

TOWNSHIP OF MILLBURN

ORDINANCE 2692-24

**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 Township Committee adopted Ordinance No. 2646-23 on September 19, 2023, which, among other zoning ordinance amendments, established a “prevailing front yard setback” mechanism to regulate required front yard setbacks; and

WHEREAS, the Township Committee seeks to reestablish front yard regulatory mechanisms in place prior to the adoption of Ordinance No. 2646-23, acknowledging that anticipated outcomes were not realized and do not advance the above goals, objectives, and recommendations of the Master Plan Reexamination and Update.

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

[Sections 606.2.a through 606.2.d remain unchanged.]

a. 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* | 100% of | | 100% of | |
| | Prevailing Front | | Prevailing Front | |
| | Yard Setback | | Yard Setback | |
| | <u>Average established setback or 40</u> | | | |
| | <u>feet</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:

~~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.~~

*Front setbacks shall 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 the area has no development, the front setback minimum shall be 40 feet. 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.

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% |
| (e) Building height-stories | 2.5 | 2.5 | 2.5 | 2.5 |
| (f) Front setback** | 115% of Prevailing Front Yard Setback | | 125% of Prevailing Front Yard Setback | |

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.~~

[Sections 606.2.e.3 and 606.2.e.4 remain unchanged.]

[Sections 606.2.f and 606.2.g remain unchanged.]

Section 3: DRZ 606.3 – Residential R-7

[Sections 606.3.a through 606.3.d remain unchanged.]

- e. Area and Setback Requirements.
 - a. Minimums

| | One-Family | Two-Family |
|--|---|------------|
| (a) Lot area-square feet | 4,000 | 5,000 |
| (b) Lot width-feet | 40 | 50 |
| (c) Front setback* | 24 | 24 |
| | 75% of Prevailing Front Yard Setback, but no less than 5 feet. | |
| | <u>Average established setback or 24 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 | |

- b. 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% |
| (e) Building height-stories | 2.5 | 2.5 |
| (f) Front setback* | 125% of Prevailing Front Yard Setback | |

[Sections 606.3.e.3 remains unchanged.]

NOTE:

* ~~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.~~ Front setbacks shall 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 the area has no development, the front setback minimum shall be 40 feet. 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.

Section 4: DRZ 606.4 – Residential R-8

[Sections 606.4.a through 606.4.d remain unchanged.]

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: ~~* 100% of Prevailing Front Yard Setback.~~ 20 feet.
 - (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 setback: 100-125% of Prevailing Front Yard Setback.~~ 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.
 - (k) At least 15% of site shall be available for recreational purposes, located in the rear yard.
5. Accessory Uses:
 - (a) Side and rear setback 4 feet, 3 feet for detached garages
 - (b) Maximum structure height - feet 18 feet

[Section 606.4.f remains unchanged.]

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. Repealer. All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Severability. Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Section 7. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

Section 8. Prior actions. All actions of the Township of Millburn taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

Section 9. Codification. This Ordinance may be renumbered for codification purposes.

Section 10. The Township Clerk is hereby authorized and directed to forward this ordinance to the Planning Board for its review and comment as authorized by the Law.

Section 11. The Township Clerk is hereby authorized and directed to provide such notice and publication of this matter so as to permit the conduct of all public hearings as are required by the Law.

Section 12. The Township Clerk is hereby authorized and directed to forward this ordinance to the Essex County Planning Board after final adoption, as provided by the Law.

Ordinance 2692-24

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, RMC
Township Clerk

By: _____
Annette Romano, Mayor

1st Reading and Introduction: 11/12/2024

1st Publication: 11/21/2024

Referral to Planning Board: 11/19/2024

Notice to County Planning Board Prior to Adoption: 11/19/2024

Notice to Clerks of Adjoining Municipalities: 11/19/2024

Notice to Affected Property Owners: N/A

2nd Reading: 12/17/2024

Adoption: 12/17/2024

2nd Publication: 12/26/2024

Filing with County Planning Board: 12/19/2024

Ordinance 2692-24

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 17th day of December, 2024.

Christine A. Gatti, RMC
Township Clerk