



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

May 7, 2025 **7:30 PM** **DEMAREST BOROUGH HALL**

The Borough of Demarest Planning Board held a special meeting on WEDNESDAY, MAY 7, 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.

APPOINTMENT OF NEW MEMBERS

Mayor Bernstein announced that Todd Adelman is appointed as a Class IV member of the Borough of Demarest Joint Planning Board for the unexpired term ending December 31, 2027.

SWEARING IN OF NEW MEMBERS

Mayor Bernstein administered the Oath of Office for Todd Adelman.

ROLL CALL

MEMBERS PRESENT: Todd Adelman, Theodore Alevrontas, Mayor Brian Bernstein, Jodi Brenner, Kiran Chin, Camille DiSclafani, Councilwoman Daryl Fox, Fatemah Mamdani, Timothy Woods

MEMBER(S) ABSENT: -

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

RESOLUTIONS

Resolution JPB-005-25, Interpretation of the Borough of Demarest Zoning Code

Chair Woods discussed Resolution JPB-005-25, referencing a slight modification being put in place. Chair Woods explains that the board agrees A/C units and Generators should be allowed in the side yard per the resolution.

Ms. Federico clarified that the language in paragraph 8 (mechanical equipment that isn't permitted) should reflect that A/C units and generators are also not permitted in the front yard. Ms. Federico also clarified the intent of this change is to reflect the boards' initial intent to keep A/C units and generators out of the front yard.

Councilwoman Fox ask a question about the wording of the addition.

Ms. Brenner suggests adding the statement in paragraph 5 rather than paragraph 8, discussing that A/C units are ancillary, but not permitted in the front yard. Ms. Federico reads the new statement now in paragraph 5.

Councilwoman Fox suggests deleting paragraph 8. Ms. Chin suggests it isn't necessary, and Councilwoman Fox and Chair Woods agree.

Mayor Bernstein made a motion to amend the ordinance, stating that A/C units and Generators are not to be permitted in the front yard. This is stated in paragraph 5 of the ordinance. Seconded by Councilwoman Fox.

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	<i>n/e</i>	Mr. Alevrontas:	<i>yes</i>	Mayor Bernstein:	<i>yes</i>
Vice Chair Brenner:	<i>yes</i>	Ms. Chin:	<i>yes</i>	Ms. DiSclafani:	<i>yes</i>
Councilwoman Fox:	<i>yes</i>	Ms. Mamdani:	<i>n/e</i>	Chair Woods:	<i>yes</i>
Mrs. Hamilton:	<i>n/e</i>				

Motion passed

Resolution JPB-006-25, Interpretation of the Borough of Demarest Zoning Code

Chair Woods made a motion. Mayor Bernstein seconds.

Ms. Chin asks what "wherefore" means in the context of a sentence within the Conclusions and Determinations section. Ms. Federico suggests changing the wording to "whereas".

A motion was made by Vice Chair Brenner to approve the resolution as amended. 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	<i>n/e</i>	Mr. Alevrontas:	<i>yes</i>	Mayor Bernstein:	<i>yes</i>
Vice Chair Brenner:	<i>yes</i>	Ms. Chin:	<i>yes</i>	Ms. DiSclafani:	<i>yes</i>
Councilwoman Fox:	<i>yes</i>	Ms. Mamdani:	<i>n/e</i>	Chair Woods:	<i>yes</i>
Mrs. Hamilton:	<i>n/e</i>				

Motion passed

JPB-25-003 - 17 Laurel Road - Ilan Cohen

Mr. Capizzi stated that proof of publication has been provided to the board. He discussed that 17 Laurel Road is a corner lot in the R-D district, not fully facing both roads. Mr. Capizzi explained that the resident is attempting to build a new single-family home, requesting a variance to exceed the improved coverage maximum by about 1.4%.

Mr. Capizzi continues that due to the fact the home is a corner property, the Zoning Officer had determined the portion of yard closest to Prescott St, the east wing property line, would be considered the front yard. Mr. Capizzi explains that the board would make a final determination on whether the easterly portion of the lot closest to Prescott St would be considered a front yard, and therefore be allowed the designated accessory structures, or side yard. Mr. Capizzi expands that there are four lots on the Prescott lot, with 3 out of the 4 having rear yards towards Prescott. Mr. Capizzi addresses a possible variance needed for a window well, but after consulting with the board engineer, residents are allowed a 3 ft encroachment into any yard. Mr. Capizzi ends by stating the lot is slightly non-conforming. However, he explains how this is not an issue and doesn't affect the variance request. Mr. Capizzi introduces the three witnesses before calling Mr. Rapaport, the civil engineer, to speak.

Mr. Stamos introduces himself as the representation for a neighboring house on 6 Prescott St.

Mr. Rapaport was sworn in by Ms. Federico. Councilwoman Fox moves to accept Mr. Rapaport's testimony as an expert witness. Mayor Bernstein seconds. Mr. Rapaport explains that the house meets all requirements besides the improved lot coverage.

Mr. Rapaport reviews the floor plans, detailing which room is on each floor (two rooms and a basement). Mr. Rapaport explains that the height of the building is below the maximum.

Mr. Rapaport explains why the house fronts Prescott Street.

Mr. Capizzi asks Mr. Rapaport which way 6 Prescott St, a neighboring house, faces. Mr. Rapaport states that it faces North. Mr. Rapaport states there are two kinds of garages which are single doors.

Chair Woods opens for questions from the board. Ms. Chin asks whether the resident is over on lot coverage based on the plans. Mr. Rapaport explains that the resident is asking for extra improved lot coverage and is compliant with regular lot coverage.

Chair Woods asks for site elevation. Ms. Federico asks to identify the document as an exhibit. Chair Woods asks why the improved lot coverage is needed if all other requirements are met. Mr. Rapaport responds that the question is better suited for the planner.

Mayor Bernstein asks about the northern elevation in respect to 6 Prescott. Mr. Rapaport states that the side yard of 6 Prescott faces the side yard. Ms. DiSclafani clarifies if that means 6 Prescott is lot 1. Mr. Rapaport confirms that is true.

Mr. Stamos asks what specifically would be facing 6 Prescott. Mr. Rapaport responds that the pool on the left facing the neighbor, with two bedrooms and a bathroom on the second floor. Mr. Stamos asks whether the backyard and patio would also face 6 Prescott. Mr. Prescott confirms this, adding that there will also be a balcony in the backyard.

Mr. Stamos asks what the height of the balcony is. Mr. Rapaport explains that the floor of the balcony cannot be higher than the floor of the second story, and therefore does not exceed the maximum height limit.

Mr. Stamos and Mr. Rapaport debate over improved lot coverage. Mr. Stamos explains his clients' concerns about the residents being able to see onto their property through the balcony. Mr. Rapaport explains how the balcony's height and placement is consistent with all height requirements and is like a viewpoint one would get out of the second floor.

Chair Woods asks about the height of the balcony. Mr. Rapaport and Chair Woods conclude that it is 11 ft tall.

Chair Woods asks the board engineer to clarify the height of the balcony, claiming it is 14 ft. Mr. Stamos states that since the balcony is situated over a patio, it needs to meet the height requirement of 12 ft, and is essentially a deck (which is an accessory structure).

Ms. Federico explained to the board the process of interpretation, and the board's responsibility.

Mr. Capizzi asks whether the balcony is part of the principal structure. Mr. Rapaport states that it is. Mr. Capizzi asks whether there was any way the balcony exceeded the principal heights' maximum height. Mr. Rapaport states there isn't any. Mr. Capizzi asks whether the setback is conforming, with Mr. Rapaport confirming it is. Mr. Capizzi requests specifically the setback of the balcony, which is about 33 ft.

Mayor Bernstein asks what property the balcony faces. Mr. Rapaport answers that the balcony faces east, and away from Prescott St.

Councilwoman Fox asks how wide the balcony facing North is, with the site plan reading 10 ft. Chair Woods clarifies that the expansive part of the balcony faces lot 19. Mr. Rapaport confirms this and adds that the balcony is also 20 ft from the side yard.

Ms. DiSclafini asks whether the balcony is directly facing another home, or just the property itself. Mr. Rapaport explains that the balcony is attached to the back right.

Ms. Chin clarifies whether the balcony issue is over concerns of privacy, and whether the zoning code specifies anything about privacy. Chair Woods explains that the balcony does not require any variance and therefore is allowed.

Mr. Rapaport adds that access to the balcony is through the master bedroom on the second floor and therefore is for the personal use of the homeowners and not necessarily a place to bring guests, therefore infringing on privacy. Ms. Federico clarifies that there are no restrictions being placed on the use of the balcony per any ordinance.

Chair Woods states that the reason this discussion was open was out of concern for 6 Prescott. Ms. Federico reassures again that there is no rule in the zoning code preventing the balcony regardless.

Mr. Capizzi calls Mr. McClellan (city planner) to speak. Ms. Federico swears Mr. McClellan in.

Mr. McClellan states that the lot is under the 10,000 sq ft minimum for the district. In addition, the house itself is non-conforming as it does not meet the 30ft required setback in the rear yard. Finally, there is a shed 2ft off the property line which is non-conforming. Mr. McClellan elaborates that the property slopes down from 104ft from the northwest to 96ft to the southeast.

Mr. McClellan explains there is a front entrance on Prescott with a driveway on Laurel, and that all requirements are met besides improved lot coverage. Mr. McClellan explains how the property fronts on both Laurel and Prescott, the side yard goes to the north property line, and the rear yard line goes to the east.

Mr. McClellan states that the window well not go past the 3ft encroachment maximum. Mr. McClellan expands that the driveway needs to retain its' width to be reasonably accessible, and needs to reach the street from his garage, therefore requiring more coverage.

Mr. Capizzi asks about the drainage system. Mr. McClellan states that there is no drainage system currently, and in the new plan seepage pits would need to be put in.

Mr. Capizzi asks whether there are any other items on the engineering plan that need to be addressed. Mr. McClellan states there are none.

Chair Woods asks about the retaining wall on the side of the driveway. Councilwoman Fox clarifies that the discussion is whether the wall should be permitted in the side yard, based on the determination of where the side yard is. This is confirmed by Mr. Capizzi. Mr. McClellan explains that the wall helps to soften the grade change from the garage to the property and is at a maximum of 1.3 ft. Mr. McClellan explains that he doesn't believe this needs variance, due to the definition of structure being anything over 2ft.

Councilwoman Fox asks about the discrepancy between the lot coverage on the original plan and what Mr. McClellan is presenting. Mr. McClellan assures that the original plan's calculation had been amended on the newest application presented to the board. Chair Woods clarifies that the improved coverage is 31.4% and asks whether on a normal sized lot the coverage would still be over the maximum. Mr. McClellan states that it would be, even on a regular sized lot.

Chair Woods questions the focus on the driveway rather than other components that calculate into improved lot coverage. Mr. Capizzi clarifies that the driveway was focused on because if it was narrowed, the property would comply and therefore required the most explaining to do otherwise.

Councilwoman Fox asks if the driveway can be tapered in and whether that would cause a safety issue. Mr. McClellan answers that the driveway could be tapered away from the corner if anything. Ms. Chin asks how many iterations of this plan were considered before landing on the 31.4% improved lot coverage. Mr. McClellan states they had got rid of a covered patio idea and adjusting the design of the walkway.

Chair Woods asks whether tapering the driveway requires one vehicle to be deposited on Laurel. Mr. McClellan explains both will be able to be parked side by side, but one of the cars will have a more difficult time backing into the garage than the other. Councilwoman Fox adds that there would still be enough room for both cars to back in and out, with a confirmation from Mr. McClellan. Chair Woods clarifies that these movements could happen with both cars on the driveway itself, which is confirmed by Mr. McClellan.

Mayor Bernstein asks about another parking orientation. Mr. McClellan stated both cars would have to be parked next to each other directly.

Mr. Chelius also asks about the fence enclosure for the pool, which he believes is not on the site plan. Mr. McClellan claims that there will be a pool compliant fence around the pool. Mr. Chelius asks that the board consider as a condition of approval that a pool-compliant fence be added to the site plan. Mr. Chelius asks whether they plan on using the existing utilities or new ones for the home. Mr. McClellan states that any existing utilities that can be used will continue to be used.

Mr. Stamos asks how many trees will be removed, and whether there is a plan for replacement. Mr. McClellan states that with the five trees being removed by the ordinances on tree replacements, one is not required. Mr. Stamos asks if anything will be added to the perimeter of the yard. Mr. McClellan states there will be a fence. Mr. Stamos asks for further details. Mr. McClellan states they are not prepared to make a statement on that. Mr. Stamos clarifies that narrowing the driveway would bring the lot into compliance. Mr. McClellan states that it would, but that isn't the desired outcome of the plan. Mr. Stamos then asks whether the covered patio being removed could also bring the property into compliance. Mr. McClellan states that it would but that isn't a part of the plan. Mr. Stamos clarifies the statement by Chair Woods that other aspects of the property go into improved lot coverage besides the driveway. Mr. McClellan confirms this.

Ms. Federico swears in Michael J. Pessolano (professional planner). Mr. Pessolano presents the application from a planning perspective. Mr. Pessolano argues that although it would be difficult to maintain the deep setback requirements on a corner lot, the home is not overreaching in its' build and therefore should be granted a variance. This extends to the pool's placement technically being in the side yard as it is generally kept out of view.

Mr. Capizzi interrupts and states that Mr. Stamos and he came to an agreement on the designation of the yards and therefore can move along in the testimony. Chair Woods agrees to move the testimony along, stating the board will need to fully designate the front yard facing Prescott St. Mayor Bernstein clarifies that this is what the applicant prefers. Chair Woods asks for a vote on yard designation.

Councilwoman Fox makes a motion to declare the true front of the property as Prescott Street. 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	Ms. Mamdani:	yes	Chair Woods:	yes
Mrs. Hamilton:	n/e				

Motion passed

Mr. Pessolano asks if a variance can be waived for the retaining wall on the driveway as well, as it is below 2ft and therefore cannot be considered a structure. Chair Woods agrees. Chair Woods calls for a motion.

Councilwoman Fox made a motion to acknowledge the precedent that retaining walls below 2ft are not considered structures and therefore do not count towards lot coverage. 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	Ms. Mamdani:	yes	Chair Woods:	yes
Mrs. Hamilton:	n/e				

Motion passed

Mr. Pessolano refocuses on the remaining variance needed for improved lot coverage, emphasizing its additive quality to the look of the street and the need for ample-sized garages and driveways. Mr. Pessolano states that despite the undersized lot and therefore need for improved coverage, there will be no substantial impact on the neighborhood.

Chair Woods asks how the request for improved coverage is not, given Demarest's history of deeply caring about that rule. Mayor Bernstein explains that improved coverage issues relate to the overstated, unnecessarily large houses that are within Demarest, and not to this plan which he describes as "modest".

Chair Woods clarifies he was asking the planner about his knowledge of the importance of improved coverage. Mr. Pessolano states that due to his experience, this is a minute request. He adds that due to the adding of seepage pits, the issue of runoff often caused by going over lot coverage will be mitigated.

Mr. Stamos clarifies that the code has a percentage in place for a reason and adds once again that the improved lot coverage variance applies to all non-conforming structures, not just the driveway. Mr. Pessolano clarifies it applies to 141sq ft of extra coverage, whatever form that comes. Mr. Stamos asks what stops the applicant from being conforming. Mr. Pessolano states the applicant is comfortable losing some driveway area to be conforming, but again, that is not the desired outcome. Mr. Stamos suggests again removing some portion of the patio for privacy issues. Mr. Pessolano states this is not necessary to be conforming, nor does it infringe on privacy.

Mr. Stamos asks if the applicant can and should consider a neighbor's concerns, if possible, even if not required. Mr. Capizzi objects to the question as it wasn't a part of Mr. Pessolano's testimony.

Mr. Capizzi asks to reconfirm the benefits of this improved lot coverage despite the non-conforming size. Mr. Pessolano does so.

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

Mr. Stamos states his client would like to make a statement. Ms. Federico explains that because they are represented, they can't make a statement but can be asked questions as a witness.

Ms. Federico swears in Marian Hayden of 6 Prescott St.

Mr. Stamos asks what Ms. Haydens' concerns are. Ms. Hayden explains that due to the size of the balcony, there is a concern about privacy.

Ms. Federico asks Mr. Stamos to ask more direct questions.

Mr. Stamos asks whether the resident owns a balcony, which Ms. Hayden confirms she does. Mr. Capizzi asks what Ms. Hayden sees when she looks out on her balcony. She states she sees Lenox Ave, which is east of the property. Mr. Capizzi asks if, therefore, his client's property is also visible. Ms. Hayden confirms it is, especially from the bedroom window.

Ms. Federico swears in Dorothy Hayden, an owner 6 Prescott St.

Mr. Stamos asks what Ms. Hayden's concerns are. Ms. Hayden confirms she agrees with her sister and adds that she feels second story balconies are unnecessary.

Ms. Federico asks Mr. Stamos to ask more concise questions.

Ms. Federico swears in Ted Piltzecher, owner of 8 Laurel Rd, which is across the street.

Mr. Piltzecher has concerns about whether the approval of this variance would adjust the zoning laws in any negative way, especially since there are options for compliance.

Ms. Chin asks whether there is impact from the project. Mr. Piltzecher states there wouldn't be.

A motion was made to close the meeting to the public for comments by Councilwoman Fox and was seconded by Mayor Bernstein.

All in favor – Motion Passed.

Mr. Stamos makes his closing statement, restating the ability for the applicant to lessen lot coverage with the patio rather than the driveway. Mr. Stamos argues that as this is a completely new dwelling being built, the rules should be followed.

Mr. Capizzi makes his closing statement, focusing on the positive impact the home would have, and the integrity of the planner in terms of their attempt to make this dwelling conform with reasonability. Mr. Capizzi clarifies that the balcony requires no variances and plays in the building coverage which is conforming. Mr. Capizzi expands that although sacrifices can be made for improved coverage, the applicant prefers not to make them.

Councilwoman Fox asks that given there is no plan for replacing trees that would be demolished, nor was there a plan for screening, if the client would put in that plan in exchange for the variance being granted. Mr. Capizzi agrees this would be possible. Councilwoman Fox adds this would help to shield the balcony’s view to some extent to help satisfy the needs of 6 Prescott. Mr. Capizzi accepts.

Ms. Federico asks whether the new motion with the tree conditional would also include help from professionals to orient the trees in the right way. Councilwoman Fox states it would.

Ms. Chin asks that the client balances the privacy of the neighbors regarding the pool and patio. Mayor Bernstein states this is more of a good neighbor situation rather than the denial of a variance, however the pool compliant fence will help. Mr. Capizzi agrees.

A motion was made to approve the application subject to the conditions of the pool fencing and the additional tree screening by Councilwoman Fox. Seconded by Mayor Bernstein.

Chair Woods asks for any final comments, of which there are none.

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	Ms. Mamdani:	yes	Chair Woods:	no
Mrs. Hamilton:	n/e				

Motion passed

Chair Woods states he agrees with the motion but doesn’t understand why the client is arguing over 141 sq ft rather than just complying.

JPB-25-004 - 17 Duck Pond Road – Tomer Edry

Mr. Capizzi states that proof of publication has been provided to the board. Mr. Capizzi explains how 17 Duck Pond was created before the creation of Academy Ln, and therefore there is a great distance between 17 Duck Pond and Academy Ln. Zoning Officer Mr. Greco had ruled the front yard was fronting Academy Ln and therefore could not include certain accessory structures. However, due to the 50 ft distance between the property and the street, and the history of the streets’ creation, the applicant is appealing the Zoning Officer’ initial ruling.

Mayor Bernstein asks if a driveway can be created from the property line to Academy Lane. Mr. Capizzi begins to answer before Mr. Michael Hubschmen, the city planner, jumps in. Ms. Federico swears Mr. Hubschmen in before his testimony. Mr. Hubschmen explains that per a condition of the neighboring street, a driveway was prohibited to be made between the property line and Academy Lane.

Mr. Hubschmen expands on access to Academy Lane. Mr. Hubschmen explains that there are 7 homes facing Alpine Country Club on Academy Ln, which blocks 17 Duck Ponds’ access to that street. Councilwoman Fox clarifies that 17 Duck Pond is not permitted to access Academy Lane. Mr. Hubschmen confirms this.

Mr. Capizzi asks whether there is a sudden grade change between the lot line and Academy Lane. Mr. Hubschmen states there is a 5ft difference. Ms. Chin asks to clarify whether the issue is over identifying the portion of the property facing Academy Lane as a front yard. Mr. Capizzi states the issue is over identifying whether it is a through lot or not and therefore fronts two streets.

Mr. Capizzi requests that the portion fronting 17 Duck Pond be considered the front yard, and the portion facing Academy Ln be considered the rear yard.

Chair Woods asks if the board planner has a comment. Mr. Chelius states that this information about Academy Lane was not known previously, but upon further consideration, the applicant is correct.

A motion was made to declare the portion of the property facing Academy Lane as a rear yard by Mayor Bernstein. Seconded by Councilwoman Fox.

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	<i>yes</i>	Mr. Alevrontas:	<i>yes</i>	Mayor Bernstein:	<i>yes</i>
Vice Chair Brenner:	<i>yes</i>	Ms. Chin:	<i>yes</i>	Ms. DiSclafani:	<i>yes</i>
Councilwoman Fox:	<i>yes</i>	Ms. Mamdani:	<i>yes</i>	Chair Woods:	<i>yes</i>
Mrs. Hamilton:	<i>n/e</i>				

Motion passed

Mr. Capizzi moves on to the second issue, which is whether the sports court, pool, and patio are positioned in the side yard. Mr. Capizzi claims the zoning code is silent on what defines side yard, but there are other sections of the Demarest ordinance that measure yard breaks in a perpendicular fashion. Mr. Capizzi shows an exhibit that uses the perpendicular yard break method.

Councilwoman Fox asks why the yard breaks don’t extend closer to Academy Ln. Chair Woods claims they need to touch the building and then clarifies Mr. Capizzi’s point about using the perpendicular method. Chair Woods asks Mr. Capizzi to cite his definition of this method of yard breaking. Mr. Capizzi states he used the “Maintenance” definition found in a separate ordinance.

Ms. Federico marks the visual of the new plan as Exhibit A3.

Ms. Chin asks if the front, side, and back yard would follow the property lines of the house versus its’ orientation towards the street. Chair Woods adds that the board has the authority to interpret the code, but states that Mr. Capizzi’s’ argument is grounded in some code. Councilwoman Fox clarifies the point of the discussion is to designate whether the sports court and other accessory structures is in the side yard or not. Chair Woods states that even with Ms. Chin’s interpretation, the sports court would be in the side yard as well – not causing a need for a variance.

Councilwoman Fox asks whether the applicant is responsible for the orientation of the house and therefore the rules it must abide by. Mr. Capizzi confirms that it is.

Mr. Capizzi states that his plan is grounded in some portions of the Demarest Code, while Chair Woods’ interpretation is not. Chair Woods responds that the board has full authority to decide how to interpret the code.

Councilwoman Fox asks what sections of the code Mr. Capizzi is referencing.

Ms. Brenner suggests moving the sports court to the rear yard without any need for variance. Mr. Capizzi states if that was done, a cluster of trees would need to be removed versus a few possible removals in the side yard. Mr. Hubschmen agrees with Mr. Capizzi’s explanation, adding that the owner does not prefer this option.

Councilwoman Fox asks about the topography of the land. Ms. Federico interrupts to focus back on the interpretation of the code. Councilwoman Fox asks if the sports court can be treated as an individual variance request rather than being used to forever determine the yard designation.

Ms. Federico states that it has an impact ruling on the yard designation, as it affects all future additions to the property. Mayor Bernstein agrees with this. Ms. Chin brings up the intention of the ordinance, which is to restrict recreational use and therefore could be impacted by the sports court. Mr. Hubschmen responds by stating that all other site conditions are met with ample space between the neighbors' house and the property line.

Mr. Capizzi continues, stating the Property Maintenance section's front yard definition that is used in his proposed plan. Councilwoman Fox asks if there is an inconsistency within the Zoning Code. Mr. Capizzi states there is nothing inconsistent, but it is very vague. Mr. Capizzi continues by citing a different definition within the Stormwater Ordinance stating how to measure a special water resource area, also measured in a perpendicular fashion. Councilwoman Fox asks about the relevance. Mr. Capizzi states that the instructions on determining a resource area also utilize a perpendicular measurement.

Mr. Chelius clarifies the ordinance Mr. Capizzi just utilized, adding that it is a model ordinance provided by the state and not written by the town in any way. Mr. Capizzi states it is adopted by the town, regardless of who wrote it.

Mayor Bernstein asks how the rear yard property line is drawn after it being designated the rear yard.

Chair Woods claims that the zoning code does have a definition written, and the board has the right to interpret said definition. Mr. Capizzi states that the interpretation must be made with a basis in the code and within reason. Ms. Federico clarifies this point.

Councilwoman Fox asks again why Mr. Capizzi made the determination of the depth of the rear yard line. Mr. Capizzi site the definition from the Property Maintenance Ordinance, stating the "foundation" of the house furthest from the property line is where the line is drawn.

Mr. Capizzi calls Mr. Hubschmen to the stand. Mr. Capizzi asks if the plan in question is something Mr. Hubschmen has done multiple times previously. Ms. Brenner asks whether the line would normally be drawn from the depth Mr. Capizzi had pointed out, even if it was on a parallel property. Mr. Hubschmen stated that he would. Councilwoman Fox had asked whether the same would apply for a house not built yet, as the rear yard line would be put closer if the house had been built closer.

Mayor Bernstein asks if the definition in the Development Definitions by Moskowitz helps or hurts Mr. Capizzi's argument. Ms. Federico explains that the book is an industry standard book. Mr. Capizzi explains that it helps, as the Moskowitz book includes the perpendicular description and accounts for the depth of the line. Councilwoman Fox agrees.

Ms. Chin questions whether the perpendicular line would go straight back from the house based on the definition, and therefore the court would be in the side yard. Ms. Brenner shares this question. Mr. Capizzi disproves this interpretation.

Ms. Brenner asks whether there would be a side setback, which Mr. Capizzi confirms there is. Chair Woods asks for Mr. Chelius' interpretation.

Mr. Chelius states that although the zoning code is silent on the orientation of the measurement, his interpretation was based on approval of the setback lines. Mr. Chelius draws his line. Councilwoman Fox asks if Mr. Capizzi agrees.

Mr. Capizzi calls up Mr. Hubschmen to comment. Mr. Hubschmen agrees. Mr. Chelius agrees with the setback line on the rear yard as well. In Mr. Chelius's plan the sports court is also in the rear yard, confirmed by Councilwoman Fox.

Mr. Chelius' states that a small portion of the court is in the side yard, but it is miniscule. Mr. Chelius expands that the patio would be in the rear yard as well.

Ms. Brenner asks Mr. Chelius what was used to make that determination. Mr. Chelius states it is a combination of the code and the Moskowitz definitions.

Councilwoman Fox clarifies that Mr. Chelius agrees with the applicant. Mr. Chelius confirms this.

Councilwoman Fox asks for a permanent record of the rear yard line.

Mayor Bernstein asks what the distance from the sports court to the neighboring home on the right is. Mr. Hubschman states it is 90 ft.

A motion was made to determine that all accessory structures presented are situated entirely in the rear yard and therefore do not require variances from the board by Councilwoman Fox. 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	Ms. Mamdani:	yes	Chair Woods:	abstain
Mrs. Hamilton:	n/e				

Motion passed

APPROVAL OF MINUTES

A motion was made to approve April 2, 2025, meeting minutes, by Chair Woods and was seconded by Mr. Alevrontas.

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	n/e	Mr. Alevrontas:	yes	Mayor Bernstein:	yes
Vice Chair Brenner:	yes	Ms. Chin:	yes	Ms. DiSclafani:	yes
Councilwoman Fox:	yes	Ms. Mamdani:	n/e	Chair Woods:	yes
Mrs. Hamilton:	n/e				

Motion passed

A motion was made to approve March 25, 2025, Zoning Board meeting minutes, by Chair, with no member present capable of seconding.

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	n/e	Mr. Alevrontas:	n/e	Mayor Bernstein:	n/e
Vice Chair Brenner:	n/e	Ms. Chin:	n/e	Ms. DiSclafani:	n/e
Councilwoman Fox:	n/e	Ms. Mamdani:	n/e	Chair Woods:	yes
Mrs. Hamilton:	n/e				

Motion passed

Mr. Greco states that there are two applications pending that need to be completed soon but can possibly be pushed to July. Councilwoman Fox decides not to push them. The board collectively discuss the multiple meeting dates in July.

Ms. Chin begins to discuss certain bylaws that she wants to get adopted. Ms. Chin calls into question the organization and structure of these bylaws, stating they are comprehensive and complicated. Ms. Chin specifies section 2.13 on Page 9, Removal of Members, in which a member is removed if one doesn't attend 8 consecutive meetings. Mayor Bernstein has an issue with the time limit, citing that there might be a period where there aren't meetings. Councilwoman Fox doesn't believe the board should make decisions about who should be taken off, but rather a recommendation. Ms. Federico agrees with that, adding there are no standards on this previously.

Councilwoman Fox asks about the County Municipal Investigations Law. Ms. Chin explains those laws are for evidence and testimony. Ms. Chin brings up the bylaws regarding rules and roles of members. Ms. Chin then moves to Page 9, 2.14 Recusal and Conflict of Interest, asking how the board wants to proceed with enforcing this bylaw. Chair Woods brings up his opinion on recusal, which is that the individual should choose to recuse, and it isn't the board's decision. Ms. Federico adds that the members of the public can raise the issue of recusal. Councilwoman Fox asks that if it is compulsory for that board member to recuse their position if a member of the public requests it. Ms. Federico states if there is a financial or personal interest at stake, then the whole decision is void if that member votes.

Mayor Bernstein asks that if a decision was made in good faith by a member that normally would be considered a conflict of interest, is that decision still void. Ms. Federico responds that it could be as long if there isn't any proof otherwise.

Ms. Chin brings up the Start and End Time of Meetings by law. The law states that meetings start at 7PM, but Ms. Chin prefers to move it forward to 7:30PM to accommodate the number of cases being heard. No objections are made.

Ms. Chin also adds that the order of applications being heard should be discussed, wanting more guidance. Councilwoman Fox states that Chair Woods has that jurisdiction. Mayor Bernstein asks if an ordinance can be introduced that keeps variance discussions focused on the variance in question, for example, previous stipulations that cut out unnecessary testimony. Chair Woods thinks that should happen in Mr. Chelius' reviewing period.

Ms. Federico adds that stipulations are made throughout trials, but a law can be formalized on the issue. Ms. Brenner asks whether that is the role of the planner or engineer. Ms. Federico states it would be the applicants' attorney. Chair Woods states that he will control those stipulations moving forward.

Mayor Bernstein brings up point 4.17, in which it is unclear whether a board member who is not present at a meeting can approve the minutes for that meeting. Ms. Federico states that if you have not been there, nor officially read the transcript, you are not allowed to approve the minutes. She adds that in the event no one was present, it is possible to make a motion on the minutes.

Ms. Chin asks on swearing in on the witnesses, and the difference between public comment and testimony. Ms. Federico explains that and the better practice is to swear everyone in.

ADJOURNMENT

With no further business presented, a motion to adjourn the meeting was made by: Councilwoman Fox and seconded by Mr. Alevrontas.

All in Favor – Motion Passed

The meeting was adjourned at 10:45 PM.

Respectfully Submitted,
Michael Greco, Joint Planning Board Secretary