

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

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SECOND TECHNICAL MEMORANDUM

DATE: January 14, 2026 (1st Review November 3, 2025)
BOARD: Zoning Board of Adjustment and Appeals
APPLICATION: Pamela Ross
6 Benton Avenue, Leonardo
Block 375, Lot 24
R-15 Zone
Use Variance for Building Height; and Bulk Variances for Front Yard Setback and Number of Stories

PROJECT DESCRIPTION & VARIANCE SUMMARY

The applicant submitted revised plans. The applicant is seeking to construct a new, 3 story, 34', 2,544 square feet single family dwelling with a driveway on the subject property. The application now requires Use Variance Relief for Building Height, and variance relief for number of stories.

This review memo has been updated accordingly. New text is in bold, and text that is strike-through is no longer applicable.

~~The applicant is seeking approval to construct a new, 2.5 story, 1,846 square feet, single family dwelling with a driveway on the subject property. The existing dwelling and detached garage are proposed to be removed. The proposed dwelling requires variance relief for front yard setback where 25' is the minimum required and 15' 12" is proposed; and lot coverage where 35% is the maximum permitted and 41% is proposed.~~

It is important to note that the proposal is removing an existing non-conforming principal side yard setback; and although a variance is still required for front yard setback, the proposal is improving an existing non-conforming condition from 8.9' to 15'.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES

The subject property is 3,254 square feet in the R-15 Zone. The subject property is irregular in shape and substantially undersized for the zone in which it is located. The subject property is developed with a dwelling and detached garage.

PLANNING COMMENTS

1. Use "D6" variance relief is required for the height of the home because the proposed height is more than 10% of the maximum building height permitted in the Residential (R-15) Zone. The maximum building height is 2 1/2 stories and 28 feet, and 3-stories and 34' is proposed.

Many Neighborhoods. One Middletown!

Belford o Chapel Hill o Fairview o Harmony o Leonardo o Lincroft o Locust o Middletown Village
Monmouth Hills o Navesink o New Monmouth o North Middletown o Nut Swamp o Oak Hill o Port Monmouth o River Plaza

Statutory Requirements for the granting of use variance relief

Based on the Municipal Land Use Law the following testimony is required for granting of a use variance as per 40:55D-70d(6):

Positive Criteria: Testimony should address the “positive and negative criteria” proofs associated with the “D” variance. The Applicant must demonstrate to the Board that there are “special reasons” present to justify the “D” Variance. Specifically:

Does the proposed residence inherently promote the public good? If not...

Does the proposed use further the purposes of the Municipal Land Use Law (MLUL)?

Is the site particularly suited to the proposed use?

Negative Criteria:

Testimony should address that proposed building height 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.

No variance can be granted without a demonstration that such variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Ordinance and the Master Plan.

Negative Impacts:

The Applicant should provide testimony discussing the visibility of the proposal from surrounding residences and roads, and identify potential steps to minimize visual impacts.

2. **Variances** - The proposed dwelling requires variance relief for **number of stories where 2.5 stories are permitted and 3 stories is proposed**; front yard setback where 25' is the minimum required and 15' 12" is proposed; and lot coverage where 35% is the maximum permitted and 41% is proposed.

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 requirements 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 a variance 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 requiring bulk variance relief 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. **Building Height and Stories** - ~~Building height is limited to 28' on lots with frontage less than 100'. The proposed building height is 29.4' to the top of roof. The architectural plans shall be revised to~~

~~show the measurement from BFE plus 1' to the mean height level of the roof to verify that building height conforms.~~

4. The applicant shall indicate in testimony whether the existing driveway will be removed and replaced with grass; and revise plans if necessary.
5. The subject property is in the 100 year (AE) flood zone with a Base Flood Elevation of 13'. Floodplain Administrator review and approval will be required for the construction of the dwelling in a flood zone.
6. Grading Plan review and approval will be required for the construction of the home.

DOCUMENTS REVIEWED

- **Variance Plans for Ross Residence, consisting of three (3) sheets, prepared by Anthony M. Condouris Architect, Inc, dated June 12, 2025, last revised December 30, 2025;**
- Topographic Survey of Property Lot 24 Block 375, prepared by Crest Engineering Associates Inc. dated January 9, 2024;
- Drawn site plan, undated;
- Project narrative, undated;
- Deed for 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:



Amy H. Citrano, PP, AICP
Director of Planning

LOCATION MAP

