



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

PRINCIPALS:
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B U R G I S
A S S O C I A T E S , I N C .

MEMORANDUM

To: Borough of Hillsdale Planning Board
From: Tom Behrens, Jr., PP, AICP
Subject: Irene Davis Revocable Trust
'd'(4) FAR and 'c' Variance Requests
307 Evergreen Street
Block 1622 Lot 4
Date: March 12, 2024
BA#: 4145.02

INTRODUCTION

The Applicant, Irene Davis Revocable Trust, has submitted revised plans in their request for 'd'(4) FAR and 'c' Variance relief for additions to the existing dwelling and associated site improvements at the above-referenced property. The site is located in the R-4 Zone wherein the existing/proposed detached single-family dwelling is a permitted principal use. The nature of proposed plan revisions and extent of required variance relief are detailed herein. Please refer to our memorandum dated February 6, 2024 for a complete overview of the site and original development proposal.

DOCUMENTS SUBMITTED

Our office is in receipt of the following documents:

1. Cover letter from Joseph J. Bruno, AIA dated February 28, 2024.
2. Site plan (1 sheet) prepared by Lantelme, Kurens & Associates, P.C. last revised March 7, 2024.
3. Architectural plans (2 sheets) prepared by Joseph J. Bruno, AIA last revised February 28, 2024.

PROPOSED DEVELOPMENT

The proposed improvements are intended to accommodate several indoor spaces including, but not limited to, a first floor master suite, family room, laundry room, powder room, garage expansion, rear and side decks, covered rear patio, front porch and new second floor master suite. The primary revisions to the plans include the following:

1. Elimination of building addition encroaching into front yard beyond the existing house footprint.
2. Reduction in size of front porch roof.
3. Reduction in width of southerly side addition from 8 feet to 7 feet.
4. Replacement of northerly side addition with open deck.

The following is offered for the Board’s consideration with respect to specific elements of the development application:

1. Parking. The proposed two-car garage will have interior dimensions of approximately 19.5 feet wide by 21.5 feet deep. The driveway will have a width of 20 feet and a depth of 23.4 feet as measured between the front of the garage to the front lot line.
2. Landscaping & Tree Removal. The Applicant shall confirm the extent of any proposed tree removal and landscape improvements. In addition, the Applicant shall address the need for any landscape or fence screening given the proposed nonconforming combined side and rear yard setbacks and in consideration of the locations of outdoor amenity spaces.
3. Lighting. The Applicant shall confirm the details of any exterior lighting, including for the deck, patio and terrace space, compliance with applicable lighting requirements and that any existing or new lighting will not negatively impact surrounding residences.

ZONING

The site is located in the R-4 Residential Zone wherein the existing/proposed single-family dwelling is a permitted principal use. Table 1 below illustrates the bulk requirements of the R-4 Zone as compared to the existing and proposed development conditions.

Table 1 - R-4 Zone Requirements

Requirement	R-4 Zone	Existing	Prior Plan	Proposed
Min. Lot Area	7,500 sf	7,500 sf	7,500 sf	7,500 sf
Min. Frontage/Width	75 ft	75 ft	75 ft	75 sf
Min. Lot Depth	100 ft	100 ft	100 ft	100 ft
Min. Front Yard Setback	30 ft	23.4 ft (E)	19.4 ft (V)	23.4 ft (V)
Min. Rear Yard Setback	25 ft	22.4 ft (E)	22.4 ft (V)	22.4 ft (V)
Min. Side Yard Setback (One/Total)	10 ft; 30% lot width	17.0 ft, 17.7 ft; 46.3%	9.0 ft (V) , 13.1 ft; 29.5% (V)	10.0 ft, 10.2 ft; 26.9% (V)
Max. Building Coverage	25%	23.3%	31.9% (V)	28.1% (V)
Max. Impervious Coverage	30%	38.8%	38.9% (V)	37.7% (V)
Max. FAR	35%	32%	43.96% (V)	40.4% (V)
Max. Building Height	33 ft ⁽¹⁾	22.3 ft	22.4 ft	22.4 ft

(E) Existing nonconforming condition; (V) Variance relief required.

(1) The zoning table on the plot plan incorrectly indicates the R-4 Zone maximum permitted principal building height is 35 feet.

Required Variance Relief

The proposed development requires the following variance relief:

1. 'd'(4) FAR Variance. The R-4 Zone permits a maximum floor area ratio of 35% where the existing dwelling has a conforming FAR of 32% and the proposed development would increase the FAR to a nonconforming FAR of 40.4% which represents a deviation of 404 square feet. The Applicant shall address the applicable statutory criteria for 'd'(4) variance relief as indicated below and address the extent to which the proposed development is consistent with the surrounding neighborhood.
2. 'c' Minimum Front Yard Setback. The R-4 Zone requires a minimum front yard setback of 30 feet where the existing dwelling has a nonconforming setback of 23.4 feet and the proposed improvements will be in line with this nonconforming setback at 23.4 feet.
3. 'c' Minimum Rear Yard Setback. The R-4 Zone requires a minimum rear yard setback of 25 feet where the existing dwelling has a nonconforming rear yard setback of 22.4 feet and the proposed deck and terrace will have the same nonconforming setback.
4. 'c' Minimum Side Yard Setback (One/Total). The R-4 Zone requires a minimum side yard setback of 10 feet and combined side yard setback of not less than 30% of the lot width. The existing dwelling has conforming individual side yard setbacks of 17.0 feet and 17.7 feet and combined side yard setback of 46.3%. The proposed improvements will result in conforming individual side yard setback of 10.0 feet and 10.2 feet. However, the combined side yard setback of 26.9% requires variance relief.
5. 'c' Maximum Building Coverage. The R-4 Zone permits a maximum building coverage of 25% where the existing dwelling has a conforming building coverage of 23.3% and the proposed improvements will result in a nonconforming building coverage of 28.1% which represents a deviation of 231 square feet.
6. 'c' Maximum Impervious Coverage. The R-4 Zone permits a maximum impervious coverage of 30% where the existing dwelling has a nonconforming impervious coverage of 38.8% which will be decreased to a nonconforming 37.7% which represents a deviation of 575 square feet.

STATUTORY CRITERIA

The Applicant must address the below statutory criteria for the required 'd'(4) FAR and 'c' variance relief.

'd'(4) FAR Variance

The application requires variance relief pursuant to N.J.S.A. 40:55D-70d(4) for the proposed floor area ratio (FAR) which exceeds the zone's maximum permitted FAR of 35%. An applicant requesting a 'd' variance must demonstrate that special reasons exist for the granting of the variance, and that the granting of the variance will further the purposes of the Municipal Land Use Law (MLUL). This is referred to as the positive criteria. In addition, the applicant must address the negative criteria by proving there will be no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Ordinance.

In *Randolph Town Center v. Randolph*, 324 N.J. Super. 412, 416 (App. Div. 1999), the Appellate Division held that a 'd'(4) FAR variance is more akin to a 'd'(3) conditional use variance than a 'd'(1) use variance. As such, the standard established for 'd'(3) variance requests in *Coventry Square v. Westwood Board of Adjustment*, 138 N.J. 285, 298-299 (1994) was applied to 'd'(4) variances. Specifically, the applicant is not obligated to show the particular suitability of the site as required for a 'd'(1) variance, but rather that the site can accommodate the problems associated with the proposed permitted use with a larger FAR than permitted by ordinance.

'c' Variance Relief

The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:

1. **Physical Features Test:** An applicant may be granted 'c'(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
2. **Public Benefits Test:** An applicant may be granted 'c'(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

In addition to the above, an applicant must address the Negative Criteria of the statute. To meet the negative criteria, an applicant must demonstrate the variance can be granted without substantial detriment to the public good and it will not substantially impair the intent and the purpose of the master plan and zoning ordinance.