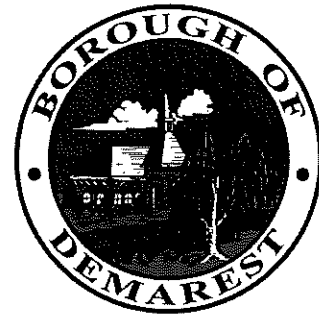


BOROUGH OF DEMAREST
JOINT PLANNING BOARD
REGULAR MEETING AGENDA
Wednesday, December 3, 2025 @ 7:30 PM
118 Serpentine Road, Demarest, NJ 0762



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 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"/> Dr. 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)

Res. JPB-016-25 – Height of Building Definition Interpretation

APPROVE DENY

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"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dr. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton <i>(Alt #1)</i>	<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"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. NEW/CONTINUING APPLICATIONS

JPB-25-007 – 32 Brookside Avenue – Patrick Min

Seeking a Variances related to an existing building built out of compliance.

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"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dr. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton <i>(Alt #1)</i>	<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"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. ZONING ORDINANCE DISCUSSION (CONT'D)

- a) Setbacks, Combined Side Yard?
- b) FAR, Garages added? Do we change the percentage?
- c) Improved Lot Coverage, Do we change the percentage?
- d) Article V – Residence Districts
- e) Article VIII – Supplementary Regulations for all Districts
- f) Memo from the Board to the Mayor & Council on the Zoning Ordinance – prepared by Danielle Federico

8. APPROVAL OF MINUTES:

October 15, 2025, Regular Meeting Minutes for Approval

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"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dr. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton <i>(Alt)</i>	<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"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. PUBLIC COMMENT PERIOD

10. ADJOURNMENT

NEXT REGULAR MEETING – WEDNESDAY, JANUARY 7, 2025

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

RESOLUTION JPB-016-25

**REQUEST FOR INTERPRETATION
N.J.S.A. 40:55d-70(b)**

Request for Interpretation
Maximum Building Height

WHEREAS, at the public hearing on October 15, 2025, Chair Woods requested the Joint Planning Board of the Borough of Demarest (the “Board”) make an Interpretation regarding building heights arising from reoccurring issues within the Borough Zoning Ordinance that has resulted in inconsistent interpretations and enforcement in the Borough of Demarest (the “Borough”) concerning building heights; and

WHEREAS, the Board is empowered pursuant to N.J.S.A. 40:55D-70(b) to “[h]ear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;” and

WHEREAS, the Chair Woods requested the Board interpret the following questions: a) did Ordinance 1025-15 change the height restrictions in all zones or just Zones A, BB and B?; b) are Zones C and D subject to 24’/30’ height restrictions?; c) how is height measured – to the “highest point of the roof” or using the “average mean height”?; and d) what are the flat roof restrictions in the Zones A, BB, B, C and D?; and

WHEREAS, such determination 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 November 5, 2025 in accordance with the Municipal Land Use Law (“MLUL”) and the Open Public Meetings Act; and

WHEREAS, at the public hearing the Zoning Officer appeared and presented testimony and evidence regarding various and inconsistent interpretations and enforcement in the Borough regarding building height and the Board took testimony and evidence into the record as set forth herein; and

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

- A. Documents submitted by the Chair Woods to the Board on October 19, 2025, including the September 2005 Limiting Schedule, August 22, 2002 Amendment to the Zoning Ordinance (the “2002 Ordinance”), Ordinance 1025-15 adopted June 22, 2015 (the “2015 Ordinance”) and August 2021 Limiting Schedule; and
- B. Testimony of the Board Planner regarding the history of building height ordinances, the intent of building height ordinances to regulate the scale and massing of development in various zones and inconsistencies in the Borough Code regarding height calculations; and

WHEREAS, the Board, during the course of the hearing, discussed the history and intent regarding the 2022 Ordinance, the 2015 Ordinance, the September 2005 Limiting Schedule and the August 2021 Limiting Schedule; and

WHEREAS, the Board, during the course of the hearing, considered the definition of Height of Building in Section 175-27B. of the Borough Code, which is:

The vertical distance measured from the average natural grade all around the building to the highest point of the roof; and

WHEREAS, the Board, during the course of the hearing, also considered the definition of Average Natural Grade in Section 175-27B. of the Borough Code, which is:

An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting the lowest elevation; and

WHEREAS, the August 2021 Limiting Schedule has led to contradictory and inconsistent applications and confusion in the Borough regarding how building height is calculated and the maximum building height in Zones A, BB, B, C and D and is open to interpretation; and

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

1. The Board has elected to exercise its jurisdiction under N.J.S.A. 40:55D-70(b);
and
2. The public was invited to speak after testimony was given and Noelle Tutunjian, Diane Rothman and Michael Petermann, all residents of the Borough of Demarest, asked questions and wished to be heard concerning inconsistencies in how the Zoning Code has been interpreted regarding building height.

CONCLUSIONS AND DETERMINATIONS

NOW, THEREFORE, BE IT RESOLVED that the Board of the Borough of Demarest makes the following conclusion of law with respect to the within Request for Interpretation:

1. The Above “**WHEREAS**” clauses are incorporated herein as if set forth at length.
2. The Board finds that the 2021 Limiting Schedule is inconsistent on its face and did not accurately reflect the amendments made by the 2015 Ordinance with respect to maximum building heights.
3. The Board finds that the intent of the 2015 Ordinance was that the use of average height, as opposed to maximum height, be applied only to Zones A, B and BB.
4. Therefore, the Board finds that the maximum average building height is 33 feet in Zone A and 30 feet in Zones B and BB and in Zones A, B and BB is measured by the Average Natural Grade all around the building to average height of the roof.

5. The Board finds that the intent of the 2015 Ordinance to increase the maximum height for flat roofs to 30 feet be applied only to Zones A, B and BB.
6. The Board finds that the 2015 Ordinance explicitly stated that Zones C and D remain unchanged.
7. Therefore, the Board finds that the maximum building height in Zones C and D is 30 feet and is measured by the Average Natural Grade all around the building to the highest point of the roof.
8. The Board further finds that the maximum building height for flat roofs in Zones C and D is 24 feet.

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 December 3, 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

VOTE REGARDING INTERPRETATION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
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"/>
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"/>
Ms. Hamilton	<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"/>
Mayor Bernstein	<input type="checkbox"/>	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of Approval: November 5, 2025

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
Mr. Adelman							✓
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							✓
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. Hamilton	<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"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of Adoption: December 3, 2025

December 1, 2025

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

32 Brookside Avenue
Block 14, Lot 759.02
Borough of Demarest, Bergen County, NJ
Joint Land Use Board Application - Engineering Review #2
Colliers Engineering & Design Project No. DEZ0046

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 previously constructed a new 2 story dwelling, driveway, rear patio, walkways, and other related improvements.

- a) Property Survey consisting of one (1) sheet, prepared and signed by Christopher J. Lantelme, PE, LS, dated December 23, 2025;
- b) Zoning officer denial letter, prepared and signed by Michael Greco, dated March 25, 2025;
- c) Variance Application for the subject property and attachments; signed and dated April 14, 2025;
- d) **Architectural plans consisting of seven (7) sheets, prepared and signed by Simon Kim, RA, dated June 25, 2006;**
- e) **Site plans consisting of two (2) sheets, prepared and signed by Michael Hubschman, PE and Robert Mueller, PLS, dated June 21, 2006, Site plan last revised November 22, 2006; SESC sheet last revised March 15, 2007;**
- f) **Original Building permit application (permit no 07-061); certificate of occupancy dated July 8, 2008; other historical documents/records;**
- g) **Zoning Board of Adjustment File no 667-06 approving a 25' front yard setback, 20' rear yard, 33.49% impervious coverage, and 75' lot depth, adopted October 17, 2006;**
- h) **Permit approval for 16" wall around garden, dated November 13, 2013;**
- i) **Final As-built survey dated November 20, 2007.**

The Property Owner/Applicant is:

Patrick Min
32 Brookside Avenue
Demarest, NJ 07627

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 property survey, the site is currently occupied by a 2-story single-family dwelling with associated paver driveway, walkways, patio, retaining wall, shed, and other related improvements. We understand that the improvements have already been constructed and are not in compliance with zoning regulations. The Applicant is retroactively seeking site plan and variance approval.

The property is an irregular shaped parcel consisting of 10,006 SF. The property is a corner lot, with frontage on Serpentine Road to the north and Brookside Avenue to the west. The dwelling front faces Brookside Avenue and driveway access is provided on Brookside Avenue. The property is located in the residential 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: D

Use: Single Family Residential

Description	Required	Existing	Complies
Lot area	10,000 sf.	10,006 sf.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Lot Frontage (Brookside)	100 ft.	130.50 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Lot Frontage (Serpentine)**	100 ft.	75 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot depth (E/W Direction)**	100 ft.	75 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lot depth (N/S Direction)	100 ft.	130.5 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Front yard setback (Serpentine Road)*	25 ft.	24.8 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Front yard setback (Brookside Ave)*	25 ft.	24.9 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Side yard setback (South)	10 ft.	31.0 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Accessory Setback (Patio)*	10 ft.	5 ft. +/-	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Rear yard setback*	30 ft.	19.9 ft.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Building Height	30 ft.	Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No

Max Building Coverage*	20 %	20.4%	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Bldg./ Drive Coverage	25 %	36.74%	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Improved Coverage*	30 %	44.6%	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Livable Floor Area	30%	Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

B. The following pre-existing nonconformities appear to be present on the property:

1. Lot Frontage (Serpentine Road) – Lot frontage of 75 feet is existing where a minimum of 100 feet is required.
2. Lot Depth (East/West Direction) – Lot depth of 75 feet is existing where a minimum of 100 feet is required.

C. The Following Variances Appear to be Required:

1. Front Yard Setback (Serpentine Road) – A front yard setback of 24.8 feet is existing where a minimum of 25 feet is required.
2. Front Yard Setback (Brookside Ave) – A front yard setback of 24.9 feet is existing where a minimum of 25 feet is required.
3. Accessory Structure Setback – The survey does not provide a dimension to the rear yard patio from the rear property line. Measurement of the survey suggests that the patio is approximately 5 feet from the property line where a minimum of 10 feet is required.
4. Rear Yard Setback – A rear yard setback of 19.9 feet is provided where a minimum of 30 feet is required.
5. Building Coverage – Building coverage of 2,037 SF (20.4%) is existing where a maximum of 20% is permitted.
6. Residential and Parking Coverage – Residential and Parking Coverage of 3,677 SF (36.7%) is existing where a maximum of 25% is permitted.
7. Improved Lot Coverage – Existing Improved lot coverage is 4,465 SF (44.6%) where a maximum is 3,002 SF (30%) is permitted.
8. Livable Floor Area – The ordinance requires a maximum of 3,002 SF (30%) livable floor area. We note that floor area calculations have not been provided. We note that the majority of the building footprint contains a second floor, and the first floor has a 1,983 SF footprint. The Applicant should be prepared to provide testimony on the total livable floor area in the dwelling.

III. Historical Overview & Chronology

- A. The Applicant appeared before the Zoning Board and was approved for a 25 foot front yard setback, 20 foot rear yard setback, 33.49% impervious coverage, and 75 foot lot depth. The resolution was adopted October 17, 2006.
- B. An engineering plan and architectural plan were provided from 2006 showing the original construction of the dwelling, a front paver walkway, the driveway, a small patio, and drainage improvements on the property.
 - The engineering plan by Hubschman Engineering shows 2,289 SF (22.88%) impervious coverage. It appears that the coverage total does not include the driveway which is approximately 1,350 SF. This increases the total coverage on the property to 3,639 SF (36.4%). We note that this coverage total is in excess of what was approved by the Board.
 - The plan shows a front yard setback of 25 feet and a rear yard setback of 20 feet.
- C. A final as-built survey was submitted at the conclusion of construction dated November 20, 2007. The as-built did not include a total or breakdown of coverages but appears to be consistent with the coverage presented on the site plans by Hubschman Engineering.
- D. On November 11, 2013, a permit was issued for the construction of a "16" wall around garden as per survey" the survey that was referenced was not provided. It is unclear what the actual height of the installed wall is.
- E. At the 9/3/25 hearing, the Board requested the following items to assist in the evaluation of this application
 - Photos of the areas in question
 - A comparison of the 2006 plan vs what exists now
 - Records of any agreements between the current owner and prior owner for the removal of part of a patio.

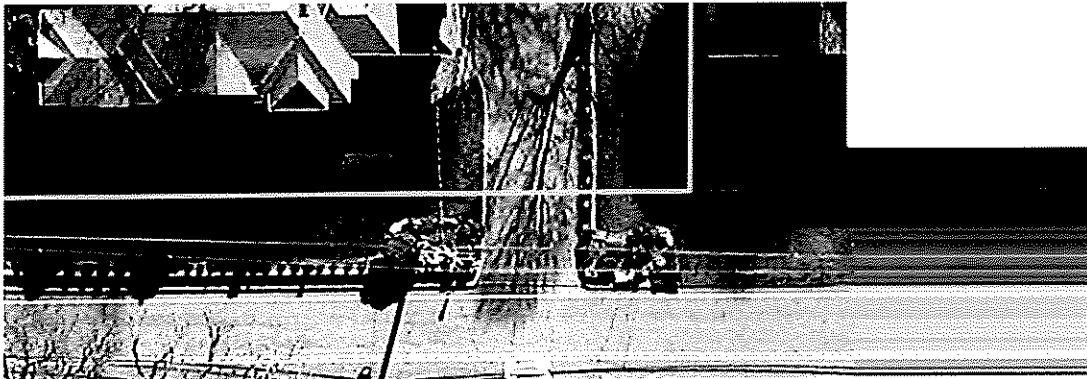
The Applicant has not submitted either photos or a comparison of the 2006 plan vs current for review.

IV. Engineering Review

- A. The survey should be updated to provide a zoning table showing all existing setbacks and coverages. **This item has not been addressed. It is unclear if the lot coverage calculations reflect existing conditions or if they include the portions to be removed. The Applicant should provide testimony.**
- B. The Applicant has submitted a survey of the previously constructed improvements. Based on the survey, it is unclear if there are any existing drainage improvements or stormwater measures on the site. The Applicant should provide testimony if there are drainage improvements on site. In addition, drainage calculations should be provided verifying the sufficiency of any stormwater measures constructed. **Historical plans show two precast concrete drywells on the property which appear to collect runoff from the roof area of the dwelling.**

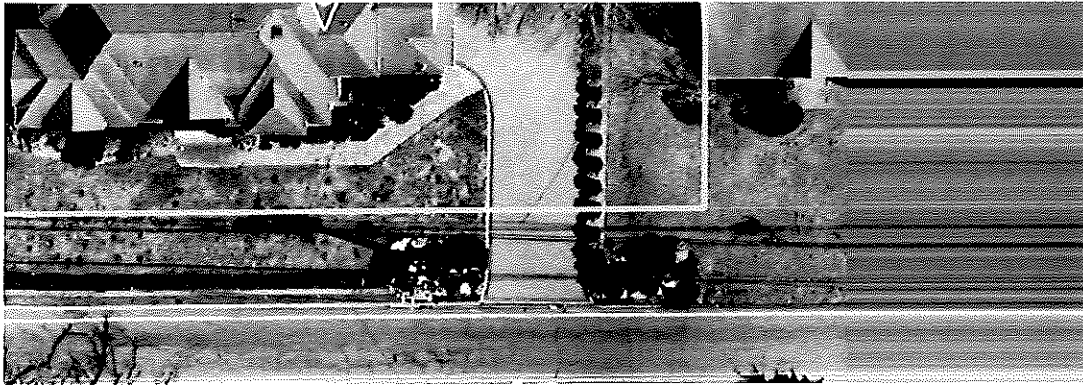
C. Retaining Walls

1. There is a retaining wall constructed within Borough ROW along the Serpentine Road and Brookside Avenue frontages. The wall is approximately 175 feet long and appears to be decorative. The Applicant should provide testimony as to the need for this wall. We recommend the wall is removed unless sufficient evidence is provided to justify it remaining.
 2. There is a retaining wall constructed along the southern property boundary adjacent to the driveway. Top and bottom of wall elevations have not been provided. Google imagery suggests that the wall is approximately 1-2 ft high. The Applicant should confirm in testimony. A portion of this wall encroaches into Borough ROW and should be removed.
 3. There appears to be a wall located along the eastern property boundary which is not labeled on the survey. Top and bottom of wall elevations have not been provided. The Applicant should provide testimony to clarify.
- D. We note that no proposed topography is shown on the survey. As such, CED has limited information available to evaluate any concerns related to grading or drainage as it relates to this application.
- E. The Applicant should provide testimony if there are any drainage improvements on site. Testimony should be provided as to where roof leader drains are directed. **According to the 2006 plans by Hubschman Engineering, there are two drywells on the property.**
- F. The Applicant should be prepared to provide documentation of any building permits filed or prior variance approvals. It is unclear if the dwelling and associated improvements were constructed lawfully or with the proper approvals.
- G. Historical Imagery
1. We note that historical imagery suggests that the dwelling, rear, patio, driveway, and walkways existed as they are shown dating back to 2014 (no imagery is available prior to this date). See imagery below.
 2. It appears an expanded rear patio area was constructed sometime in 2017 which occupied almost the entire rear yard area. This patio was removed in late summer/early fall of 2024. See imagery below.



Historical Imagery – Conditions from 2014 - 2017

Historical Imagery – Conditions from 2017 - 2024



Historical Imagery – Conditions from 2024 – Current

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

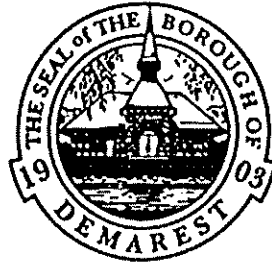
Sincerely,

Colliers Engineering & Design

A handwritten signature in black ink, appearing to read 'Nick Chelius', written over a white background.

Nick Chelius, P.E., C.M.E.
Joint Land Use Board Engineer

cc: Board Members (via Zoning Board Secretary)
Patrick Min, Applicant (patricksmmin@gmail.com)
Christopher Lantelme, Applicant's Engineer (C1|1@verizon.net)



**Borough of Demarest
Joint Planning Board Regular Meeting
MINUTES**

October 15, 2025

7:30 PM

DEMAREST BOROUGH HALL

The Borough of Demarest Planning Board held a special meeting on WEDNESDAY, OCTOBER 15, 2025, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chair Woods.

FLAG SALUTE

The Board was led in a salute to the flag by Chair Woods.

ROLL CALL

MEMBERS PRESENT: Todd Adelman, Theodore Alevrontas, Mayor Brian Bernstein, Jodi Brenner, Kiran Chin, Camile DiSclafani, Councilwoman Daryl Fox, Mary Hamilton, Fatemah Mamdani, Chair Woods

MEMBER(S) ABSENT: N/A

ALSO PRESENT: Nick Chelius – Engineer, Danielle Federico – Attorney, Michael Greco – Secretary, Zoning Officer

RESOLUTIONS

Resolution JPB-013-25 – Variance JPB-25-008 – 29 John Street – Austin Siboni

Ms. Chin requested clarification on the conditions in the resolution. Ms. Federico explained all the conditions in the resolution and confirmed with the board that everything that was requested was in the resolution.

A motion was made to approve resolution JPB-013-25 for the Joint Planning Board Application JPB-25-008, requesting variances related to the construction of an addition on a single-family dwelling by Mr. Adelman, and was seconded by Ms. Chin.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Yes	Mr. Alevrontas:	<i>n/e</i>	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Yes	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Dr. Mamdani:	<i>n/e</i>	Chair Woods:	<i>n/e</i>
Ms. Hamilton:	Yes				

Motion passed

Mr. Greco clarified that Chair Woods was unable to participate in this application due to his proximity living within 200 feet of the application property.

ORDINANCE CONSISTENCY REVIEW

ORDINANCE # 1169-25 AN ORDINANCE AMENDING CHAPTER 175 – ZONING TO INCREASE THE AFFORDABLE SET-ASIDE IN SECTION 175-46E.(1), AND TO CLARIFY AFFORDABLE PAYMENTS-IN-LIEU IN ORDER TO IMPLEMENT THE RECOMMENDATIONS OF THE 2025 HOUSING ELEMENT & FAIR SHARE PLAN

Ms. Federico explained that it is within the board’s powers and responsibilities to review changes to the zoning ordinance and decide as to whether the changes are consistent with the master plan.

A motion was made to find Ordinance # 1169-25 is consistent with the master plan by Councilwoman Fox and was seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Yes	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Yes	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Dr. Mamdani:	Yes	Chair Woods:	Yes
Ms. Hamilton:	-				

Motion passed

NEW/CONTINUING BUSINESS

JPB-25-005 – 93 Pine Terrace – Jason Leiberman

Jason Leiberman, 93 Pine Terrace, was sworn in by Ms. Federico, and stated that he is the property owner and applicant.

Mr. Leiberman explained to the board that his property, due to the nature of the curved street around his home, he has three front yards. He explained that he is seeking a variance for a fence which he wants to install partially in his second front yard, and fully in his third front yard.

Ms. Chin asked for clarification on what he considers to be the true front yard of the property. Mr. Leiberman explained that his home faces Pine Terrace and he considers that to be his true front yard. He went on to explain that the back and right side of his home faces Emily Court, which is the area he wishes to put the fence. He explained his family situation and why he is looking to create a safe yard space for his kids and his dogs to play in.

Councilwoman Fox clarified that the fence he is seeking is a 6 ft. tall fence, as a 4 ft. tall fence would be allowed in the front yard. Mr. Leiberman confirmed that the variance he needs is for the height of the fence. Mr. Leiberman explained that he is keeping the fence out of the Borough right-of-way, and the fence would follow along that line.

Councilwoman Fox requested that the board attorney explain to the board a c(1) hardship variance. Ms. Federico explained the required proof for c variances.

Councilwoman Fox asked Mr. Leiberman to make it clear to the board what document and criteria he is relying on. Mr. Leiberman explained that he is relying on the fact that his property has three front yards. Councilwoman Fox clarified that houses in the neighborhood have similar rear yard fences. Mr. Leiberman explained that he took the inspiration for his style of fence from one of his neighbor’s rear yards. Councilwoman Fox confirmed that he is relying on a survey prepared by Schwanewede Hals & Vince dated 11/19/2025.

Chair Woods asked about the sight lines for the corner around Emily Court, stating that a six-foot fence with arborvitae could block sight for someone backing out of the driveway from seeing another car coming around the corner. Chair Woods discussed his concern with Mr. Leiberman, who stated that he does not believe the fence will obstruct the view, though the trees might. Chair Woods stated that a living fence cannot block sight lines either, and reasserted his concern.

Ms. Chin asked if the plantings are existing and asked if the fence would be on the outside of them. Mr. Leiberman confirmed this. Chair Woods clarified that the plantings are very new, but will eventually grow to block sight.

Vice Chair Brenner asked what Chair Woods would suggest. Chair Woods stated that the trees should be removed at a larger angle to create a better sight to Emily Court.

Mayor Bernstein stated that the fence itself does not seem to be obstructing view, because the fence is 50% open, but the plantings could. He expressed concern over how close the plantings are to the edge of the property, and whether they or the fence would be in the Borough right-of-way. Councilwoman Fox asked if the survey was created after the trees were planted. Mr. Leiberman stated that it was. Councilwoman Fox stated that the board can rely on the survey as showing the trees in their correct location. Mr. Greco confirmed with Mr. Leiberman that with the trees in that location, the fence would still be able to be placed on the outside so that it does not encroach into the right-of-way.

Vice Chair Brenner asked if the applicant would be willing to put into that corner that is providing the board concern a set of smaller shrubs to keep from blocking any line of sight. Mr. Leiberman explained that the location is a very small street with only a few houses, and if the trees became a problem in the future, he would take care of it.

Ms. Federico explained to the applicant that a safety concern is a reason for a board to impose a reasonable condition on the application decision should they be inclined to approve the application.

Councilwoman Fox stated that the safety concern is more about the trees than the fence, and that the police could at any time request the applicant move or remove the trees if it became a problem.

Mayor Bernstein clarified that the trees are on the property line and confirmed which side the fence would be on.

Chair Woods stated that if the fence and trees were cut at a forty-five-degree angle it would provide a lot more visibility on the concerning corner. Mr. Leiberman stated that this would be a costly move for the trees. Vice Chair Brenner stated that this might be a condition of approval to ease the board's concerns.

The board asked for Mr. Chelius to weigh in. Mr. Chelius explained that there is an existing calculation for sight triangles. He explained that not every town utilizes these sight triangles, but it is a good basis for a condition.

Mr. Leiberman debated with the board about the sight concerns.

Ms. DiSclafani asked why the applicant needs a six-foot fence instead of a four-foot fence. Mr. Leiberman explained that he has dogs that could potentially jump a four-foot fence, and that a lot of neighbors have similar fences.

Mr. Adelman explained that there is an house right next to him with a similar set up, but he understands Chair Wood's safety concern.

Vice Chair Brenner asked the attorney that having heard a safety concern, is the board liable for anything that could happen from the raised concern if the board approved the application. Ms. Federico explained that they could be opening themselves up to liability.

Mayor Bernstein stated that the safety issue needs to be addressed by the applicant to make the board feel more comfortable in granting a variance.

Mr. Leiberman continued to explain why he did not feel that the fence was a safety concern.

The board explained to Mr. Leiberman that they are concerned, and if he wants an approval, he needs to present a solution to their concerns. Mayor Bernstein asked for confirmation from Mr. Leiberman that he is not changing the grade of the property at all.

Chair Woods asked Mr. Leiberman if there is any specific number that the board should use for distance the fence should be. Mr. Chelius suggested that the condition be subject to the approval of the borough engineer.

Mr. Leiberman agreed to comply with any conditions the board chooses to impose.

A motion was made to open the meeting to the public by Councilwoman Fox. Second by Mayor Bernstein. All in Favor – Motion Passed

With no public present seeking to speak on this application.

A motion to close the meeting to the public was made by Councilwoman Fox. Second by Mayor Bernstein. All in Favor – Motion Passed

A motion was made to approve the application with respect to the six-foot and fifty percent open fence along various front yards of the property with the condition that some adaptation be made to the trees at the corner of the driveway to the satisfaction of the borough engineer and that no grading change be made by Councilwoman Fox and was seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Yes	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Yes	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Dr. Mamdani:	Yes	Chair Woods:	Yes
Ms. Hamilton:	-				

Motion passed

JPB-25-007 – 32 Brookside Avenue – Patrick Min

Ms. Federico announced that this application would be moved to the November 5, 2025, meeting with no further notice.

Mr. Greco explained that there was an item on the agenda to discuss a special meeting, but that request has since gone away and there is no longer a need for a special meeting.

ZONING ORDINANCE DISCUSSION – MICHAEL GRECO

Chair Woods introduced to the board the first draft of the zoning ordinance changes. Chair Woods confirmed that Darlene the Board Planner has not finished her review or provided comments. He stated that this is a good chance to start the discussion on the changes.

Mr. Greco presented his changes, explaining that there are specific more prominent changes to be discussed first, those being, Floor Area Ratio, Improved Lot Coverage and accessories.

Vice Chair Brenner asked for clarification on the process Mr. Greco took. Mr. Greco explained that he began by restructuring the ordinance to make it more readable and create a more cohesive flow, then section by section looked through the ordinance and compared it to other towns based on comments he had received from residents, professionals and board members. He pointed so sections in the ordinance which were written by the borough planner during the first look at the ordinance.

Mayor Bernstein suggested that a better approach might be to specifically home in on more pressing issues or topics and make comments on those. He then spoke on some of the topics he saw as more pressing, including height and scale of buildings and location of accessory structures related to the principal building.

A motion was made to open the meeting to the public by Mayor Bernstein. Second by Councilwoman Fox. All in Favor – Motion Passed

Mike Dipple, 64 Northwood Avenue, explained that he is an engineer who often appears before the board, and that he noted some issues at the last hearing he attended. Mr. Dipple explained that he thinks the code is unclear about what it wants, and that it would be very helpful if the code was clearer for builders and residents. He discussed the definition of basements and their vagueness. He also brought up architectural features and what counts and what does not, and what are we trying to keep the homeowner from doing by including features like this which could give the town and buildings more character. He also discusses the sliding scale for coverage and floor area ratio, and that his belief is that the town is being too rigid with their requirements and limitations. He mentioned that a town like Tenafly has a formula for calculating Floor Area Ratio. His main point was that Demarest is too restrictive.

Chair Woods stated that the town believes that the mass and scale of buildings is too large, but Mr. Dipple is stating that the town is too restrictive. Mr. Dipple explained that it is the Improved Lot Coverage which is too restrictive but explained that a lot of towns limit building by having a combined side yard setback. He stated that a lot of towns don't have Floor Area Ratio because they handle those scale problems with other restrictions like height and setbacks.

Councilwoman Fox asked if neighboring towns have higher percentages than Demarest. Mr. Dipple confirmed that other towns do have higher percentages.

Mr. Dipple stated that the structure of bonuses to Floor Area Ratio for architecture is a bad idea.

Mayor Bernstein asked how Mr. Dipple believed swimming pools should be counted. Mr. Dipple stated that he likes the Borough's current use of Improved Lot Coverage, but that there is a way to grant a larger percentage in a rear yard compared to a smaller percentage in the front yard to encourage your accessories to be in the rear yard.

Vice Chair, Brenner asked if Mr. Dipple could send the board some of the better definitions, he has encountered that could make the code better and clearer.

Mr. Dipple explained that accessories can be controlled by defining that they are not part of the principal based on proximity to the principal building.

Mr. Chelius explained that some towns do not count pools as impervious coverage, because they store water instead of preventing it from getting to the ground.

Gene Amsel, 88 Northwood Road, stated that he is a realtor. He expressed concern that new restrictions would limit residents being able to sell their homes. He requested to see a side-by-side comparison of the new and old definitions being suggested.

Councilwoman Fox stated that it is a good point about residents not being able to sell their homes in the future due to these types of changes.

Mr. Amsel spoke with the board about various homes in Demarest and expressed that what the town should seek is to make sure that the houses being built should fit in the neighborhood where it is built.

Jeffrey Shaari, 37 Lincoln Street, spoke about curbs in the town, and asked questions about the standards the borough has for the installation of curbs and sidewalks.

Chair Woods stated that the board had some initial discussion about curbs and asked where the town is on this.

Mr. Chelius explained that the town does not have an active policy on this, but the town has been discussing it.

Councilwoman Fox asked that if the curb goes on borough property, she asked if the council would have to approve this. She stated that no one from central came to the council seeking approval to install curbs.

Chair Woods asked how other towns handle curbs. Mr. Chelius explained that other towns have details which describe what kind of curbs can be installed, but it is up to the residents if they wish to install them. Mr. Chelius explained that this opens an opportunity for the borough to encourage curbs if they want them.

Ms. Chin asked Mr. Greco if he had any insight. Mr. Greco explained to the board that the borough has an ordinance which governs repair and installation of curbs, sidewalks and driveways, and that the few he had seen were all approved by the prior zoning officer and construction official. Councilwoman Fox said that he does not have the authority to do that.

Chair Woods asked how a curb would affect stormwater. Mr. Chelius explained that he looks at the street as whole when evaluating the effect an added curb would create, looking to confirm that the water can get to an inlet.

Mayor Bernstein asked if the addition of curbs creates a path to move water from their property to a neighbor's property. Mr. Chelius said that because the water is not on their property to begin with, they are more preventing it from going on to their property, but they are not responsible for where it ends up.

Councilwoman Fox stated that the aesthetic of having piecemeal curbing would not look good for the town.

Mr. Shaari expressed concern over requiring curbs.

The board discussed the borough right-of-way and property lines with Ms. Federico.

Councilwoman Fox directed Mr. Greco to direct curb and sidewalk permits to the council to make the decision.

The board discussed what standard they could use, and they requested that someone go out and figure out what parts of town have curbs.

Chair Woods asked Mr. Greco to watch on zoning applications and make sure that curbs and sidewalks go to the council. The board also directed that Mr. Greco ask the construction official about the properties on Central Avenue. Mr. Chelius explained the history of this issue.

A motion to close the meeting to the public was made by Mayor Bernstein. Second by Councilwoman Fox.
All in Favor – Motion Passed

Chair Woods raised a concern over the code's view on height. Chair Woods stated that the board previously discussed height and that there are multiple possible interpretations of the code. The board asked for Mr. Greco's view. Mr. Greco explained what is currently written in the ordinance, and how he reads it. Chair Woods disagreed with Mr. Greco's interpretation of the ordinance and requested that it be moved to a faster timeline than the rest of the ordinance.

Mayor Bernstein requested that the board have more time to review the current ordinance prior to making a determination on the definition of height. Chair Woods agreed to this and asked that the board discuss and interpret the ordinance for height at the next meeting. Chair Woods explained his interpretation of the ordinance. His explanation included that the ordinance that amended the code and changed the definitions seems to have been written into the code and the limiting schedule incorrectly.

Councilwoman Fox confirmed Chair Wood's view claiming to have been present during the writing of the ordinance and having been one of the authors of the ordinance. She concurred the intention behind it.

Mayor Bernstein asked the Board's counsel for how this would best be handled. Ms. Federico stated that she will look into the best solution for this. The board continued to debate the history behind the changes in the ordinance with Mr. Greco and Mr. Chelius.

The board agreed to come back and continue this discussion as an interpretation at the next meeting.

PUBLIC COMMENT

A motion was made to open the meeting to the public by Mayor Bernstein. Second by Mr. Alevrontas.

All in Favor – Motion Passed

No public present sought to make comment.

A motion to close the meeting to the public was made by Mayor Bernstein. Second by Mr. Alevrontas.

All in Favor – Motion Passed

ADJOURNMENT

With no further business presented, a motion to adjourn the meeting was made by: Mayor Bernstein and seconded by Ms. Chin.

All in Favor – Motion Passed

The meeting was adjourned at 10:00 PM.

Respectfully Submitted,

Michael Greco, Joint Planning Board Secretary

MEMORANDUM

TO: Joint Planning Board (the “Board”)
FROM: Danielle M. Federico
DATE: December 2, 2025
SUBJECT: Summary of Zoning Ordinance Discussions

This memorandum provides a summary of the Board’s discussions to date regarding the proposed amendments to the Zoning Ordinance, including key recommendations to the Council:

- **Definitions:** Definitions have been revised to provide clarity and consistency such as removing “Livable Floor Area” and replacing it with Floor Area Ratio (“FAR”) and adding definitions for structures such as pergolas, which now have specific regulations and restrictions.
- **Mass and Scale of Buildings:** Overall, the Board feels that the mass and scale of buildings is too large, especially under the current Zoning Ordinance with garages not being included in Floor Area Ratio (“FAR”). In order to regulate this, the Board recommends that garages be included back into the FAR calculation. This change should help reduce the overall size of homes and make them less boxy. As noted above, Livable Floor Area, which has caused confusion, has been eliminated entirely and replaced by FAR, which is consistent with the Municipal Land Use Law (“MLUL”). An FAR bonus should not be provided for enhanced architectural features, as it would be too difficult to regulate and enforce. The Board recommends that the Council consider a sliding scale for FAR based on the size of the lot in order to better regulate the mass of buildings on oversized lots.
- **Building Height:** Height has been revised so it is calculated uniformly in all zones. The Board recommends that flat roofs be prohibited in all zones.
- **Accessory Structures:** Instead of blanket regulations for all accessory uses, accessory structures are now listed based on accessory types, with proposed setbacks and regulations for each. In order to further regulate building massing, the Board recommends that accessory structures be required to be at least 10 feet away from a principal building; accessory structures that are closer than the required setback will be considered part of the principal building. Accessory structures with active uses, such as pools and sports courts, should be setback further than other more passive accessory structures, such as retaining walls. The Council may want to consider further limiting the size or number of accessory structures permitted on a lot.

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- **Setbacks:** The Zoning Ordinance should include a combined side yard setback requirement. In order to prevent overdevelopment on oversized lots, the Council may also want to consider a sliding scale for setbacks based on lot size, which would increase the minimum side yard setbacks on larger lots.
- **Curbing and Sidewalks:** Piecemeal curbing and sidewalks have been an ongoing problem in the Borough for pedestrian safety, stormwater and aesthetics. Sidewalks should be encouraged on certain streets where it would enhance pedestrian safety. However, the Board recommends that the Council consider establishing a fund for owners/developers to pay into so that curbing/sidewalks are installed at the same time. The Board recommends that the Council have the DPW prepare a map of streets with sidewalks and curbing in order to better determine where curbing or sidewalks should be encouraged.
- **Miscellaneous:** Currently, the Zoning Ordinance prohibits billboards anywhere in the Borough, however, this must be revised to comply with Bell v. Stafford Tp., 110 N.J. 384, 389 (1988).

ARTICLE V
Residence Districts

§ 175-15. Residential Districts (R-A, R-BB, R-B, R-C, R-D)

A. Permitted uses

- (1) A single, detached dwelling used as a residence by not more than one family.
- (2) Family day cares.
- (3) Community residences.
- (4) Public parks, playgrounds, and open space.
- (5) Municipal Buildings.

B. Permitted accessory uses

- (1) Private Garages, attached or detached from the principal dwelling.
- (2) Storage sheds.
- (3) Gazebos.
- (4) Pergolas.
- (5) Above ground or in-ground swimming pools.
- (6) Patios and decks.
- (7) Sports courts.
- (8) Roof-mounted solar panels.
- (9) Customary and incidental accessory uses to a single-family home.
- (10) Professional or business practices, as defined in §175-3B, including without limitation, a physician, surgeon, dentist, architect, engineer, lawyer, real estate agent, insurance agent, artist, or musician, shall be a conditional accessory use in the Borough's Residence Districts, provided that all of the following conditions are met:
 - (a) Only one professional or business practice shall be permitted in any one residence.
 - (b) Such professional or business practice shall be carried on wholly within the principal building.
 - (c) Such professional or business practice shall be confined to one floor or basement and shall occupy not more than 400 square feet or 25% of the floor area of said floor or basement, whichever is the lesser.
 - (d) There shall be no advertising on the premises other than a sign subject to §175-31B(1)(c), and there shall be no display of goods on or about the premises.
 - (e) Retail uses shall not be permitted. There shall be no stock trade, production materials, items for resale, goods stored or sold on the premises. There shall be no outdoor storage of materials or equipment.
 - (f) Not more than one employee shall be employed so that the total number of persons, including the principal, so employed shall be not more than two persons.
 - (g) All parking of motor vehicles for the persons engaged in the professional or business practice, including the principal and one employee, must be parked on the premises.

A maximum of one business or practice visitor may park on the street.

- (h) The hours of operation of the professional or business practice shall be limited to between the hours of 9 AM and 9 PM.
- (i) The principal conducting the activity shall be the bona fide owner or lessee and resident of the entire residential premises.

C. Permitted Accessory Structures & Encroachments

Yards referred to herein are in each case the entire yard, regardless of the minimum required yards provided in the Limiting Schedule (§ 175-15D(3)).

(1) Front Yard.

The following accessory buildings, uses and structures shall be permitted in the front yard.

- (a) Flag poles.
- (b) Signs.
 - 1. All signs shall be subject to the rules set forth in § 175-31B.
- (c) Fences & Walls.
 - 1. All fences and walls shall be subject to the rules set forth in § 175-32.
- (d) Driveways.
 - 1. Shall be 5 feet from the side yard line and 10 feet from neighboring driveway.
- (e) Platforms.
 - 1. Shall be permitted to encroach not more than 4 feet into the setback.
- (f) Walkways.
- (g) Projections. (windowsills, belt courses, cornices, eaves and other architectural features of the principal building)
 - 1. These architectural features shall be permitted to encroach into the front yard setback not more than 3 feet.
- (h) Unroofed steps.
 - 1. Unroofed steps shall be permitted to encroach into the front yard setback not more than 5 feet.
- (i) Porches.
 - 1. Porches, whether roofed or unroofed, shall not be permitted to encroach into the front yard setback.

(2) Side Yard.

The following accessory buildings, uses and structures shall be permitted to encroach in the side yard(s).

- (a) Anything permitted in a front yard shall be permitted to encroach with the same rules.
- (b) Detached Garage.
 - 1. A detached garage shall be behind the front line of the principal dwelling.
 - 2. A detached garage shall not have a building height of more than 12 feet to the

average roof peak.

3. There shall not be more than 1 detached private garage per lot.

(c) Retaining Wall.

1. All retaining walls are subject to the rules set forth in § 175-33.

(d) Generators and air conditioning condensers shall be permitted in the side yard, subject to the following provisions:

1. Generators and air conditioning units shall not be permitted to encroach into any required rear yard setback. Generators and air conditioning units shall be permitted to encroach not more than 5 feet into the setback and shall not be more than 5 feet from the principal building.

2. Generators and air conditioning units located in the side yard shall be screened from the view of the public right-of-way with evergreen shrubs planted at a minimum height of 3 feet.

(e) Decks & Patios shall be permitted in the side yards, subject to the following provisions:

1. Decks & Patios shall not be permitted to encroach into any required rear or side yard setback.

2. Decks & Patios located in the side yard shall be located entirely behind the principal building and shall be screened from the view of the public right-of-way by the principal building.

3. Decks shall be setback a minimum of 20 feet from the rear lot line.

4. Patios shall be setback a minimum of 10 feet from the rear lot line.

(3) Rear Yard.

The following accessory buildings, uses and structures shall be permitted to encroach in the rear yard.

(a) Anything permitted in a side yard shall be permitted to encroach with the same rules.

(b) Balcony.

1. Shall not project more than 5 feet from the principal building.

2. Shall not exceed the floor of the second story of the building.

3. All balconies are required to have safety railing of not less than 4 feet in height.

(c) Gazebo / Pavilion.

1. Not to exceed a maximum height of 15 feet measured to the average roof peak, or the height of the principal building whichever is more restrictive.

2. A gazebo or pavilion shall be setback a minimum of 15 feet from the rear lot line.

3. A gazebo or pavilion shall be setback a minimum of 10 feet from the side lot line.

(d) Pergola.

1. Not to exceed a maximum height of 10 feet, or the height of the principal building whichever is more restrictive.

2. A pergola shall be setback a minimum of 15 feet from the rear lot line.
 3. A pergola shall be setback a minimum of 15 feet from the side lot line.
- (e) Shed.
1. A shed shall be setback a minimum of 10 feet from the rear lot line.
 2. A shed shall be setback a minimum of 10 feet from the side lot line.
- (f) Sports court.
1. A sports court shall be setback a minimum of 15 feet from the rear lot line.
 2. A sports court shall be setback a minimum of 15 feet from the side lot line.
- (g) Swimming Pool.
1. All swimming pools are subject to the rules set forth in § 175-39.
- (h) Pool House / Cabana.
1. Shall be accessory to a permitted pool only.
 2. Not to exceed a maximum height of 15 feet measured to the average roof peak, or the height of the principal building whichever is more restrictive.
 3. A pool house or cabana shall be setback a minimum of 15 feet from the rear lot line.
 4. A pool house or cabana shall be setback a minimum of 15 feet from the side lot line.
- (i) Pool Equipment.
1. Pool equipment shall be accessory to a permitted pool only.
 2. Pool equipment shall be within 10 feet of the swimming pool.
 3. A pool house or cabana shall be setback a minimum of 15 feet from the rear lot line.
 4. A pool house or cabana shall be setback a minimum of 10 feet from the side lot line.

D. Bulk Regulations

(1) In all single-family residence zones, the following regulations shall apply to the principal building:

(a) Any accessory building within 10 ft of principal building will be considered as part of the principal building and be subject to the setbacks of the same.

Regulations	R-A	R-BB	R-B	R-C	R-D
Minimum required					
Lot frontage (ft)	200	150	150	100	100
Lot depth (ft)	200	150	150	100	100

Lot area (sq ft)	40,000	30,000	22,500	15,000	10,000
Front yard setback (ft)	50	50	50	35	25
Side yard setback (ft)	25	25	20	15	10
Combined side yard setback (ft)	50	50	40	30	20
Rear yard setback (ft)	50	50	40	30	30
Rear yard width ^A (ft)	50	50	40	30	30
Maximum permitted					
Number of families	1	1	1	1	1
Building height ^B (ft)	35 ft	33 ft	33 ft	30 ft	30 ft

^A 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.

^B Flat Roofs are prohibited on the principal building in all zones.

(2) In all single-family residence zones, the following regulations shall apply:

Regulations	R-A	R-BB	R-B	R-C	R-D
Maximum permitted					
Building coverage	15%	15%	15%	20%	20%
Improved lot coverage	30%	30%	30%	35%	35%
Residential & parking coverage ^C	25%	25%	25%	25%	25%
Floor Area Ratio (FAR)	22.5%	22.5%	22.5%	30%	30%

^C Residential and parking coverage shall include the principal building and the driveway, and any other parking areas.

(3) The schedules entitled "Limiting Schedule, District" and "Limiting Schedule, Conditional Use" shall be deemed to be a part of this article and shall govern the use of land and buildings within the Borough of Demarest.

§ 175-16. Private garages.

- A. Every residential dwelling shall be required to have at least one private garage.
- B. The construction, use or occupancy of a private garage in any residence district shall be permitted only as accessory to a residential dwelling. All vehicles stored in such garage shall

be the property of the owner or lessee of the premises and shall be noncommercial by type and by registration, unless otherwise permitted by this chapter.

§ 175-17. Conditional uses enumerated.

- A. In Districts R-B, R-C and R-D, the following uses may be allowed as conditional uses:
- (1) Churches or houses of worship and accessory uses normally incidental thereto, including an administration office, day school and day care for preschool students, all of which shall be contained on the same site. In addition, a residence for attending clergy may be erected as an accessory use. Said uses shall be permitted, subject to the following conditions:
 - (a) The height of any structure shall not exceed the maximum requirement of the particular zone. A spire or steeple may be 30 feet in excess of the maximum height requirement, provided that the average height to width ratio shall not be more than 10.
- B. In those portions of Residence Districts R-A, R-BB, R-B, R-C and R-D, inclusive, that are within the OL-Overlay Zone, cellular telecommunications towers and antennas shall be permitted as conditional uses, provided that they comply with the following specifications and standards:
- (1) An application to construct, modify or place the facilities will be subject to site plan review in accordance with Chapter 153, Subdivision and Site Plan Review, of the Code of the Borough of Demarest.
 - (2) The applicant will be required to demonstrate that the development is the minimal necessary to provide adequate communications as may be authorized by the Federal Communications Commission; that the proposed site is an integral part of a communications network. *CMK Communications of New Jersey v. Point Pleasant Zoning Board of Adjustment*, Docket No. L-3177-95-PW (Law Div. 1996) p. 17, citing *NYNEX Mob. Comm. Co. v. Hazlet Tp.*, 276 N.J. Super. 598, 612 (App. Div. 1994). As part of this requirement the applicant shall demonstrate that:
 - (a) The technology proposed is the least visually intrusive of the available suitable technologies.
 - (b) The height of the tower and/or antennas is the minimum necessary to provide adequate communications.
 - (c) The co-location of the antennas on other existing structures, either within or outside the Borough of Demarest, is either not practical in order to provide adequate communication; is barred by Subsection D(3) below limiting the number of carriers utilizing the same tower; or that the visual impact to the community from the proposed tower and/or antennas on the site is less than exists at such alternative locations.
 - (d) Based upon the inventory of existing towers, antennas or sites approved for towers or antennas belonging to the applicant or others, that are either within the jurisdiction of the Borough of Demarest or within 10 miles of the border thereof, which inventory will include specific information about the location, height and design of each tower, the siting of the cellular telecommunications tower and antennas in the Borough of Demarest is necessary in order for the applicant to provide adequate efficient communications to its customers. [Added 8-18-1997 by Ord. No. 792]

- (3) Not more than one tower shall be located on each site. A single tower may not have more than three commercial antenna carriers utilizing the same tower, and not more than 27 antennas shall be installed on a single tower.
- (4) Area, bulk and yard requirements.
 - (a) Minimum front yard setback: 50 feet or the height of the structure, whichever is greater.
 - (b) Minimum rear yard setback: 50 feet or the height of the structure, whichever is greater.
 - (c) Minimum side yard setback: 50 feet or the height of the structure, whichever is greater.
 - (d) Maximum height of the structure: 100 feet where there is a single commercial carrier; 115 feet where there are two commercial carriers; 130 feet where there are three commercial carriers.
 - (e) Any buildings for equipment serving a cellular telecommunications tower or antennas shall conform with setback requirements otherwise applicable in the zone district (i.e., not OL Zone, but Residence A through D or Community Business I Zones). **[Amended 8-18-1997 by Ord. No. 792]**
- (5) The base of the antenna support structure and any structures accessory to or servicing the cellular telecommunications tower and antennas structure, except for buildings, shall be screened from the street and adjacent properties in a manner acceptable to the applicable Municipal Land Use Board. If deemed necessary by said Board to mitigate the visual impact of the antennas and related structures, the color, materials and design of the tower and antennas and related structures shall be required to be modified in appearance so as to blend in with the surrounding environment, determined by said Board to be appropriate in the particular situation. Mitigation of visual impact may, without limitation, include such methods as painting, landscaping and selection of antenna materials and design or using an alternative tower structure such as man-made trees, clock towers, bell steeples, light poles or similar alternative-design mounting structures that conceal or camouflage the presence of the tower and antennas. The equipment building shall also be constructed to be architecturally compatible with other structures located on the lot. **[Amended 8-18-1997 by Ord. No. 792]**
- (6) All structures shall be suitably secured and shall be equipped with an anticleimbing device.
- (7) Except as specifically addressed herein, design standards as established by § 153-18, Design Standards, of Chapter 153, Subdivision and Site Plan Review, shall be applicable.
- (8) Any generator located on the site in connection with the cellular telecommunications tower and/or antenna structure shall be located within an equipment structure. All fuel shall be contained in accordance with New Jersey Department of Environmental Protection Regulations.
- (9) All permitted exterior lighting, including floodlights, parking lot lighting and lighting necessary for the safety and protection of the property shall be made up of a light source

and reflector so selected that acting together the light beam is controlled and not directed across any lot line. Additionally, the intensity of light at any residential property line shall not exceed 1/2 footcandle.

- (10) The noise level at any residential property line shall not exceed the levels established by N.J.A.C. 7:29-1.2.
- (11) Applicants must agree to the co-location for multiple carriers permitted by this chapter to the extent said co-location is permitted by the property owner and to the extent carriers wishing to co-locate on an existing tower are willing to reasonably share in the allocation of costs in connection with the construction, modification and maintenance of the cellular telecommunications tower and antenna structures and any equipment structures. **[Amended 8-18-1997 by Ord. No. 792]**
- (12) Removal. **[Amended 8-18-1997 by Ord. No. 792]**
- (a) In the event that a cellular telecommunications tower and/or antenna structure is abandoned or not operated for a period of one year, the same shall be removed at the sole expense of the operator(s) or property owner(s), who will be individually obligated for the removal, within not more than three months upon written notice from the Borough.
- (b) In the event that an antenna(s) is removed or relocated, the tower or the portion of the tower no longer needed to support the remaining antennas shall be removed at the sole expense of the operator(s) or property owner(s), who will be individually obligated for the removal, within not more than three months upon written notice from the Borough.
- (c) If the operators or property owner(s) fails to remove the cellular telecommunications tower and/or antenna structure within said three-month period, pursuant to Subsection D(12)(a), or fails to remove all or a portion of the cellular telecommunications tower within said three-month period, pursuant to Subsection D(12)(b) above, the Borough may cause said removal at the cost of the operators and property owner(s), and the cost of said removal shall be a lien against the property until the Borough is reimbursed in full for all costs incurred by the Borough, including engineering and attorney's fees, reasonably expended in accomplishing the removal.
- (13) The applicant must demonstrate that pursuant to N.J.S.A. 48:17-8 it has obtained the consent, in writing, of all of the owners of property within 200 feet in all directions of the property upon which the tower and antennas are to be located or within 650 feet of the cellular telecommunications tower and antennas, whichever is greater, and that said owners were advised, in writing, by the applicant that the radio wave to be emitted from the cellular telecommunications tower and antennas is a conduit, as that term is used in N.J.S.A. 48:17-8, which will pass upon, through or over said owners' land.
- (14) The applicant must demonstrate pursuant to N.J.S.A. 48:17-8 that it has paid for or agreed to pay all owners of property within 200 feet in all directions of the property upon which the tower and antennas are to be located, or within 650 feet of the cellular telecommunications tower and antennas, whichever is greater, full compensation for any taking resulting by virtue of the radio wave to be emitted from said cellular telecommunications tower and antenna upon, through or over said property owners'

land. If there is a dispute between the applicant and the property owner as to the value of the land taken, this provision may be satisfied by the applicant having agreed to be subject to a decision, as to the fair market value of the property taken, by condemnation commissioners pursuant to the Eminent Domain Act or some other legally binding arbiter or court of competent jurisdiction.

- (15) A landscape buffer of not less than 25 feet in width shall be provided around any cellular telecommunications tower and antennas located on a lot in a residential district, abutting a residential district or abutting a lot containing a residential use.
- (16) No signs shall be permitted in connection with the siting of a cellular telecommunications tower and/or antenna structure. [Added 8-18-1997 by Ord. No. 792]
- (17) An applicant must warrant that the proposed cellular telecommunications tower and antennas shall not interfere with any of the Borough's police, fire, ambulance, public works or any municipal emergency transmission or reception equipment. The applicant must further agree that, in the event that such interference occurs after the applicant's operations commence, the applicant will take all necessary steps to eliminate the interference. If the applicant is unable to eliminate the interference or fails to eliminate the interference in a timely manner, it shall cease operations from the offending location until the problem is corrected, upon receiving 10 days' advance written notice from the Borough. [Added 8-18-1997 by Ord. No. 792]
- (18) The applicant shall post necessary escrows in accordance with N.J.S.A. 40:55D-53.1 and 40:55D-53.2 to pay the cost of application review and inspection charges by outside consultants retained by the Borough's Planning Board (or Zoning Board of Adjustment, if applicable), which outside consultants shall include without limitation structural, mechanical, electrical and electronic engineers. After completion of construction of a cellular telecommunications tower and antennas, said professionals shall perform as-built inspections and certify to the Borough that the cellular communications tower and antennas comply with all acceptable standards before the applicant may obtain a certificate of occupancy and commence operations. [Added 8-18-1997 by Ord. No. 792]
- (19) In addition to the Planning Board (or Zoning Board of Adjustment, if applicable) application process, the applicant must notify the Borough not less than 45 days before construction of a cellular telecommunications tower and antennas or any new or additional services to be installed on said tower. Said notice period may run concurrently with the site plan process in whole or in part. [Added 8-18-1997 by Ord. No. 792]
- (20) The applicant must provide as part of its application package an environmental impact statement (EIS) which shall evaluate the effects of the proposed project on the environment. It shall be prepared by consultants as may be deemed qualified by virtue of their systematic interdisciplinary approach to ensure the integrated use of the natural and social sciences and the environmental design arts. The EIS shall be in a form and content as shall be in conformance with guidelines adopted by resolution by the Planning Board of the Borough of Demarest. [Added 8-18-1997 by Ord. No. 792]
- (21) The applicant shall provide a certification that the proposed cellular telecommunications tower and antennas do not interfere with or adversely affect any properties, buildings or

structures of historical significance located in the Borough of Demarest. [Added 8-18-1997 by Ord. No. 792]

- (22) Applicants shall be required as a condition of approval to obtain liability insurance with limits established by resolution of the Planning Board. The Borough of Demarest shall be named as an additional insured on all insurance policies, and the Borough shall be entitled to not less than 30 days' notice of cancellation, termination or modification of the policy. [Added 8-18-1997 by Ord. No. 792]
- (23) Any applicant applying to a Borough Municipal Land Use Board to construct, modify or place a cellular telecommunications tower and antennas in any area other than the OL-Overlay Zone shall be required, in addition to establishing proofs regarding the affirmative and negative criteria established by the Municipal Land Use Law,¹ to meet and satisfy all the specifications and standards of this § 175-10D in the same manner as if said cellular telecommunications tower and antennas were to be sited in the OL Zone.

ARTICLE VIII
Supplementary Regulations For All Districts

§ 175-30. Area and bulk.

The schedules entitled "Limiting Schedule, District" and "Limiting Schedule, Conditional Use" shall be deemed to be a part of this article and shall govern the use of land and buildings within the Borough of Demarest.

§ 175-31. Signs.

A. All Districts

(1) Permitted

(a) Political Signs

(b) Real Estate Signs

[1] Not more than four square feet in area.

[2] Located at least two feet from the front property line.

[3] In no case shall such sign be illuminated.

(c) A sign of not more than two square feet advertising the location elsewhere of a church or a public or semipublic building shall be permitted.

(d) Construction Signs

[1] Not more than four square feet in area.

[2] In no case shall such sign be illuminated.

[3] Construction signs shall only be permitted during the course of construction after a valid construction permit has been issued and on the issuance of a CO, CA or TCO shall be removed.

(e) Any sign for the purpose of identifying the premises of a club or a public or quasi-public building.

[1] Such sign shall not be more than six square feet in area

[2] Such sign shall refer only to the premises which it occupies.

[3] Such sign shall either be affixed to the building or situated not less than 10 feet from the lot line bordering the street.

[4] Notwithstanding the above, a church bulletin board of not more than 20 square feet may be placed not closer than 10 feet to the front lot line.

[5] In no case shall such sign be illuminated except by a light fixture which is an integral part of the sign and so arranged as to have the light shine only on the sign.

(2) Prohibited

- (a) Billboard Signs
 - (b) Neon tubes outlining all or part of a building or premises are strictly prohibited.
- (3) Temporary Signs
- (a) Temporary Signs shall be permitted subject to the following regulations.
 - [1] No temporary sign shall be placed on public property.
 - [2] Temporary signs shall not be more than 6 square feet in size.
 - [3] Temporary signs shall not be situated less than 5 feet from a property line.
 - [4] Temporary signs shall not impede the flow of pedestrian traffic.
 - [5] Temporary signs shall only remain for 30 days, with the option to request two 30 day extensions from the zoning officer.

B. Residence Districts

- (1) Permitted
- (a) Open House Signs
 - (b) Garage or Estate Sale Signs
 - (c) Business Signs for a permitted home occupation
 - [1] No Business Sign will be granted without the business first obtaining the required use permit for their business from the zoning officer.
 - [2] Such sign shall only advertise or promote the business located within said building.
 - [3] Such signs shall not exceed a height of 10 inches or a length of 18 inches.
 - [4] There shall not be more than one sign per lot.
 - [5] In no case shall such signs be illuminated except by a light fixture which is an integral part of the sign and so arranged as to have the light shine only on the sign.
- (2) Prohibited
- (a) Advertising Signs
 - (b) Portable Signs

C. Community Business District

- (1) Permitted
- (a) Business Signs
 - [1] Such sign shall not exceed 18 inches in height.
 - [2] Such sign shall not cover more than 75% of the width of the building to which

it is attached.

[3] Such sign shall not project more than one foot from said building.

[4] Such sign shall only advertise or promote the business located within said building.

(b) Window Signs

[1] A window sign shall not cover more than 30% of the window.

(c) Wall Signs

(d) Sidewalk Signs

[1] Such sign shall not be more than 5 feet from the business.

[2] Such sign shall not impede the flow of pedestrian traffic.

[3] Such sign shall not be more than 3 feet in height.

(e) Projecting Signs

(2) Prohibited

(a) Monument Signs

(b) Free Standing Signs

§ 175-32. Fences & Walls

No fence shall be erected without first obtaining a zoning permit.

A. All fences erected in the Borough of Demarest shall be subject to the following requirements:

- (1) The maximum height for rear and side yard fences shall not exceed six feet.
- (2) The total height of the fence will not include any slight undulations of the grounds, provided that 80% of the fence does not exceed the maximum height of six feet.
- (3) Front yard fences shall be less than 50% solid and shall not exceed a maximum height of four feet.
- (4) Fences must be constructed with the face or finished side away from the property and the structural side toward the inside.
- (5) Fences shall not impede the flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding.
- (6) Every fence or wall shall be maintained in a safe, sound, upright condition.
- (7) No fence may be erected so as to encroach upon a public right-of-way or to interfere with vehicular traffic or with the sight triangles on corner lots.
- (8) Fence heights will be measured from the Average Natural Grade, excluding berms and swales.

- (9) The following fences and fencing materials are specifically prohibited: barbed-wired fences, short-pointed fences, canvas, cloth, electrically charged fences, poultry netting, temporary fences such as snow fences, expandable fences and collapsible fences, at any location of the lot upon which a dwelling or structure is situated.

B. Pool Fences

- (1) All swimming pools now or hereafter constructed shall be enclosed by a substantial fence no less than 48 inches in height, so constructed as to prevent, within reason, any person from gaining access beneath or through such fence, and it shall have a similarly substantial self-latching and self-closing gate of the same height as the fence with latches placed four feet in height and with facilities for locking the gate when the pool is unguarded or unattended. All pool fences require a UCC permit from the Construction Official.

C. Temporary Construction Fences

- (1) During construction on such property and until a certificate of occupancy is issued, a temporary fence shall be maintained.
- (2) Upon issuance of a CO such fence shall be promptly removed.
- (3) Such a fence shall be a minimum of 4 feet in height, and a maximum of 6 feet in height.
- (4) Such a fence shall be permitted up to the property lines and shall completely encompass the work area.
- (5) Such a fence shall be maintained in a clean and upright condition.
- (6) Such a fence shall be locked at all times that the construction site does not have workers present.
- (7) Such fence shall not require a zoning permit when an active construction permit exists for the property.

§ 175-33. Retaining Walls.

A. Retaining Walls

- (1) A construction permit shall be required for walls over four feet high.
- (2) Walls over four feet high must be designed by a New Jersey-licensed professional engineer.
- (3) Retaining walls shall have their height measured collectively when placed behind each other unless there is a minimum of 4 feet between each wall.
- (4) Retaining walls over 4 feet in height must be set back from all property lines a minimum of 10 feet.

§ 175-34. Off-street parking.

In conjunction with any building or use of land, there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements specified herein. No parking area once established shall be diminished unless the remaining parking area meets the minimum requirements specified herein.

A. All Districts

- (1) Library, museum or club: one space for each employee, plus one space for each 300 square feet of net floor area or any fraction thereof.
- (2) Schools, grades 1 to 8 inclusive: one space per employee, including teachers, plus 10%.
- (3) Schools, grades 9 to 12 inclusive: one space per employee, including teachers, plus one space for each six pupils.
- (4) Places of worship: parking shall equal 40% of the maximum fire occupancy of the entire building or structure.
- (5) Parks and playgrounds: There shall be no overnight parking on the premises. There shall be no parking space within a dedicated street right-of-way adjacent to the park or playground.
- (6) Parking for the Demarest Nature Center shall be within the boundaries of the Demarest Nature Center or on adjacent public lands owned by the Borough and with agreement of the governing body. A minimum number of parking spaces shall be available to accommodate 1/3 of the lawful membership of the Demarest Nature Center.
- (7) Where any of the foregoing uses, other than places of worship, consist of structures containing auditoriums, halls, cafeterias, gymnasiums or other rooms that may be used for a public assemblage, there shall be provided one additional parking space for each one-hundred-square-foot area of such auditorium, hall, cafeteria or gymnasium.

B. Residence Districts (R-A, R-BB, R-B, R-C & R-D)

- (1) Dwelling: Parking for residential uses shall comply with the standards of the Residential Site Improvement Standards, N.J.A.C. 5:21, which shall be minimum requirements.
- (2) At least two off-street parking spaces shall be provided.

C. Driveway Standards

- (1) Maximum Width?
- (2) Setback?
- (3) Maximum Curb cuts?
- (4) Circular Driveway?

D. Community Business District I

- (1) No parking space or access thereto, except entrance or exit drives as limited in this section, shall be between the front building setback line and the street line. Entrance and exit drives connecting the parking area and the street shall be permitted between the front building setback line and the street line as required above provided that:
 - (a) Such drives shall not exceed 15 feet in total aggregate width for each 50 feet of street line abutting such lot but in no case exceeding 30 feet in total aggregate width for each street line upon which a lot abuts.
 - (b) Such drives shall be at least 60 feet distant, measured along the street line from the

point of intersection of two intersecting street lines or from a bend in the street line of one street where the change in direction is 30° or greater.

- (2) Retail stores: one space for each 350 square feet of floor area.
- (3) Restaurants and casual restaurants : one space for every three seats plus one space for every two employees during the peak shift.
- (4) Professional offices: one space for each 250 square feet of floor area.
- (5) Medical office: one space for each 142 square feet of floor area.
- (6) Personal services: one space for each 200 square feet of floor area.
- (7) Instructional uses: one space for each 120 square feet of public area for uses with less than 5,000 square feet of public area. For uses with 5,000 or more square feet of public area, the parking requirement shall be determined based on maximum fire occupancy.
- (8) A 10-foot-wide buffer area shall be provided along all property lines a parking area faces. Evergreen trees shall be planted within the buffer area and installed at a minimum height of six feet.

E. Special or conditional parking and storage regulations.

- (1) Certain vehicles, boats, house trailers and other conveyances, as herein provided shall not be parked, stored or garaged unless it is the only commercial vehicle stored or garaged thereat and has a body, box or platform adapted for carrying goods or materials, with a registered gross vehicle weight of less than 5,000 pounds when loaded.
- (2) Storage exception. A commercial vehicle having a body, box or platform adapted for carrying goods or materials, with a registered gross vehicle weight of less than 5,000 pounds when loaded, shall only be permitted in a residential district on the condition that said vehicle is stored in a garage at all times.
- (3) The following vehicles shall not be parked, stored or garaged in a residential district:
 - (a) Commercial vehicles with a registered gross vehicle weight of 5,000 pounds or more when loaded.
 - (b) Any other truck, trailer or vehicle with a registered gross vehicle weight of 5,000 pounds or more when loaded.
 - (c) Any unregistered vehicles.
 - (d) Motorboats, sailboats or other watercrafts 20 feet or more in length.
 - (e) House trailers, housing units, mobile homes and self-propelled housing units.
 - (f) Collapsible housing units, whether assembled or disassembled.
 - (g) Animal conveyances, either trailer or self-propelled.
- (4) Non applicability. This section shall not be applicable to or curtail the use of commercial vehicles making deliveries to or performing services at premises in a residential district.

§ 175-35. Temporary storage containers.

- A. Permit required. No temporary storage container shall be allowed at any site in the Borough of Demarest unless a storage container zoning permit is issued prior to the placement of such a unit for the length of time as provided herein:
- (1) The owner or occupant of the site where the unit is to be placed shall apply for a storage container zoning permit to the Zoning Officer or his designee. The applicant shall pay, upon application for the storage container permit, a required fee of \$50.
 - (2) The storage container zoning permit shall be valid for 90 days. Upon the request of the owner or occupant of the site to renew such permit, the Zoning Officer or his designee shall inspect the site where the temporary storage container is located to determine whether such zoning permit should be extended. Such zoning permit may be extended up to two additional ninety-day period(s) upon the approval of the Zoning Officer or his designee. A renewal fee of \$25 for each 90-day period shall be paid upon request for the extension of.
 - (3) No such zoning permit for each ninety-day additional period. In no event shall a container be placed on any lot in the Borough of Demarest for more than 270 days.
 - (4) No such zoning permit shall be issued to any user who is in violation of any ordinance of the Borough of Demarest.
 - (5) No such zoning permit shall be issued to the same owner of any property who has been issued a similar zoning permit that has expired less than one year prior to the requested issuance date.
- B. Violations and penalties. Any person who allows, keeps, places and/or maintains a temporary storage container on a site within the Borough of Demarest without obtaining a storage container permit pursuant to Subsection C(6)(c) of this section shall be in violation of this chapter.
- C. Regulations.
- (1) Location. A temporary storage container shall be placed only in the driveway, allotted parking spaces, or unimproved portion of the property. The following provisions shall also apply:
 - (a) No temporary storage container shall be placed in public or utility rights-of-way, nor shall it obstruct the sidewalk.
 - (b) No portion of a temporary storage container shall be placed within five feet of a property line.
 - (c) No portion of a temporary storage container shall encroach the required setback of at least 15 feet from the principal building.
 - (d) No temporary storage container shall occupy an area greater than 10% of the area of the front, side, or rear yard at which it is located.
 - (e) A temporary storage container shall not obstruct circulation for vehicles, particularly emergency vehicles.

- (f) A temporary storage container shall not be placed in an area where its placement may reduce parking to a level inconsistent with the Code of the Borough of Demarest and the Residential Site Improvement Standards (RSIS).
- (2) Size and number. No tax lot within the Borough shall contain more than one outdoor temporary storage container. No temporary storage container shall exceed 8 feet in height, 8 feet in width and 16 feet in length.
- (3) Use. A temporary storage container shall only be utilized on private property, only for a limited purpose of temporarily storing common household items such as furniture, clothing or other household belongings, coming from or to a structure on the property that is being renovated or sold.
 - (a) The following items are expressly prohibited from being stored or kept within a temporary storage container: hazardous substances, including chemical, flammable or explosive materials, firearms, ammunition, prescription drugs or narcotics, any material or contraband the possession of which is unlawful, food, other than as packaged for sale in cans, jars or bottles, or trash.
 - (b) In no event shall a temporary storage container be used for the temporary habitation of humans or animals.
- (4) Signage. All temporary storage containers shall comply with the following:
 - (a) A temporary storage container shall have no signage other than the name, address and telephone number of the person or entity engaged in the business of renting or otherwise placing the unit.
 - (b) The sign shall be permanently adhered to, or painted on, a temporary storage container, and the container shall have no more than one sign attached to a side, and no more than two signs total.
 - (c) A sign attached to a temporary storage container shall be no larger than 15% of the area on the side to where it is attached.
- (5) Lighting. There shall be no lighting fixtures attached to a temporary storage container, nor shall any lighting fixture be solely utilized to light a container.
- (6) Maintenance. A temporary storage container shall be in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing, or other holes or breaks. When not in use, the container shall be locked at all times.

§ 175-36. Nonconforming lots, buildings and uses.

- A. Any lot existing heretofore as a legal, separate parcel and not complying with the minimum lot frontage, lot depth or lot area at the time of passage of this chapter may, notwithstanding such fact, be improved with a building, provided that the other regulations of its zone are adhered to and provided that the owner owns no other adjacent land which may be included as part of the lot in question.
- B. Any building or use of a building, legal heretofore but not complying with the terms of this chapter at the time of passage, may, notwithstanding such fact, be continued as a nonconforming structure or use.

- C. When a nonconforming use is changed to a use permitted in the district in which it is located, it shall not be thereafter changed from said conforming use to a nonconforming use.
- D. A nonconforming use or structure shall not be modified, extended or expanded.
- E. A nonconforming use or structure may be restored or repaired in the event of partial destruction thereof by fire or other causes.
- F. Whenever a nonconforming use or structure has been abandoned, such use or structure shall not thereafter be reestablished, and any subsequent use or structure shall be in conformity with the provisions of this chapter.
- G. Notwithstanding Subsection D, a residential structure in a one-family zone that is nonconforming only because it encroaches into a required front, side, or rear yard setback may be expanded as long as all of the following conditions are met:
 - (1) No part of the expansion occurs within any required front, side, or rear yard setback.
 - The expansion must take place only in portions of the lot that fully comply with setback requirements.
 - (2) The expansion does not increase or intensify the existing nonconformity in any way.
 - The structure may not extend further into a setback than it already does.
 - (3) Except for the existing setback encroachment, the expanded structure complies with all provisions of the Limiting Schedule.

§ 175-37. Transition requirements.

- A. Lot divided by district boundary. Where a lot is divided by a district boundary, such lot shall be regulated by all of the area and bulk and use regulations of the more restricted district.
- B. Transition at district boundaries. Where a lot in the Community Business District abuts a lot in a residence district, there shall be provided along such boundary line in the Community Business District I an unencumbered yard space as required by the Limiting Schedule for the abutting residence district. This requirement shall take precedence over the provisions of Note C of the Limiting Schedule. Within the required transition area, an evergreen buffer that is at least six feet tall and four feet wide shall be provided.

§ 175-38. Lighting.

Any exterior lighting in connection with any use in all districts shall be so arranged and shielded as to reflect the light downward and away from all adjoining properties and structures so that the lights and glare from lights will not become a nuisance to adjoining properties. The following standards shall apply to lighting in all districts:

- A. Any exterior lighting in connection with any use in all districts shall be so arranged and shielded as to reflect the light downward and away from all adjoining properties and structures so that the lights and glare from lights will not become a nuisance to adjoining properties. The following standards shall apply to lighting in all districts:
 - (1) All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, industrial, apartment or other similar uses having common off-street parking and/or loading areas and building complexes requiring area lighting shall be adequately illuminated for security and safety purposes. The lighting plan

in and around the parking areas shall provide for nonglare, color-corrected lights focused downward.

- (2) Stairways and sloping or rising paths, building entrances and exits shall be illuminated.
- (3) The maximum height of freestanding lights shall be no more than 25 feet or the height of the building, whichever is less, measured from the ground level to the center line of the light source, spaced a distance not to exceed five times the mounting height. However, freestanding lights within 100 feet of a residential use shall be no more than 15 feet tall.
- (4) Any other outdoor lighting, such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs and ornamental lighting, shall be shown on the lighting plan in sufficient detail to allow determination of the effects to adjacent properties, traffic safety and overhead sky glow. The objective of these specifications is to minimize undesirable off-premises effects.
- (5) Where lights along property lines would be visible to adjacent residents, the lights shall be appropriately shielded. Site lighting, other than that needed for security purposes, shall be set on a timer system that shuts off all but security lighting of the site by 11:00 p.m.
- (6) The following intensity of footcandles shall be provided:
 - (a) Parking lots: a minimum average of 1.0 footcandle throughout.
 - (b) Intersections: a minimum 3.0 footcandles.
 - (c) Maximum at property lines: 1.0 footcandle where non-residential uses abut and 0.5 footcandle where non-residential uses abut residential uses. The maximum footcandles at the property line shall exclude driveways and intersections.
 - (d) In residential districts: a minimum average of 0.5 footcandle, with a maximum average of 1.0 footcandle.

B. Lighting for accessory residential sports courts, including but not limited to, tennis courts, volley ball courts, basketball courts, and the like, shall comply with the following requirements:

- (1) Lighting fixtures must be a minimum of 25 feet from the rear and side lot lines. No lighting shall be permitted in any front yard.
- (2) At all times the lighting intensity at the property lines shall be a maximum of 0.5 footcandle. This measurement shall be conducted in accordance with generally accepted engineering standards, and the measurement shall include and be the sum of the combined illumination of the sports court lighting, other lighting on the property and lighting from any natural light sources.
- (3) Lighting on sports courts shall not be permitted after 10 PM.
- (4) Fixtures shall be of a type and shall be mounted and shielded in such a manner as to prevent the light source from being visible off the property. Such lighting shall further be of a type and located and positioned in such a manner as not to illuminate adjacent properties.
- (5) The mounting height of lighting fixtures shall not exceed 15 feet.

§ 175-39. Swimming Pools

- A. No person shall construct, install or maintain a swimming pool in the Borough of Demarest without first submitting a plot plan and specifications for the same to the Zoning Official of

the Borough of Demarest, who shall issue a zoning permit if the plan and specifications comply with the ordinances of the Borough.

- B. All swimming pools shall be set back from all side lot lines a minimum of 10 feet.
- C. All swimming pools shall be set back from the rear lot line at a minimum of 15 feet.
- D. All swimming pools shall be at a minimum distance of 10 feet from all buildings on a lot.
- E. Swimming pools shall be prohibited from encroaching into the side yard.
- F. Swimming pools shall be prohibited from encroaching into the front yard.
- G. All swimming pools now or hereafter constructed shall be enclosed by a substantial fence no less than 48 inches in height, so constructed as to prevent, within reason, any person from gaining access beneath or through such fence, and it shall have a similarly substantial self-latching and self-closing gate of the same height as the fence with latches placed four feet in height and with facilities for locking the gate when the pool is unguarded or unattended. All pool fences require a UCC permit from the Construction Official.
- H. All ladders or steps leading up to an above ground swimming pool from the exterior grounds shall be removed from the swimming pool when the swimming pool is unguarded and unattended.

§ 175-40. Satellite earth stations.

- A. Any property owner or person or entity in possession of property shall submit to the Zoning Official, prior to placement of a satellite earth station (dish), in excess of one meter in diameter if the property is located in Single Residence District A, BB, B, C or D or in excess of two meters in diameter if the property is located in the CB-I Commercial Business I District a plot plan and specifications showing the size of the dish, the proposed location of same on the subject premises and such other information as may be required herein. **[Amended 12-16-1996 by Ord. No. 782]**
- B. The Zoning Official shall review said plan and render a decision within 20 days of the submission of said plan or within such further time as may be consented to by the property owner or person in possession of the property.
- C. The plan shall be drawn on a map to a scale not smaller than one inch equals 40 feet and not larger than one inch equals 10 feet and shall include and show the following information:
 - (1) The name and address of the applicant and the owner, and the name, address and the title of the person or entity preparing the plan and accompanying data, the date of preparation and the dates of each revision where applicable.
 - (2) An appropriate place for the signature of the Zoning Official.
 - (3) The lot(s) and block number of the lot(s) from the Borough Tax Map, and the length and bearings of the lot lines of the proposed project.
 - (4) The location, names and pavement and right-of-way widths of all existing and proposed streets abutting the lot or lots in question, the property lines of all abutting properties, together with the names and addresses as disclosed on the Borough Tax Map and the tax rolls as of the date of the application, and the location of existing buildings within 200 feet of the site in question.

- (5) All existing buildings and structures and all accessory buildings and structures and all accessory buildings on the lot, if any, with dimensions showing present and finished grade elevations at all corners.
- (6) All existing and proposed setback dimensions and landscape areas.
- (7) Existing and proposed plantings to provide screening as required by this section.
- (8) Any and all other information necessary to meet any of the requirements of this section not listed above.

D. Dimensions. [Amended 12-16-1996 by Ord. No. 782]

- (1) The satellite earth station antennas (dish) shall be in conformance with the following maximum dimensions:

District	Maximum Diameter (meters)	Maximum Overall Height (feet)
Residence R-A	2.4	9
Residence R-BB	2.4	9
Residence R-B	1.8	7
Residence R-C	1.2	5
Residence R-D	1.2	5
Community Business I	2.4	9

- (2) Maximum height as used herein measures the actual height of the dish from its bottom to its top.
- E. No satellite earth station shall be closer than 35 feet from any side property line and no closer than 20 feet from any rear property line.
 - F. In all zoning districts the dish shall be erected on a secure ground-mounted foundation. Maximum height indicated in the above schedule will be from ground level at the location of the dish foundation.
 - G. The dish should be in an unobtrusive location. It shall be effectively screened by a special planting screen or fence, as approved by the Zoning Official, which shall be maintained in good condition, so that the dish shall not be readily visible from any adjacent property or public street. Provision shall be made to minimize noise impact on adjacent properties.
 - H. Power control and signal cables from or to the dish shall be underground and installed in accordance with the appropriate building code, if required.
 - I. The application fee for a permit to install a dish shall be \$25. In addition, the applicant shall deposit the sum of \$100 to cover the cost of review sources deemed necessary by the Zoning Official and/or Construction Official, such as the Borough Engineer, Borough Attorney or other Borough personnel. The Treasurer shall place the deposit in a trust account and shall charge all disbursements for said review services. Any unused portion of the deposit shall be returned to the applicant. If the cost of review services exceeds the amount of the deposit,

sufficient additional funds shall be deposited before any permit shall be issued.

- J. Section 175-23E, F, G, H and I shall not be applicable to a dish one meter or less in diameter if the dish is to be placed, located or installed on property in Single Residence District A, BB, B, C or D or a dish two meters or less in diameter if the dish is to be placed, located or installed on property in the CB-I Commercial Business I District. [Added 12-16-1996 by Ord. No. 782]
- K. Notwithstanding Subsections E, F, G, H and I, if an applicant presents credible evidence to the Zoning Officer that satellite signals cannot be obtained or that said signal reception will be impaired by strict compliance with the regulations of Subsections E, F, G, H and I, or any of them, then the Zoning Officer may grant waivers from the strict application of those regulations so as to not unnecessarily burden access to satellite reception while promoting fair and effective competition among competing communication services providers. "Credible evidence," as used herein, shall mean a certification or affidavit from a qualified expert either that the satellite earth station will not have the look angle from azimuth alignment and elevation alignment needed to receive signals in a substantially unobstructed manner unless one or more of the regulations, specifying which one or ones, are waived in whole or part; or that to comply with the regulations and obtain substantially unobstructed signal reception would impose the expenditure of a sum of money, including costs required to screen, polemount or otherwise specially install the antenna, greater than the aggregate purchase or total lease cost of the equipment as normally installed. [Added 12-16-1996 by Ord. No. 782]
- L. The regulations of this section are enacted to protect and preserve the aesthetic ambiance of the Borough of Demarest, a residential community wherein 99.4% of the parcels are residential or vacant land. [Added 12-16-1996 by Ord. No. 782]

§ 175-41. Prohibited Uses

A. Sale of Animals

(1) Restrictions on the sale of animals.

- (a) No retail establishment shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats or dogs. Nothing in this section shall prohibit a retail establishment from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats provided the retail establishment shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals.

(2) Penalty.

- (a) A retail establishment that violates this section shall be subject to a civil penalty of \$500, and each dog or cat offered for sale in violation of this section shall constitute a separate violation.

B. Marijuana.

- (1) The cultivation, manufacture, warehousing, distribution and sale of marijuana and/or the paraphernalia that facilitates the use of such marijuana, whether for medicinal purposes or recreational use, is prohibited in all Zones established in the Borough.

This does not include the delivery of marijuana and marijuana products offered for sale and delivery from outside of the Borough to residential locations.