

April 29, 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 #3
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.

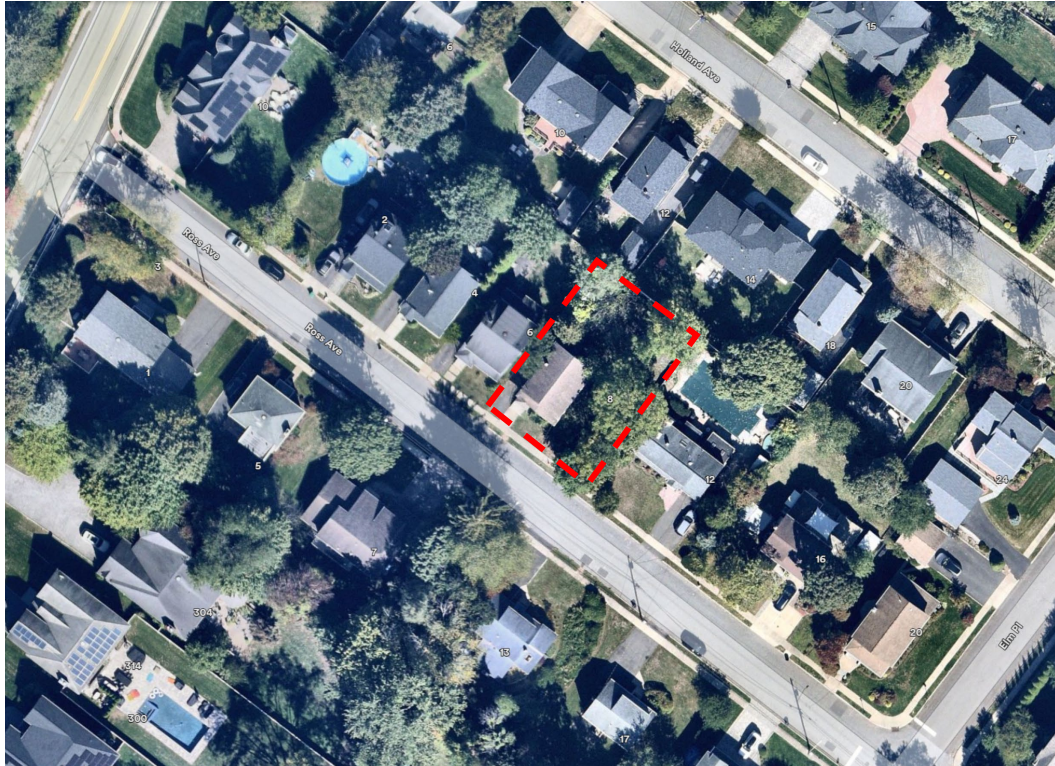
The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled "Site Plan Proposed Addition", prepared by Stephen P. Eid, PE, PLS of Eid Associates, Inc., dated November 20, 2025, revised through April 20, 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. Additionally, a revised Architectural Plan set was submitted on or about April 24, 2026 (but contains no revision date).
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.
10. Letter entitled "Single Family Residential Addition", prepared by EID Associates, Inc., dated April 20, 2026, consisting of 2 pages.
11. Letter entitled "List of Revisions Made 4/23/2026; Proposed addition to existing 2 story frame dwelling", prepared by Sidiq Ghaleb, dated April 23, 2026, consisting of 1 page.

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. It should be noted that the proposed overhang above the garage has a front yard setback of approximately 15.1 feet.

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 13 on the Site Plan, the Applicant proposes a building coverage of 1,880 square feet or 26.9% of the lot area, which includes the proposed dwelling (1,771 square feet) and covered porch (29 square feet), and the proposed overhang above the garage (80 square feet).

3. Section 175-16 – Variance for maximum building height. The Ordinance limits building height to 30 feet.

The Applicant proposes a building height of 30.36 feet. It should be noted that the existing building height is 30.15 feet.

4. 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 2,464 square feet or 35.2% 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 deck, patio, and AC units (243 square feet). It should be noted that the existing improved lot coverage is 2,160 square feet or 30.9% of the lot area.

5. 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. It should be noted that the existing residential and parking coverage is 1,912 square feet or 27.3% 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.

April 6, 2026 Response: 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.

*The Site Plan has been revised to list all required variance relief. This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

*The Chart of Average Front Setbacks has been revised to note the setback of the subject property is not applicable and calculates the average based on the seven properties within 300 feet on each side of the property. This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

*The revised Site Plan includes new General Note 13, which indicates the proposed building coverage is 1,880 square feet or 26.9% of the lot area, which includes the proposed dwelling (1,771 square feet), covered porch (29 square feet), and overhang above the garage (80 square feet). This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

*The revised Site Plan illustrates the overhang above the garage. Additionally, new General Note 13 indicates the overhang is 80 square feet and the proposed building coverage is 1,880 square feet or 26.9% of the lot area. This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

*General Note 9 has been revised to calculate the existing building height at 30.15 feet from an average natural grade of 78.05 feet to the roof peak at 108.2 feet. Additionally, the proposed building height is calculated to be 30.36 feet from the average natural grade of 77.84 feet to the roof peak at 108.2 feet. Based on this information, variance relief is required to permit an increased building height. However, it should be noted that the proposed roof peak remains unchanged, while the average natural grade is slightly reduced due to the increased building footprint. This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

*As noted above, General Note 9 has been revised to indicate the existing average natural grade is 78.05 feet and the proposed average natural grade is 77.84 feet. The Proposed Elevations on Sheet 5 of the Architectural Plans indicate the basement is six feet, eight inches tall (6.67 feet), not 7.4 feet tall as indicated in General Note 10. Based on the elevations provided by the Architectural Plans, the 6.67-foot-tall basement is 3.34 feet below the existing average natural grade (50%). Therefore, the basement floor area must be included in the FAR calculation to determine the exact D(4) variance relief required. **Testimony** shall be provided to clarify the existing and proposed FAR, which includes the basement, first, and second floors but excludes the proposed garage.*

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.

*The revised Site Plan illustrates two AC units at the rear of the dwelling, which have been included in the Lot Improvement Areas calculation. This comment has been **addressed**.*

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.

*The proposed AC units are located to the rear of the dwelling and more than ten feet from the side and rear lot lines. This comment has been **addressed**.*

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.

April 6, 2026 Response: 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.

General Note 12 has been revised to indicate the proposed residential and parking coverage is 2,152 square feet or 30.7% of the lot area, which includes the proposed dwelling (1,771 square feet), driveway (340 square feet), and covered porch (41 square feet). However, new General Note 13 indicates the covered porch is only 29 square feet, which would reduce the residential and

*parking coverage from 30.7% to 30.6% of the lot area. **Testimony** shall be provided on the correct square footage of the porch, which will impact either the building coverage percentage or the residential and parking coverage percentage.*

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.

*The revised Architectural Plans provide rear and left (west) elevations of the proposed dwelling on Sheet 5. This comment has been **addressed**.*

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.

*The Proposed Right Elevation has been revised to eliminate the two basement windows. This comment has been **addressed**.*

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.

*The Proposed First Floor Plan has been revised to illustrate the refrigerator. This comment has been **addressed**.*

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.

The most recent submission is attached to a letter dated April 24, 2026 entitled "Submittal for the Public Hearing of May 6, 2026". Included with this submission is a set of Architectural Plans dated October 14, 2025 (Sheets 1 to 3) and September 4, 2025 (Sheets 4 and 5). Additionally, a letter entitled "List of Revisions Made 04/23/2026" was submitted, which details changes to the Architectural Plans. Any future submissions of revised Architectural Plans should detail the original plan date and all revision dates for clarity and record keeping purposes.

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)
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Stephen Eid, Applicant's Engineer (via email stephenpeid@gmail.com)
Stanley J. Kufel, Applicant's Architect (via email sidgx306@gmail.com)

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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%.