

TOWNSHIP OF MILLBURN

ORDINANCE NO. 2607-22

ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF MILLBURN DEVELOPMENT

REGULATIONS AND ZONING ORDINANCE

WHEREAS, the Township of Millburn (“the Township”) executed a Settlement Agreement with Fair Share Housing Center on August 17, 2021 that determines the municipality’s affordable housing obligation and the preliminary compliance plan for how the obligation will be addressed; and

WHEREAS, the Settlement Agreement called for the Township to satisfy a portion of Millburn’s unmet need obligation by permitting residential development in locations and at densities identified in the Settlement Agreement; and

WHEREAS, the Township Committee and the Township desire to adopt a Zoning Ordinance implementing these terms and conditions of the Settlement Agreement; and

WHEREAS, the Master Plan Reexamination and Update for the Township of Millburn, dated December 19, 2018, recommended the Township consider raising the height limit above three stories in targeted locations to allow multi-family residential and mixed-use buildings within close proximity to the Millburn Train Station.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Millburn, in the County of Essex and State of New Jersey as follows (additions are underlined and deletions appear as strikethroughs):

606.7 Central Business B-4

- a. Purpose. ~~To provide an area for pedestrian shopping.~~ To serve as the downtown core of the Township, providing a combination of commercial, residential, office, and cultural uses in a walkable environment.
- b. Permitted Principal Uses.
 1. Retail sales and retail services.
 2. Financial institutions.
 3. ~~Residential, but not on the ground floor.~~ Multifamily housing developments in combination with any of the permitted principal uses
 4. Offices, including co-working or shared work space, but not on the street-floor level. For the purposes of this restriction, travel agencies, opticians, local newspaper offices substantially servicing Township residents, and real estate sales and insurance offices shall not be considered offices and are permitted to locate on the street-level floor.
 5. Showrooms.
 6. Educational play centers.
 7. Instructional schools and studios.
 8. Art studios and galleries.
 9. Restaurants, fast food restaurants, retail food establishments, brewpubs and eating and drinking places, provided the closest part of any structure so used, exclusive of parking and loading areas, is not less than 125 feet from the nearest lot line of a single-family

dwelling in a Residential District, except that no such requirement shall apply where said lot line is separated by a street or railroad right-of-way. Drive-up windows shall not be permitted.

10. Theaters.
 11. Museums.
 12. Any combination of the permitted principal uses.
- c. Accessory Uses. Parking and loading areas.
1. Parking and loading areas, including off-street structured facilities within the building (i.e. at or below grade).
 2. Indoor and outdoor residential amenity space, except for rooftop decks and other rooftop amenities.
 3. Sustainable building and site design features, such as but not limited to roof-mounted solar energy generating facilities, green roof, and electric vehicle supply equipment.
 4. Any other use which is subordinate and customarily incidental to multifamily housing developments, and the use of which is limited building occupants and management.
 5. Any other use which is subordinate and customarily incidental to a nonresidential use.
- d. Conditional Uses. Restaurants, fast food restaurants, retail food establishments, brewpubs and eating and drinking places where the closest part of the structure is less than 125 feet from the nearest lot line of a single-family dwelling in a residential district, except that no such requirement shall apply where said lot line is separated by a street or railroad right-of-way. Drive-up windows shall not be permitted. The following conditional use standards shall apply:
- e. Area and Setback Requirements – Blocks 704 and 705; and Block 703, Lots 1, 9, 10, and 11.
1. Minimum side setback: none, or 10 feet to district line. Minimum Yard Setbacks:
 - a) Front yard setback: 0 feet
 - b) Side yard setback:
 - i. 0 feet, or 10' when a side yard is provided.
 - ii. 10 feet to any zone district line.
 - c) Rear yard setback: 10 feet
 2. Minimum Lot Size: 3/4 acres.
 3. Maximum building coverage: ~~100~~90%.
 4. Maximum lot coverage: 100%.
 5. Maximum building height: 48 feet, four stories.
 6. Minimum building setback: 15 feet at 4th story
- f. Area and Setback Requirements – All Other B-4 Properties.
1. Minimum Yard Setbacks:
 - a) Front yard setback: 0 feet
 - b) Side yard setback:
 - i. 0 feet, or 10 feet when a side yard is provided.
 - ii. 10 feet to any zone district line.
 - c) Rear yard setback: 10 feet
 2. Maximum building coverage: 90%.
 3. Maximum lot coverage: 100%.
 4. Maximum building height: 40 feet, three stories.
- g- f. Other Provisions.

1. If an existing dwelling unit is replaced by a nonresidential use, on-site parking shall be provided in accordance with the standards for off-street parking set forth in this ordinance for the nonresidential use.
 2. Central Business: Training facilities shall not be permitted in the B-4 Zone. A training facility is a premises which is used (as a primary use or an accessory use) to train or educate employees of a business in the service which the business provides. Excluded from the definition of a training facility is a training facility which trains full-time employees assigned permanently to the premises.
 3. Residential units on the ground floor may not be any street-facing façade and must be set back a minimum of 30 feet from any street-facing façade.
 4. Outdoor Residential Amenity Space.
 - a) Private or shared outdoor residential amenity space shall not be visible from adjacent residential uses or zones and shall not be visible from public rights-of-way or public property.
 - b) The above provision shall not apply to private balconies and terraces along street-facing façades.
- h. Development Yield:
1. Maximum development yield for multifamily housing developments shall not exceed a density of 25 dwelling units per acre.
 2. All residential developments shall include an on-site affordable housing set-aside of 20% of the total number of units. The affordable housing units shall comply with the Township's affordable housing regulations and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1), which shall control in the case of any conflicts with this ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq). Compliance shall include but is not limited to the following: required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty percent (30%) or less of median income pursuant to the Fair Housing Act, affordability controls of at least thirty (30) years, phasing in compliance with N.J.A.C. 5:93-5.6(d), and affirmative marketing including posting of all affordable units on the New Jersey Housing Resource Center website in accordance with P.L. 2020, c. 51. Additionally, the affordable units shall be integrated with the market-rate units. In buildings with multiple dwelling units, the affordable units shall be generally distributed within each building with market units and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. The residents of the affordable units shall have full and equal access to all of the entryways, amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

Ordinance 2607-22

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, RMC
Township Clerk

By: _____
Maggee Miggins, Mayor

1st Reading and Introduction: 6/21/2022
1st Publication: 6/30/2022
Referral to Planning Board: 6/23/2022
Notice to County Planning Board Prior to Adoption: 6/23/2022
Notice to Clerks of Adjoining Municipalities: 6/23/2022
Notice to Affected Property Owners: 7/1/2022
2nd Reading: 7/19/2022
Adoption: 7/19/2022
2nd Publication: 7/28/2022
Filing with County Planning Board: 7/25/2022

CERTIFICATION

I, Christine A. Gatti, Clerk of the Township of Millburn, in the County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Committee at a regular meeting held on the 19th day of July, 2022.

Christine A. Gatti, RMC
Township Clerk