

**BOARD OF ADJUSTMENT  
TOWNSHIP OF WEST CALDWELL, ESSEX COUNTY, NEW JERSEY**

**APPLICATION FOR DEVELOPMENT**

**APPLICATION FOR RELIEF UNDER R.S.C. 40:55D-70 OF CHAPTER 291, THE MUNICIPAL LAND USE LAW, LAWS OF NEW JERSEY 1975, AS AMENDED**

APPLICATON #: \_\_\_\_\_ DATE FILED: \_\_\_\_\_ FEE: \_\_\_\_\_

**1. APPLICANT INFORMATION:**

NAME: \_\_\_\_\_ TELEPHONE#: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TOWN: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

RELATIONSHIP OF APPLICANT TO PROPERTY OWNER (I.E., TENANT, AGENT, PURCHASER UNDER CONTRACT, SAME PERSON): \_\_\_\_\_

**2. PROPERTY OWNER INFORMATION:**

NAME: \_\_\_\_\_ TELEPHONE#: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TOWN: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**3. LOCATION OF PROPERTY FOR WHICH RELIEF IS SOUGHT:**

STREET ADDRESS: \_\_\_\_\_

CURRENT TAX MAP REFERENCE: BLOCK \_\_\_\_\_ LOT \_\_\_\_\_

THE PROPERTY IS LOCATED ON THE [ ] NORTH [ ] EAST [ ] SOUTH [ ] WEST SIDE OF THE STREET (MARK ONE)

THE PROPERTY IS APPROXIMATELY \_\_\_\_\_ FEET FROM (LANDMARK OR INTERSECTION OF ANOTHER STREET)

THE PROPERTY IS LOCATED IN THE FOLLOWING ZONE DISTRICT(S):

- R-2 SINGLE FAMILY RESIDENCE DISTRICT
- R-3 SINGLE FAMILY RESIDENCE DISTRICT
- R-3A SINGLE FAMILY RESIDENCE DISTRICT AND CLUSTER DISTRICT
- R-3B SINGLE FAMILY RESIDENCE DISTRICT AND CONTINUING CARE RETIREMENT COMMUNITY DISTRICT
- R-4 SINGLE FAMILY RESIDENCE DISTRICT
- B-1 SPECIAL BUSINESS AND MULTI-FAMILY RESIDENCE DISTRICT
- B-2 PLANNED SHOPPING CENTER DISTRICT
- B-3 GENERAL BUSINESS DISTRICT
- M-1 LIMITED MANUFACTURING DISTRICT
- M-2 LIMITED INDUSTRY AND RESEARCH LABORATORY DISTRICT
- OP OFFICE AND PROFESSIONAL BUILDING DISTRICT
- OS OPEN SPACE DISTRICT

**4. RELIEF SOUGHT:**

Check the paragraph(s) or subparagraph(s) of the statute under which relief is sought and provide the information indicated as “required with application and to be presented at public hearing” in a separate, comprehensive statement submitted with this application. In addition, the inclusion in the comprehensive statement of the information which is listed as “to be presented by applicant at public hearing” would be helpful to the Board while reviewing this application.

**40:55D-68**

This paragraph of the municipal land use law empowers the Board of Adjustment to hear and decide requests to certify that any nonconforming use or structure existing at the time of the passage of any ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof. A nonconforming use is one which existed on the property prior to the adoption of a zoning ordinance, but which the ordinance does not now permit in the particular zone. The nonconforming, preexisting use must have been continuous without abandonment from the time the ordinance change was adopted that rendered the use nonconforming to the current date.

Information required with application and to be presented at public hearing:

1. The burden of proving the existence of a nonconforming use is upon the party asserting such use.
2. It is important that the evidence presented to the Board establish exactly what the use was at the adoption of the ordinance, its character, extent, intensity and incidents.

**40:55D-70a**

This paragraph of the statute empowers the Board of Adjustment to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance.

Information required with application and to be presented at public hearing:

1. The order, requirement, decision or refusal made and the administrative officer making same. Information to be presented by applicant at public hearing.
2. The nature of the error.

**40:55D-70b**

This paragraph of the statute empowers the Board of Adjustment to hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such Board is authorized to pass.

Information required with application and to be presented at public hearing:

1. The section of the zoning ordinance, specific location on the zoning map, or special question(s) for which interpretation is requested.
2. The requested interpretation of the zoning ordinance or zoning map.

**40:55D-c(1)**

This subparagraph of the statute empowers the Board of Adjustment to grant a variance from the zoning ordinance where it can be shown that peculiar and exceptional difficulties, or exceptional and undue hardship would result from the strict application of the zoning ordinance due to:

- (a) exceptional narrowness, shallowness or shape of a specific piece of property, or
- (b) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- (c) extraordinary and exceptional situation uniquely affecting a specific piece of property or structures lawfully existing thereon.

Information required with application and to be presented at public hearing:

1. Fully describe and diagram the exceptional features, topographical conditions and extraordinary and exceptional situation.
2. The peculiar and exceptional difficulties or the exceptional and undue hardship from which the application of the zoning ordinance results. The difficulties or hardship must relate to the physical characteristics of the land and not be personal to the applicant.

[ ] **40:55D-70c(2)**

This subparagraph of the statute empowers the Board of Adjustment to grant a variance from the zoning ordinance where it can be shown that a deviation from the zoning ordinance for a specific piece of property would advance the purposes of the land use procedures ordinance, and the benefits of the deviation would substantially outweigh any detriment. (This section is not applicable to any departures of the zoning ordinance enumerated in R.S.C. 40:55D-70d or any development which requires approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review.)

The purposes of the Township of West Caldwell land use procedures ordinance are as indicated in section 18A-4, as follows:

- To control development in the Township of West Caldwell in a manner which will promote the public health, safety, morals and general welfare;
- To secure safety from fire, flood, panic and other natural and man-made disasters;
- To provide adequate light, air and open space;
- To promote the establishment of appropriate population densities and concentrations that will contribute to the well being of persons and neighborhoods, and preservation of the environment;
- To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- To provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements;
- To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such;
- To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- To promote the conservation of open space and valuable natural resources;
- To prevent the degradation of the environment through improper use of land;
- To encourage coordination of the various public and private procedures and activities shaping land development; and
- To promote conservation of energy through the use of planning practices designed to reduce energy consumption and to provide for maximum utilization of renewable energy sources.

Information required with application and to be presented at public hearing:

1. The nature of the variance(s) requested.
2. Why, in the opinion of the applicant, would a grant of the variance(s) requested advance the purposes of the zoning ordinance, and why would the benefits of the deviation from the ordinance substantially outweigh any detriment to the ordinance.

[ ] **40:55D-70d (often referred to as a “D” variance)**

This paragraph of the statute empowers the Board of Adjustment to grant a variance from the zoning ordinance in particular cases and for special reasons to permit:

1. a use or principal structure in a district restricted against such use or principal structure;
2. an expansion of a nonconforming use;
3. deviation from a specification or standard pursuant to C. 40:55D-67 pertaining solely to a conditional use;
4. an increase in the permitted floor area ratio as defined in C. 40:55D-4;
5. an increase in the permitted density as defined in C. 40:55D-4; or

6. a height of a principal structure which exceeds by ten feet or ten (10%) percent the maximum height permitted in the district for a principal structure.

Information required with application and to be presented at public hearing:

1. The nature of the variances requested.
2. Why, in the opinion of the applicant, this is a particular case, and what special reasons there are for grant of a variance. Regarding a special reasons, the New Jersey Supreme Court has determined that, unless the proposed use inherently promotes the public good, such as a school or hospital, the use must be a peculiarity fitted to the particular location for which the variance is sought (Kohl vs. Mayor and Council of Fairlawn, 50 N.J. 268 (1967)).

Important note: The statutes state that no variance or other relief may be granted under any of the above paragraphs or subparagraphs unless it can be granted without substantial detriment to the public good, and the granting will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

**OTHER INFORMATION:**

Has there been any previous appeal(s) involving this property: [ ] No [ ] Yes – include details of appeal(s) and disposition(s) in separate comprehensive statement.

Has the Planning Board granted any approvals involving this property: [ ] No [ ] Yes [ ] N.A.

Are there any real property taxes or local assessments due or delinquent: [ ] No [ ] Yes

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**AFFIDAVIT OF APPLICANT**

STATE OF NEW JERSEY

SS.

COUNTY OF ESSEX:

\_\_\_\_\_, of full age, being duly sworn according to law, on oath deposes and says that all of the above statements and the statements contained in the papers submitted herewith are true.

\_\_\_\_\_  
Name of Applicant:

Sworn to and subscribed  
before me on this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

**AFFIDAVIT OF OWNER**

STATE OF NEW JERSEY

SS.

COUNTY OF ESSEX:

\_\_\_\_\_, of full age, being duly sworn according to law, on oath deposes and

Says, that deponent resides at \_\_\_\_\_, in the Township of

\_\_\_\_\_, in the County of \_\_\_\_\_ and the State of \_\_\_\_\_;

and I am the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Township of West Caldwell that is the subject of this application for development.

\_\_\_\_\_  
Name of Owner:

Sworn to and subscribed  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

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**AUTHORIZATION**

TO THE BOARD OF ADJUSTMENT:

\_\_\_\_\_ is hereby authorized to make the within application for development.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of Owner:

Township of



West Caldwell

**ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF WEST CALDWELL  
ESSEX COUNTY, NEW JERSEY**

**AUTHORIZATION TO INSPECT PROPERTY  
SUBJECT TO AN APPLICATION FOR DEVELOPMENT**

I hereby agree to permit members of the West Caldwell Zoning Board of Adjustment, Township officials and/or their consultants to make an on-site inspection of the property that is the subject of this application for development.

\_\_\_\_\_  
Application Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name of Property Owners

\_\_\_\_\_  
Signature of Property Owners

\_\_\_\_\_  
Date

**AFFIDAVIT OF SERVICE OF NOTICE**

STATE OF NEW JERSEY

SS.

COUNTY OF ESSEX:

\_\_\_\_\_, of full age, being duly sworn according to law, on oath deposes and says that deponent resides at \_\_\_\_\_, in the Township of \_\_\_\_\_, in the County of \_\_\_\_\_ and the State of \_\_\_\_\_; is the applicant in the proceeding before the Zoning Board of Adjustment of the Township of West Caldwell, New Jersey, relating to the premises designated as Block \_\_\_\_\_, Lot \_\_\_\_\_, which property is commonly known as \_\_\_\_\_, West Caldwell, New Jersey, and that at least ten (10) days prior to the time appointed for the hearing, the required notice, a true copy of which is attached hereto, was served upon all owners of property within 200 feet of the outside boundary lines of the property affected by this application, along with any government agencies as required by law.

Notice has been given by: (1) serving a copy thereof on the property owner as shown on the current tax duplicate list, or his/her agent in charge of the property, and any government agencies required by law; or (2) mailing a copy thereof by certified mail, return receipt requested, to the property owner at the address as shown on the current tax map duplicate list and any government agencies as required by law, all as set forth in the attached list.

\_\_\_\_\_  
Name of Applicant:

Sworn to and subscribed  
before me on this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.



**TOWNSHIP OF WEST CALDWELL  
ZONING BOARD OF ADJUSTMENT**

**NOTICE OF HEARING  
PROPERTY OWNERS**

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**PLEASE TAKE NOTICE:**

That the undersigned, \_\_\_\_\_ (the "Applicant") has filed an application for development with the Zoning Board of Adjustment for the Township of West Caldwell for variances and other relief as may be required so as to permit \_\_\_\_\_ at the premises located at \_\_\_\_\_, West Caldwell, Essex County, New Jersey 07006 and which premises is also known and designated as Block \_\_\_\_\_, Lot \_\_ on the official Township of West Caldwell Tax Map (the "Property"). This Notice is sent to you as an owner in the immediate vicinity of the Property.

A public hearing has been set down for \_\_\_\_\_, 2018 at 7:30 p.m. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey 07006 and when the case is called you may appear either in person or by agent or attorney and present any comments or objections which you may have with respect to the granting of the relief sought in the petition.

In conjunction with the appeal or application, the Applicant is seeking: (a) a variance of \_\_\_\_\_ in accordance with the requirements of Section \_\_\_\_\_; and (b) for any and all such other approvals, variances, waivers and/or exceptions as may be set forth in the application documents or as may be determined to be required by the Zoning Board of Adjustment.

The following maps and papers are on file in the office of the Zoning Board of Adjustment Clerk are available for inspection Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m.: (a) the Zoning Board of Adjustment Application form with any referenced attachments; (b) all other photographs and documents submitted by the Applicant.

The approvals, variances, waivers and/or exceptions that the Applicant has applied for the Zoning Board of Adjustment to approve include, but are not limited to, any and all approvals, variances, waivers and/or exceptions as set forth in the aforementioned maps, plans and documents on file and available for inspection at the office of the Zoning Board of Adjustment Clerk.

This Notice is being sent to you by the Applicant, by order of the Zoning Board of Adjustment and in accordance with applicable laws and as you are an owner of property located within 200 feet of the property that is the subject of this application.

Respectfully submitted,

\_\_\_\_\_, Applicant  
\_\_\_\_\_, Address of Applicant  
West Caldwell, New Jersey 07006

**TOWNSHIP OF WEST CALDWELL  
ZONING BOARD OF ADJUSTMENT**

**NOTICE OF HEARING**

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**PLEASE TAKE NOTICE** that on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 at 7:30 p.m., a hearing will be held before the West Caldwell Zoning Board of Adjustment at the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey 07006 on the application of the undersigned, \_\_\_\_\_ (the "Applicant") for variances or other relief as may be required so as to permit

\_\_\_\_\_ on the premises located at \_\_\_\_\_, West Caldwell, Essex County, New Jersey 07006, which premises is also known and designated as Block \_\_\_\_\_, Lot \_\_\_ on the official Township of West Caldwell Tax Map (the "Property").

**PLEASE TAKE FURTHER NOTICE** that, in conjunction with the appeal or application, the Applicant is seeking: (a) a variance of \_\_\_\_\_ in accordance with the requirements of Section \_\_\_\_\_; and (b) for any and all such other approvals, variances, waivers and/or exceptions as may be set forth in the application documents or as may be determined to be required by the Zoning Board of Adjustment.

The following maps and papers are on file in the office of the Zoning Board of Adjustment Clerk are available for inspection Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m.: (a) the Zoning Board of Adjustment Application form with any referenced attachments; and (b) all other photographs and documents submitted by the Applicant.

The approvals, variances, waivers and/or exceptions that the Applicant has applied for the Zoning Board of Adjustment to approve include, but are not limited to, any and all approvals, variances, waivers and/or exceptions as set forth in the aforementioned maps, plans and documents on file and available for inspection at the office of the Zoning Board of Adjustment Clerk.

This Notice is being published in accordance with applicable laws. Any person may appear at the aforementioned public hearing and participate therein in accordance with the rules of the Zoning Board of Adjustment.

\_\_\_\_\_, Applicant  
\_\_\_\_\_, Address of Applicant  
West Caldwell, New Jersey 07006

**Notice Regarding Appearance Before the Planning Board or the Zoning Board of Adjustment Requiring Representation by an Attorney at Law.**

Homeowners filing and prosecuting an application made on their own behalf may appear before these Boards without representation by an attorney at law.

However, please be advised that pursuant to R. 1:21-1 of the rules governing the courts of the State of New Jersey, all filings and appearances made on behalf of a business entity must be made by an attorney at law licensed in the State of New Jersey.

# APPLICATION CHECKLIST

## Township of West Caldwell - Board of Adjustment

APPLICANT \_\_\_\_\_ NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_ APPLICATION DATE \_\_\_\_\_

### RESIDENTIAL "C" VARIANCES

Following is a checklist summary of requirements for a complete application related to "C" variances pertaining to one single-family residential property.

**ALL PLANS MUST BE FOLDED TO 8 1/2 X 11 INCHES.**

<u>APPLICATION REQUIREMENTS</u>	<u>COMMENTS</u>
1. Fifteen (15) copies of all submittal documents. . . . .	( ) _____
2. Property identification. . . . .	( ) _____
3. Identification of property owner, applicant's attorney, and plans/plats preparer(s). . . . .	( ) _____
4. Statement of purpose of application-letter . . . . .	( ) _____
5. Identification of adjoining properties in which owner/applicant holds a proprietary interest. . . . .	( ) _____
6. Property owner's authorization of application signed by all property owners . . . . .	( ) _____
7. Full payment of application fees/escrow funds. . . . .	( ) _____
8. No taxes/assessments are due or delinquent. . . . .	( ) _____
9. Plans/maps/documents filed at least ten (10) days prior to hearing date . . . . .	( ) _____
10. Property survey/deed. . . . .	( ) _____
11. Property lines: distances/bearings . . . . .	( ) _____
12. Properties within two hundred (200) feet . . . . .	( ) _____
13. Tabular schedule of height/area/bulk requirements. . . . .	( ) _____
14. Building/structure setbacks . . . . .	( ) _____
15. Maximum lot coverage of all buildings (%) . . . . .	( ) _____
16. Significant property features. . . . .	( ) _____
17. Streets within two hundred (200) feet of site . . . . .	( ) _____
18. Submission to Essex County Planning Board, if on County road . . . . .	( ) _____
19. Half story calculation-ordinance 18A-5 . . . . .	( ) _____
20. Height calculation-ordinance 18A-5 . . . . .	( ) _____
21. Maximum story calculation-ordinance 20-5.4c7 . . . . .	( ) _____
22. Distances to neighboring homes foundation to foundation with basic outline of neighboring homes . . . . .	( ) _____
23. Complete Authorization to Inspect Property Form. . . . .	( ) _____
24. Exterior views of proposed development: • elevations, renderings, or drawings. . . . .	( ) _____
25. Interior layout drawings of proposed development. . . . .	( ) _____
26. Pictures of house and property and surrounding properties. . . . .	( ) _____
27. 15 copies of denial letter from Zoning Officer (2 pages). . . . .	( ) _____
28. Applicability of flood hazard area requirements. . . . .	( ) _____
29. Location of outdoor air conditioning condensers/units. . . . .	( ) _____
30. Other materials, as determined by the Administrative Officer, that are reasonably necessary to decide the application . . . . .	( ) _____

APPLICATION CHECKLIST  
**Land Use Procedures  
Ordinance of the  
Township of West Caldwell  
(Subsection 18A-9.2d)**

APPLICATION NO \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
APPLICANT \_\_\_\_\_  
APPLICATION DATE \_\_\_\_\_

**MAJOR SITE PLANS, MAJOR SUBDIVISIONS AND USE VARIANCES**

Following is a checklist summary of requirements for a complete application related to major site plan, major subdivision, or land use variances pursuant to N.J.S.A. 40:55D-70(d). **All plans must be folded to 8 1/2 x 11 inches.**

<b>Application Requirements</b>		<b>Comments</b>
1.	All requirements of subsection 18A-9.2c	( ) _____
2.	Plan/plat identification .....	( ) _____
3.	Place for approval stamp and signatures	( ) _____
4.	Graphic scales .....	( ) _____
5.	Area map.....	( ) _____
6.	Reference meridian.....	( ) _____
7.	Buildings/structures.....	( ) _____
8.	Elevation drawings.....	( ) _____
9.	Topography .....	( ) _____
10.	Buffer areas .....	( ) _____
11.	Parking areas .....	( ) _____
12.	Outdoor equipment/appurtenances ..	( ) _____
13.	Landscaping/planting areas.....	( ) _____
14.	Exterior lighting .....	( ) _____
15.	Signage .....	( ) _____
16.	Construction details .....	( ) _____
17.	Certification of conformance with: Plan/plat submission standards	( ) _____
	Township master plan and zoning ordinance	( ) _____
	Conditional use standards .....	( ) _____
	Map Filing Act .....	( ) _____
	Township engineering standards..	( ) _____
	Airport hazard area standards .....	( ) _____
18.	Slope stabilization design .....	( ) _____
19.	Necessary off-tract improvements ....	( ) _____
20.	Environmental Impact Statement.....	( ) _____
21.	Stream encroachments (including wetlands Letter of Interpretation, if applicable.....	( ) _____
22.	Traffic/circulation study .....	( ) _____
23.	Potable water usage analysis .....	( ) _____
24.	Storm water drainage.....	( ) _____
25.	Sanitary sewer facilities .....	( ) _____
26.	Soil erosion and sediment control plan	( ) _____
27.	Variance justification, if applicable....	( ) _____

(Ord. No. 1745 § 3)  
(2013-05-07)