

ORDINANCE NO. 93-23

AN ORDINANCE AMENDING SECTIONS 202, 304, 311, 312, AND 604 OF THE METUCHEN LAND DEVELOPMENT ORDINANCE REGARDING CHANGE OF USE.

WHEREAS, Ordinance No. 89-1 establishing a Metuchen Land Development Ordinance was passed by the Mayor and Council of the Borough of Metuchen; and

WHEREAS, since that date various amendments have been made to the Ordinance; and

WHEREAS, the Change of Use section of the Land Development Ordinance has been found in practice to be unduly restrictive; and

WHEREAS, enforcement of the Change of Use sections should be modified with regard to rental market conditions, time, competition with other municipalities, and expense to applicants; and

WHEREAS, enforcement of a workable Change of Use portion is a desire of all concerned property owners, applicants, developers, and the Borough of Metuchen.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, AND STATE OF NEW JERSEY, THAT THE LAND DEVELOPMENT ORDINANCE IS HEREBY AMENDED IN THE FOLLOWING MANNER:

1. The original definition of "change of use" in Section 202 of the Land Development Ordinance is deleted in its entirety.

2. Section 202 of the Land Development Ordinance is amended as follows: Section 202 - Meaning of Terms . . .

Change of Use. The use of a building, structure or land which is in any manner different from the previous use by way of function, operation, extent, occupancy, products sold or manufactured or off site impacts. For the purposes of this ordinance, "change of use" shall be broadly construed and shall include a change from one principal permitted use for another principal permitted use within the same zone district as defined in Section 403A of this Ordinance. However, substitution of one general office use for another general office use shall not be considered a change of use. Substitution of office uses involving any of the medical or dental professions shall be considered a change of use. In all other cases, the zoning officer shall refer all applications for change of use to the Technical Review Committee for recommendations or in applicable cases to the Planning Board for approval. A zoning permit shall be obtained from the Zoning Officer for each and every change of use.

3. Section 304 of the Land Development Ordinance is

amended to include the following: . . . Change of Use Permit,
\$50.00 application fee.

4. Section 311 as presently included in the Land
Development Ordinance is deleted in its entirety.

5. Section 311 - MINOR SITE PLAN APPLICATIONS of the Land
Development Ordinance is amended as follows:

A. Applicability. This Section is applicable in
appropriate cases where minor development is proposed. No
public notice is required for such application. Approvals, if
granted, shall be granted by Resolution of the Board having
jurisdiction. Minor site plan approval will be required for
development involving any of the following:

1. Occupancy or change of use of a structure,
building or land that does not qualify for an
exemption from site plan requirements in
accordance with Section 311 B.4.
2. Erection of a freestanding sign.
3. The expansion of a driveway or parking lot by no
greater than two (2) parking spaces or five
hundred (500) square feet in area.
4. Structural additions to buildings (including
awnings and canopies) that will not result in the
creation of any additional usable floor area for
which additional parking is required under the

- provisions of Section 410 of this Ordinance.
5. The construction of nonresidential accessory structures consisting of no greater than one hundred (100) square feet in floor area.
 6. The erection of satellite dishes or antennas in excess of ten (10) feet in height or six (6) feet in diameter.
 7. Site improvements which involve the removal of two or more trees of 9" in diameter at 42" above ground level.
 8. Minor amendments to an existing site plan or minor subdivision plat that does not result in a substantial alteration of any aspect of the existing approval.

B. Exemptions from Site Plan Requirements. Minor site plan review and approval shall not be required for:

1. The construction of a single-family detached dwelling unit or a two-family dwelling unit pursuant to 40:55D-37a; provided, however, that when such a dwelling is proposed to contain a home business or office occupation, site plan approval shall be required.
2. Accessory uses for detached one or two family dwelling units.

3. Wall mounted signs for an existing use or structure which meet all applicable zoning requirements as determined by the Zoning Officer.
4. A change of use from one principal permitted category of nonresidential use to another principal permitted category of nonresidential use provided that the new use category does not require an increase in the number of required parking spaces and/or cause a variance from Section 400 et seq. of this Ordinance and/or does not create adverse affects such as a readily noticeable increase in noise, odor, light, glare, unsanitary conditions, traffic, and/or hours of operation on properties within 200 feet of the subject site. The Zoning Officer may refer a change of use application to the Technical Review Committee (TRC) for a recommendation as to whether the proposed change of use meets the above requirements.

C. Submission Requirements.

1. The development plans for a minor site plan shall be prepared in accordance with the applicable zoning requirements of Article 400, Development and Design Standards of Article 500

- and provisions of Article 700 of this Ordinance,
as applicable.
2. The submission requirements for a minor site plan are detailed on the checklist appended at the end of this Section. This checklist shall be used for determining completeness pursuant to N.J.S.A. 40-44D-10.3.
 3. Waiver of Site Plan Details. The Planning Board may waive the submission of portions of the technical data required by this article if it is determined by the Board that said data is not necessary to arrive at an informed decision.
 4. Checklist.

CHECKLIST

DETAILS REQUIRED FOR MINOR SITE PLANS

- _____ Application Form(s) and Checklist(s) (6 copies).
- _____ Plats or Plans (16 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.
- _____ Protective Covenants, Easements and/or Deed Restrictions (6 copies).
- _____ Scale of not less than 1" = 50' on one of four of the following standard sheet sizes (8 1/2" X 13"; 15" X 21"; 24" X 36"; or 30" X 42").
- _____ Key map at not more than 1' = 1,000'.

Title Block:

- _____ Name of development, Borough of Metuchen, Middlesex County, with each sheet specifically titled with appropriately descriptive words;
- _____ Name, title, address, and telephone number of subdivider or developer;
- _____ Name, title, address, and license number of the professional(s) who prepared the plot or plan;
- _____ Name, title, and address of the owner(s) of record;
- _____ North arrow; and
- _____ Scale (written and graphic).
- _____ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet.
- _____ Names and addresses of partners or stockholders as required by Ordinance.
- _____ Acreage figures (both with and without areas within public rights-of-way).
- _____ Approval signature lines.
- _____ Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map, and proposed block and lot numbers as provided by the Borough Tax Assessor upon written request.
- _____ Tract boundary line (heavy solid line).
- _____ The location of existing and proposed property lines (with bearings and distances) streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred (100') feet of its boundary.

- _____ The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.
- _____ Zoning schedule for districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
- _____ Proposed buffer and landscaped areas.
- _____ Delineation of flood plains, including both floodway and flood fringe areas.
- _____ Contours as shown on the U.S.G.S. topographic sheets.
- _____ Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100') thereof.
- _____ The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board, Clerk of the Zoning Board of Adjustment, or engineer as the case may be.
- _____ Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.
- _____ Road right-of-way dedication and improvement, as applicable.
- _____ Plans of proposed improvements and/or utility layouts as required by Ordinance; and required letters from appropriate State and County agencies granting approval for the extension of utility service(s).
- _____ Sight triangle easements, as applicable.
- _____ Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.
- _____ Any waivers requested.
- _____ All bulk, parking, or other variances requested.

Signature of Person who Prepared Checklist

Date

6. Section 312 - SITE PLAN APPLICATIONS of the Land Development Ordinance is amended as follows:

The title of Section 312 shall be amended to read as follows: MAJOR SITE PLAN APPLICATIONS.

A. Applicability. Any development plan not classified as a minor site plan is a major site plan, including the following:

1. Construction of a new building or structure.
2. An addition or a structural alteration to an existing building or structure.
3. The use or delineation of vacant land as a parking lot or any other type of use.
4. An alteration or addition to a driveway or parking lot providing an increase of three (3) or more parking spaces or greater than five hundred (500) square feet in area.
5. An intensification in the use of any building or structure for which additional parking is required under the provisions of Section 410 of this Ordinance.
6. Any expansion in the total number of employees, number of employees in any shift or the number of vehicles to be stored or parked on a site exceeding fifteen per cent (15%) of the amount

existing at the time of passage of this Ordinance
or as set forth in a previously approved
development plan for the site.

7. Conversion of a single or two family dwelling to
any other use.
8. Conditional uses.
9. Use variances.

7. Section 312B . . . no change . . .

Section 312C . . . no change . . .

8. Section 604 is amended as follows:

Section 604A . . . no change . . .

Section 604B . . . no change . . .

Section 604C . . . no change . . .

Section 604D (1) . . . no change . . .

Section 604D (2) . . . no change . . .

Section 604D (3) . . . no change . . .

Section 604D (4) . . . no change . . .

Section 604D (5) . . . no change . . .

Section 604D (6) . . . no change . . .

Section 604D (7) . . . no change . . .

Section 604D (8) . . . no change . . .

Section 604D (9) is amended as follows: To approve
change of use applications provided that the proposed
change of use is exempt from site plan requirements

in accordance with Section 311B.4, but otherwise to act only in an advisory capacity with no power to approve, deny, or modify any portion of any other type of application for development.

Section 604D (10) . . . no change . . .

Section 604D (11) . . . no change . . .

9. Validity. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

10. Adoption and Effect. This ordinance shall take effect immediately after final passage, approval and publication as prescribed by law.

ATTEST:

Claire Barrella
Borough Clerk

APPROVED:

By Susan Marshall
Susan Marshall, Mayor

Introduced: August 16, 1993
Adopted: November 1, 1993

