

**Ord. #23-2010**

**AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE TO AMEND AND SUPPLEMENT CERTAIN SECTIONS OF ARTICLES II, III, IV AND VI OF CHAPTER 400, LAND USE, OF THE CODE OF THE TOWNSHIP OF MOUNT OLIVE**

**WHEREAS**, the Township Council has received various recommendations from the Planning Board, the Board of Adjustment and professionals, for the upgrading and revising of certain sections of the Township's Land Use Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mount Olive, County of Morris, and State of New Jersey:

**SECTION 1.** Chapter 400, "Land Use", Article II, "Definitions", Section 400-6, "Terms defined", is hereby amended and supplemented with respect to the following terms:

Deck – A platform installed above grade level attached to a building or structure and having no roof and no enclosed sides.

Patio – an uncovered floor, usually made of concrete, brick or other masonry material, which is not elevated above the surface of the ground in any manner.

**SECTION 2.** Chapter 400, Land Use, Article III, "General Administration; Building Construction; Permits" is hereby amended and supplemented to revise Sections 400-6, 400-8, 400-18F(4) & (9), 400-23A, 400-23(A) & (D), 400-24 as follows:

**§400-8 Appeal.**

Any interested party may appeal to the governing body any final decision of the ~~Zoning Board of Adjustment~~ Planning Board approving an application for development for a use variance pursuant to N.J.S.A. 40:55D-70d. Such appeal shall be made within 10 days of the date of publication of such final decision of the ~~Zoning Board of Adjustment~~ Planning Board. Such appeals shall be made in accordance with the provisions of N.J.S.A. 40:55D-17. Such appeal shall be decided by the governing body only upon the record established before the ~~Board of Adjustment~~ Planning Board.

**§400-18 Fees**

F. Variances and other appeals. Hearings by the Board of Adjustment or the Planning Board, as follows:

(4) C Variance.

(a) Residential: \$100 per lot. The escrow fee shall be a minimum of \$250 per lot.

(b) Nonresidential: \$250 per lot. The escrow fee shall be \$750 per lot.

(9) Inspection Fees for construction of single family dwellings as a result of approval of minor subdivision, variance or issuance of zoning permit: the minimum inspection fee shall be \$250.00 per lot.

**§400-23 - Zoning Permits and certificates of occupancy; fees.**

- A. No zoning permit, building permit or certificate of occupancy shall be issued for any parcel of land or structure which was sold or on which improvements were undertaken in violation of the provisions of this chapter or for use of a lot which was created by subdivision after the effective date of and not in conformity with the provisions of this chapter. No site improvements, such as but not limited to additions, patios, decks, fences, sheds, excavation or construction of public or private improvements, shall be commenced except in conformance with this chapter in accordance with plat approvals and the issuance of required permits.
- D. Each request for a zoning permit and a certificate of occupancy shall be accompanied by ~~a certified check or bank money order~~ a check payable to the Township of Mount Olive in the amount of \$25 for a residential zoning permit; ~~\$50~~ \$100 for a nonresidential zoning permit; and \$5 per dwelling unit for a certificate of occupancy and \$50 for each 1,000 square feet of gross floor area of nonresidential use for a certificate of occupancy. [Amended 6-15-2004 by Ord. No. 12-2004]

**§400-24 Planning Board.**

400-24.9. In the granting of hardship and use variances, a time limit of one year from the date of the variance approval shall be set, within which time the owner shall secure a building permit; otherwise, the variance granted shall be null and void unless otherwise extended by the Planning Board upon a showing that the circumstances under which the original variance was granted have not changed and for other good cause shown.

**§400-25. Public hearings and notices shall be amended as follows:**

Any development involving a portion of a flood hazard area shall be the subject of a public hearing. All public hearings conducted on site plans, variances or appeals pursuant to 40:55D-70a before ~~either the Board of Adjustment or the~~ Planning Board shall follow the requirements of the Municipal Land Use Law as summarized below:

**SECTION 3.** Chapter 400, Land Use, Article IV, “Site Plan and Subdivision Review and Plat Details” is hereby amended and supplemented to revise Section 400-28(E), Section 400-29(D) and (J) and Section 400-32 (C), (E) and (F) to read as follows:

### **§400-28 Environmental Impact Statement.**

- E. Review procedures. Eight hard copies of the environmental impact statement and one copy in electronic format e.g. pdf shall be submitted to the Secretary of the Board at the time of application. In the case of subdivision or site plan application, the environmental impact statement shall be included with the application for preliminary approval. In the case of an environmental impact statement which is not in conjunction with a development application, the statement shall be filed with the Township Clerk at the time of permit application and/or prior to commencement of any land disturbance activity.

### **§400-29 – Site Plan Review**

- D. Preliminary approval.
- (1) The applicant shall submit a preliminary site plan to the administrative officer who shall make the preliminary determination of whether the proposed use is permitted in the district in which it is located and whether there are any deficiencies in lot area, dimension, setback, yard requirements or the like as required by this chapter. Should the administrative officer determine that the proposed use is not permitted, the application shall be made to the ~~Board of Adjustment~~ Planning Board, which shall process the entire application in accordance with the requirements of this chapter. Should the plan reveal no use or bulk deficiencies or deficiencies in lot area, dimension, setback or yard requirements or that a permit is required by building in the bed of a mapped street or public drainageway, flood control basin or public area, then the application shall be made to the Planning Board, which shall process the entire application pursuant to this chapter. The applicant shall submit 10 full size black line prints, ~~and~~ 12 reduced copies of the preliminary site plan and one set of plans filed in pdf or similar format to the ~~Planning Board or Zoning Board of Adjustment~~ Secretary at least three weeks before the meeting at which discussion is desired, together with one original and four completed copies of the application form. The preliminary site plan shall be submitted at a scale of one-inch equals 10 feet, 20 feet, 30 feet, 40 feet or 50 feet. The plan shall be signed and sealed by an architect or engineer licensed to practice in the State of New Jersey and shall show or be accompanied by the following information:

- J. Plans and reports. All plans and reports should be provided in electronic format, e.g. pdf.

### §400-32 Subdivision Review

- A. Administration. The approval provisions of this chapter shall be administered by the Mount Olive Township Planning Board ~~or the Zoning Board of Adjustment~~ in accordance with N.J.S.A. 40:55D-1 et seq.

Subsection B is eliminated in its entirety.

- ~~B. Informal discussion with the Planning Board. The Planning Board will be available at any regularly scheduled meeting for informal discussion with any person who wishes to subdivide land.~~

Subsection C is changed to **.B.** Minor subdivision

- B. Minor subdivision.
- (1) Any applicant shall, prior to subdividing or resubdividing lands, as defined in this chapter, submit to the administrative officer, at least 21 days prior to the regular meeting of the Board, one set of plans filed in pdf or similar format, 10 full size and 12 reduced black- or blue-on-white or white-on-blue prints of the plat of the proposed subdivision, together with one original and four completed application forms for a minor subdivision for purposed or classification and approval by the full approving authority.  
[Amended 11-9-2004 by Ord. No. 34-2004]
  - (2) A fee shall accompany the application and plat (and shall be the amount indicated in the Fee ScheduleEN), which fee shall be forwarded by the administrative officer to the ~~Municipal Tax Collector~~ Assistant Treasurer for deposit in the appropriate Township account.

Subsection D is eliminated in its entirety

D. Applications for subdivisions and variances.

- ~~1) The procedure for all applications for minor subdivision approval and variance approval shall be as follows:~~

- ~~(a) The original application for minor subdivision approval shall be first made to the Planning Board. If the Planning Board finds that the application meets all of the required tests for the minor subdivision except for the variance(s) sought, it should approve the minor subdivision, subject to approval of a variance(s).~~
- ~~(b) If the Planning Board has jurisdiction to grant the request of a variance(s) under N.J.S.A. 40:55D-60 of the Municipal Land Use Law,~~

~~then the application for the variance(s) shall also be made to the Planning Board, and the same shall be processed by the Planning Board.~~

~~(2) — The procedure for all applications for major subdivision approval and variance(s) approval is the same as the procedure for applications involving both a minor subdivision and variance(s), except that, in the discretion of the Planning Board, the Planning Board may determine to render its decision on the subdivision application, limited to sketch plat review, classification and approval (rather than preliminary or final subdivision approval), prior to applicable proceedings for variance(s).~~

Subsection E is changed to **.D.** Major subdivision

#### D. Major Subdivision

(1) Any owner or subdivider of land within the Township of Mount Olive, County of Morris, may, prior to subdividing or resubdividing land, as defined in this chapter, submit to the administrative officer, at least 21 days prior to the regular meeting of the approving authority, one set of plans filed in pdf or similar format, 10 black- or blue-on-white prints and 12 reduced copies of the sketch plat of the proposed subdivision for purposes of classification and preliminary discussion.

Subsection F is changed to **.E.** Submission of preliminary plat of major subdivision for approval

E. Submission of preliminary plat of major subdivision for approval.

(1) Application requirements.

(a) Any developer shall submit to the Planning Board ~~or Zoning Board of Adjustment~~ Secretary, at least 21 days prior to the meeting of the approving authority, one set of plans filed in pdf or similar format, 10 full size black line prints and 12 reduced copies of the preliminary plat; the original, plus 11 completed copies of the application form for preliminary approval; three completed copies of the Morris County Planning Board application form, the NJDEP highlands application and freshwater wetlands applications, including but not limited to a letter of interpretation; two copies of any protective covenants, deed restrictions and easements applying to the land being developed; three copies of the drainage calculations; 20 copies of the environmental impact report and soil erosion and sediment control data as required in this chapter; and the fee as provided in the fee schedule in § 400-18 in Article III.

(3) Copies of the preliminary plat shall be forwarded by the Planning Board ~~or Zoning Board of Adjustment~~ Secretary to the following offices:

- (a) Planning Board ~~or Zoning Board of Adjustment~~ Attorney, Engineer, Planner and other professional staff as required.
- (b) Mount Olive Environmental Commission.

- (c) Mount Olive Board of Health.
- (d) Mount Olive Fire Marshal.
- (e) Mount Olive municipal departments.

Subsection G is changed to **.F.** Public hearings and notices.

- F. Public hearings and notices. Any development involving a portion of a flood hazard area, preliminary approval of a major subdivision or a subdivision requiring a variance shall be the subject of a public hearing. All public hearings conducted on subdivisions before ~~either the Board of Adjustment or the Planning Board~~ shall follow the requirements of the Municipal Land Use Law as summarized below:

Subsection H is changed to **.G.** Submission of final plat

G. Submission of final plat.

- (1) The developer shall file with the administrative officer, at least 21 days prior to the meeting of the approving authority, one Mylar, two cloth and 15 black-on-white paper prints of the plat, final plat in pdf or similar format and three completed copies of the application form for final approval; two completed copies of the final plat check list; two completed copies of the County Planning Board application form; the performance guaranty, including off-tract improvements, if any; any maintenance guaranties; and the fees as provided in the fee schedule in § 400-18 in Article III.

**SECTION 4.** Chapter 400, Land Use, Article VI, “Zoning” is hereby amended and supplemented to revise Section 400-77; 400-91; 400-95 as follows:

**§400-77 Interpretation and general provisions.**

Subsection C is repealed in its entirety:

- ~~B. —Where a zoning district line divides a lot, that line may be modified by the Zoning Officer by moving it to the property line, provided that the property line is within 20 feet of the district line as shown on the map. A use permitted in the district so extended shall thereafter be a permitted use in the extended area. A district line shall be altered only once by utilizing this section of the chapter, after which the use shall be governed by the district in which it is located after the adjustment.~~

Subsection D is changed to **.C.** Compliance.

- (1) All zoning requirements shall be met at the time of any erection, enlargement, moving or change in use. If a new structure is added to an existing complex of structures or if an existing structure has an addition, the site plan provisions of this chapter shall apply to the enlargement or new structure.

- (2) All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards, including conditions imposed by the approving authority as shown on the approved plat and/or included in the resolution adopted by the approving authority.

Subsection E. is changed to **D.** Prohibited uses.

All uses not expressly permitted in this section are prohibited, specifically but not limited to solid waste facilities, which are not permitted within any zone district hereafter referred to.

Subsection F is changed to **E.** Vacating a street or other public way.

Where a street or public way serves as the zoning district line and it is lawfully vacated, the former center line shall be considered the zoning district line.

Subsection G. is changed to **F.** Zoning districts and map.

The zoning districts shall be as shown on the map entitled "1999 Zoning Map" prepared by Schoor DePalma, as revised and as enumerated in the Schedule of Limitations, both made part of this chapter.

#### **§400-95. Signs**

Subsection 400-95 B(1) (c) is hereby repealed and removed in its entirety.

~~e) — One wall or ground sign not exceeding 12 square feet nor exceeding 12 feet in height, located on the premises of a place of worship, a fire house, a rescue squad, a school building, public libraries, museums, an art gallery or a parish house, giving only the name and nature of the occupancy and information as to scheduled activities shall be permitted.~~

**SECTION 5.** All ordinances of the Township of Mount Olive which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 6.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 7.** This ordinance may be renumbered for purposes of codification.

**SECTION 8.** This Ordinance shall take affect in accordance with law.

TOWNSHIP OF MOUNT OLIVE

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PHIL TOBEY  
Mount Olive Township Council President

I hereby certify the above to be a true copy of a resolution passed by the Mount Olive Township Council at a duly convened meeting held on \_\_\_\_\_, 2010.

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LISA M. LASHWAY  
Mount Olive Township Municipal Clerk