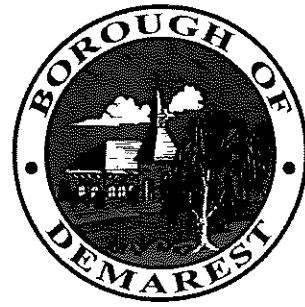


BOROUGH OF DEMAREST
JOINT PLANNING BOARD
REGULAR MEETING AGENDA
Wednesday, June 4, 2025 @ 7:30 PM
118 Serpentine Road, Demarest, NJ 0762



1. CALL TO ORDER

2. PUBLIC ANNOUNCEMENT OF MEETING

Sunshine Law Statement: The notice requirements of the Open Public Meetings Act of the State of New Jersey, P.L. 1975, Chapter 231, have been satisfied by the publication of the date, time and place of this Regular meeting in in the Record and Star Ledger on January 12, 2025, notice posted at Borough Hall, on the Borough website was filed in the office of the Borough Clerk.

3. FLAG SALUTE

4. ROLL CALL

- | | |
|--|---|
| <input type="checkbox"/> Todd Adelman | <input type="checkbox"/> Camille DiSclafani |
| <input type="checkbox"/> Ted Alevrontas | <input type="checkbox"/> Councilwoman Daryl Fox |
| <input type="checkbox"/> Mayor Brian Bernstein | <input type="checkbox"/> Fatemah Mamdani |
| <input type="checkbox"/> Jodi Brenner | <input type="checkbox"/> Timothy Woods |
| <input type="checkbox"/> Kiran Chin | <input type="checkbox"/> Mary Lynn Hamilton |

5. RESOLUTION(S)

1) **Resolution PB-007-25 JPB-25-003, 17 Laurel Road**

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2) **Resolution PB-008-25 JPB-25-004, 17 Duck Pond Road**

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. CONCEPT DISCUSSION

232 COUNTY ROAD – CONCEPT BOARD DISCUSSION

7. NEW/CONTINUING APPLICATIONS

JPB-25-001 – 44 Pine Terrace – BF Development LLC.

Seeking a Minor Subdivisions with Variances

APPROVE DENY CARRY DATE:

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

JPB-25-002 – 7 Christie Street – Ed Yezekian

Seeking variances including a “D” Variance related to the construction of a new single-family home.

APPROVE DENY CARRY DATE:

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. DISCUSSION ON BOARD MATTERS – NEW/OLD BUSINESS

9. APPROVAL OF MINUTES:
10. PUBLIC COMMENT PERIOD
11. ADJOURNMENT

SPECIAL MEETING WITH MAYOR AND COUNCIL – THURSDAY, JUNE 5, 2025
NEXT REGULAR MEETING – WEDNESDAY, JULY 2, 2025

**JOINT PLANNING BOARD OF THE
BOROUGH OF DEMAREST**

RESOLUTION JPB-007-25

**APPEAL OF ZONING OFFICER'S DENIAL OF APPLICANT'S ZONING PERMIT
AND VARIANCE APPLICATION**

N.J.S.A. 40:55d-70(a) & N.J.S.A. 40:55d-70(c)

In the Matter of the Appeal and Variance Application of
Ilan Cohen

WHEREAS, Ilan Cohen (the "Applicant") is the owner of the property located at 17 Laurel Road and designated as Lot 20 in Block 1.02 on the Tax Maps of the Borough of Demarest (the "Property"); and

WHEREAS, the Property is located at the corner of Laurel Road and S. Prescott Street and is presently developed with a single-family home facing the intersection; and

WHEREAS, the Property is located in the Residential D District (the "R-D Zone") and has pre-existing non-conformities with respect to lot area, minimum front yard setback (Laurel Road) and minimum rear yard setback; and

WHEREAS, the Applicant's request for a Zoning Permit to construct a new single-family dwelling and other associated improvements at the Property was denied by the Zoning Officer of the Borough of Demarest on April 2, 2025 (the "Zoning Permit Denial"), stating:

Improved lot coverage 32.1% when 30% is allowed
Pool, Pool equipment, AC units and pads, generators and pads, covered patio not permitted in side yard
Window wells do not meet required 10 foot set back
Wall along driveway not permitted in the front yard
Address of property is 17 Laurel Road and is a corner lot, the approving authority must determine if the rear yard is opposite Laurel Road or opposite S. Prescott Street.
Applicant is proposing the rear yard as opposite S. Prescott Street; and

WHEREAS, on April 23, 2025, the Applicant, through counsel, Matthew Capizzi, Esq., filed a Notice of Appeal with the Planning Board (the “Board”) pursuant to N.J.S.A. 40:55D-70(a) (the “Notice of Appeal”) to appeal the denial of the Zoning Permit; and

WHEREAS, the Board is empowered pursuant to N.J.S.A. 40:55D-70(a) to “[h]ear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;” and

WHEREAS, such appeal determinations must be based upon the facts presented, credibility findings which the Board is entrusted to make and legal determinations which the Board is statutorily obligated to make; and

Whereas, the Board is further empowered pursuant to N.J.S.A. 40:55D-70(c) to grant variance relief;

WHEREAS, the Board conducted a public hearing on May 7, 2025 in accordance with the Municipal Land Use Law (“MLUL”) and the Open Public Meetings Act, at which time the Applicant, represented by counsel, Matthew Capizzi, Esq. of Capizzi Law Offices, presented proof of notice as required by law by the MLUL; and

WHEREAS, the Board has reviewed and considered evidence submitted at the public hearing, as well as the following items submitted by the Applicant:

- 1) Zoning Permit Denial dated April 2, 2025;
- 2) Notice of Appeal from Mr. Capizzi dated April 23, 2025;
- 3) Variance application;
- 4) Application contact sheet;
- 5) Affidavit authorizing representative;
- 6) Site visit consent form;

- 7) Abutting property correspondence with stamped certified mail receipt from Mr. Capizzi;
- 8) Certificated of payment of taxes;
- 9) Topographic Survey prepared by Lantelme, Kurens & Associates PC dated December 18, 2024 and consisting of one (1) sheet;
- 10) Property Deed dated January 9, 2025 and recorded with the Bergen County Clerk's Office on February 7, 2025;
- 11) Site Plan prepared by McClellan Engineering dated February 11, 2024, last revised April 9, 2025, and consisting of one (1) sheet; and
- 12) Architectural Plan prepared by Rapaport & Assoc., Inc. dated December 30, 2024, last revised April 9, 2025, and consisting of four (4) sheets; and

WHEREAS, at the public hearing, the Applicant provided testimony, as set forth below, and submitted the following evidence to the Board:

- 1) Rear (eastern) elevation and northern elevation dated December 30, 2024, last revised February 28, 2025, and consisting of one (1) sheet;
- 2) Planning Exhibits dated May 2025 and consisting of five (5) sheets;
- 3) Testimony of Uri Rapaport of Rapaport & Assoc. Inc., a licensed professional architect, whose credentials were accepted by the Board and whose testimony can be summarized as follows: the proposed development is a modest, 4- bedroom, single-family home; the house itself meets all zoning requirements, including all bulk, floor area ratio (FAR) and coverage requirements; the proposed single-family dwelling also complies with all height requirements; the Property slopes from S. Prescott Street to Laurel Lane; the Applicant is proposing to have the dwelling face S. Prescott Street, which is consistent with other adjacent

properties; the Applicant is proposing to have the driveway remain on Laurel Road, sloping away from the proposed dwelling, which is the better engineering design to avoid stormwater damage to the dwelling; the Applicant is proposing a two-car garage with a single door; the window wells are 7.1 feet from the Property line and do not encroach into the setbacks; the only variance needed is for the proposed dwelling is with respect to maximum improved lot coverage (30% / 2,974 square feet is permitted and 31.4% / 3,116 square feet is proposed); there is a balcony proposed in the rear of the dwelling which is accessed from the second floor master bedroom; the proposed balcony conforms with all setback and height requirements in the R-D Zone;

- 4) Testimony of Sean McClellan of McClellan Engineering, a licensed professional engineer, whose credentials were accepted by the Board and whose testimony can be summarized as follows: the Property has a pre-existing non-conforming lot area (10,000 square feet is required and 9,914 square feet is existing and proposed); the existing single-family dwelling also has non-conformities with respect to the minimum front yard setback (Laurel Lane) (as 27.6 feet is required and 27.3 feet is existing) and minimum rear yard setback (as 30 feet is required and 17.9 feet is existing); the non-conformities with respect to the front yard setback and rear yard setback will be eliminated by the proposed development; additionally, there is an existing shed that is 2 feet from the Property line, which will be removed by the proposed development; the Property slopes from 104 feet at S. Prescott Lane down to 96 feet towards Laurel Lane; the proposed single-family dwelling will face S. Prescott Street and meets all bulk and height requirements in the R-D Zone; the proposed development significantly improves

the drainage on the Property; the existing dwelling does not have any stormwater drainage and currently all flows to Lot 19; the Applicant is proposed to contain all roof drainage in seepage pits which exceed the minimum capacity requirements for the proposed development by 1,400 gallons; the proposed pool is 12 feet by 22 feet, which is modest in size; there is an existing encroachment from Lot 19, which adds 14 square feet to the impervious coverage on the Applicant's Property; in total, the proposed development exceeds the impervious coverage requirement by 142 square feet;

- 5) Testimony of Michael Pessolano, a licensed professional planner, whose credentials were accepted by the Board and whose testimony can be summarized as follows: the proposed dwelling is relatively modest and conforms with the bulk requirements in the R-D Zone; the orientation towards S. Prescott Street is based on practicality due to the drop in elevation and need to have the driveway drain away from the dwelling; the orientation of the proposed dwelling on S. Prescott Street is harmonious with the property to the north; there is no planning or zoning purpose served if the dwelling was oriented on Laurel Lane; a modification to the garage driveway, which would reduce the total impervious coverage, will detract from the function of the driveway; the overcapacity provided by the stormwater management system provides a significant benefit compared to the existing dwelling, which does not provide any stormwater management; the elimination of the pre-existing non-conformities with respect to the front yard and rear yard is another substantial benefit offered by the proposed development; the granting of the requested impervious coverage variance will not impact the zone plan and will not cause any substantial detriment; and

WHEREAS, at the public hearing Board also took testimony from its own professionals;
and

WHEREAS, the Board also heard testimony from Dean Stamos, Esq., on behalf of his clients, Ms. Marian Hayden and Ms. Dorothy Hayden, who reside at 6 Prescott Street. Mr. Stamos and his client stipulated that the proposed development should face S. Prescott Street. Mr. Stamos and his clients, however, objected to the proposed development and voiced concerns regarding the impacts of the proposed rear balcony on their privacy. The Board also heard testimony directly from Ms. Marian Hayden and Ms. Dorothy Hayden regarding their concerns that the proposed development will impact their privacy; and

WHEREAS, the Board also heard testimony from a member of the public on Laurel Lane, who stated that the proposed development was a substantial improvement to the existing dwelling, but who believed that the proposed development comply with all zoning requirements;
and

WHEREAS, the Board, having heard and considered the testimony, arguments and documents referenced above, makes the following findings of fact:

1. The Property is located at 17 Laurel Lane and is a slightly undersized, corner lot comprised of approximately 9,914 square feet (whereas 10,000 square feet is required).
2. The Property is located in the R-D District.
3. The existing dwelling on the Property has pre-existing non-conformities with respect to minimum lot area, minimum front yard setback and minimum rear yard setback.

4. The Applicant is appealing the Zoning Officer's denial of their Zoning Permit to construct a new single-family dwelling on the Property and requesting variance approval pursuant to N.J.S.A. 40:55d-70(a) and N.J.S.A. 40:55d-70(c).
5. The public was invited to speak after testimony was given and Dean Stamos, Esq., his clients and a member of the public wished to be heard and asked questions.

CONCLUSIONS AND DETERMINATIONS

NOW, THEREFORE, based on the forgoing findings of fact, Board makes the following conclusion of law with respect to the within Appeal of the Zoning Officer's Denial of the Applicant's Zoning Permit and Variance Application:

1. The Above "**WHEREAS**" clauses are incorporated herein as if set forth at length;
2. The Board finds that the rear yard of the Property is opposite S. Prescott Street and, therefore, finds that the in-ground pool, covered patio, AC units and pads, and generator and pad are not located in the side yard.
3. The Board finds that the Applicant only requires variance relief with respect to the maximum improved lot coverage (30% is permitted; 31.4% is proposed).
4. The Board finds that the Property suffers from challenges due to its nature as a corner lot and significant slope from S. Prescott Street to Laurel Lane.
5. The Board finds that orientation of the proposed dwelling facing S. Prescott Street is harmonious with the surrounding properties and 6 S. Prescott Street and a better alternative than facing Laurel Lane.
6. The Board finds that the benefits of the proposed development with respect to the improve aesthetics and overcapacity of the stormwater management system far outweigh any detriments caused by the requested variance.

7. The Board finds that the requested variance for 142 square feet over the permitted improved lot coverage is de minimis and will not be perceptible.
8. The Board finds that adequate light, air and opens space exists as do sufficient sight lines for drivers.
9. The Board finds that the variance for maximum improved lot coverage can be granted without detriment to the public good or any neighboring properties and will have a minimal impact, if any, on the neighbors.
10. The Board further finds that this approval will not substantially impair the intent and purpose of the Borough Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2 inasmuch as it provides adequate light and air and open space and promotes the aesthetics of the neighborhood. Additionally, it has no impact on the appropriate population density and promotes the general welfare by encouraging outdoor activity in a private and secure area of the Property.
11. The Board finds that the Applicant has proven entitlement to approval for the maximum improved lot coverage variance under N.J.S.A. 40:55D-70(c)(1) and (2). There is no substantial impairment to the Borough Zone Plan or Zoning Ordinance. The benefits of deviation from the zoning ordinance substantially outweighs any detriment.

NOW, THEREFORE, BE IT RESOLVED that the Board of the Borough of Demarest, based on the above findings of fact and conclusions of law, that the within Application for Variance Approval is hereby granted, subject to the following conditions set forth below:

1. The Applicant shall install a fence around the proposed pool that will comply with all requirements in the Borough Code. The pool compliance fence shall be added to the Site Plan.
2. The Applicant shall comply with all requirements in the Brough's Tree Ordinance with respect to the removal and replacement of trees on the Property.
3. The Applicant shall give consideration with the placement of any trees to the neighbor to the North at 6 S. Prescott Street.
4. The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.
5. The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.
6. The Applicant shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for them affecting public safety or general welfare if any such condition develops.
7. The Applicant shall be and remain liable for any and all damages or money loss occasioned by the Borough of Demarest or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or their Agents arising from the making of improvements and shall save, indemnify, hold harmless the Borough of Demarest or the Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising from such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt,

dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting from the construction or installation authorized by the approval of this Application or any building permit issued in pursuit thereof.

8. The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of a Building Permit issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Planning Board of the Borough of Demarest upon a roll call vote at its regular meeting held on May 7, 2025.

A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of Adoption: June 4, 2025

**JOINT PLANNING BOARD OF THE
BOROUGH OF DEMAREST**

RESOLUTION JPB-008-25

**APPEAL OF ZONING OFFICER'S DENIAL OF APPLICANT'S ZONING PERMIT
N.J.S.A. 40:55d-70(a)**

In the Matter of the Appeal of
Tomar Edry

WHEREAS, Tomar Edry (the "Applicant") is a member of ZManny LLC, which is the owner of the property located at 17 Duck Pond Road and designated as Lot 3.01 in Block 120.01 on the Tax Maps of the Borough of Demarest (the "Property"); and

WHEREAS, the Applicant's request for a Zoning Permit to construct an in-ground pool, patio, and sports court at the Property was denied by the Zoning Officer of the Borough of Demarest on April 16, 2025 (the "Zoning Permit Denial"), stating:

Accessory structure side yard encroachments.
Inground swimming pool
Patio
Sports court
Whereas accessory structures are not permitted to encroach
into the side yard in any residence district; and

WHEREAS, on April 16, 2025, the Applicant, through counsel, Matthew Capizzi, Esq., filed a Notice of Appeal with the Planning Board (the "Board") pursuant to N.J.S.A. 40:55D-70(a) (the "Notice of Appeal") to appeal the denial of the Zoning Permit; and

WHEREAS, the Board is empowered pursuant to N.J.S.A. 40:55D-70(a) to "[h]ear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;" and

WHEREAS, such appeal determinations must be based upon the facts presented, credibility findings which the Board is entrusted to make and legal determinations which the Board is statutorily obligated to make; and

WHEREAS, the Board conducted a public hearing on May 7, 2025 in accordance with the Municipal Land Use Law (“MLUL”) and the Open Public Meetings Act, at which time the Applicant, represented by counsel, Matthew Capizzi, Esq. of Capizzi Law Offices, requested the Board determine the following:

(a) does the Property front on two (2) roads (Duck Pond Road and Academy Lane) or does the Property only front on Duck Pond Road (meaning that Academy Lane faces the rear yard of the Property)?; and

(b) are the proposed in-ground pool, patio and sports court located entirely in the rear yard, which does not require a variance, or do they encroach into the side yard of the Property, requiring a variance?; and

WHEREAS, Mr. Capizzi submitted the following Exhibits in support of the Applicant’s appeal:

1. A-1 Aerial dated May 7, 2025;
2. A-2 Colorized Site Plan, last revised April 15, 2025 (a copy of which is attached hereto); and
3. A-3 Site plan dated April 24, 2024, last revised April 15, 2025; and

WHEREAS, at the public hearing, the Applicant provided testimony by Michael Hubschman of Hubschman Engineering, P.A., a licensed professional engineer, whose credentials were accepted by the Board and whose testimony can be summarized as follows: the Property fronts on Duck Pond Road; there is a maintenance easement between the Property and the street line of Academy Lane; there is no access from the Property to Academy Lane; further,

the easement and other agreements with Academy Lane prohibit any access from the Property to Academy Lane; there is at least a 5 foot grade change from the southerly lot line of the Property to Academy Lane; the location where the house being constructed could be located was limited by New Jersey Department of Environmental Protection permits; the Borough Ordinance does not define how yards are to be measured; calculating the side yard and rear yard based on the definitions found in the Moskowitz Book (defined below) result in the proposed in-ground pool, patio and sports court being located entirely in the rear yard, which does not require a variance; and

WHEREAS, at the public hearing, the Board also considered the following:

1. Zoning Permit Denial dated April 16, 2025;
2. Notice of Appeal dated April 16, 2025;
3. Planning Report from Darlene Green, PP, AICP of Colliers Engineering & Design, dated May 2, 2025; and

4. Testimony from Austin Bejin, PP of Colliers Engineering & Design (the “Board Planner”), which can be summarized as follows: the Property only fronts on Duck Pond Road; there is not access to Academy Lane from the Property; since there is no access to Academy Lane from the Property, Academy Lane is a rear lot line for the Property; the Borough Ordinance defines front yard, side yard and rear yard, but is silent regarding how yards are to be measured, whether parallel or perpendicular from a building to a lot line; based on his measurements, the proposed in-ground pool, patio and sports court are located entirely in the rear yard of the Property and do not encroach into the side yard of the Property; and

Whereas, the Board, during the course of the hearing, considered the following definition of Front Yard from Section 175-27B. of the Borough Code:

A yard extending the full width of the lot and situated between the street line and the front line of the building

projected to the side lines of the lot. The depth of the "front yard" shall be between the front line of the building and the street line; and

Whereas, the Board, during the course of the hearing, considered the following definition of Side Yard from Section 175-27B. of the Borough Code:

A yard situated between the building and the side line of the lot and extending from the front yard to the rear yard; and

Whereas, the Board, during the course of the hearing, also considered the definition of Rear Yard in Section 175-27B. of the Borough Code, which is:

A yard extending the full width of the lot and situated between the rear line of the building and the rear line of the lot; and

Whereas, the definitions of Front Yard, Rear Yard and Side Yard in the Borough Code are silent regarding how yards are to be measured, whether parallel or perpendicular from a building to a lot line, and is open to interpretation; and

Whereas, the Board, during the course of the hearing, considered the following definition of Front Yard from "The Complete Illustrated Book of Development Definitions" by Harvey S. Moskowitz, Carl G. Lindbloom, David Listokin, Richard Preiss, Dwight Merriam (4th Edition 2015) (the "Moskowitz Book"):

A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line; and

Whereas, the Board, during the course of the hearing, considered the following definition of Side Yard from the Moskowitz Book:

A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building; and

Whereas, the Board, during the course of the hearing, considered the following definition of Rear Yard from the Moskowitz Book:

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line; and

Whereas, the Board, having heard and considered the testimony, arguments and documents referenced above, makes the following findings of fact:

1. The Property is located at 17 Duck Pond Road and is being developed with a new single-family dwelling, which is currently under construction;
2. The Property is located in the Residential R-A District;
3. The Property fronts on Duck Pond Road;
4. There is a maintenance easement located between the Property and the street lone for Academy Lane;
5. There is no access from the Property to Academy Lane;
6. The Applicant is appealing the Zoning Officer's denial of their Zoning Permit to construct an in-ground pool, patio and sports court on the Property;
7. The Board has elected to exercise its jurisdiction under N.J.S.A. 40:55D-70(a);
and
8. The public was invited to speak after testimony was given and no members of the public wished to be heard or ask questions.

CONCLUSIONS AND DETERMINATIONS

NOW, THEREFORE, based on the forgoing findings of fact, Board makes the following conclusion of law with respect to the within Appeal of the Zoning Officer's Denial of the Applicant's Zoning Permit:

9. The Above "WHEREAS" clauses are incorporated herein as if set forth at length;

10. The Board agrees with the testimony from the Applicant and the Board Planner that the Property fronts on Duck Pond Road and that, since the Property has no access to Academy Lane, the portion of the Property facing Academy Lane is the rear yard of the Property.
11. The Board finds that the definitions for Front Yard, Rear Yard and Side Yard in the Borough Code are silent regarding how yards are to be measured, whether parallel or perpendicular from a building to a lot line.
12. The Board finds that that Moskowitz Book is a credible source for land use definitions.
13. The Board agrees with the Applicant and the Board Planner that, since the Borough Code is silent, the Moskowitz Book definition for Front Yard, Side Yard and Rear Yard should be used to determine that the respective yards should be measured perpendicular from the building to the lot line.
14. The Board agrees with the depiction of the rear yard and side yard shown on the Applicant's Exhibit A-2 and finds that the Applicant's proposed in-ground pool, patio and sports court are located entirely in the rear yard of the Property and do not encroach into the side yard of the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of the Borough of Demarest, based on the above findings of fact and conclusions of law, that the within Appeal be granted, reversing the Zoning Officer's Denial of the Applicant's Zoning Permit for the proposed in-ground pool, patio and sports court.

AND IT IS FURTHER RESOLVED that the above Appeal is granted subject to the following condition:

1. Applicant's Engineer shall provide the Borough Engineer and the Borough Zoning Officer with a metes and bounds legal description of the rear yard as depicted in Applicant's Exhibit A-2.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Planning Board of the Borough of Demarest upon a roll call vote at its regular meeting held on May 7, 2025.

A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

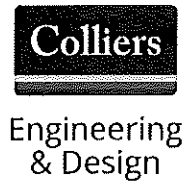
BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mandani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of Adoption: June 4, 2025

Public Hearing Exhibit A-2

Colorized Site Plan

400 Valley Road Suite 304
Mt. Arlington, NJ 07856
Main: 877 627 3772



May 21, 2025

Michael Greco, Board Secretary
Joint Planning Board
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

44 Pine Terrace
Block 84, Lot 3.07
Borough of Demarest, Bergen County, NJ
Joint Planning Board Subdivision Application - Engineering Review
Colliers Engineering & Design Project No. DEZ0049

Dear Mr. Greco,

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a subdivision Application with variances related to lot area and lot frontage. The Applicant is proposing to subdivide the existing Lot 3.07 into two Lots 3.08 & 3.09 and construct two, two-story dwellings, and other related improvements at the subject properties.

- a) Site plans consisting of four (4) sheets, prepared and signed by Robert L. Costa, PE, of Costa Engineering Corporation, dated December 3, 2024, last revised May 14, 2025;
- b) Architectural Plans consisting of three (3) sheets, prepared and signed by Pierre F. Gabuchi, AIA, dated February 24, 2025;
- c) Topographic survey of the property consisting of one (1) sheet, prepared by David Jamiolkowski, PLS, of Costa Engineering Corporation, dated December 3, 2024;
- d) Variance Application for the subject property and attachment signed and undated.

The Property Owner/Applicant is:

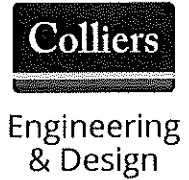
BF Development LLC
c/o Matthew Capizzi
205 Fairview Avenue
Westwood, NJ 07675

The Applicant/Owner shall notify the Borough of Demarest Zoning Board of Adjustment of any changes to the above information.

Engineering Review

I. Project Description & Location

According to the site plans, the site is currently occupied by a single-family dwelling with associated driveway, walkways, patio, and other related improvements. The site fronts Pine Terrace and is located in the R-BB zoning district.



The Applicant is proposing to subdivide the existing Lot 3.07 consisting of 49,815 SF into two separate lots. The proposed Lot 3.08 will consist of 25,047 SF and the proposed Lot 3.09 will consist of 24,766 SF. The minimum lot area in this zone is 30,000 SF.

On the proposed Lot 3.08, the existing dwelling is to remain. The Applicant is proposing to remove the existing wood deck and gravel driveway to construct a new paver walkway, macadam driveway, drainage improvements and other related improvements. A portion of the existing dwelling is to be removed on the eastern side in an effort to comply with side yard setback requirements.

On proposed Lot 3.09, the Applicant is proposing to construct a new 2 story dwelling, pool, patio, paver walkway, macadam driveway, drainage improvements and other related improvements.

The property is rectangular shaped parcel consisting of 49,815 SF. The property is located on the west side of Piermont Road. The property is located in the residential BB Zone according to the Borough Zoning Map.

The property is located in Zone X (area determined to be outside the 0.2% annual chance floodplain) as shown on the Flood Insurance Rate Map (FIRM) for the Borough of Demarest dated August 2019.

II. Zoning Requirements & List of Variances / Waivers Requested

A. Bulk Zoning Requirements:

Zone: BB

Use: Single Family Residential

Description	Required	Existing Lot 3.07	Proposed Lot 3.08	Proposed Lot 3.09	Complies
Lot area*	30,000 sf.	49,815 sf.	25,047 sf.	24,766 sf.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot Frontage*	150 ft.	289.79 ft.	144.90 ft.	144.89 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot depth	150 ft.	172.86 ft.	172.86 ft.	172.86 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Front yard setback	50 ft.	50.23ft.	50.23 ft.	51.09 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Side yard setback	25 ft.	31.11 ft.	25.0 ft.	27.41 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Rear yard setback	50 ft.	63.68 ft.	63.68 ft.	67.27 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Livable Floor Area	22.50%	10.82%	21.53%	22.5%	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Building Height	30 ft.	<30 Ft	<30 ft.	To conform	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Max Building Coverage	15 %	11.63%	14.52%	14.46 %	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Improved Lot Coverage**	30 %	40.22%	26.23 %	29.80 %	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Residential Parking Coverage	25 %	14.44%	20.97%	21.04 %	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Accessory Structures	Required	Existing Lot 3.07	Proposed Lot 3.08	Proposed	Complies
Max Height	12 ft.	<12 ft.	<12 ft.	<12 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Front yard setback	35 ft.	>35ft.	>35ft.	>35ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Side yard setback	25 ft.	25.99 ft.	38.83 ft.	53.42 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Rear yard setback**	10 ft.	1.58 ft.	15.97 ft.	31.54 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

N/A = not applicable
 * = variance required
 ** = pre-existing non-conformance

B. The Following Variances Appear to be Required:

1. Minimum Lot Area – The Applicant is proposing lot areas of 25,047 SF and 24,768 SF for proposed Lots 3.08 and 3.09 respectively where a minimum of 30,000 SF is required.
 A variance is required for this condition.
2. Minimum Lot frontage – The Applicant is proposing lot frontage of 144.90 and 144.89 respectively for proposed Lots 3.08 and 3.09, where a minimum of 150 Ft is required.
 A variance is required for this condition.
3. Lot coverage – There is a pre-existing non-conformance for building coverage of 40.22% where a maximum of 30% is permitted. The Applicant is proposing a lot coverage of 26.23% and 29.80% for proposed new Lots 3.08 and 3.09 respectively.
 The Applicant is proposing to eliminate this existing non-conformance.
4. Rear yard Accessory Structure Location – There is a pre-existing non-conformance in the rear yard of 1.59 ft for accessory structures where the minimum is 10ft due to the rear pergola. The Applicant is proposing to remove the pergola thus eliminating this non-conformance.

III. Engineering Review

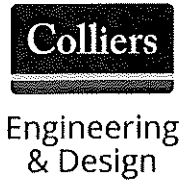
- A. The Applicant is proposing an improved lot coverage of 6,571 SF (26.23%) for the proposed Lot 3.08 and an improved lot coverage of 7,382 SF (29.80%) for proposed Lot 3.09. The existing lot coverage on the property is 20,036 SF. The net decrease in coverage proposed is 6,083 SF.



- B. The Applicant is proposing six (6) precast concrete drywells. Three (3) in the rear yard of proposed Lot 3.08 and three (3) in the rear yard of proposed Lot 3.09 to collect and store stormwater runoff from what appears to be the roof area of the proposed dwellings. We offer the following comments related to drainage design:
1. The Applicant has provided design calculations which indicate approximately 3,870 SF and 3,581 SF of roof area to be collected and conveyed to the proposed drywells for Lots 3.08 and 3.09 respectively. The Applicant has provided adequate storage for this drainage area. We take no exception to the calculations provided.
 2. The Applicant should provide rim and invert elevations for the proposed seepage pits.
 3. The driveway to proposed Lot 3.09 slopes downward from the roadway to the garage. No drainage improvements are proposed within the driveway area. CED suggests stormwater collection be considered for this area to prevent pooling at the end of the driveway.
 4. On Lot 3.09, we note there is no stormwater mitigation provided for the pool and patio area located in the rear yard. Due to the net decrease in impervious coverage on-site, we take no exception.
 5. The Applicant should provide testimony clarifying where the seepage pits are designed to overflow.
 6. The Applicant shall be made aware that soil testing is required at the location of the proposed seepage pits. Soil testing should include the elevation of the Seasonal High-Water Table (SHWT) and the percolation rate of the soil. It shall be confirmed that the bottom of the seepage pit is at least two (2) feet above the SHWT. It is suggested that soil testing be performed before installation of the seepage pits.
 7. The Applicant has provided an at-grade manhole cover for future maintenance in the seepage pit detail. We take no exception.
 8. The Engineer shall be notified to inspect the seepage pit system prior to backfilling.
- C. The Applicant has not indicated any tree removal on the site plan. The provided survey indicates several trees on site within the limit of disturbance and construction area of proposed Lot 3.09.
1. The Applicant should confirm in testimony if there are any trees or other improvements that may be impacted by the proposed construction. We defer to the Shade Tree Commission for final comment and approval for any proposed removal and replacement of trees.
 2. A revised site plan should be provided with a tree removal and replacement schedule included.
- D. The Applicant shall provide testimony regarding the re-use of existing and/or installation of proposed utilities on site.
- E. The dimensions of the proposed driveway including apron and length of proposed drop curb should be noted on the site plan. The Applicant should be prepared to provide testimony to clarify the dimensions of the driveways.

- F. The site plans note the proposed building height for proposed Lot 3.09 as "To conform" Testimony should be provided regarding the proposed building height for proposed Lot 3.09.
- G. The Applicant has depicted existing and proposed contours on the property. We offer the following comments related to grading:
 - 1. Under existing conditions, the site drains from generally from west to east / northeast. The highest point of the property is in the southwestern side where elevations are approximately 76 and the lowest point of the property is in the northeastern corner, where elevations are approximately 67.
 - 2. Under proposed conditions, the high and low points are generally maintained, and drainage patterns should not be substantially impacted. Grading changes do not appear to exceed more than one (1) foot in most locations.
- H. The architectural plans provide renderings, elevations and floor plans for the proposed dwelling on Lot 3.09. The plans do not provide any information detailing modifications to the existing dwelling on proposed Lot 3.08. We note the plans show removal of a portion of the dwelling on the eastern side to comply with side yard setback requirements. The Applicant should be prepared to provide testimony on the nature and extent of renovations to the dwelling on Lot 3.08.
- I. The Applicant should update the site plans to provide detailed soil moving calculations including cut and fill calculations. Based on the proposed improvements a soil movement permit will be required. The Applicant should be aware that any soil movement quantity in excess of 250 CY will require Mayor and Council approval pursuant to Chapter 147 of Borough Ordinance.
- J. Should the Board act favorably upon this application, the Applicant is hereby made aware that drainage issues may arise during or after the proposed construction. It will be the Applicant's responsibility to remedy any drainage issues caused by the proposed improvements. In addition, water runoff directed to neighboring properties is prohibited. If runoff water does enter neighboring properties as a result of the proposed improvements, the Applicant will be responsible to remedy the situation at no cost to the Borough.

Project No. DEZ0049
May 21, 2025
Page 6 | 6



Should you have any questions, you may contact me at (201) 775-1283.

Sincerely,

Colliers Engineering & Design

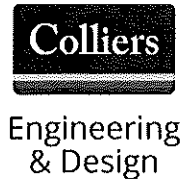
A handwritten signature in black ink, appearing to read "N. Chelius".

Nick Chelius, P.E., C.M.E.
Joint Planning Board Engineer

cc: Board Members (via Board Secretary)
Matt Capizzi, Esq, Applicant's engineer (matthew@capizzilaw.com)
Robert L. Costa, Costa Engineering Corporation, Applicant's Engineer (jeysonf@costaeng.com)

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Shelbourne at Hunterdon
53 Frontage Road, Suite 110
Hampton, New Jersey 08827
Main: 877 627 3772



May 26, 2025

PLANNING REPORT

Joint Planning Board
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

RE: BF Development, LLC

44 Pine Terrace
Block 84, Lot 3.07
Review Letter #1
Project No. DEP-0227

Dear Board Members,

BF Development, LLC, the Applicant, seeks minor subdivision approval to subdivide the subject property into two lots. Proposed Lot 3.08 totals 0.575 acres, while Proposed Lot 3.09 totals 0.5686 acres. The Applicant also proposes to modify the existing attached garage and construct a new driveway and paver walkway on Proposed Lot 3.08. Additionally, the Applicant proposes a new dwelling and associated improvements including a driveway, paver walkway, rear patio, and pool on Proposed Lot 3.09. Other site improvements include grading and stormwater management facilities. The Applicant proposes to remove various existing improvements on Lot 3.07 including the existing driveways and walkway, various wood decks, pergola, tennis court, gravel areas, and walls. The Application requires "C" variances and a waiver, which are detailed in Sections B and D.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plans entitled "Minor Subdivision; 44 Pine Terrace", prepared by Robert L. Costa, PE, PP of Costa Engineering Corporation, dated December 3, 2024, revised through April 10, 2025, consisting of 4 sheets. It should be noted that David Jamiolkowski, PLS has signed sheets 2 and 3.
2. Plan entitled "Garage Repair", prepared by Piero F. Gabucci, AIA of Axis Architectural Group, dated February 24, 2025, consisting of 1 sheet.
3. Plans entitled "New Residence", prepared by Piero F. Gabucci, AIA of Axis Architectural Group, dated March 25, 2025, consisting of 2 sheets.
4. Survey entitled "Boundary and Topographic Survey", prepared by Robert L. Costa, PE, PP and David Jamiolkowski, PLS of Costa Engineering Corporation, dated December 3, 2024, consisting of 1 sheet. It should be noted that this Survey is noted as "Preliminary".
5. Subdivision Application, no date.

6. Document entitled "Rider to the Demarest JPB Subdivision Application; Subdivision Information", unknown author, no date, consisting of 1 page.
7. Letter entitled "Initial Submittal for Completeness Review", prepared by Karissa Vittotio, Paralegal of Capizzi Law Offices, dated April 11, 2025, consisting of 2 pages.

A. Existing Zoning and Surrounding Land Use

The subject property is in the Residential R-BB District along the north side of Pine Terrace. The property is adjacent to vacant land to the north and single-family dwellings to the east, south, and west. See the image below for the approximate location of the subject property shown in red and the estimated location of the proposed lot line in yellow.¹



Yard and bulk requirements in the R-BB District are:

- Minimum Lot Frontage – 150 feet
- Minimum Lot Depth – 150 feet
- Minimum Lot Area – 30,000 square feet
- Minimum Front Yard Setback – 50 feet²
- Minimum Side Yard Setback (abutting a street) – 50 feet
- Minimum Side Yard Setback (abutting a lot) – 25 feet
- Minimum Rear Yard Setback – 50 feet³
- Maximum Number of Families per Building – 1
- Maximum Building Coverage – 15%

Maximum Building Height – 30 feet⁴
Maximum Livable Floor Area – 22.5%⁵
Maximum Improved Lot Coverage – 30%⁶
Maximum Residential and Parking Coverage – 25%

B. Variances

Based on the information provided, the Application requires the following variances:

1. Section 175-8 – Variance for lot size. The Ordinance does not permit any lot to be reduced so that it does not meet the area requirements. The subject property is in the R-BB District, which requires lots to be at least 30,000 square feet.

The Applicant proposes to subdivide Lot 3.07 containing 49,814.8 square feet (1.14 acres) into two lots, Proposed Lot 3.08 totaling 25,047.414 square feet (0.575 acres) and Proposed Lot 3.09 totaling 24,768.2328 square feet (0.5686 acres). Both proposed lots are less than the minimum lot size requirement of the R-BB District. **The Subdivision Plans do not list this variance.**

2. Section 175-16 – Variance for lot area. The Ordinance requires a minimum lot size of 30,000 square feet (0.6887 acres) in the R-BB District.

Proposed Lot 3.08 is only 25,047.414 square feet (0.575 acres) and Proposed Lot 3.09 is only 24,768.2328 square feet (0.5686 acres).

3. Section 175-16 – Variance for lot width. The Ordinance requires a minimum lot frontage of 150 feet.

Proposed Lot 3.08 only has 144.90 feet of frontage along Pine Terrace and Proposed Lot 3.09 only has 144.89 feet of frontage along Pine Terrace.

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-16 – The Ordinance limits improved lot coverage to 30% of the lot area. The existing improvements on Lot 3.07 total 20,036 square feet or 40.22% of the existing lot area. It should be noted that the proposed subdivision includes the removal of existing improvements such as driveways, walkways, decks, tennis court, etc. which will reduce the improved lot coverage on Proposed Lot 3.08 and **eliminate** this pre-existing non-conforming condition.
2. Section 175-19A.(3)(b) – The Ordinance does not permit accessory uses, buildings, and structures to encroach into the side yard. The existing tennis court is partially located within the eastern side yard. It should be noted that the Applicant proposes to remove the tennis court, which would **eliminate** this pre-existing non-conforming condition.
3. Section 175-19A.(4)(c) – The Ordinance permits encroachments into the rear yard provided no encroachment is within ten feet of any rear lot line. The existing pergola is 4.67 feet from

the rear lot line, the existing tennis court is approximately 4.25 feet from the rear lot line, the existing wood deck near the pool is 1.58 feet from the rear lot line, and the existing pool equipment extends beyond the rear lot line by approximately 1.33 feet. It should be noted that the Applicant proposes to eliminate the pergola, tennis court, and wood deck and proposes to relocate the pool equipment 10 feet from the rear lot line, which would **eliminate** these pre-existing non-conforming conditions.

4. Section 175-19B.(2) – The Ordinance requires all accessory buildings, uses, and structures or improvements to comply with the side yard setback requirement. The R-BB District requires a 25-foot side yard setback. The existing tennis court is approximately 14 feet from the eastern side lot line. It should be noted that the Applicant proposes to remove the tennis court, which would **eliminate** this pre-existing non-conforming condition.
5. Section 175-19B.(3) – The Ordinance requires all accessory buildings, uses, and structures or improvements to be setback at least ten feet from the rear property line. As noted above, the existing pergola, tennis court, wood deck and pool equipment are within ten feet of the rear lot line. It should be noted that the Applicant proposes to remove the existing pergola, tennis court, and wood deck and relocate the pool equipment, which would **eliminate** these pre-existing non-conforming conditions.

C. Variance Proofs

"C" Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible "C" variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Waivers

The Application requires the following waivers:

1. Section 153-18D.(1) – Waiver for lot size. The Ordinance does not permit lot dimensions and area to be less than required by Chapter 175. In this case, the R-BB District requires a minimum lot size of 30,000 square feet and lot frontage of 150 feet.

As detailed in Section B, Proposed Lots 3.08 and 3.09 do not comply with the minimum lot area and lot frontage of the R-BB District. **The Applicant has not requested this waiver.**

E. Comments

Based on our review of the above-referenced materials, we offer the following comments.

General

1. The Applicant's professionals must provide testimony to support the grant of the "C" variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. Based on our review of the submitted Plans and documents, we have identified one variance and design waiver that has not been requested or identified by the Applicant. The Subdivision Plans shall be revised to list all required relief or amended to comply with the Ordinance. This can be a **condition** of any potential Board approval.
3. The Boundary and Topographic Survey that was submitted is not signed or sealed and it is marked "preliminary". It is unclear what purpose this document serves when it is not a final, signed survey. Testimony shall be provided.

Minor Subdivision

4. The Survey on Sheet 3 of the Subdivision Plans indicates existing Lot 3.07 is 49,814.8 square feet. However, Sheet 2 of the Subdivision Plan indicates Proposed Lot 3.08 is 25,047.414 square feet and Proposed Lot 3.09 is 24,768.2328 square feet, which totals 49,815.6468 square feet. This does not match the area noted on the Survey. This discrepancy shall be eliminated. Testimony shall be provided regarding the correct figure.
5. The Zoning Schedule on Sheet 2 of the Subdivision Plan indicates the required front yard setback of the R-BB District is 35 feet. However, the Limiting Schedule (Section 175-16) requires a 50-foot front yard setback in the R-BB District. There is a footnote in the Limiting Schedule that an alternative front yard setback is required, which conforms to the established average setback on the street on which the lot fronts. The Ordinance requires an analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets. No analysis or map of adjacent homes has been included on the plan. Additional information shall be submitted to verify 35 feet is the correct front yard setback.
6. The Zoning Schedule indicates the existing building coverage of Lot 3.07 is 11.63%, which is a pre-existing non-conforming condition. However, a building coverage of 11.63% is less than the maximum building coverage of 15% permitted in the R-BB District. Therefore, this coverage actually complies with the Ordinance. The Zoning Schedule shall be revised accordingly. This can be a **condition** of any potential Board approval.
7. The Zoning Schedule indicates the proposed livable floor area is 21.53% of Proposed Lot 3.08 and 22.5% of Proposed Lot 3.09. However, a calculation of the livable floor area for the existing dwelling and for the proposed dwelling have not been provided. Therefore, this office is not able to verify these numbers. It should be noted that the livable floor area on Proposed Lot 3.09 is the maximum permitted in the R-BB District. The Applicant shall submit a detailed calculation of the livable floor area to confirm compliance with the Ordinance.

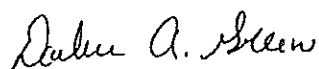
8. The Zoning Schedule indicates the building height of the dwelling on Proposed Lot 3.09 is "to conform". Sheet A-1 of the New Residence Architectural Plans indicates the height of the proposed dwelling is 30 feet from the average grade (elevation 71 feet) to the high point of the roof. Based on this information, the height of the proposed dwelling on Proposed Lot 3.09 complies with the R-BB District building height limitation of 30 feet.
9. Section 175-24N requires swimming pools to be enclosed by a fence at least 48 inches tall with a self-latching, self-closing gate at the same height of the fence. The Applicant proposes fences to enclose the side and rear yards of Proposed Lots 3.08, which contains an existing pool, and 3.09, which is proposed to have a pool. According to the Solid PVC Fence detail on Sheet 4 of the Subdivision Plan, the proposed fence is five feet, ten inches tall plus a two-inch gap below the bottom rail for an overall height of six feet. However, it is unclear if the proposed fence will have the required self-latching and self-closing gates. Testimony shall be provided to clarify and determine compliance.
10. The Borough recently amended Chapter 163 in its entirety via Ordinance No. 1121-23 on June 26, 2023. Section 163-19C provides the tree mitigation requirements for removed trees. Based on the information provided, it is unclear if the proposed driveway on Proposed Lot 3.08 and proposed dwelling and associated site improvements on Proposed Lot 3.09 will require the removal of any existing trees. The Applicant shall submit additional information to clarify the number and size of existing trees to be removed. Additionally, the removed trees shall be identified on the Subdivision Plans. Until this information is provided, it is unclear how many trees are being removed and how many replacement trees are required.

The Applicant shall note that the removal of trees that are dead, dying, or pose a safety hazard do not require replacement trees.
11. Bedroom 2 on the Second Floor Plan on Sheet A-2 of the new Residence Architectural Plans does not illustrate a door opening into the room. This drafting error shall be eliminated.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP
Borough Planner

cc: Tim Woods, Board Chair (via email timwoods12@gmail.com)
Danielle Federico, Board Attorney (via email dfederico@csglaw.com)

Nick Chelius, Board Engineer (via email nick.chelius@collierseng.com)
BF Development, LLC, Applicant (via email austin@blackfalcon.com)
Matthew Capizzi, Applicant's Attorney (via email matthew@capizzilaw.com)
Robert Costa, Applicant's Engineer (via email robertc@costaeng.com)
Piero Gabucci, Applicant's Architect (via email piero@axis-ag.com)

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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated March 19, 2025.

² On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road, and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within 300 feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three or more houses.

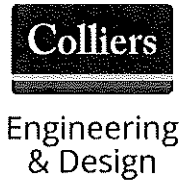
³ For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

⁴ Measured from the average natural grade around the perimeter of the proposed structure. No more than 50% of the roof area shall exceed the specified average height. Flat roofs above 30 feet in height are expressly prohibited in all zones.

⁵ Maximum livable floor area (as defined in §175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed.

⁶ The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs, or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers, or similar improvements; and any other structures or impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall not be greater than 25%.

400 Valley Road Suite 304
Mt. Arlington, NJ 07856
Main: 877 627 3772



May 2, 2025

Michael Greco, Board Secretary
Zoning Board of Adjustment
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

7 Christie Street
Block 38 Lot 653
Borough of Demarest, Bergen County, NJ
Zoning Board Application Engineering Review
Colliers Engineering & Design Project No. DEZ0050

Dear Mr. Greco,

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a Variance Application. The Applicant is proposing to a new dwelling with associated driveway, walkways, patio, deck with pergola, drainage improvements and other related improvements.

- a) Site plans consisting of nine (9) sheets, prepared and signed by Michael Dipple, PE, of L2A Land Design, LLC, dated October 1, 2024;
- b) Architectural Plans consisting of six (6) sheets, prepared and signed by Robert E. Zampolin, A.I.A, dated March 5, 2025;
- c) Topographic survey of the property consisting of one (1) sheet, prepared and signed by William Buchok, PLS, of Lakeland Surveying, dated June 10, 2024;
- d) Deed for the subject property;
- e) Zoning Officer denial letter dated March 11, 2025, prepared and signed by Michael Greco;
- f) Variance Application for the subject property and attachments.

The Property Owner/Applicant is:

7 Christie Street LLC
c/o Matthew Capizzi, Esq
205 Fairview Avenue
Westwood, NJ 07675

The Applicant/Owner shall notify the Borough of Demarest Zoning Board of Adjustment of any changes to the above information.

Engineering Review

I. Project Description & Location

According to the site plans, the site is currently occupied by a single-family dwelling with associated driveway, walkways, and other related improvements. The Applicant is proposing to construct a new dwelling with associated driveway, walkways, patio, deck with pergola, drainage improvements and other related improvements.

The property is an undersized rectangular shaped parcel consisting of 8,000 SF. The property is located north of Hardenburg Avenue with frontage on Christie Street. The property is located in the residence D Zone according to the Borough Zoning Map.

The property is located in Zone X (area determined to be outside the 0.2% annual chance floodplain) as shown on the Flood Insurance Rate Map (FIRM) for the Borough of Demarest dated August 2019.

II. Zoning Requirements & List of Variances / Waivers Requested

A. Bulk Zoning Requirements:

Zone: R-D

Use: Single Family Residential

Description	Required	Existing	Proposed	Complies
Lot area**	10,000 sf.	8,000 sf.	8,000 sf.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot Frontage**	100 ft.	80.00 ft.	80.00 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot depth	100 ft.	100.00 ft.	100.00 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Front yard setback	25 ft.	18.20 ft.	25.00 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Side yard setback	10 ft.	20.49 ft.	13.83 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Rear yard depth	30 ft.	33.50 ft.	33.50 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Maximum Permitted Height	30 ft.	N/A	29.96 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Max Building Coverage*	20 %	12.78%	23.55 %	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Max. Improved Coverage*	30 %	22.40%	36.45 %	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Max. Residential & Parking Coverage*	25 %	21.00%	30.24 %	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Livable Floor Area	30%	N/A	37.38%	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

N/A = not applicable

* = variance required

** = pre-existing non-conformance

B. The Following Variances Appear to be Required:

1. Minimum Lot Area – There is a pre-existing non-conformance for lot area of 8,000 SF where a minimum of 10,000 SF is required. The Applicant does not propose to acquire additional property to bring lot area into conformance.
2. Minimum Lot frontage – There is a pre-existing non-conformance for lot frontage of 80.00 ft where a minimum of 100 ft is required. The Applicant does not propose to acquire additional property to bring lot frontage into conformance.
3. Maximum Building Coverage - The Applicant is seeking a building coverage of 1,884 SF (23.55%) where a maximum of 20% is permitted.
4. Maximum Improved Coverage – The Applicant is seeking improved coverage of 2,916.02 SF (36.45%) where a maximum of 30% is permitted.

It should be noted that the "Coverage Summary" table on sheet C-03 of the site plans indicates a total improved coverage of 2,916.02 SF where the net change calculation below indicates proposed coverage is 2,943.42 SF (36.79%). The Applicant should provide testimony to clarify the discrepancy.

5. Maximum Residential and Parking Coverage – The Applicant is seeking residential and parking coverage of 2,419.5 SF (30.24%) where a maximum of 25% is permitted.

It should be noted that the "Coverage Summary" table on sheet C-03 of the site plans indicates residential and parking coverage of 1422.24 SF (30.24%) where the net change calculation below indicates proposed residential and parking coverage is 2,425.5 SF (30.32%). The Applicant should provide testimony to clarify the discrepancy.

6. Maximum Livable Floor Area – The Applicant is seeking a livable floor area of 2,990 SF (37.38%) where a maximum of 30% is permitted.

It should be noted that Livable Floor Area is calculated using the aggregate of the livable space in the first and second floor. Prior interpretations of the ordinance suggest that finished basements (or any other heated/cooled spaces) should be included in the calculation. The Architectural plans indicate that the basement is a total of 1,719 SF which would increase livable floor area to 4709 SF (58.86%)

III. Technical Review

- A. The Applicant is proposing to increase improved lot coverage from 1,792.45 SF (22.40%) to 2,916.02 SF (36.45%) with a net increase in coverage of 1,123.57 SF.
- B. The Applicant is proposing one (1) precast concrete drywell to collect and store stormwater runoff from what appears to be the roof area of the proposed dwelling. We offer the following comments related to the drainage design:
 1. The Applicant has provided design calculations which indicate approximately 1,890 SF of roof area being collected and conveyed to the proposed drywell. The Applicant



- has provided adequate storage for this drainage area. We take no exception to the calculations provided.
2. It is suggested that the drywells are located further from the property boundary if feasible. CED typically recommends at least fifteen (15) feet from property boundaries.
- C. The Applicant proposes to remove eleven (11) trees to construct the proposed improvements. The Applicant should confirm in testimony if there are any additional trees or other improvements that may be impacted by the proposed construction.
 - D. The site plan indicates the Applicant is proposing HVAC equipment and a Generator in the southern side yard area of the property.
 - E. The Applicant should provide a detail of the proposed pergola including dimensions and height. The pergola should comply with 175-19(B)1. It should be noted that the pergola is proposed on top of an elevated deck. The height of the deck is not provided on the plans although it appears to be approximately 10-11 feet above grade based on the architectural elevations.
 - F. The Applicant has depicted existing and proposed contours on the property. We offer the following comments related to grading:
 1. Under existing conditions, the site drains generally from south to north. The highest point of the property is along the southern side property boundary where elevations are approximately 50.5 and the lowest point of the property is in the northeastern corner adjacent to the neighboring property, where elevations are approximately 46.
 2. Under proposed conditions, the high and low points are generally maintained, and drainage patterns should not be substantially impacted. Grading changes appear to be minor in nature and do not exceed more than one (1) foot in most locations.
 3. The site plans do not appear to show any proposed grading at the rear of the property. Testimony should be provided regarding any additional grade changes on the property.
 - G. The Applicant has not indicated how much soil is to be moved to construct the proposed improvements. Should the Board act favorably upon this application, the Applicant shall provide cut and fill calculations for all proposed improvements with the submission of the soil movement application. The Applicant should be aware that any soil movement quantity in excess of 250 CY will require mayor and council approval pursuant to Chapter 147 of Borough Ordinance.
 - H. Should the Board act favorably upon this application, the Applicant is hereby made aware that drainage issues may arise during or after the proposed construction. It will be the Applicant's responsibility to remedy any drainage issues caused by the proposed improvements. In addition, water runoff directed to neighboring properties is prohibited. If runoff water does enter neighboring properties as a result of the proposed



Engineering
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improvements, the Applicant will be responsible to remedy the situation at no cost to the Borough.

Should you have any questions, you may contact me at (201) 775-1283.

Sincerely,

Colliers Engineering & Design

A handwritten signature in black ink, appearing to read "Nick Chelius".

Nick Chelius, P.E.
Zoning Board Engineer

cc: Board Members (via Zoning Board Secretary)
Michael Greco, Zoning Board Secretary (mgreco@demarestnj.gov)
Michael E. Dipple, Applicant's Engineer (mdipple@l2alancedesign.com)
Robert Zampolin, Applicant's Architect (bob@zampolin.com)
Matthew G Capizzi, Applicant's Attorney (matthew@capizzilaw.com)