

**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:



MICHAEL GRECO, Secretary

SO APPROVED:



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"/>
Vice Chair Brenner	<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"/>
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"/>
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 Adoption: December 3, 2025