



MEMORANDUM

Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

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To: Montgomery Township Zoning Board of Adjustment

From: James Clavelli, PP, AICP 

Re: **Nunugonda Residence**
Floor Area Ratio Variance
143 Scarborough Road
Block 4022, Lot 3
Belle Mead Planned Unit Development (BMPUD) – Area 1

Date: November 15, 2023

1.0 Project & Site Description

1.1 Project Description: The applicant is seeking variance relief to construct an addition to a single-family detached dwelling. The addition consists of two sunrooms and a porch extending from the existing rear side of the dwelling and totals 816 sf. The proposal exceeds the maximum permitted floor area ratio (FAR), requiring a variance pursuant to *N.J.S.A. 40:55D-70.d(4)*.

1.2 Site Description: The subject property, approximately 0.5 acre (23,318 sf.), is located in Area 1 of the Bell Mead Planned Unit Development (BPMUD). Existing development consists of a two story, single-family detached dwelling and driveway. Additional improvements consist of a fence that surrounds the rear yard and side yards, a concrete walk leading from the front entrance to the driveway, two concrete pads for HVAC equipment in the rear yard, and wooden stairwells leading to two separate entrances on the rear of the building. Ornamental plantings and manicured lawn are found around the property.

1.3 Neighborhood Context: The site is bound by other single-family detached dwellings of similar size and design, as the dwelling is part of a planned development. The neighborhood can best be described as a typical single-family residential subdivision.

1.4 Relief Required: In addition to requiring relief for floor area ratio, a variance will be required for an undersized rear yet setback, as the addition is proposed within the required 30-foot setback. Two design exceptions are also required.

John Hatch, FAIA
George Hibbs, AIA
Brian Slaugh, AICP
Michael Sullivan, AICP
Michael Hanrahan, AIA
Mary Beth Lonergan, AICP



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2.0 Use & Bulk Standards

- 2.1 **Principal Permitted Uses.** The application is in compliance. Area-1 of the BMPUD district, pursuant to §16-4.15-1.b.1(a), permits single-family detached dwelling units. The subject property contains an existing single-family detached dwelling. The applicant is not proposing any changes to the principal use.
- 2.2 **Accessory Permitted Uses.** The application is in compliance. Area-1 of the BMPUD district, pursuant to §16-4.15-1.b.2, permits the existing fence and driveway, which are the only accessory uses on the site. The proposed addition is part of the principal building.
- 2.3 **Area & Yard Requirements.** The applicant does not meet two of the area and yard requirements, maximum FAR and the rear yard setback for principal buildings. See Table 1 for additional details on the applicant's compliance with the area and yard requirements.



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Table 1: BMPUD: Area -1. SFD House Area & Yard Requirements: §16-4.15-1.b.1(a)				
	Required	Existing	Proposed	Variance
Principal Building Minimums				
Min. Lot Area	14,500 sf.	23,318 sf.	No change	No
Min. Lot Frontage	100 ft.	178 ft.	No change	No
Min. Lot Width	100 ft.	178 ft.	No change	No
Min. Lot Depth	125 ft.	131 ft.	No change	No
Min. Front Yard	40 ft.	44.7	No change	No
Min. Side Yard (each)	20 ft.	45	No change	No
Min. Rear Yard	30 ft.	45.2	28.5 ft.	Yes
Maximum Coverages				
Max. Lot Cover	25%	19.6%	22.6%	No
Max. Principal Bldg. Cover	15%	11%	14.3%	No
Max. Floor Area Ratio	20%	19%	22.06%	Yes
Agg. Bldg. Coverage of accessory bldg(s)	3%	N/A	N/A	No

2.4 **Minimum Rear Yard Setback: Variance relief is required.** Pursuant to §16-4.15-1.b.1(a), the minimum required rear yard setback is 30 ft. The proposed rear yard setback is 28.5 ft. The 28.5 ft. measurement was determined utilizing software and the applicant’s scale. The applicant indicates 29 feet and should confirm. A variance is required in either case.

2.5 **Maximum Floor Area Ratio (FAR): Variance relief is required.** Pursuant to §16-4.15-1.b.1(a), the maximum permitted FAR is 20%. The existing FAR is 19% and the proposed FAR is 22.06%. A variance is required pursuant to N.J.S.A. 40:55D-70.d(4).

3.0 **General Plan Comments**

3.1 **Principal Building Addition.** §16-2.1 states that within the “accessory building, structure or use” definition that any development attached to a principal building:

...a building, structure or use which is customarily associated with and is subordinate and incidental to the principal building...Any accessory building attached to the principal building shall be considered part of the principal building.



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As such, the proposed addition is part of the principal building, not a separate accessory structure.



- 3.2 **Description of Addition.** The plans indicate that the addition will extend from the rear of the building, starting 8 inches to the left of the southern facing side wall of the house, extending about 75% of the rear side of the house, and extending back approximately 14 feet. The plan indicates that the area of the addition is 816 sf.

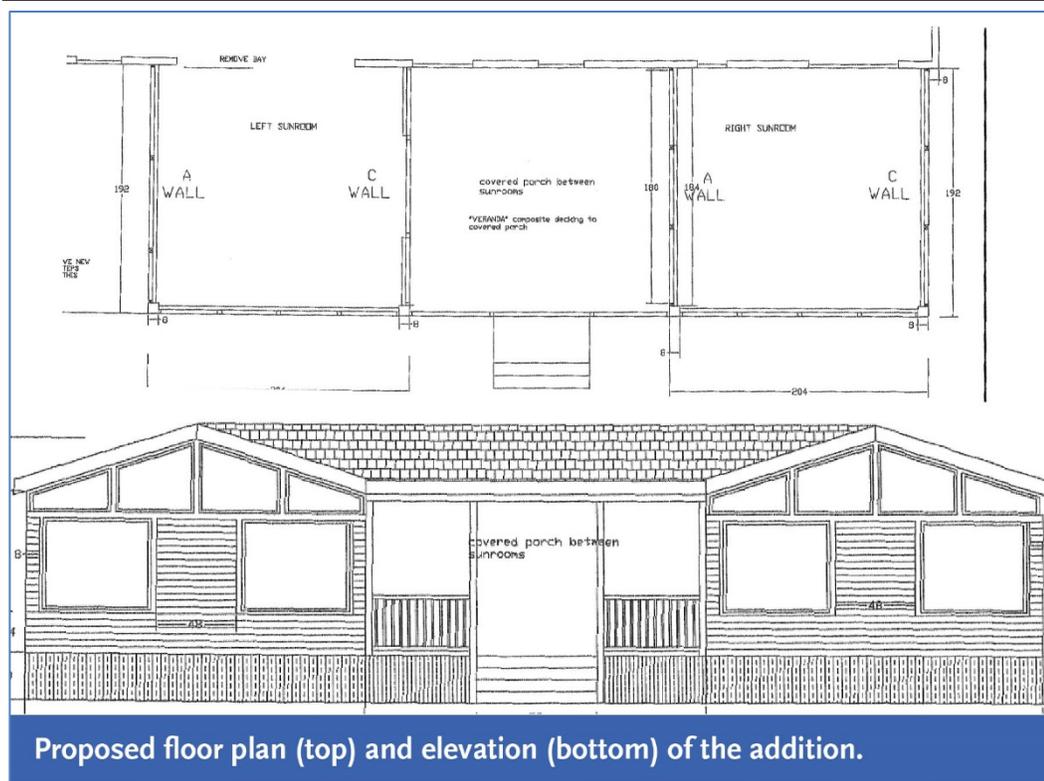
As indicated in the following image, the proposed addition will contain two sunrooms separated by a central covered porch area. The exterior of the addition will contain clapboard siding and gable roofs above the sun rooms that are connected by a central hipped roof. The porch contains a staircase leading to the rear yard.

The plans do not include a color rendering or elevation. Such an exhibit may be useful for the Board during the hearing in determining the appropriateness of the proposed addition within the existing neighborhood context.



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4.0 Miscellaneous

4.1 **Sidewalks.** The application is in compliance. §16-5.14C.1(d) requires “sidewalks shall be provided along all existing streets upon which all residential and nonresidential development abuts, unless specifically waived in certain locations by the reviewing municipal agency based upon good cause shown by the applicant” Sidewalks currently exist along the frontage of the property on Scarborough Road.

4.2 **Trees. A design exception is required.** §16-5.6d.3, a minimum of fourteen (14) trees per acre shall be planted on single-family residential lots. At 23,318 sf., this lot requires a total of 8 ($0.53 \times 14 = 7.5$) trees to be planted on the site.

This section also states that “where the applicant has demonstrated to the satisfaction of the Board that it is impractical or undesirable to provide the required number of trees then the Board may require tree planting in the disturbed area only, which trees shall be of a substantially larger caliper – e.g., five-inch caliper measured 12 inches from the ground – as appropriate for the tree type and species, based on consultation with the



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Township Landscape Architect.” The applicant should identify the limit of disturbance, including the construction access, to determine the number of trees required should the Board grant an exception based on the limit of disturbance.

§16-5.6d.3(b) states that “*where the applicant has demonstrated to the satisfaction of the Board that the availability of areas for the planting of trees as required by this section is such that it is impractical or undesirable to provide the required number of trees ..., then the applicant shall install the remaining number of trees on public property within the Township, as directed by the Township Landscape Architect; or contribute sufficient funds to the Montgomery Township Tree Replacement Fund for the installation of the remaining number of required trees on public property....*”

The applicant is not proposing any trees at this time. A **design exception is required as no additional trees are proposed.**





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- 4.3 **Street Trees. A design exception is required.** §16-5.6d.15 requires street trees at 50 foot intervals. With 178 feet of frontage along Scarborough Road, the applicant is required to have 4 street trees ($178 / 50 = 3.56$ trees) along Scarborough Road. There are currently two street trees along the frontage. This office notes that the site does contain other decorative plantings in the front yard, though only two that may be considered street trees. **A design exception is required as no additional trees are proposed.**
- 4.4 **Soil Hauling. Compliance review is deferred to the Board Engineer.** §16-5.6.c requires that *no soil shall be removed from or be imported to any site in excess of twenty (20) cubic yards per year without prior approval of the Board. For this purpose, a plan shall be submitted showing how the soil is to be distributed and stabilized including grading contours. If the soil is to be imported, a plan shall be submitted describing methodology and frequency of testing the soil to ensure its safe quality. The plan shall describe the size and number of vehicles that are proposed for hauling the removed or imported soil together with the hauling route. There is no information on the plan regarding the movement of soil.* The applicant should provide testimony regarding the movement of soil, and if necessary, submit additional information to be reviewed by the Board Engineer.
- 4.5 **Plan Measurements.** The architectural drawings appear to indicate the measurements of the addition in inches, though this should be made clearer. For example, the depth of the addition is indicated as “192”, which this office assumes to mean 192 inches, or 16 feet. Sheet 11 of the plan, which is a markup of the existing survey, indicates a depth of ±13 feet and nine inches when using the scale on the survey. **The measurements of the proposed building should be made clearer, and the measurements should be consistent on the architectural drawings and marked up survey.**
- 5.0 **Consideration of the “D(4)” Floor Area Ratio Variance**
- 5.1 **Consideration of the Floor Area Ratio (FAR) Variance (NJSA 40:55D-70d(4):** FAR is a tool to limit the intensity of use, by controlling mass and scale of buildings. When considering a variance for excessive FAR, the applicant is required to satisfy a lower threshold of special reasons than for a use variance, however must ensure that the degree of the proposed deviation will still satisfy the negative criteria.
- 5.2 **The Positive Criteria:** Under the Coventry standard, the applicant need not show that the site is particularly suited for more intensive development, but rather, that



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the site will accommodate the problems associated with the larger floor area than permitted by the ordinance.

- 5.3 **Negative Criteria:** As always, the granting of the variance must be able to be accomplished without resulting in substantial detriment to the public good, and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. The Court clearly explained in Price, how an applicant might establish the negative criteria for a variance, reinforcing that “only minimally greater” than permitted or “a minimal increase” could satisfy the negative criteria, but that variances that amounted to a tripling of the standard were not appropriate.

6.0 Consideration of the “C” Variances

The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts.

- 6.1 **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- 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 the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning



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ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

- 6.2 Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

7.0 Consideration of the Design Exceptions

The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses the criteria for the granting of exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:

The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

7.0 Relevant Policy

- 7.1 Master Plan Goals.** The Township Master Plan includes several goals which are relevant to the Board's consideration of this application. The following goals can be found on pages 6 through 8 of the 2017 Master Plan Reexamination Report:

2. *The identity of the Township as a totality and the integrity of individual neighborhood areas should be preserved, enhanced and created to the maximum extent possible.*

The applicant should discuss the proposed addition and whether it preserves or enhances the integrity of the neighborhood. The following image shows the rear of the dwelling on the subject property and the rear of the dwelling on the neighboring dwelling to the south. While the proposed addition is different than the rear of the neighboring dwelling, it is of a similar scale, though slightly wider and one fewer story.



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8.0 Materials Reviewed

- 8.1 *Montgomery Township Planning & Zoning Board Application* and related documents, dated July 28, 2023.
- 8.2 *Architectural Plans*, 11 sheets, prepared by Larry Cirangle, RA, dated May 31, 2023.
- 8.3 *Plot and Grading plan*, 1 sheet, prepared by Michael Ford, PE, PP, Van Cleef Engineering Associates, dated June 29, 2017, revised to August 22, 2017.

9.0 Applicant / Owner / Professionals



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9.1 Owner/Applicant: Ramakrishna Nunugonda, 143 Scarborough Road, Belle Mead, NJ 08502. Telephone: 917.582.6262 Email: rknunu@yahoo.com.

9.2 Architect. Larry Cirangle, RA, 14 Plaza Nine, Manalapan, NJ 07726. Telephone: 732.303.7822. Email: lciran@aol.com.

10.0 Summary

10.1 The applicant is seeking a floor area ratio variance pursuant to *N.J.S.A. 40:55D-70.d(4)*, and a rear yard setback to construct an addition to the rear of an existing single-family dwelling on Scarborough Road. Design exceptions are required for tree planting.

- a) Variances
 - §16-4.15-1.b.1(a) Maximum Floor Area Ratio
 - §16-4.15-1.b.1(a) Minimum Rear Yard Setback

- b) Design Exceptions
 - §16-5.6d.3 Trees
 - §16-5.6d.15 Street Trees

Please contact this office with any questions you may have.

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