

TOWNSHIP OF MILLBURN
ORDINANCE 2646-23
ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF MILLBURN
DEVELOPMENT REGULATIONS AND ZONING ORDINANCE

WHEREAS, the 2018 Master Plan Reexamination and Update provides goals and objectives for future land use policy in the Township; and

WHEREAS, the Goal 1 of the Master Plan Reexamination and Update seeks to, “Encourage appropriate land uses that promote the character of the Township as a small suburb of the highest quality;” and

WHEREAS, Objective 1.01 of the Master Plan Reexamination and Update recommends the Township, “Protect the character of established residential neighborhoods and encourage land use and development at an appropriate scale and density;” and

WHEREAS, the Master Plan Reexamination and Update recommends the Township, “Evaluate as necessary the effectiveness of existing land use regulations to ensure that new residential development and additions to existing homes are compatible with the prevailing neighborhood context. Specifically, review the R-6 zoning to ensure that new construction is not excessively bulky in relation to the existing neighborhood context.”

WHEREAS, the Master Plan Reexamination and Update recommends the Township, “Monitor recent tear downs and new construction in single-family districts to determine whether additional zoning modifications are necessary to protect neighborhood character.”

WHEREAS, the Zoning Board of Adjustment recommended in its 2019 Annual Report that the Township Committee engage a professional planner to guide government policy in the adjustment of building requirements regarding allowable building area, building height, and required setbacks, particularly in the South Mountain R-5 zone area, to secure orderly development consistent with the current land use plan that will preserve the character of the Township and the South Mountain neighborhood; and

WHEREAS, the existing area and setback requirements for attached dwellings in the R-8 Residential Zone do not include a maximum building height, nor a maximum number of stories;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE 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):

Section 1: DRZ 301 – Words and phrases defined

301.44.1. Prevailing Front Yard Setback – The prevailing front yard setback shall be the average front yard setback measured in feet, calculated using the front yard setbacks of the six nearest principal structures on the same side of street, three on either side of the lot in question, and within the same block and zoning district. For corner lots, the average front yard setback shall be calculated using the front yard setbacks of the three nearest principal structures on each street, and the prevailing front yard setback along each street shall be calculated separately. Principal structures subject to the calculation that have a front yard setback of more than twice or less than half of the average front yard setback of other adjacent properties should be disregarded.

Section 2: DRZ 606.2 – Residential R-3, R-4, R-5, R-6

- a. Purpose
- b. Permitted Principal Uses.
- c. Accessory Uses.
- d. Conditional Uses.
- e. Area and Setback Requirements.
 - 1. Minimums

	R-3	R-4	R-5	R-6
(a) Lot area-square feet	29,000	20,000	14,500	6,000
(b) Lot width-feet	115	100	75	60
(c) Lot depth-feet	175	150	125	90
(d) Front setback-feet*	40	40	40	40
	<u>100% of</u>		<u>100% of</u>	
	<u>Prevailing</u>		<u>Prevailing</u>	
	<u>Front Yard</u>		<u>Front Yard</u>	
	<u>Setback</u>		<u>Setback</u>	
(e) Side yard setback standard				

1) Side yard setback standards in the R-5 and R-6 Districts:

	R-5	R-6
(a) Minimum setback for building to 18 feet in height-feet	12	8
(b) Additional minimum setback, added to paragraph e1 above, for each foot in height of any building segment over 18 feet in height which lies between the setback standard set forth in paragraph e1 above and the setback standard set forth in 3 below-feet	0.33	0.3
(c) Minimum setback for building segments 32 feet in height-feet	16	12

- 2) Side yard setback standard in the R-3 and R-4 Districts:
- (a) In the R-3 District, the minimum side yard setback shall be 15 feet for one-story buildings up to 18 feet in height. The minimum side yard setback for a second story, or any building greater than 18 feet in height shall be 25 feet.
 - (b) In the R-4 District, the minimum side yard setback shall be 15 feet for one-story buildings up to 18 feet in height. The minimum side yard setback for a second story, or any building greater than 18 feet in height shall be 22 feet.
 - (c) In the R-3 and R-4 Districts, where a garage vehicular entrance faces a side property line, the minimum side yard setback to the garage shall be 28 feet to accommodate a minimum 23-foot vehicle back-up distance and a minimum 5-foot pavement setback to the side property line.

- (f) Side setback-combined 35% of lot width
- (g) Rear yard-unoccupied 25% of lot area
- (h) Rear setback 20% of lot depth

NOTES:

~~*Front setbacks shall also be based on the average established setback for the dwellings located within 500 feet on the same side of the street, or to the nearest intersecting street, end of street or district boundary line, whichever is the lesser. If no uniformity in established setback exists or if the area has no development, the front setback minimum shall be as shown above. The approving authority shall have the authority to grant flexibility in front setbacks based on the preservation of natural features. Adequate consideration shall be given to impact on adjoining properties. A variance shall not be required for existing nonconforming front yard setbacks when a roof (and supporting columns) is added to an existing front stairs or stoop. The roof shall not exceed four feet in depth and extend more than six feet from the stoop on any side. Where no prevailing front yard setback can be established due to less than two qualifying properties being available for comparison, a minimum front yard setback of 40 feet shall apply.~~

2. Maximums

	R-3	R-4	R-5	R-6
(a) Building coverage	13%	14%	18%	23%
(b) Lot coverage	35%	35%	35%	45%
(c) Building height-feet	32*	32*	32	32
(d) Floor area ratio	25%	26%	30%	36%
<u>(e) Building height-stories</u>	<u>2.5</u>	<u>2.5</u>	<u>2.5</u>	<u>2.5</u>
<u>(f) Front setback**</u>	<u>115% of</u>		<u>125% of</u>	
	<u>Prevailing</u>		<u>Prevailing</u>	

<u>Front Yard</u>	<u>Front Yard</u>
<u>Setback</u>	<u>Setback</u>

NOTES:

*In the R-3 and R-4 Districts, a maximum building height of 35 feet shall be permitted, but only in instances where the pitch of the principal portion of the roof is provided with a minimum slope of eight on 12 (a rise of eight inches for every 12 inches horizontally). Such additional height shall not apply to shed roofs, but only to hipped, gabled, or other roofs where the peak or ridgeline is toward the center-section of the roof area.

** Where no prevailing front yard setback can be established due to less than two qualifying properties being available for comparison, no maximum front yard setback shall apply.

- 3. Accessory Uses
- 4. (Reserved)
- f. Other Provisions.
- g. Residential driveways shall be set back a minimum of five feet from any adjoining residential property line in the R-3 and R-4 Residential Districts.

Section 3: DRZ 606.3 – Residential R-7

- a. Purpose. To provide a residential area for small one- and two-family dwellings.
- b. Permitted Principal Uses.
- c. Accessory Uses.
- d. Conditional Uses.
- e. Area and Setback Requirements.
 - 1. Minimums

	One-Family	Two-Family
(a) Lot area-square feet	4,000	5,000
(b) Lot width-feet	40	50
(c) Front setback-feet*	24	24
	<u>75% of Prevailing Front Yard Setback, but no less than 5 feet.</u>	
(d) Side setback-feet		
(1) For building up to 18 feet in height	4	6
(2) Additional setback in feet for each foot in height of any building segment over 18 feet in height which lies between the setback standard set forth in paragraph (d)(1) above and the setback standard set forth in paragraph (d)(3) below	0.25	0.25
(3) Setback in feet for segments 32 feet in height	8	10

- (e) Side setback-combined 30% of lot width
- (f) Rear setback-depth-feet Greater of 20 feet or 20% of lot depth
- (g) Rear yard-unoccupied 25% lot area

2. Maximums

	One-Family	Two-Family
(a) Building coverage	25%	25%
(b) Lot coverage	45%	45%
(c) Building height-feet	32	32
(d) Floor area ratio	38%	38%
<u>(e) Building height-stories</u>	<u>2.5</u>	<u>2.5</u>
<u>(f) Front setback*</u>	<u>125% of Prevailing Front Yard Setback</u>	

3. Accessory Uses

NOTE:

~~*Front setbacks shall also be based on the average established setback for the dwellings located within 500 feet on the same side of the street, or to the nearest intersecting street, end of street or district boundary line, whichever is the lesser. If no uniformity in established setback exists or if the area has no development, the front setback minimum shall be as shown above. The approving authority shall have the authority to grant flexibility in front setbacks based on the preservation of natural features. Adequate consideration shall be given to impact on adjoining properties. A variance shall not be required for existing nonconforming front yard setbacks when a roof (and supporting columns) is added to an existing front stairs or stoop. The roof shall not exceed four feet in depth and extend more than six feet from the stoop on any side. Where no prevailing front yard setback can be established due to less than two qualifying properties being available for comparison, no maximum front yard setback shall apply.~~

Section 4: DRZ 606.4 – Residential R-8

- a. Purpose
- b. Permitted Principal Uses.
- c. Accessory Uses.
- d. Conditional Uses.
- e. Area and Setback Requirements.
 - 1. Single-family dwellings. Same as the R-6 District.
 - 2. Two-family dwellings. Same as the R-7 District.
 - 3. Attached dwellings.
 - a) Minimum unit width: 20 feet.

- b) Minimum side setback (end): 10 feet.
- c) Minimum front setback: ~~* 20 feet.~~ 100% of Prevailing Front Yard Setback.
- d) Minimum rear setback: 20 feet.
- e) Minimum distance between buildings: 20 feet side to side; 60 feet front to front; 40 feet rear to rear.
- f) Maximum density: eight units per acre.
- g) (g) Maximum building coverage: 40%.
- h) Maximum lot coverage: 70%.
- i) Maximum building height-feet: 32 feet; 2.5 stories
- j) Maximum front setback: * 125% of Prevailing Front Yard Setback

4. Apartments

- a) Minimum side setback: 1/2 building height.
- b) Minimum side setbacks combined: 30 feet.
- c) Minimum rear setback: 20% of lot depth.
- d) Minimum distance between buildings: 40 feet (20 feet on ends).
- e) Maximum density: 14 units per acre.
- f) Maximum building coverage: 20%.
- g) Maximum lot coverage: 70%.
- h) Maximum building height: 32 feet; two stories.
- i) No parking between the street line and the building.
- j) ~~Front setbacks shall be a minimum of 15 feet along Millburn Avenue and Main Street and 30 feet on all other streets, except that the setback shall be based on the average setback of adjoining lots if a consistent setback is established.~~
Front setback: 100-125% of Prevailing Front Yard Setback
- k) At least 15% of site shall be available for recreational purposes, located in the rear yard.

5. Accessory Uses:

	One-Family	Two-Family
(a) Side and rear setback	4 feet, 3 feet for detached garages	
(b) Maximum structure height - feet		18 feet

- f. Other Provisions. No basement apartments shall be permitted except for resident staff.

NOTE:

* Where no prevailing front yard setback can be established due to less than two qualifying properties being available for comparison, a minimum front yard setback of 20 feet shall apply, and no maximum front yard setback shall apply.

Section 5: 609.5. Corner Lots.

Any principal building located on a corner lot shall meet the minimum front setback from both street lines. The building setback from the remaining property lines shall be considered the side setback.

a. Accessory Uses on Corner Lots. See Section 609.1 Accessory Uses in Residential Districts

1. For the purpose of locating accessory uses ~~on~~ in residential districts ~~properties~~, they shall be no closer to any street line than the required front setback or the front building line, whichever is greater.

Section 6: Ordinance Effective

This ordinance shall become final upon adoption and publication in the manner prescribed by law.

Ordinance 2646-23

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, Municipal Clerk

By: _____
Maggee Miggins, Mayor

1st Reading and Introduction: 7/18/2023
1st Publication: 7/27/2023
Referral to Planning Board: 7/19/2023
Notice to County Planning Board Prior to Adoption: 7/19/2023
Notice to Clerks of Adjoining Municipalities: 7/19/2023
Notice to Affected Property Owners: N/A
Amended: 9/5/2023
Amended Publication: 9/14/2023
2nd Reading (as amended): 9/19/2023
Adoption (as amended): 9/19/2023
2nd Publication: 9/28/2023
Filing with County Planning Board: 9/20/2023

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 September, 2023.

Christine A. Gatti, RMC
Municipal Clerk