

Shelbourne at Hunterdon
53 Frontage Road, Suite 110
Hampton, New Jersey 08827
Main: 877 627 3772



April 6, 2026

PLANNING REPORT

Joint Planning Board
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

RE: 8 Ross Avenue, LLC c/o Scott Nela

8 Ross Avenue
Block 133, Lot 42
Review Letter #2
Project No. DEP-0262

Dear Board Members,

8 Ross Avenue, LLC c/o Scott Nela, the Applicant, seeks variance relief to construct a two-story addition to the southeast side of the existing home. A new driveway to the proposed addition, a rear patio adjacent to the addition, and stormwater management facilities are also proposed. To enable the construction, the Applicant intends to remove the existing driveway on the northwest side of the home, the existing detached garage in the northern corner of the property, and the existing wood deck. The Application requires a D(4) floor area ratio (FAR) variance and "C" variances, which are detailed in Section B.

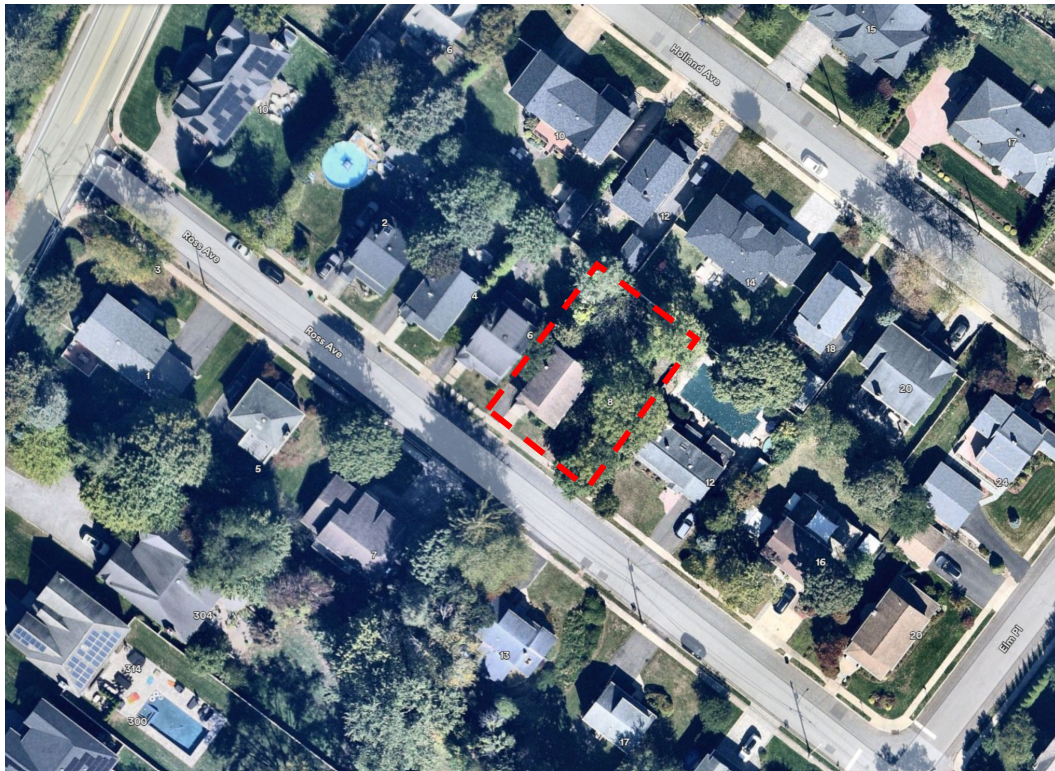
The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled "Site Plan Proposed Addition", prepared by Stephen P. Eid, PE, PLS of Eid Associates, Inc., dated November 20, 2025, revised through March 24, 2026, consisting of 1 sheet.
2. Plan entitled "Proposed Addition to an Existing Two-Story Frame Dwelling", prepared by Stanley J. Kufel, RA, dated October 14, 2025, consisting of 5 sheets. It should be noted that Sheets A-03 and A-04 are dated September 4, 2025.
3. Survey entitled "Location Survey", prepared by Stephen P. Eid, PE, PLS of Eid Associates, Inc., dated February 11, 2025, consisting of 1 sheet.
4. Variance Application, dated January 20, 2026. Note that a revised Application, dated March 27, 2026, was also submitted.
5. Zoning Permit Denial, dated January 14, 2026, consisting of 1 page.
6. Letter entitled "Single Family Residential Addition", prepared by Eid Associates, Inc., dated January 13, 2026, consisting of 2 pages.

7. Letter entitled "Initial Submittal for Completeness Review", prepared by Gloria Duby, Paralegal of Capizzi Law Offices, dated January 20, 2026, consisting of 2 pages.
8. Letter entitled "8 Ross Avenue, LLC – Demarest JPB (the "Applicant")", prepared by Matthew G. Capizzi, Esq. of Capizzi Law Offices, dated March 16, 2026, consisting of 1 page. (Note that two copies were submitted, which were addressed to different people.)
9. Letter entitled "8 Ross Avenue, LLC – Demarest JPB (the "Applicant")", prepared by Gloria Duby of Capizzi Law Offices, dated March 27, 2026, consisting of 2 pages.

A. Existing Zoning and Surrounding Land Use

The subject property is located on the north side of Ross Avenue in the Residence D (R-D) District. The property is surrounded by residential uses. See the image below for the approximate location of the subject property shown in red.¹



Yard and bulk requirements in the R-D District are:

- Minimum Lot Area – 10,000 square feet
- Minimum Lot Frontage – 100 feet
- Minimum Lot Depth – 100 feet
- Minimum Front Yard Setback – 25 feet²
- Minimum Side Yard Setback Abutting a Street – 25 feet

Minimum Side Yard Setback Abutting a Lot – 10 feet
Minimum Rear Yard Setback Depth – 30 feet³
Maximum Number of Families per Building – 1
Maximum Building Coverage – 20%
Maximum Height of Building – 24 feet/30 feet⁴
Maximum Livable Floor Area (1 or 2 stories) – 30%⁵
Maximum Improved Lot Coverage – 30%⁶
Maximum Residential and Parking Coverage – 25%

B. Variances

The Application requires the following “D” variance:

1. Section 175-16 – D(4) variance for floor area ratio (“FAR”). The Ordinance limits the livable floor area for one- or two-story dwellings in the R-D District to 30% of the lot area. (It should be noted that a footnote for livable floor area describes the method to calculate said area, which is the same as a FAR calculation.)

The Applicant proposes a livable floor area (FAR) of 2,737 square feet or 39.1% of the lot area.

The Application requires the following “C” variances:

1. Section 175-16 – Variance for front yard setback. The Ordinance requires a 25-foot front yard setback. However, Footnote B of the Limiting Schedule requires an alternative setback on all streets, except some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback.

According to the Chart of Average Front Setbacks on the Site Plan, the average front yard setback of the properties along the north side of Ross Avenue between County Road and Elm Place, excluding the subject property, is 20.8 feet. The existing front yard setback is 15 feet. The Applicant proposes a front yard setback to the addition of 19.1 feet. **This variance is not listed on the Site Plan.**

2. Section 175-16 – Variance for maximum building coverage. The Ordinance limits building coverage to 20% of the lot area.

According to the calculation in General Note 12 on the Site Plan, the Applicant proposes a building coverage of 1,812 square feet or 25.9% of the lot area, which includes the proposed dwelling (1,771 square feet) and covered porch (41 square feet).

3. Section 175-16 – Variance for maximum improved lot coverage. The Ordinance limits improved lot coverage to 30% of the lot area.

The Applicant proposes an improved lot coverage of 2,446 square feet or 34.9% of the lot area, which includes the dwelling and garage (1,771 square feet), walks, porches, and steps (110 square feet), driveway (340 square feet), and patio (225 square feet). It should be noted that the existing improved lot coverage is 2,160 square feet or 30.9% of the lot area.

4. Section 175-16 – Variance for maximum residential and parking coverage. The Ordinance limits residential and parking coverage to 25% of the lot area, which includes the residential use, vehicle access, and parking areas.

According to the calculation in General Note 12 of the Site Plan, the Applicant proposes 2,152 square feet of residential and driveway area (house, covered porch, and driveway area) or 30.7% of the lot area.

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-16 – The Ordinance requires a minimum lot area of 10,000 square feet. The subject property is only 7,000 square feet.
2. Section 175-16 – The Ordinance requires a minimum lot frontage of 100 feet. The subject property only has 70 feet of frontage along Ross Avenue.
3. Section 175-16 – The Ordinance requires a ten-foot side yard setback in the R-D District. The existing side yard setback to the western property line is 9.9 feet.
4. Section 175-16 – The Ordinance limits building height to 30 feet. According to General Note 9 on the Site Plan, the existing building is 30.1 feet from the average existing grade around the existing footprint to the roof peak ($108.2 - 78.1 = 30.1$ feet). It should be noted that the proposed addition would lower the building height to 29.9 feet measured from the average existing grade around the proposed footprint to the roof peak ($108.2 - 78.3 = 29.9$ feet), which would **eliminate** this pre-existing non-conforming condition.
5. Section 175-19A.(1)(c) – The Ordinance does not permit decks, platforms, and porches, whether roofed or unroofed, enclosed or unenclosed, as structural features to encroach into any yard. The existing covered front porch encroaches into the front yard.
6. Section 175-19A.(1)(d) – The Ordinance does not permit impervious surfaces within the front yard setback requirement or within ten feet of any side or rear lot line, except for driveways and access walks to the principal building. The existing detached garage has a 1.1-foot side yard setback and a 3.2-foot rear yard setback. It should be noted that the Applicant proposes to remove the existing detached garage, which would **eliminate** this pre-existing non-conforming condition.
7. Section 175-19A.(4)(c) – The Ordinance permits accessory uses, buildings, and structures to encroach into the rear yard, except that no encroachment may be closer than ten feet to the rear lot line. The existing detached garage has a 3.2-foot rear yard setback. It should be noted that the Applicant proposes to remove the existing detached garage, which would **eliminate** this pre-existing non-conforming condition.

C. Variance Proofs

D(4) Variance

The Board should note that the court found, in Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), that the Applicant need not show “special reasons” that a site is particularly suited for more intensive development if the use is permitted. The Applicant is only required to demonstrate that the site will accommodate the problems associated with a larger floor area than that permitted by Ordinance. These problems typically involve the relationship of the proposal to the neighboring properties, such as intrusion into the side yard or visual incompatibility with the existing and surrounding buildings. The Board needs to determine whether the intent of zone plan and zoning ordinance will be substantially impaired by the proposed increase floor area.

“C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Waivers/Exceptions

The Application does not require any waivers/exceptions based on the information provided.

E. Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that the current status of previously issued comments and new comments are provided in italics.

General

1. The Applicant’s professionals must provide testimony to support the grant of the D(4) FAR variance and “C” variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. After reviewing the Application, we have identified two “C” variances that have not been requested or identified by the Applicant. The Site Plans shall be revised to list all required relief or amended to comply with the Ordinance.

*The revised Site Plan has listed the variance for residential and parking coverage. However, the variance for front yard setback has not been listed on the Plan. The Site Plan shall be revised to list all required relief, which can be a **condition** of any potential Board approval.*

Site Plans

3. The R-D District requires front yard setback of 25 feet. However, Footnote B of the Limiting Schedule requires an alternate setback on all streets, except for some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback. The "Chart of Average Front Setbacks" on the Site Plan indicates the average front yard setback along the north side of Ross Avenue between County Road and Elm Place is 19.9 feet. However, the calculation includes the subject property. The Ordinance requires the average front yard setback to be calculated based on lots on either side of the subject property. Excluding the site, the alternate front yard setback is 20.8 feet. The Chart of Average Front Setback shall be revised accordingly, which can be a condition of any potential Board approval.

*As of April 6, 2026, the "Chart of Average Front Setbacks" has not been revised to eliminate the subject property from the calculation. The Chart shall be revised, which can be a **condition** of any potential Board approval.*

4. The Zoning Schedule indicates the proposed building coverage is 25.3%, which includes the dwelling and garage (1,771 square feet) according to the Lot Improvement Areas. However, this area does not include the 29 square foot covered front porch indicated in the Improved Lot Coverage table in the Engineer's January 13, 2026 Letter. Therefore, the proposed building coverage is 1,800 square feet or 25.7% of the lot area. The Zoning Schedule and Lot Improvement Areas shall be revised accordingly, which can be a condition of any potential Board approval.

*According to General Note 12 on the revised Site Plan, the existing covered porch is 41 square feet. Therefore, based on the information provided, the proposed building coverage is 1,812 square feet or 25.9% of the lot area. However, the Zoning Schedule indicates the proposed coverage is 25.3%, which would only include the proposed dwelling. Additionally, the Lot Improvement Areas table does not separate the covered porch from the "walks, porches & steps" line. The Site Plan shall be revised to eliminate these discrepancies, which can be a **condition** of any potential Board approval.*

5. The Proposed Front Elevation and Proposed Right Elevation on Sheet A-04 of the Architectural Plans illustrate an overhang above the garage doors. However, this overhang is not illustrated on the Site Plans or included in the building coverage calculation. The Applicant shall revise the Site Plans to illustrate the proposed overhang, which can be a **condition** of any potential Board approval. Additionally, the area of the overhang shall be provided to determine the exact building coverage relief required.

The revised Site Plan has not illustrated the overhang above the garage as shown in the Architectural Plans. Therefore, the proposed building coverage remains unclear. The Applicant shall revise the Site Plan to illustrate the overhang and include the area in the building and/or

*improved lot area to determine the exact relief required. This can be a **condition** of any potential Board approval.*

6. The Ordinance defines "Building, Height of" as "The vertical distance measured from the average natural grade all around the building to the highest point of the roof." Additionally, "Average Natural Grade" is defined as "An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation." General Note 9 on the Site Plan indicates the average grade around home is 78.2 feet and the roof midpoint grade is 104.6 feet, which equates to a height of 26.4 feet. This calculation of the building height does not comply with the Ordinance as the "highest point of the roof" was not utilized. The Site Plans indicate the roof peak is 108.2 feet, which results in a height of 30 feet. This is the maximum permitted height of the R-D District. However, the Applicant shall provide a detailed calculation of the average natural grade to ensure compliance.

General Note 9 on the revised Site Plan indicates the proposed building height is 29.9 feet measured from the average proposed grade around the home (78.3 feet) to the roof peak (108.2 feet). However, the calculation is not consistent with the average natural grade definition. The Applicant shall revise the average natural grade and proposed building height calculation to determine compliance. We strongly encourage the Applicant to prepare an exhibit to confirm Ordinance compliance for the hearing.

7. The Ordinance defines "Livable Floor Area" as

The aggregate area of all floors included within the outer walls of a building, excluding basements, garages and other unheated areas, and including only such floor area under a sloping ceiling for which the headroom is not less than five feet six inches, and then only if at least 75% of such floor area has a ceiling height of not less than seven feet six inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway and has a permanent, complete floor and a means of heating to 70° F. at all times.

Additionally, on May 7, 2025 via Resolution JPB-006-25, the Board made an interpretation of how livable floor area should be calculated and determined the Livable Floor Area "does not include basements that are at least 70% below average grade whether heated or unheated". According to the Zoning Requirements information on Sheet A-00 of the Architectural Plans and the Engineering's January 2026 Letter, the proposed livable floor area is 2,737 square feet. However, the area of each floor was not provided. Additionally, the Applicant shall provide information to clarify if the basement is at least 70% below the average natural grade, which shall include a calculation of the average natural grade and the elevation of the basement floor and ceiling. Until this information is provided, we are unable to determine the exact relief required.

General Note 10 on the revised Site Plan indicates the existing/proposed 7.4-foot-tall basement is only 3.8 feet below grade or 51.4% below grade. Pursuant to the Board's interpretation, the existing/proposed basement must be included in the livable floor area. However, as noted above,

the Applicant has not calculated the average natural grade pursuant to the Ordinance's definition. The Applicant shall revise the average natural grade calculation and provide the basement area to determine the exact D(4) FAR variance relief required.

8. The Site Plan does not illustrate any AC units and/or a generator. The Site Plan shall be revised to illustrate any existing and/or proposed outdoor mechanical equipment. The Applicant shall note that AC units and generators contribute to the improved lot coverage. Depending on the information provided, the proposed improved lot coverage may increase.
9. The Applicant shall note that the Board made an interpretation in May of 2025 that AC units and generators are ancillary support equipment that are permitted in the side yard, provided all impervious coverage setback requirements are complied with. Section 175-19A.(1)(d) does not permit impervious surfaces to be closer than ten feet to a side or rear lot line.
10. The Zoning Schedule does not include a line for the existing or proposed residential and parking coverage. However, based on the information provided, the proposed residential and parking area is 2,140 square feet or 30.6% of the lot area. This includes the proposed dwelling (1,771 square feet), covered porch (29 square feet), and proposed driveway (340 square feet). However, the area of the overhang above the proposed garage has not been provided, which would increase the proposed residential and parking coverage. The Applicant shall revise the Zoning Schedule to include the residential and parking coverage information and provide the area of the overhang to determine the exact relief required.

The Zoning Schedule has been revised to provide the existing and proposed residential and parking coverage information. Additionally, General Note 12 provides a calculation of the coverage. This comment has been addressed.

Architectural Plans

11. The Architectural Plans only include front and right (east) side elevations of the proposed dwelling. The Applicant shall provide the left (west) and rear elevations, which can be a **condition** of any potential Board approval.
12. The Proposed Right Elevation illustrates two windows in the basement. However, the Proposed Basement Plan does not illustrate any basement windows. This discrepancy shall be eliminated, which can be a **condition** of any potential Board approval.
13. The Proposed First Floor Plan does not illustrate a refrigerator in the kitchen. The Plan shall be revised to illustrate the refrigerator and all kitchen cabinetry, which can be a **condition** of any potential Board approval.
14. *The original Board submission contained Architectural Plans dated October 14, 2025 on the cover. These plans highlight the addition in light pink. The second Board submission, attached to the cover letter dated March 27, 2026 include the same Architectural Plans dated October 14, 2025. However, the basement layout is not the same, and the addition is not highlighted in light pink. **Testimony** shall be provided on which Plans guide. It should be noted that the original set of*

Plans expanded the basement area while the second set of plans do not increase the basement square footage.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP
Borough Planner

cc: Michael Greco, Board Secretary (via email mgreco@demarestnj.gov)
Tim Woods, Board Chair (via email timwoods12@gmail.com)
Danielle Federico, Board Attorney (via email dfederico@csglaw.com)
Nick Chelius, Board Engineer (via email nick.chelius@collierseng.com)
Scott Nela, Applicant (via email snela1981@yahoo.com)
Matthew G. Capizzi, Applicant's Attorney (via email matthew@capizzilaw.com)
Stephen Eid, Applicant's Engineer (via email stephenpeid@gmail.com)
Stanley J. Kufel, Applicant's Architect (via email sidgx306@gmail.com)

R:\PROJ\GOV\NJA-D\DEP\DEP0262 - 8 Ross Ave\2.0 Correspondence\OUT\260406dag_8_Ross_Nela_r2.docx

¹ Image courtesy of <https://www.nearmap.com/us/en>, dated October 1, 2025.

² On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road, and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within 300 feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three or more houses.

³ For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

⁴ Measured from the average natural grade around the perimeter of the proposed structure. No more than 50% of the roof area shall exceed the specified average height. Flat roofs above 30 feet in height are expressly prohibited in all zones.

⁵ Maximum livable floor area (as defined in §175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed.

⁶ The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs, or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers, or similar improvements; and any other structures or impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall not be greater than 25%.