



COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

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

Principals:  
*Joseph H. Burgis PP, AICP*  
*Edward Snieckus, Jr. PP, LLA, ASLA*  
*David Novak PP, AICP*

## MEMORANDUM

**To:** West Windsor Zoning Board of Adjustment  
West Windsor Division of Land Use

**From:** David Novak PP, AICP

**Subject:** Daniel Schlegel  
d(4) Floor Area Ratio Variance  
Block 16.01 Lot 8  
15 Hereford Drive

**Date:** September 14, 2019

**BA#:** 3789.17

**WWT#:** 21-01

### Introduction

The applicant, Daniel Schlegel, has submitted an application seeking d(4) variance relief to construct a single-story addition to the rear of an existing dwelling. The site, which is identified by municipal tax records as Block 16.01 Lot 8, is located at 15 Hereford Drive in the R-20 Residence District.

In addition to the application forms and application checklists, the following has been submitted for review:

1. Proposed Addition and Alteration Plan prepared by Primiano Architecture, dated July 27, 2021 (no revision date), consisting of four (4) sheets.

## Property Description

The subject site is located in the north-central portion of the Township, to the west of West Windsor-Plainsboro High School South. The site has an area of approximately 0.46 acres (20,005 square feet) and is mostly rectangular in shape. It fronts along Hereford Drive for 100.88 feet and has a depth of 199.47 feet at its greatest.

The site is presently developed with a two-story frame dwelling which is setback 44.8 feet from Hereford Drive. The dwelling has a footprint of 1,954 square feet and a total area of 2,638.64 square feet. A screened porch and a landing are located along the rear of the dwelling. Access to the site is provided by a paved driveway which connects Hereford Drive to an attached two-car garage. A brick walkway is located along the front and northerly side of the dwelling.

Surrounding land uses consist predominantly of single-family dwellings. West Windsor-Plainsboro High School South is located approximately 250 feet to the east. Please see the aerial at the end of this memorandum for an overview of the subject site and its surrounding environs.

## Proposed Improvements

The applicant proposes to construct a one-story addition to the rear of the dwelling. The existing screen porch will be removed, and the rear of the dwelling will be expanded to include: a bedroom; a bathroom; a walk-in-closet; a mudroom; a laundry room; and a rear porch. As noted in the application materials, the bedroom is intended to accommodate an elderly parent.

The façade of the dwelling will consist of: shake siding; brick veneer; cement parging; and fiberglass roof shingles.

## Master Plan

As per the 2020 Land Use Plan, the site is located in the Medium Density Single Family Residential (R-20, R-20A, and R-20B) land use category, which is primarily located in the central and northerly portions of the Township. The 2020 Plan notes that this land use category is, for the most part, entirely developed with single-family dwellings with typical lot sizes of twenty thousand (20,000) square feet. The main intent of this land use category and corresponding zoning district is to recognize and preserve the established character of these neighborhoods and to reinforce the prevailing minimum lot size of twenty thousand (20,000) square feet.

## Zoning and “d(4)” Variance Relief

The site is located in the R-20 Residence District. The following table outlines the zoning regulations for the R-20 District.

*Table 1: R-20 Resident District Bulk Standards*

Area & Bulk Regulations	R-20	Existing	Proposed	Section
Minimum Lot Area (sf)	20,000	20,005.32	20,005.32	200-173.2A
Minimum Lot Width (ft)	100	100.85	100.85	200-173.2B
Minimum Front Yard (ft)	40	44.80	44.80	200-173.2C(1)
Minimum Rear Yard (ft)	30	120.15	113.20	200-173.2C(2)
Minimum Side Yard (ft)	15	(ex) 14.40	(ex) 14.40	200-173.2C(3)
Maximum FAR (%)	13	(ex) 13.44	<b>(V) 14.51</b>	200-173.2D
Max. Improvement Cov. (%)	20	19.16	19.98	200-173.2E
Max. Building Height (st/ft)	2.5/35	2/<35	2/<35	200-173.2F

*(ex) Nonconforming Condition; (V) Variance*

As noted in the above table, the applicant has requested variance relief pursuant to NJSA 40:55D-70d.(4) of the Municipal Land Use Law (MLUL) for an increase in the permitted floor area ratio (FAR). For reference, “floor area” is defined by Section 200-4 of the Township’s land use regulations as follows. Those portions of a building which are not included as floor area are *underlined and italicized*.

The sum of the gross horizontal areas of the several floors of a building or group of buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. *Floor area shall not include roof overhangs less than three feet or any floors or portions thereof contained on terraces or balconies projecting beyond the exterior face of the building, areas occupied permanently by mechanical equipment, any space where the floor-to-ceiling height shall be less than seven feet, provided that such space shall be used only for storage, building maintenance and operation activities, and roofed or enclosed areas devoted exclusively to off-street parking and loading spaces in excess of the number required by ordinance.* Basements which satisfy applicable construction code definitions of habitable space, whether finished or unfinished, are included in floor area calculations for residential purposes.

The dwelling is permitted to have a FAR of thirteen percent (13%) which equates to approximately 2,600.6 square feet of floor area, whereas the applicant has proposed a FAR of 14.51% which equates to approximately 2,902.8 square feet of floor area. For reference, the dwelling presently has a FAR of 13.44% which equates to approximately 2,688.7 square feet of floor area.

## Statutory Criteria

The applicant has requested variance relief pursuant to N.J.S.A. 40:55D-70.(d)(4) of the Municipal Land Use Law (MLUL) for an increase in the permitted floor area ratio (FAR). As previously noted, the R-20 District establishes a maximum FAR of thirteen percent (13%), whereas the applicant has an existing FAR of twenty-13.44% and a proposed FAR of 14.51%.

An applicant requesting "d(4)" variance relief must demonstrate the positive criteria: specifically, that special reasons exist for the granting of the variance, and that the granting of the variance will further the purposes of the MLUL. In addition, the applicant must also address the negative criteria and demonstrate that there will be no substantial detriment to the public and no substantial impairment to the intent of the zone plan.

Randolph Town Center v. Township of Randolph, 324 N.J Super at. 416 provides guidance for Boards of Adjustments in evaluating applications requesting "d(4)" variance relief. In that decision, the Court held that in establishing special reasons for a FAR variance, boards should look to *Coventry Square v. Westwood Zoning Board of Adjustment* and not *Medici v. BPR* for guidance. Therefore, an applicant requesting "d(4)" variance relief does not need to show that the site is particularly suited for more intensive development. Rather, an applicant must demonstrate that the site will accommodate the problems associated with a floor area larger than that permitted by the ordinance.

In consideration of the above, the applicant and the Board should discuss the following issues:

1. Calculation of FAR

The applicant should confirm that the existing and proposed FAR was calculated pursuant to the Township's definition of "floor area." Specifically, the applicant should confirm that the calculated floor area does not include any of the provisions which are specifically exempt from that term.

2. Nature of Addition

Testimony should be provided as to the nature of the proposed addition. Specifically, the applicant should discuss the proposed location of the addition, as well as its visibility from both the right-of-way and adjoining properties.

The applicant should also discuss the proposed interior improvements. As previously noted, the proposed addition will consist of: a bedroom; a bathroom; a walk-in-closet; a mudroom; a laundry room; and a rear porch. The application materials note that the bedroom is intended to accommodate an elderly parent, and that no first-story bedroom presently exists. Testimony should be provided as to whether the existing first floor presently contains any of the other proposed rooms, including a laundry room.

### 3. Bedroom Count and Parking

The applicant should provide the existing and proposed number of bedrooms in order to ensure that the dwelling will meet the parking requirements of the Residential Site Improvement Standards (RSIS). As noted by NJAC 5:21-4.14 of the RSIS:

- a. A two (2) bedroom single-family dwelling requires 1.5 parking spaces;
- b. A three (3) bedroom single-family dwelling requires 2.0 parking spaces;
- c. A four (4) bedroom single-family dwelling requires 2.5 parking spaces;
- d. A five (5) bedroom single-family dwelling requires 3.0 parking spaces.

The dwelling presently has a two-car garage as well as a driveway with a length of approximately 44 feet and a width of approximately 22.5 feet. As established by the RSIS, a two-car garage and a driveway combination shall count as 3.5 parking spaces, provided a minimum parking width of 20 feet is provided for a minimum length of 18 feet.

### 4. Side Yard Setback

The dwelling presently has a nonconforming side yard setback along its northerly side. However, due to the angle of the northerly side property line, it appears that the proposed addition will comply with the required side yard setback. This should be confirmed by the applicant.

### 5. Façade Improvements

The applicant should clarify whether the façade of the entirety of the dwelling is to be improved, or if the façade of the addition is intended to match the existing façade of the dwelling.

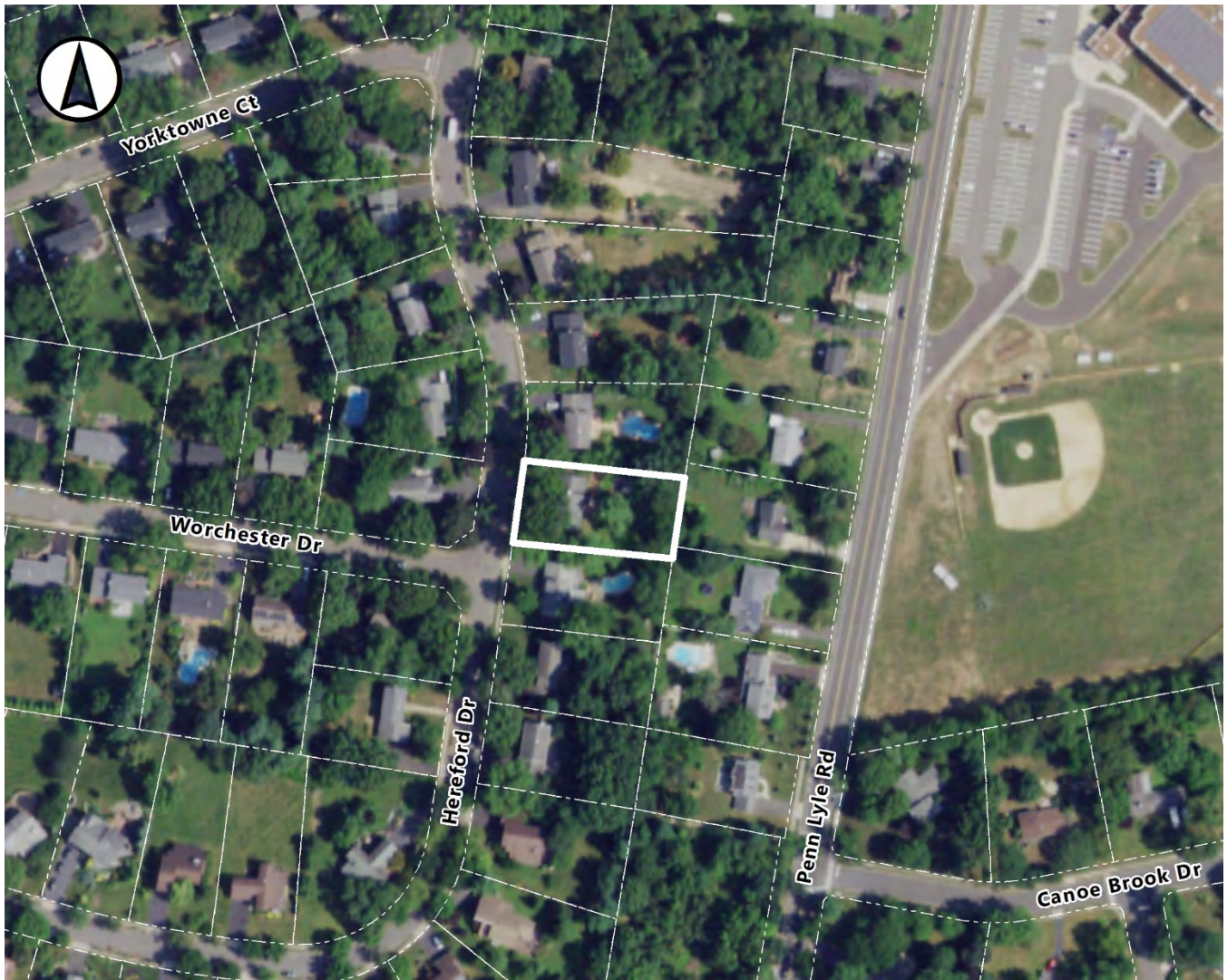
### 6. Comparison to Neighborhood

The applicant has provided a comparison of the proposed FAR to the existing FARs in the surrounding area. It appears that this information is based upon tax information. This should be confirmed by the applicant.

To help visualize this comparison, we have provided two (2) maps which respectively identify those dwellings which exceed the FAR standard established by the R-20 District, as well as those dwellings which exceed the proposed FAR of the subject site. In those instances where the FAR was unknown, our office provided an estimate based on GIS data.

As shown, seven (7) of the thirty-five (35) dwellings in the surrounding area (excluding the subject site) exceed the FAR standard established by the R-20 District. Two (2) dwellings in the surrounding area exceed the FAR proposed by the applicant.





Map 1: Aerial of Subject Site (scale: 1" = 200')

[https://burgis.sharepoint.com/sites/BurgisData/Shared Documents/W-DOCS/PUBLIC/Pb-3700series/Pb-3789.17/PB 3789.17 Daniel Schlegel - d\(4\) Variance \(ZB 21-01\).docx](https://burgis.sharepoint.com/sites/BurgisData/Shared Documents/W-DOCS/PUBLIC/Pb-3700series/Pb-3789.17/PB 3789.17 Daniel Schlegel - d(4) Variance (ZB 21-01).docx)

Cc: S. Surtees, WWT CD  
Barbara Watson, WWT CD  
Lisa Komjati, WWT CD  
Edwin Schmierer, Esq., Zoning Board Attorney





Dwg. Title		Project No.	Date	Drawn By
FAR Map: Comparison to R-20 FAR Requirement		3789.17	09.15.21	DN
<b>BURGIS ASSOCIATES, INC.</b> COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE 25 Westwood Avenue Westwood, New Jersey 07675 p: 201.666.1811 f: 201.666.2599		Scale	Dwg. No.	
Project Title: <b>15 Hereford Drive d(4) Variance</b> Township of West Windsor   Mercer County, New Jersey		1" = 180'	map 01	





Dwg. Title		Project No.	Date	Drawn By
FAR Map: Comparison to Proposed FAR		3789.17	09.15.21	DN
BURGIS ASSOCIATES, INC. COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE 25 Westwood Avenue Westwood, New Jersey 07675 p: 201.666.1811 f: 201.666.2599		Project Title: <b>15 Hereford Drive d(4) Variance</b> Township of West Windsor   Mercer County, New Jersey		Dwg. No. map 02
		Scale		
		1" = 180'		