

# TOWNSHIP OF MIDDLETOWN

## Zoning Board of Adjustment and Appeals

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Middletown, NJ 07748-2594

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### SECOND TECHNICAL MEMORANDUM

**DATE:** January 15, 2026 (1<sup>st</sup> review 8/28/25)  
**BOARD:** Zoning Board of Adjustment and Appeals  
**APPLICATION:** Ahmed and Rebecca Sourour (#2025-015)  
435 Navesink River Road (Block 983, Lot 8)  
R-220 Zone  
Floor Area Ratio "D4" Use Variance, Principal Side Yard Setback (roof overhang), Number of Cabanas, Lot Coverage, and Accessory Side, Street Side and Rear Yard Setback Variances for the cabanas and generator

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### PROJECT DESCRIPTION & VARIANCE SUMMARY

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The applicant submitted revised plans and reduced the size of the proposed cabanas and in-ground pool; shifted the new pool and cabana configuration to increase the distance to the rear property line; removed the existing 732.5 sf basketball court and replaced this area with lawn; and reduced the proposed building and lot coverage. The review memo has been updated accordingly. New text is in bold, and text that is strike-through is no longer applicable.

The applicant proposes the following additions to an existing three-story single family dwelling:

- Expand the existing family room with a 3'-7" x 11'-10" (41 sf) first-floor addition to the front;
- Expand the existing breakfast area with a 63 sf first-floor addition to the rear;
- Slight first-floor addition to the existing mud room;
- New 24'-1" x 8' (192.8 sf) rear covered porch;
- New 14'-7" x 8' (117.6 sf) rear uncovered deck;
- New ~~600~~ **468** sf in-ground pool and 176 sf lounge area;
- Two (2) ~~99~~ **90** sf cabana structures connected by a trellis;
- 196 sf cabana patio under the trellis situated between the proposed cabanas;
- Modification of existing driveway and addition of pedestrian walkways to the dwelling;
- Modification of existing exterior stairway;
- Modification **and reduction** of the existing rear patio (**basketball court**) and garage; and
- New outdoor kitchen to the rear of the dwelling.

The following variance relief is required:

- A Floor Area Ratio (FAR) "D4" Use Variance, pursuant to NJSA 40:55D-70D(4), is required for an increase in the maximum permitted FAR where 0.135 is proposed, 0.132 is existing and 0.06 is the maximum permitted. *This calculation may increase based on testimony required whether basement exists under the main dwelling; and inclusion of all proposed additions and buildings. See discussion below.*

### Many Neighborhoods. One Middletown!

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Monmouth Hills • Navesink • New Monmouth • North Middletown • Nut Swamp • Oak Hill • Port Monmouth • River Plaza

- Bulk “C” variance relief is required for lot coverage where 20% is permitted and 30.6% exists and ~~33.8~~ 31% is proposed.

**Table 1: Lot coverage calculation**

	Existing (SF)	Proposed (SF)
Dwelling	2,220.3	2,463.5
Covered Porch (Front and Rear)	439	631.8
Garage	504.2	504.2
Cabanas	0	<del>198</del> 180
Stable	384	0
Driveway	2,687.7	2,413.4
Patios	2,684.8	<del>3,664.2</del> 2,854.2
Total	8,920/30.6%	<del>9,875.6/33.8%</del> 9,047.1/ 31%

\*The applicant shall indicate in testimony the calculation of proposed patio space, and what is included (improvement and total sf)? Improvements such as the basketball court, proposed rear uncovered deck, outdoor kitchen, cabana patio, lounge patio shall be included in the proposed lot coverage.

- Additional Bulk “C” variance relief is required for the following:

**Table 2: Additional Bulk “C” Variance Relief**

	Minimum Required / Maximum Permitted	Proposed
Number of Cabanas	1	2
Principal Side Yard Setback	75'	3'-9" exists and 0' is proposed (roof overhang)
Accessory side yard setback (Cabana #1)	75'	20'
Accessory street side yard setback (Cabana #1)	115'	48'
Accessory rear yard setback (Cabana #1)	75'	20' 40'
Accessory side yard setback (Cabana #2)	75'	45'
Accessory street side yard setback (Cabana #2)	115'	26'
Accessory rear yard setback (Cabana #2)	75'	20' 40'
Accessory street side yard setback (generator)	57.5'	8'

The subject property contains the following pre-existing nonconforming conditions:

- Minimum lot area where 220,000 sf is required and 29,144 sf exists;
- Minimum lot frontage where 325' is required and 80' exists;
- Maximum building height where 35' is permitted and 41.2' exists;
- Maximum number of stories where 2.5 stories is permitted and 3 stories exists;
- Principal Front Yard Setback where 115' is required and 86.9' exists;



- Principal Side Yard Setback where 75' is required and 3.9' exists;
- Principal Street Side Yard setback where 115' is required and 22.1' exists;
- Accessory Side Yard Setback (Garage) where 75' is required and 2.6' exists;
- Accessory Street Side Yard Setback (Garage) where 115' is required and 56.9' exists;
- Accessory Structure Building Height (Garage) where 16' is permitted and 18.3' exists;
- Accessory Side Yard Setback (Stable- TBR) where 75' is required and 0' exists;
- Accessory Street Side Yard Setback (Stable- TBR) where 115' is required and 46' exists; and
- Accessory Rear Yard Setback (Stable- TBR) where 75' is required and 5.6' exists.

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## PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES

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The subject property is a corner lot on Navesink River Road and Patterson Avenue that is 29,144 sf in area and is substantially undersized for the R-220 Zone. The subject property contains a three-story single family dwelling with a covered front porch, half-circular driveway with access along Patterson Avenue, stable, detached garage, rear patio and basketball court.

The subject property is located within the R-220 Zone and is surrounded by single-family uses. The R-220 Zone surrounds the property to north and east and the R-110 Zone surrounds the property to the west and south across Navesink River Road and Patterson Avenue.

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## PLANNING COMMENTS

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### 1. Use "D4" Variance- Floor Area Ratio (FAR)

The maximum permitted FAR in the R-220 Zone is 0.06 where 0.132 exists and 0.135 is proposed. The subject lot is significantly undersized for the R-220 Zone, where 29,144 sf exists, and 220,000 sf is the minimum required lot size. The plans indicate the gross floor area will increase from 3,861 sf to 3,924 sf.

The applicant shall provide in testimony what has been included in the calculation for proposed gross floor area to ensure conformance with the definition "residential floor area ratio." Is there a basement under the dwelling; and does the proposed GFA include the proposed cabanas, and all proposed additions including the family room, the breakfast area, and mudroom. This will impact the proposed gross floor area and Use "D 4"variance request. The applicant shall provide this calculation as an Exhibit. **Testimony shall be provided, and a revised floor area calculation.**

The applicant must demonstrate to the Board if the "D4" Variance request satisfies both the "positive" and "negative" criteria tests.

Based on the Case Opinion of the NJ Superior Court (App.Div.1999) in Randolph Town Center Associates, L.P. v. Township of Randolph, it is appropriate to use the variance standard established in Coventry Square Inc. v. Westwood Zoning Bd. of Adjustment, 138 NJ 285 (1994) when providing testimony because, similar to conditional uses that are "conditionally" permitted, FAR variances deal with "permitted" uses. The applicant does not have to demonstrate "special reasons" or that the site is particularly suited for more intensive development because single family dwellings are permitted uses in the R-220 Zone. Instead, the "positive criteria" is somewhat relaxed, not satisfied. The applicant must be able to demonstrate to the Board that the site will accommodate the problems associated with a FAR larger than what is permitted by ordinance. The applicant must demonstrate to the Board how potential impacts of the proposed increase in development will be resolved.

Regarding the negative criteria, the Board must be assured that granting a variance for more intensive development will not present a substantial detriment to the public good, specifically cause any negative impact to the surrounding area, and will not substantially impair the purpose or intent of the Master Plan and Zoning Ordinance.

The Board should employ a “balancing test” between the positive and negative criteria – and the required Bulk “C” variances, as described in the section below, should be given the appropriate weight.

2. Bulk “C” Variances

- a. Lot Coverage - The permitted lot coverage is 20%, 30.6% exists and ~~32.1~~ **31%** is proposed. See lot coverage calculations above. It should be noted that the property is significantly undersized for the R-220 Zone, and in accordance with 540-708E may utilize the building and lot coverage standards for the zone in which it is conforming, and that is the R-22 Zone. Standards in the R-22 Zone permit 20% lot coverage.
- b. Additional Bulk C Variance relief as indicated in Table 2 above.

**Statutory Requirements for the granting of bulk variance relief**

Based on the Municipal Land Use Law standard for granting bulk “C” variance relief, the applicant shall indicate to the Board whether a “hardship” variance or “flexible C” variance will be sought for the bulk variances indicated above, and provide testimony supporting the chosen approach.

Physical Characteristics - N.J.S.A. 40:55D-70.C(1) (a/k/a Hardship Variance) – Testimony should indicate if strict application of the bulk variances indicated above would result in peculiar and exceptional difficulties, or exceptional and undue hardship, to the applicant.

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property;
- By reason of an extraordinary or exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Benefits Outweighing Detriments - N.J.S.A. 40:55D-70.C(2) (a/k/a Flexible C Variance) - The applicant may also establish, in the absence of proving “hardship,” whether the granting of the bulk variances indicated above will further the purposes of the Municipal Land Use Law, and if the benefits of granting the variance will substantially outweigh any detriment.

Negative Criteria - Additionally, with any type of C variance, testimony should confirm that the proposed improvements will not create a substantial detriment to the public good or substantial impairment of the intent and purpose of the Master Plan and the Zoning Ordinance.

3. Cabanas – Cabanas are permitted in residential zones as per 540-203. The applicant shall submit floor plans for the proposed cabanas to ensure compliance with these regulations. **The applicant submitted floor plans for the proposed cabanas. As per the definition of “Cabana,” the following rules apply:**

- a. **Only one pool cabana is permitted per residential property. Variance relief is required for the two (2) proposed cabanas.**
- b. **Maximum cabana size is limited to 200 sf on lots that are 22,001 sf to 45,000 sf. The cumulative size of both proposed cabanas totals 180 sf.**



- c. The pool cabana must be seasonal (closed for at least 90 days) and is not permitted to have heating equipment, air conditioning, contain a full-service kitchen or be designed for cooking or sleeping.
- d. A deed restriction for the Cabana containing the following language must to be filed with the Monmouth County Clerk's office: The grantor and grantee specifically represent and warrant that this deed contains a deed restriction whereby the cabana use will not contain heating equipment, bedroom and/or living quarters, full service kitchen or be designed for cooking or sleeping. This deed restriction is intended to prohibit conversion to a habitable space.

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#### MISCELLANEOUS

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Prior to obtaining building permits, approvals or letters of no jurisdiction from the following Township Departments and Outside Agencies shall be required:

- Freehold Soil Conservation District
- Grading Plan review and approval by Middletown Township Engineer
- TOMSA
- Middletown Township Health Department

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#### DOCUMENTS REVIEWED

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- **Variance Drawing Revisions cover letter, prepared by Rosen Kelly Conway Architecture & Design, dated January 2, 2026;**
- Plot Plan for House Expansion & In-Ground Pool, prepared by Morgan Engineering & Surveying, dated March 21, 2025, last revised ~~May 15, 2025~~ **December 30, 2025;**
- Additions and Alterations Plan for the Sourour Residence, consisting of seventeen (17) sheets, prepared by Rosen Kelly Conway Architecture & Design, dated January 16, 2025, last revised ~~May 19, 2025~~ **January 2, 2026;**
- Project Narrative, prepared by Rosen Kelly Conway Architecture & Design, dated May 28, 2025;
- Title of subject property;
- Verification that property taxes are current;
- Zoning Officer Denial; and
- Development Permit Application.

I reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

**Report Prepared by:**



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Patricia Dunkak  
Sustainability Coordinator

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**LOCATION MAP**

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