

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

RESOLUTION JPB-017-26

VARIANCE APPROVAL

In the Matter of the Application of
Patrick Min
32 Brookside Avenue
Block 14, Lot 759.02

WHEREAS, Patrick Min is the applicant and owner (the “Applicant”) of the property located at 32 Brookside Avenue and designated as Lot 759.02 in Block 14 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, the Applicant filed a request variance relief arising from an impervious coverage condition which violates the prior approval regarding impervious coverage for the Property, which was granted by Resolution File No.: 667-06 (adopted October 17, 2006) to the prior owner, Sang Bae Kim; and

WHEREAS, thereafter, the Applicant, represented by Dean Stamos, Esq., of Ferraro & Stamos, LLP filed an application with the Joint Planning Board of the Borough of Demarest (the “Board”) “C” variance approval to address the non-conformity arising from the additional impervious coverage added as a rear patio and expanded paver driveway (the “Application”); and

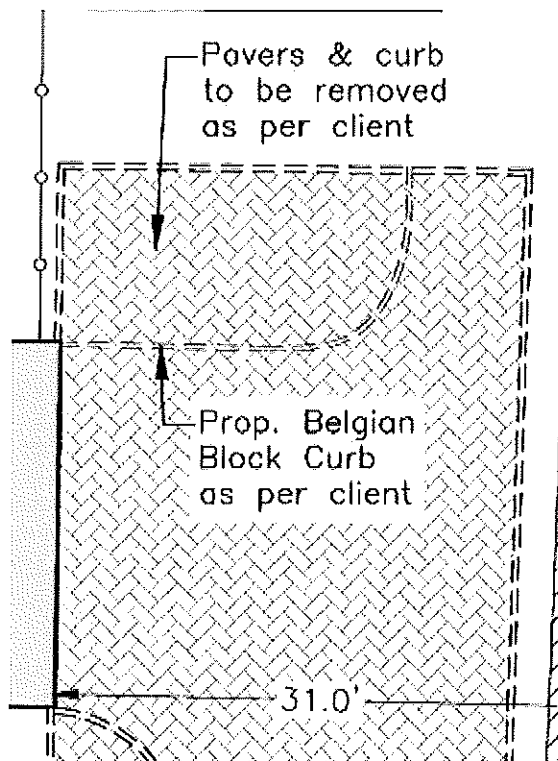
WHEREAS, public hearings were held by the Board on September 3, 2025 and September 2, 2026 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented at the September 2, 2026 meeting was by counsel, Dean Stamos, Esq. of Ferraro and Stamos, LLP: (a) presented proof of

notice and publication as required by law; and (b) submitted the following evidence to the Board in support of Applicant's Application including:

- A. Boundary Survey, signed and sealed by Andrew Schmidt, PLS, dated December 30, 2025 noting sections of pavers to be removed on the patio and the area of the driveway to be removed to bring the property into closer conformity with the prior approval, with coverage analysis tables as reproduced below:

Exist. Impervious Cov.	SqFt	% of Total	Prop. Impervious Cov.	SqFt	% of Total
House	1951	19.5%	House	1951	19.5%
Paver Driveway	1512	15.1%	Paver Driveway	1319	13.2%
Front Paver Walk	270	2.7%	Front Paver Walk	270	2.7%
Front Porch & Step	62	0.6%	Front Porch & Step	62	0.6%
Rear Paver Patio	270	2.7%	Rear Paver Patio	266	2.7%
Chimney	11	0.1%	Chimney	11	0.1%
Paver AC Pad	29	0.3%	Paver AC Pad	29	0.3%
Concrete Block Walls	129	1.3%	Concrete Block Walls	129	1.3%
Total Impervious	4234		Total Impervious	4037	
Lot Area	10006		Lot Area	10006	
Percent Impervious	42.3%		Percent Impervious	40.3%	

And a proposed renovation of the driveway as shown below:



- B. Testimony of the Applicant regarding: 3 photographs entered in the record and noted below; there are no drainage issues on the site; he would like to retain a portion of the driveway that was improperly installed by his predecessor in title to allow for a safer “K” turn (approximately 9’ wide) in the driveway so cars do not have to back up the long driveway into the street; the area of pavers that are removed will be replaced with grass;
- C. Resolution File No.: 667-06;
- D. A complete Application, received by the Board on June 26, 2025;
- E. Letter dated December 5, 2007, received by the Borough of Demarest on December 10, 2007 from Gary Vander Veer, PE with attached final “as built” survey signed and sealed by Robert J. Mueller, PLS of Hubschman Engineering, dated November 20, 2007, show the patio and paver driveway to be smaller than what was later constructed;
- F. Certification dated June 2, 2025, confirming the taxes are paid;
- G. Letter dated August 21, 2025 from Colliers Engineering & Design comprised of six pages, signed by Nick Chelius, PE, CME, the Board Engineer identifying the variance relief required as:
- Front yard setback (Serpentine Road) 24.8’ existing, 25’ required
 - Front yard setback (Brookside Ave) 24.9’ existing, 25’ required
 - Rear yard setback 19.9’ existing, 30’ required
 - Rear yard setback to patio, survey shows approximately 5’ existing, 10’ required and 10’ proposed

- Building coverage of 2,037 existing, which is 20.4%, and 20% is permitted
 - Residential and parking coverage of 3,677 SF, which is 36.7% and a maximum of 25% is permitted
 - Improved lot coverage existing at 44.6%, which is 4,465 SF, where a maximum of 30%, 3,002 SF is permitted
 - Potential FAR variance
 - Building coverage variance,
- H. Letter dated December 1, 2025 from Colliers Engineering & Design, comprised of 7 pages signed by Nick Chelius, PE, CME, updating his prior letter
- I. Escrow/Closing Letter dated July 25, 2024, between Patrick Min and Annie Min, the owners of the Property and Michelle J. Sin, as seller, stating that \$50,000 has been placed in escrow to permit a closing to take place on that date and requiring the seller to comply with any and all Borough requirements regarding the reduction of the rear patio as well as curing the existing violation and patio permit close out
- J. Fifty-six (56) pages of documents from the Demarest Building department evidencing the history of construction, permits, inspection, soil movement, affordable housing fee, insurance, application from 2007 with review letter(s),
- K. Nine (9) pages Architectural Plans showing floor plans/details and elevations, dated June 26, 2006, signed and sealed by Simon Kim, signed and approved by the Borough of Demarest Building subcode official, plumbing subcode official, electrical subcode official and fire protection subcode official

- L. Soil erosion and sediment control plan; existing conditions plan signed and sealed by Robert J. Mueller, PLS and Michael J. Hubschman, PE, PP, dated June 21, 2006, comprised of eight (8) pages
- M. Coverage Analysis Driveway Option 2, prepared by Christopher J. Lantelme, PE, PLS, dated June 23, 2025 showing areas of driveway contemplated to be removed (at that time)
- N. Coverage Analysis plan prepared by Christopher J. Lantelme, PE, PLS, dated June 23, 2025
- O. Boundary survey prepared by Andrew A. Schmidt, PLS, dated December 30, 2025, certified to Hong Sin, showing existing conditions
- P. Permit number 835, issued on November 13-2013 for a “16” wall around garden as per survey” signed by the Borough Clerk and copied to the Borough DPW Superintendent;
- Q. Three photographs taken by the Applicant showing current conditions, including the area of the patio which has now been reduced in size and is conformity with the required 10’ rear yard setback; and

WHEREAS, the Board, the Board Engineer and the Board Planner had extensive questions for the Applicant’s professionals regarding the proposed dwelling; and

WHEREAS, adjoining property owners appeared at the public hearing to ask questions of the Applicant’s professionals and express concerns regarding stormwater management and flooding and, thereafter, offer comments in support of the Application; and

WHEREAS, following the vote on this matter, in accordance with the directions of the Board, an updated survey dated September 26, 2026, signed and sealed by Andrew Schmidt, PLS, was submitted to the Board and is attached hereto; and

WHEREAS, the Board having heard and considered the testimony, arguments and documents referenced above and having heard from its own professional engineer and planner and having fully considered the matter.

NOW, THEREFORE, RESOLVES that the Joint Planning Board of the Borough of Demarest makes the following findings of fact and conclusions of law with respect to the within Application:

1. All of the “**WHEREAS**” clauses set forth above are incorporated by reference. All of the testimony, documents, and exhibits produced by the Applicant, including those produced at the public hearings are incorporated herein by reference.

2. The Property is located at 32 Brookside Avenue and designated as Lot 759.02 in Block 14 on the Tax Maps of the Borough of Demarest and is a rectangular-shaped corner lot (with Serpentine Road) with a gore protruding off of its south east corner measuring 20.92’ by 10.5’, and is approximately 10,006 SF.

3. The Property is located in the Single-Family Residence D Zone (the “R-D Zone”).

4. The Board agrees with the identified zoning conditions and relief requested by the as described in the Board Engineer’s review letters set forth in the table reproduced below:

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.	☒ Yes ☐ No
Lot Frontage (Brookside)	100 ft.	130.50 ft.	☒ Yes ☐ No
Lot Frontage (Serpentine)**	100 ft.	75 ft.	☐ Yes ☒ No
Lot depth (E/W Direction)**	100 ft.	75 ft.	☐ Yes ☒ No
Lot depth (N/S Direction)	100 ft.	130.5 ft.	☒ Yes ☐ No
Front yard setback (Serpentine Road)*	25 ft.	24.8 ft.	☐ Yes ☒ No
Front yard setback (Brookside Ave)*	25 ft.	24.9 ft.	☐ Yes ☒ No
Side yard setback (South)	10 ft.	31.0 ft.	☒ Yes ☐ No
Accessory Setback (Patio)*	10 ft.	5 ft. +/-	☐ Yes ☒ No
Rear yard setback*	30 ft.	19.9 ft.	☐ Yes ☒ No
Building Height	30 ft.	Unknown	☐ Yes ☐ No
Max Building Coverage*	20 %	20.4%	☐ Yes ☒ No
Bldg./ Drive Coverage	25 %	36.74%	☐ Yes ☒ No
Improved Coverage*	30 %	44.6%	☐ Yes ☒ No
Livable Floor Area	30%	Unknown	☐ Yes ☐ No

N/A = not applicable

* = variance required

** = pre-existing non-conformance

5. The Property was previously approved in accordance with plans approved by a prior board. It was developed with permits which were issued and certificates of occupancy were issued after municipal inspectors were satisfied that all conditions were met.

6. Thereafter improvements were made to increase the driveway beyond what was allowed by the prior approval and which exceeded the allowable limits.

7. As demonstrated by the new as built survey submitted in support of the within Application there appear to be some *de minimis* front and rear yard setback deviations from the code and the prior approval. None of them amount to more than a few inches are practically undetectable to inspectors and may be granted due to their *de minimis* nature and the impracticality of compelling compliance decades after approval, construction, occupancy and multiple subsequent transfers of title which would visit undue hardship upon an innocent owner.

8. The Applicant has already eliminated the variance for rear yard accessory structure setback (to the patio) by reducing the size of the patio, thereby achieving compliance of this item.

9. The Applicant seeks to bring the impervious coverage into closer zoning conformity by removing a portion of the driveway, 180 SF will be removed.

10. A portion of the driveway expansion which was done by the prior owner without permit or permission is allowed by this Approval to remain in order to promote safe traffic flow from the property. That portion is as shown in Paragraph A, page 2, above. The precise dimensions are subject to final review and approval by the Board Engineer and conditioned upon the review and approval of a final as built survey signed and sealed by a New Jersey Licensed Surveyor, by the Board Engineer.

11. The Property is currently occupied by a 2-story single-family dwelling with associated driveway, walkways, patio, frame garage and other related improvements.

12. Single-family residential dwellings are permitted uses in the R-D Zone.

13. The Board finds that the proposed changes to the patio and driveway are improvements that increase zoning conformity thereby promoting the general welfare, increase open space and improve drainage while also promoting safe traffic flow from the Property

thereby advancing the purposes of the Municipal Land Use Law. There are no detriments arising from the relief sought. The C(2) criteria are satisfied.

14. The lawful existence and placement of the home on the lot create topographic conditions justifying relief under C(1).

15. The Board further finds that the granting of the variances will not substantially impair the intent and purpose of the Borough's Zoning Ordinance or Master Plan and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2, e.g. adequate light, air and open space are provided, the general welfare is advanced, the single family use remains in an appropriate location.

16. The Board finds that the Application and the proposed improvements, as modified during the public hearings, are consistent with other homes in the neighborhood and that the variances can be granted without any detriment to the public good or any neighboring properties.

17. The Board finds that the Applicant has proven its entitlement to variance approval under 40:55D-70(c)(1) and N.J.S.A. 40:55D-70(c)(2) and hereby grants the following variances:

Zoning Code Section	Required/Permitted	Proposed & Granted
Section 175-16 (front yard setback – Brookside Ave)	25 feet	24.9 feet
Section 175-16 (front yard setback – Serpentine Rd)	25 feet	24.8 feet
Section 175-16 (rear yard setback)	30 feet	19.9 feet
Section 175-16 (maximum building coverage)	20% (2001 square feet)	20.4% (2037 square feet)
Section 175-16 (maximum improved lot coverage)	30% (3002 square feet)	40.5% (4054 square feet)
Section 175-16 (maximum residential and parking coverage)	25% (2,500 square feet)	35.1% (3517 square feet)

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Joint Planning Board of the Borough of Demarest, based upon the above findings of fact and conclusions of law, that the within application for Variance Approval, as modified on the record at the public hearing, is hereby granted, subject to the following conditions:

a) The Applicant shall submit a final as built plan for review and approval by the Board Engineer.

b) The Applicant shall provide calculations showing the precise size, design and installation of the driveway which shall be reviewed and approved by the Board Engineer who shall inspect same upon completion.

c) Unless otherwise addressed herein or at the public hearing before the Board, the Applicant shall comply with the recommendations of the Board, including but not limited to the Board Planner Reports and the Board Engineer Reports, as well as any stipulations made during the hearing on the Application and all conditions enumerated herein.

d) Notwithstanding the approval granted herein, the Applicant shall comply with all of the ordinances of the Borough of Demarest and all applicable county, state, and federal statutes, ordinances, rules and regulations.

e) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.

f) The Property shall be kept neat during all construction and all construction hours shall strictly adhere to the ordinances of the Borough of Demarest.

g) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment of all outstanding taxes and the payment of all fees to the Borough's professionals for the review of the within Application and

the inspection of work to be performed incidental thereto. The Applicant shall pay any fees or additional escrow deposits which may be due and owed within ten (10) days of notification.

h) All construction, use and development of the Property shall be in conformance with the plans approved by the Board. In the event the Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or replace the instant approval. The Applicant's failure to comply with this condition may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

i) The Applicant shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for it, affecting public safety or general welfare, if any such condition develops.

j) The Applicant shall be and remain liable for any and all damages or money loss occasioned by the Borough of Demarest or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or its agents arising from the making of improvements and shall save, indemnify and hold harmless the Borough of Demarest or Board, its officers, agents, employees from and against all charges, judgments, costs or counsel fees arising from such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.

k) The Applicant's failure to comply with any condition set forth in this Resolution shall constitute a failure of the conditions of this approval and may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on October 7, 2026.

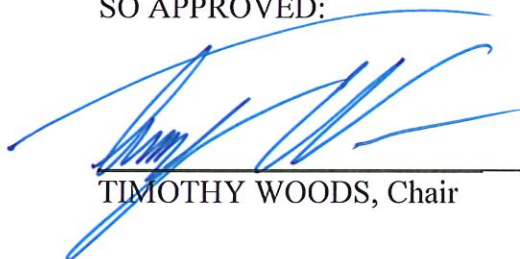
A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:



MICHAEL GRECO, Secretary

SO APPROVED:



TIMOTHY WOODS, Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTE TO APPROVE THE APPLICATION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman			✓				
Ms. Brenner		✓	✓				
Vice Chair Chin			✓				
Ms. DiSclafani						✓	
Councilman Jiang						✓	
Mr. Lerner			✓				
Dr. Mamdani						✓	
Mr. Yu (<i>Alt #1</i>)						✓	
Ms. Hamilton (<i>Alt #2</i>)			✓				
Mr. Alevrontas (<i>Alt #3</i>)						✓	
Mayor Bernstein	✓		✓				
Chair Woods			✓				

Date of Approval: September 2, 2026

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman	☐	☒	☒	☐	☐	☐	☐
Ms. Brenner	☐	☐	☐	☐	☐	☒	☐
Vice Chair Chin	☐	☐	☒	☐	☐	☐	☐
Mr. Lerner	☐	☐	☒	☐	☐	☐	☐
Ms. Hamilton (<i>Alt #2</i>)	☒	☐	☒	☐	☐	☐	☐
Mayor Bernstein	☐	☐	☐	☐	☐	☒	☐
Chair Woods	☐	☐	☒	☐	☐	☐	☐

Date of Adoption: October 7, 2026

