moved to the Planning Board
 Open = Case not heard or adjourned
 MTC = Motion to Carry
 AW = Application Withdrawn by the applicant

END OF REPORT