

HARDING TOWNSHIP
ORDINANCE NO. 12-07

“AN ORDINANCE AMENDING CHAPTER 105 (LAND USE AND DEVELOPMENT)
OF THE CODE OF THE TOWNSHIP OF HARDING TO
PERMIT FLAG LOTS IN THE RURAL RESIDENTIAL ZONE”

WHEREAS, in 2004 the Harding Township Planning Board adopted a comprehensively revised Land Use Plan Element, which recommended that creative development techniques be employed to foster greater variety in lot sizes and shapes and to avoid the negative effects of “cookie cutter” development on the township’s established rural residential development pattern; and

WHEREAS, in 2006 the Planning Board undertook a reexamination of the Master Plan and development regulations and recommended that the township reinstate ordinance provisions to permit flag lots in the Rural Residential Zone to encourage greater variety in building lot configurations, reduce the need for road improvements, cul-de-sac, impervious coverage and tree removal, and encourage development that will be less visible from public roads, thereby lessening the impact of development on Harding’s rural streetscape; and

WHEREAS, the Township Committee is desirous of implementing the recommendations of the Planning Board to reinstate provisions to permit the creation of new flag lots exclusively in the Rural Residential Zone, subject to certain requirements and restrictions.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING, IN THE COUNTY OF MORRIS AND THE STATE OF NEW JERSEY, AS FOLLOWS:

SECTION 1: Section 105-5 shall be amended by modifying the definition of FLAG LOT to read in its entirety as follows:

FLAG LOT -- A lot not satisfying the conventional minimum lot frontage requirements of the zone district, generally configured in the shape of a flag, with its road frontage provided by a strip of land referred to as the “flag staff” portion of the lot.

SECTION 2: Section 105-5 shall be amended by adding a new definition as follows:

FLAG STAFF -- The portion of a flag lot consisting of a strip of land with insufficient road frontage which, when setback limitations are applied, contains no building envelope. The primary purpose of the flag staff is to provide road frontage and access for a flag lot.

SECTION 3: Paragraph (7) in section 105-76L (Subdivision Planning and Design Principles) shall be amended to read in its entirety as follows:

(7) Flag lots. The creation of new flag lots shall be permitted exclusively in the Rural Residential Zone in accordance with the provisions of section 105-172.

SECTION 4: Section 105-77E (Requirements applicable to all subdivisions) shall be amended to read in its entirety as follows:

E. Access. Each lot shall have adequate access to a road.

SECTION 5: Section 105-130B (Zoning - general regulations) shall be amended to read in its entirety as follows:

B. Substandard lots.

- (1) Requirements as to lot size shall not be applied so as to prevent the erection of a one family dwelling on any lot less than the required size created on or before the effective date of Ordinance 3-67.
- (2) Flag lots created on or before May 6, 1985 shall be considered conforming lots for the purposes of satisfying minimum frontage requirements.
- (3) Any lot in the R-1 or RR Zone with frontage of at least two hundred fifty (250) feet but less than three hundred (300) feet, created on or before May 6, 1985 shall be considered a conforming lot with respect to minimum frontage requirements, provided that the lot is not subdivided so as to decrease its lot frontage.

SECTION 6: Section 105-130J shall be amended to read in its entirety as follows:

J. Compliance with bulk standards. The following shall be applicable to all lots in all zoning districts:

- (1) Upon application for a subdivision, site plan or building permit, each lot shall comply with the minimum lot size, minimum setbacks and other applicable requirements of the zoning district in which the property is situated.
- (2) When calculating minimum lot size requirements, as well as lot coverage and building area limitations, lot size shall not include the area of any land between road lines or the land area comprising the flag staff portion of a flag lot.

SECTION 7: Section 105-137G (R-1 Zone) shall be amended to read in its entirety as follows:

G. Minimum lot frontage: three hundred (300) feet.

SECTION 8: Sections 105-171, 105-172, and 105-174 (RR Zone) shall be combined into a new section 105-171 and amended to read in its entirety as follows:

105-171. Use and bulk regulations.

- A. Primary uses. All permitted primary uses shall be the same as the R-1 Zone.
- B. Accessory uses. All permitted accessory uses shall be the same as the R-1 Zone.
- C. Accessory structures. All permitted accessory structures shall be the same as the R-1 Zone.
- D. Minimum lot size: five (5) acres, except in accordance with provisions for lot averaged subdivisions in section 105-173.
- E. All other bulk requirements and restrictions shall be the same as the R-1 Zone, except that frontage requirements for flag lots shall be modified as provided in section 105-172.
- F. All lots in the RR Zone shall be subject to the same restrictions and limitations as the R-1 Zone with respect to the limitation of one family per dwelling, off-street parking and the establishment of a tree conservation area along perimeter property lines (see section 105-138).
- G. Development rights for nonconforming lots. A dwelling or other structure situated on an undersized lot located in the RR Zone may be enlarged, altered or rebuilt, provided said enlargement, alteration or rebuilding is in conformance with the bulk standards and limitations of the R-1 Zone and any other applicable regulations of this Chapter.
- H. Flag lots split by zone lines. A flag lot situated in part within the RR Zone and in part within another zone shall be treated as if situated entirely within the RR Zone.

SECTION 9: A new section 105-172 shall be established to read in its entirety as follows:

105-172. Flag lots. Flag lots may be created in the RR Zone in accordance with the requirements of this section. These provisions are intended to foster greater variety in lot sizes and configurations, to minimize the visibility of new development and its impact on the streetscape through the use of shared driveways, and to lessen the need for substantial road improvements, tree removal, and impervious coverage.

A. Minimum lot area.

- (1) The minimum required lot area, as well as lot coverage and building area limitations for a flag lot shall be calculated exclusive of the land area contained in the flag staff portion of the lot.
- (2) The Planning Board may permit a lot averaged subdivision meeting the objectives listed in section 105-173A to include one or more flag lots with a minimum lot area in accordance with the limitations set forth in section 105-173B, exclusive of the land area contained in the flag staff portion of the lot.
- (3) The minimum lot area for a flag lot that includes an accessory residence shall be six (6) acres exclusive of the land area contained in the flag staff portion of the lot.

B. Access. Each flag lot shall have access to a public or private road via a strip of land, referred to as the "flag staff" portion of the lot, in accordance with the requirements of this section.

- (1) A single flag lot shall include a strip of land (flag staff) with access to a road, which shall be a minimum of twenty-five (25) feet in width. If the lot has sufficient area so as to be subdividable, the flag staff shall be a minimum of fifty (50) feet in width. This requirement shall not apply if the lot will be subject to a deed restriction precluding any further subdivision that would create a new building lot.
- (2) Two to four lots may be served by a flag staff, which shall be a minimum of fifty (50) feet in width, with a shared driveway providing access to all lots. The flag staff shall be divided equally in fee ownership among all the lot owners served and configured as flag staffs to each lot (i.e. if two owners, 25 feet each; if three owners, 16.6 feet each; if four owners, 12.5 feet each). Perpetual access easements shall be granted to the owners of all of the lots to ensure that adequate access is provided to each.
- (3) Multiple adjacent flag lots shall be prohibited unless served by a single shared driveway.

C. Shared Driveways. In order to minimize the number of new driveways along roadways, and to lessen impervious coverage and tree removal, any right-of-way serving two or more flag lots shall contain a shared driveway providing access to all lots.

- (1) All driveways shall be constructed in accordance with the township's Code requirements applicable to residential driveways.
- (2) The location of each driveway and access to each flag lot shall be approved by the Board and may not be relocated without the Board's approval.
- (3) A driveway serving two or more lots shall be designed with adequate provisions for the ingress and egress of fire safety equipment.
- (4) All shared driveways and other improvements benefiting two or more lots shall be the subject of a recorded access and maintenance agreement among the owners of all lots deriving access and/or benefit therefrom. The agreement shall be subject to the review and approval of the Board Attorney prior to the signing of any deed or filing of a plat.

D. Fire safety. Any minor subdivision involving the creation of one or more flag lots shall comply with the provisions of section 105-77K and the minor subdivision plat shall contain notes and/or diagrams as necessary to verify compliance with fire safety requirements. The installation of all required fire safety improvements shall either be completed or bonded prior to signing the plat or deed(s) and, in any event, all fire safety improvements shall be completed prior to the issuance of the first building permit for any improvements.

SECTION 10: The introductory paragraph of section 105-77K (Subdivision regulations - fire protection) shall be amended to read as follows.

K. Fire protection facilities for major subdivisions and flag lots. All major subdivisions and any minor subdivision involving the creation of a flag lot shall be served by a natural or man-made water supply source for fire protection purposes. Where public or private central water supply systems are not available or not capable of being used for fire protection services, the subdivider shall comply with the following criteria and standards:

SECTION 11: Section 105-174 shall be a reserved section.

SECTION 12: If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

SECTION 13: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 14: This ordinance shall take effect after final passage and publication as prescribed by law.

ATTEST

TOWNSHIP OF HARDING

Linda Peralta
Township Clerk

Louis J. Lanzerotti
Mayor, Harding Township

Vote on Resolution

	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN
Mr. Bartlett			
Mr. Dinsmore			
Mr. Murray			
Mr. Ward			
Mr. Lanzerotti			

INTRODUCED: September 19, 2007

ADVERTISED: September 27, 2007

PLANNING BOARD REVIEW:

PUBLIC HEARING:

ADOPTED:

ADVERTISED: