

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

**RESOLUTION JPB-014-26
“D-4” VARIANCE AND BULK VARIANCE APPROVAL**

In the Matter of the Application of
52 Edward Street LLC
52 Edward Street
Block 90, Lot 211

WHEREAS, 52 Edward Street LLC, the applicant and owner (the "Applicant"), filed an Application with the Joint Planning Board of the Borough of Demarest (the "Board") for use variance and bulk variance approval (the "Application") located at 52 Edward Street and designated as Lot 21 in Block 90 on the Tax Maps of the Borough of Demarest and located in the Borough's R-A Zone (the "Property"); and

WHEREAS, the following plans, reports and correspondence were submitted by the Applicant and considered by the Board:

- A. Letter of Denial dated March 26, 2026;
- B. Variance Application, including the Contact Sheet and Checklist (the "Application");
- C. Correspondence from Capizzi Law Offices regarding the Application Submission dated March 30, 2026 and June 18, 2026;
- D. Property Deed dated March 25, 2026;
- E. Soil Erosion & Sediment Control, & Site Plan prepared by Thomas W. Skrable, P.E., P.P., C.M.E. dated March 17, 2026, last revised June 17, 2026 and consisting of one (1) sheet;
- F. Architectural Plan prepared by Stephanie De Carlo Pantale Architect dated March 17, 2026, last revised June 15, 2026 and consisting of four (4) sheets;

- G. Affidavit of Service of Notice, prepared by Capizzi Law Offices; and
- H. Affidavit of Publication, published in The Record on June 20, 2026.

WHEREAS, a public hearing was held by the Board on July 1, 2026 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the "MLUL"), at which time the Applicant, represented by Matthew G. Capizzi, Esq. of the Capizzi Law Offices: (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. Mr. Capizzi introduced the Applicant's variance application seeking relief to construct a new two-story single-family dwelling on the subject property.
 - a. Acknowledging the subject property lies within the Borough's R-A Zone, Mr. Capizzi explained that the Applicant made efforts to comply with the bulk standards provided by the Borough's nearby R-D Zone, which zone better reflects the size and scale of not only the subject property but several other properties in the immediate vicinity. Other proposed site improvements include a new driveway, front walkway, rear patio, and stormwater management facilities.
 - b. Mr. Capizzi confirmed that the Applicant's intention to remove all existing improvements in order to construct the proposed new dwelling. Mr. Capizzi summarized the variance relief required as a D(4) floor area ratio (FAR) variance as well as several "C" bulk variances.
 - c. Mr. Capizzi planned to call three (3) expert witnesses to testify in support of the Application, including an engineer, architect and professional planner.

- B. Testimony of Applicant's Consulting Engineer, Thomas W. Skrable, P.E., whose testimony can be summarized as follows:
- a. Mr. Skrable initially confirmed that the Applicant had recently revised its Soil Erosion and Sediment Control Plan, dated June 17, 2026 and submitted to the Board prior to the hearing. Mr. Skrable further confirmed that the Applicant made best efforts to comply with the bulk standards provided by the Borough's R-D Zone, as the existing R-A bulk standards appear intended for much larger lots than the subject property. Nevertheless, as the subject property remains zoned R-A, the design as proposed triggers a D-4 FAR variance and six (6) bulk variances, for (i) side yard setback; (ii) rear yard setback; (iii) maximum building coverage; (iv) maximum improved lot coverage; (v) maximum residential and parking coverage; and (vi) side yard setback for the proposed accessory patio.
 - b. Mr. Skrable explained how the proposed design utilized and maintained existing grades, except when required to slope the grades away from the proposed foundation, which remains consistent with best design practice.
 - c. Mr. Skrable confirmed that the Applicant did not take exception to the comments and recommendations provided by the Board Engineer's Engineering Review #2 dated June 24, 2026, and further confirmed the Applicant's stipulation of compliance with the tree replanting requirements detailed within the Board Planner's June 25, 2026 Planning Report.
- C. Testimony of Applicant's Architect, Stephanie De Carlo Pantale, whose testimony can be summarized as follows:

- a. Ms. Pantale provided the Board an overview of her architectural design plans, describing the proposed new home as a transitional, modern structure. She explained her design included stepping both sides of the proposed home to avoid having large walls facing each of these neighboring properties. Similarly, the hip roof design, rather than the more traditional gable roofs found on homes within this neighborhood, was chosen to minimize visual impacts upon neighboring properties.
- b. Ms. Pantale offered into evidence Exhibits A-1 and A-2, which were computer generated renderings of the proposed new home and the front window well intended to allow natural light for the proposed basement level bedroom. At the Board's request, Ms. Pantale stipulated on behalf of the Applicant that the architectural plans would be revised to relocate the proposed basement level bedroom towards the rear side of the dwelling in order to eliminate the front side window well.

D. Testimony of Applicant's Planner, Nicholas Graviano, whose testimony can be summarized as follows:

- a. Pointing to this planning exhibit marked into evidence as Exhibit A-3, Mr. Graviano initially explained that the 10,000 square foot subject property was located within the R-A zone that required 40,000 square feet minimum lot area. Focusing on sheet VE-2 within Exhibit A-3, Mr. Graviano explained how this particular neighborhood has numerous 10,000 square foot lots, though primarily zoned R-A rather than the nearby R-D Zone, which latter zone is more in keeping with the size and scale of the subject property.

- b. Mr. Graviano provided planning justifications for the required D-4 FAR Variance, explaining the applicable standard provided by Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994) (holding that FAR applicant need not show “special reasons” that a site is particularly suited for more intensive development if the use is permitted, and is only required to demonstrate that the site will accommodate any problems associated with a larger floor area than that permitted by ordinance). Here, Mr. Graviano pointed to the proposed on-site stormwater management system as mitigating any issues associated with the home’s size on the subject property. Mr. Graviano also explained that RSIS compliant parking was being provided and that the proposed front yard setback was consistent with that prevailing within this neighborhood.
- c. Mr. Graviano testified that the Applicant was justifying its variance relief under the c(1) undue hardship criteria, except for the roof overhang variance, which was supported under the c(2) flexible variance standard (as the overhang provided a more attractive design aesthetic while concurrently preventing additional ground cover, thereby providing a preferable public planning benefit). Mr. Graviano testified that the bulk variances being proposed further MLUL purposes of planning a, g and i. In explaining how these variances satisfied the negative criteria, Mr. Graviano found support within the 2023 Master Plan Reexamination Report, which explained the Borough’s desire to “preserve the scale and character” of residential neighborhoods” and further found that “bulk standards reflect conditions” within these neighborhoods.

E. Mr. Capizzi concluded by summarizing the expert testimony and proofs, asserting the variance criteria was satisfied, particularly given the ample spatial buffering between subject property and the adjacent residential properties due to the existing neighborhood zoning.

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

- A. Board Planner report prepared by Colliers Engineering and Design dated June 3, 2026 and June 25, 2026 (collectively, the “Board Planner Report”), along with testimony from Darlene A. Green, PP, AICP of Colliers Engineering & Design (the “Board Planner”);
- B. Board Engineer Reports prepared by Colliers Engineering and Design dated June 5, 2026 and June 24, 2026 (collectively, the “Board Engineer Report”), along with testimony from Nick Chelius, PE of Colliers Engineering and Design (the “Board Engineer”);
- C. Application Exhibits marked at the public hearing as A-1 (color photo rendering); A-2 (photo rendering); and A-3 (two-page color planning exhibit).

WHEREAS, the Board and the Board Engineer had extensive questions for the Applicant and the Applicant's professionals regarding the proposed addition; and

WHEREAS, an adjoining property owner appeared at the public hearing to ask questions of the Applicant, expressed concerns and offered comments in support of the Application; and

WHEREAS, the Board having heard and considered the testimony, arguments and documents referenced above.

NOW, THEREFORE, BE IT RESOLVED 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 hearing on July 1, 2026, are incorporated herein by reference.

2. The Property is located at 52 Edward Street and designated as Lot 211 in Block 90 on the Tax Maps of the Borough of Demarest and is a rectangular-shaped parcel consisting of 10,000 square feet.

3. The Property is located between Lake Road and County Road and is located in the Residential A (R-A) Zone (the "R-A Zone").

4. The Property is currently occupied by a 1½-story single-family dwelling with associated driveway, walkways, enclosed porch and other related improvements.

5. Single-family residential dwellings are permitted uses in the R-A Zone.

6. By this Application, the Applicant is seeking D(4) FAR variance and C variance relief to construct a new 2-story single-family dwelling, attached garage, driveway, rear patio, drainage improvements and other related improvements.

7. The Applicant is proposing to demolish the existing 1½-story single-family dwelling with associated driveway, walkways, enclosed porch and other related improvements.

8. The Property has pre-existing non-conformities with respect to lot area (40,000 sf. Required; 10,000 sf. existing and proposed), lot frontage (200 ft. required, 100 ft. existing and proposed), lot depth (200 ft. required, 100 ft. existing and proposed), side yard setback-West (25 ft. required, 24.00 ft. existing and 16.1 ft. proposed), side yard setback-East (25 ft. required, 24.90

ft. existing and 16.2 ft. proposed), rear yard depth (50 ft. required, 41.1 ft. existing and 33.10 ft. proposed) and maximum building coverage (15% required, 19.34% existing and 19% proposed).

9. The Property had a pre-existing non-conformity with respect to impervious coverage which was eliminated by this Application.

10. The Applicant is seeking variance relief from the requirements of the R-A Zone pursuant to N.J.S.A. 40:55D-70(d)(4) with respect to maximum livable floor area (22.5% is permitted; 29.98% is proposed).

12. During the course of the hearing, the Applicant modified the Application to relocate the basement level bedroom towards the rear of the dwelling, thereby allowing elimination of the front side basement window well, providing a more attractive aesthetic while concurrently reducing the impervious coverage associated with elimination of that window well.

13. The Board finds that the proposed new residential dwelling with ancillary improvements, which are a permitted use in the R-A Zone and consistent with the surrounding neighborhood, provides an aesthetic improvement to the Property, and provides for improved on-site stormwater management where currently none is provided.

14. Despite the FAR, the home is not an overbuilt design. The Applicant has proven their Property can reasonably accommodate any problem associated with the structure exceeding the permitted FAR by utilizing an innovative hip roof design and overhangs that help visually reduce the scale of the structure while minimizing additional impervious coverage, thereby accommodating any resulting issues consistent with the Coventry Square standard.

15. The Board finds that, in light of the significantly deficient lot size, the modest size of the dwelling, the attractive design of the improvements and the dwelling's improved on-site stormwater maintenance, the requested variances are reasonable and appropriate.

19. The Board finds that the Application and the proposed improvements 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.

20. 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. appropriate development, providing a desirable visual environment and providing adequate light, air and open space is provided.

21. The Board finds that the Application and the proposed improvements, as modified at the public hearing to relocate the basement level bedroom to the rear of the structure, thereby allowing elimination of the front side basement window well, 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.

22. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(d)(4), N.J.S.A. 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
175-16	22.5% FAR	29.98% FAR
175-16	25 feet side yard setback	16.1 feet on eastern side 16.2 feet on western side
175-16	50 feet front yard setback	33.6 ft.
175-16	50 feet rear yard setback	33.1 ft.
175-16	15% maximum building coverage	21.83%
175-16	30% maximum improved lot coverage	32.35%
175-16	25% maximum residential and parking coverage	27.3%
175-19B.(2)	25 foot minimum accessory structure setback	17.5 feet (rear patio)

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

a) The Applicant shall provide the Board Engineer with revised site plan and architectural plans depicting the relocation of the basement level bedroom to rear of the dwelling and elimination of the front side basement window well as well as any other modifications stipulated to at the public hearing.

b) The Applicant shall provide an as-built survey to the Board Engineer prior to the issuance of a final certificate of occupancy.

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 Report and the Board Engineer Report, 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.

l) 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.

m) 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.

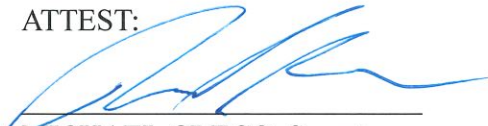
n) The Applicant shall be and remain liable for any and all damages or money loss occasioned by the Borough of Demarest or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or its agents arising from the making of improvements and shall save, indemnify, hold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

o) The Applicant's failure to comply with any condition set forth with 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 Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on August 5, 2026.

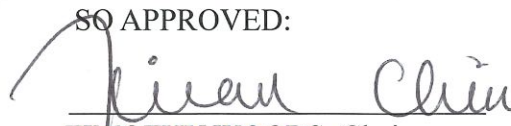
A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:



MICHAEL GRECO, Secretary

SO APPROVED:



TIMOTHY WOODS, Chair
KIRANCHIN, Vice

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: July 1, 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	✓		✓				
Dr. Mamdani		✓	✓				
Mr. Yu (<i>Alt #1</i>)						✓	
Chair Woods						✓	

Date of Adoption: August 5, 2026

**Prepared by Board Conflict Counsel,
Steven R. Tombalakian, Esq., Weiner Law Group LLP**

DEM004 52 Edward LLC Resolution(5809136.1)