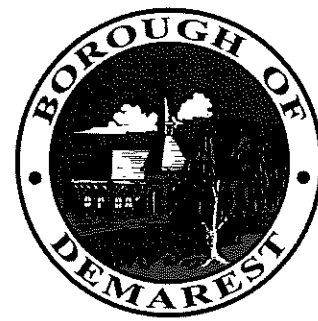


BOROUGH OF DEMAREST
JOINT PLANNING BOARD
REGULAR MEETING AMMENDED AGENDA
Wednesday, August 6, 2025 @ 7:30 PM
118 Serpentine Road, Demarest, NJ 0762



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"/> 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-010-25 – Variance JPB-25-002 – 7 Christie Street – Ed Yezekian

Seeking variances including a “D” Variance related to the construction of a new single-family home.

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"/>
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"/>
Ms. Mamdani	<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"/>

Res. JPB-011-25 – Subdivision JPB-25-001 – 44 Pine Terrace – BF Development LLC.

Seeking a Minor Subdivisions with Variances

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"/>
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"/>
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"/>

Res. JPB-012-25 – Subdivision JPB-25-006 – 30 Hardenburgh Avenue – M&M Developers LLC.

Seeking a Minor Subdivisions with Variances

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"/>
Ms. Mamdani	<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"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. DISCUSSION ON BOARD MATTERS – NEW/OLD BUSINESS

1. Variance Application Discussion – Michael Greco & Kiran Chin
2. Request for Interpretation of Accessory Structures vs. Accessory Buildings (Pergola) – Michael Greco
3. Board Discussion on Curbs and Sidewalks – Mayor Bernstein

7. APPROVAL OF MINUTES:

MAY 7, 2025 REGULAR MEETING MINUTES

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"/>
Mayor Bernstein	<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"/>
Ms. Mamdani	<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"/>
Ms. Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

JULY 29, 2025 SPECIAL MEETING MINUTES

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. 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. Mamdani	<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"/>
Ms. Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. PUBLIC COMMENT PERIOD

9. ADJOURNMENT

NEXT REGULAR MEETING – WEDNESDAY, SEPTEMBER 3, 2025

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

RESOLUTION JPB-010-25

VARIANCE APPROVAL

In the Matter of the Application of
7 Christie Street LLC
7 Christie Street
Block 38, Lot 653

WHEREAS, 7 Christie Street LLC (the “Applicant”) is the owner of the property located at 7 Christie Street and designated as Lot 38 in Block 653 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) arising from the denial of a Zoning Permit for a proposed new single-family dwelling; and

WHEREAS, the Applicant’s request for a Zoning Permit was denied by the Borough of Demarest Zoning Officer on March 19, 2025 (the “Denial Letter”), stating:

Construction of a new single-family dwelling on an isolated undersized lot. New home includes a deck, patio and pergola...

Your Zoning Permit has been DENIED.

Denial Reasons:

Proposed building coverage = 23.55%

Proposed residential & parking coverage = 30.24%

Proposed livable floor area (including finished basement) = 37.38%

Proposed improved lot coverage = 36.45%

Total lot area = 8,000 SQ FT

A/C & Generator not allowed to encroach in the side yard...; and

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

- A. Variance Application dated April 15, 2025 (the “Application”);
- B. Denial Letter from the Borough of Demarest Zoning Department dated March 19, 2025 and consisting of one (1) page;
- C. Affidavit of Representation executed April 15, 2025;
- D. Property Deed dated April 15, 2024 and recorded April 24, 2024;
- E. Letter entitled ‘Single-Family Residential Addition’ prepared by L2A Land Design LLC dated March 6, 2025 and consisting of two (2) sheets;
- F. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated March 3, 2025;
- G. Two (2) Certified Letters to Neighbors from Capizzi Law Offices dated May 12, 2025;
- H. Engineering Plans prepared by L2A Land Design LLC dated October 1, 2024 and consisting of nine (9) sheets;
- I. Architectural Plans prepared by Zampolin & Associates Architects dated March 5, 2025 and consisting of six (6) sheets;
- J. Survey prepared by Lakeland Surveying, Inc. dated April 15, 2024, last revised June 10, 2024, and consisting of one (1) sheet;
- K. Affidavit of Service prepared by Capizzi Law Offices; and
- L. Affidavit of Publication prepared by The Record and Herald News; and

WHEREAS, a public hearing was held by the Board on July 2, 2025 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented by Matthew Capizzi, Esq. of 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. Colorized Site Plan Sheet C-03 with landscaping plan added dated July 2, 2025 and consisting of one (1) sheet, marked as Exhibit A-1;
- B. Planning Exhibit prepared by MJP Land Use Planning LLC and consisting of five (5) sheets, marked as Exhibit A-2;
- C. Colorized Architectural Rendering Sheet A202 depicting the front elevation of the proposed single-family dwelling dated May 19, 2025 and consisting of one (1) sheet, marked as Exhibit A-3;
- D. Testimony of the Applicant's civil engineer, Michael Dipple of L2A Land Design LLC, whose testimony can be summarized as follows:
 - a. The Property is located in the Single-Family Residence D District (the "R-D Zone") and was previously developed with a single-family dwelling, which has been demolished and removed;
 - b. Single-family residential dwellings are permitted in the R-D Zone;
 - c. The Property is located north of Hardenburg Avenue with frontage on Christie Street;
 - d. The Applicant is proposing to construct a new 2.5 story, single-family dwelling with a two-car garage, a new 20-foot driveway, a new front walkway, a rear patio with a pergola, a concrete pad for an HVAC unit or generator and drainage improvements;
 - e. The Property is an undersized, rectangular shaped parcel consisting of 8,000 square feet, whereas 10,000 square feet is required;

- f. The Property also has a pre-existing non-conformity with respect to lot frontage, as 100 feet is required and 80 feet is existing and proposed;
- g. The Applicant is proposing to increase the improved coverage by approximately 1,123.48 square feet (1,792.45 square feet is existing; 2,916.03 square feet is proposed);
- h. The Applicant is requesting a D(4) variance for livable floor area (“floor area ratio” or “FAR”) as 30% (2,400 square feet is permitted) and 37.38% (2,990 square feet is proposed);
- i. The Applicant is also requesting “C” variances for building coverage (20% permitted; 27.6% proposed), improved lot coverage (30% permitted; 36.45% proposed), and residential and parking coverage (25% is permitted; 30.24% is proposed);
- j. The proposed development complies with the front yard setback requirements (25 feet required; 25 feet proposed), side yard setback requirements (10 feet required; 13.83 feet proposed), rear yard setback requirements (30 feet required; 33.5 feet proposed to the proposed dwelling) and height requirements (30 feet permitted; 29.96 feet proposed) in the R-D Zone;
- k. The Property grades from a northeasterly direction toward Tennakill Brook and the existing grades will be maintained;
- l. Utilities will be connected from Christie Street;
- m. The proposed seepage pit will be relocated to the backyard of the Property and will be located at least 15 feet from the neighbor to the north;

- n. The Applicant will comply with the Borough's Tree Replacement and Protection Ordinance regarding tree removal and replacement for the proposed development; and
- E. Testimony of the Applicant's architect, Anthony Zampolin of Zampolin & Associates, whose testimony can be summarized as follows:
- a. The Applicant is proposing a moderately-sized, single-family dwelling containing 5 bedrooms and consisting of approximately 1,420 square feet of living area on the first floor and approximately 1,570 square feet of living area on the second floor;
 - b. The total living area of the proposed dwelling is approximately 2,990 square feet;
 - c. The proposed dwelling will also contain a basement consisting of approximately 1,433 square feet;
 - d. The proposed dwelling will be a modern-farmhouse style, which is consistent with other residential developments in the neighborhood;
 - e. The plans will be revised to reflect a patio in the rear of the property instead of a deck;
 - f. The proposed pergola is 10'6" and will be located on-top of the proposed patio;
 - g. The pergola will not be attached to the proposed dwelling; and
 - h. The height from the average grade to the top of the proposed pergola will not exceed 12 feet; and

F. Testimony of Applicant's professional planner, Michael Pessolano of MJP Land Use Planning LLC, who testified as to the justification for the FAR variance and "C" variances. Mr. Pessolano testified that the basis for a FAR variance is showing that the Property can accommodate any negative impacts associated with the additional square footage. Mr. Pessolano concluded that as the proposed single-family dwelling is a moderately-sized, modern structure that is not overreaching and is compatible in size with the surrounding dwellings in the neighborhood. He testified that the Property will maintain an FAR similar to other homes in the neighborhood while also complying with all bulk and height requirements in the R-D Zone despite being constructed on an undersized lot. Mr. Pessolano stated that the proposed single-family dwelling provides a desirable visual environment and improves the neighborhood by replacing an attractive nuisance. Mr. Pessolano stated that the increase in FAR would not cause any detriment on the adjoining properties or the subject Property. Mr. Pessolano stated that the pre-existing non-conformities with respect to the lot area and lot frontage create a hardship and that the "C" variances requested for building coverage, improved lot coverage and residential and parking coverage are minor in nature and are off-set by the oversized side yard and rear yards provided on the Property. Mr. Pessolano further concluded that there is no substantial detriment to the Borough's Zoning Code, Master Plan, or neighborhood is created by the grant of the FAR or "C" variances; and

WHEREAS, at the public hearing, the Board also took testimony from the Board Engineer, Nick Chelius, and Board Planner, Darlene Green, and considered the following items submitted by the Board’s professionals:

- A. Completeness Letter from Michael Greco dated May 9, 2025;
- B. Board Planner Report prepared by Colliers Engineering and Design dated May 2, 2025 (the “Board Planner Report”); and
- C. Board Engineer Report prepared by Colliers Engineering and Design dated May 30, 2025 (the “Board Engineer Report”); and

WHEREAS, an adjacent property owner was present at the public hearing and asked questions of the Applicant and expressed concern regarding the number and size of new trees that would be planted by the Applicant in accordance with the Borough’s Tree Replacement and Protection Ordinance; 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 2, 2025 are incorporated herein by reference.
- 2. The Property is located at 7 Christie Street and designated as Lot 38 in Block 653 on the Tax Maps of the Borough of Demarest and is a rectangularly shaped, undersized, interior lot.

3. The Property is located in the R-D Zone.
4. The Property is currently vacant, but was previously developed with a single-family dwelling.
5. The Property has pre-existing non-conformities with respect to lot area (10,000 square feet minimum required; 8,000 square feet existing and proposed) and lot frontage (100 feet required; 80 feet existing and proposed).
6. The Application is seeking to construct a new single-family dwelling and has applied for variance relief from the Board pursuant to N.J.S.A. 40:55D-70(d)(4) for exceeding the maximum livable floor area in the R-D Zone (30% permitted; 37.38% proposed) and pursuant to N.J.S.A. 40:55D-70(c)(1) and (2) with respect to building coverage (20% permitted; 27.6% proposed), improved lot coverage (30% permitted; 36.45% proposed), and residential and parking coverage (25% is permitted; 30.24% is proposed).
7. The proposed single-family dwelling is a permitted use in the R-D Zone.
8. The Board finds that the proposed development is modest in size and reflects a thoughtful and aesthetically pleasing design.
9. The Board finds that the proposed dwelling, which is a permitted use in the R-D Zone and consistent with the surrounding neighborhood, provides an aesthetic improvement to the Property, as opposed to the existing vacant lot or the prior dilapidated dwelling.
10. The Board finds that the Applicant's suffers a hardship as a result of the Property being undersized and that the proposed development would not require variances for building coverage, improved lot coverage or residential and parking coverage if the lot size was conforming.

11. The Board further finds that there are no realistic alternatives to the proposed building, impervious coverage and residential and parking coverage variances, as the proposed dwelling is moderately sized and there is no available land for the Applicant to purchase to increase the size of their undersized lot.

12. The Board finds that the "C" variances requested by the Applicant for building coverage, improved lot coverage and residential and parking coverage are minor in nature and are off-set by the enlarged rear yard and side yard setbacks being provided.

13. 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 590 square feet, as the proposed dwelling complies with all setback, height and parking requirements.

14. The Board finds that, in light of the deficient lot size, the modest size of the dwelling, the attractive design of the improvements and the dwelling's maintenance of all setback and height restrictions, the requested variances are reasonable and appropriate.

15. 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.

16. 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 is provided.

17. 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).

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 Variance Approval is hereby granted, subject to the following conditions:

- a) Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property.
- b) Applicant shall revise their plans to reflect a patio in the rear of the Property instead of a deck.
- c) Applicant shall relocate the proposed seepage away from the Property line and into the backyard, at least 15 feet from the neighbor to the north of the Property.
- d) Applicant shall not connect the proposed pergola to the dwelling.
- e) Applicant shall not cover or otherwise enclose the proposed pergola.
- f) The height of the pergola shall not exceed 12 feet from average grade.
- g) 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, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.
- h) 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. The Property shall be kept neat during all construction.
- i) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.

- j) The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.
- k) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.
- l) 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.
- m) 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.
- n) The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for 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 6, 2025.

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

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<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"/>
Ms. Mamdani	<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"/>

Date of Adoption: August 6, 2025

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

RESOLUTION JPB-011-25

MINOR SUBDIVISION WITH VARIANCE APPROVAL

In the Matter of the Application of
BF Development LLC
44 Pine Terrace
Block 84, Lot 3.07

WHEREAS, BF Development LLC (the “Applicant”) is the contract purchaser of the property located at 44 Pine Terrace and designated as Lot 3.07 in Block 84 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, Susan R. Rokeach is the owner of the Property and authorized the Applicant to submit the proposed application; and

WHEREAS, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for Minor Subdivision and “C” Variance approval to subdivide the Property into two (2) lots (Proposed Lot 3.08 and Proposed Lot 3.09), modify the existing attached garage and construct a new driveway and paver walkway on Proposed Lot 3.08 and remove all of the existing improvements, including the existing tennis court and pergola, and construct a new single-family dwelling, driveway, patio, and in-ground pool on Proposed Lot 3.09 (the “Application”); and

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

- A. Variance Application and Variance Application Rider with Subdivision Information (the “Application”);
- B. Affidavit of Representation executed April 11, 2025;

- C. Certification of Ownership and Authorization to Make Application executed April 4, 2025;
- D. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated February 18, 2025;
- E. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised April 10, 2025, and consisting of four (4) sheets;
- F. Architectural Plans prepared by Axis Architectural Group dated February 24, 2025 and consisting of three (3) sheets;
- G. Boundary and Topographic Survey prepared by Costa Engineering Corporation dated December 3, 2024 and consisting of one (1) sheet;
- H. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised May 14, 2025, and consisting of five (5) sheets;
- I. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised June 20, 2025, and consisting of six (6) sheets;
- J. Soil Permeability Test Results prepared by Johnson Soils Company dated June 18, 2025;
- K. Drainage Calculations prepared by Costa Engineering Corporation dated June 20, 2025;
- L. Affidavit of Service prepared by Capizzi Law Offices; and
- M. Affidavit of Publication prepared by The Record and Herald News; and

WHEREAS, public hearings were held by the Board on June 4, 2025 and July 2, 2025 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented by Matthew Capizzi, Esq. of 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. Colorized Minor Subdivision Plan Sheet 2 prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, and consisting of one (1) sheet, marked as Exhibit A-1;
- B. Average Front Yard Setback Study, marked as Exhibit A-2;
- C. Planning Exhibit prepared by MJP Land Use Planning LLC and consisting of six (6) sheets, marked as Exhibit A-3;
- D. Drainage Calculation Results, last revised June 27, 2025, marked as Exhibit A-4;
- E. Minor Subdivision Plan Sheet 5 of 7 titled "Soil Testing Location and Result Plan" prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, masked as Exhibit A-5;
- F. Minor Subdivision Plan (full set) prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, and consisting of seven (7) sheets, marked as Exhibit A-6;
- G. Testimony of the Applicant's civil engineer, Robert Costa of Costa Engineering Corporation, whose testimony can be summarized as follows:
 - a. The Property is located in the Single-Family Residence BB District (the "R-BB Zone");
 - b. The Property is oversized in lot area (30,000 square feet required; 49,815 square feet existing) and lot width (150 feet required; 289.79 feet is existing) and contains a single-family residential dwelling;
 - c. Wetlands exist in the rear of the Property, where water collects;

- d. The Property has a pre-existing non-conforming pergola, tennis court and pool deck, which will all be removed by the proposed Application;
- e. Applicant is also proposing to remove the existing circular driveway on the Property, eliminating a curb cut on Pine Terrace;
- f. Applicant is proposing to reduce the width of the garage on the existing single-family dwelling to comply with the side yard setback requirements;
- g. Removal of these existing improvements will result in a net decrease of 6,083 square feet of impervious coverage and eliminates the pre-existing non-conformity with respect to improved lot coverage (30% permitted; 40.22% existing);
- h. Applicant is proposing to subdivide the Property into two (2) lots (Proposed Lot 3.08 and Proposed Lot 3.09);
- i. Both lots will be slightly undersized in lot area and lot frontage;
- j. Proposed Lot 3.08 will contain a new single-family residential dwelling, in-ground pool and patio;
- k. Proposed Lot 3.09 will contain the existing single-family residential dwelling, existing in-ground pool and related improvements;
- l. Both lots comply with all building coverage, impervious coverage, floor area ratio, height and all setback requirements;
- m. Proposed Lot 3.08 and Proposed Lot 3.09 both need "C" variances with respect to minimum lot area and minimum lot frontage;
- n. The existing dwelling does not have any on-site stormwater improvements;
- o. Three (3) trees are proposed to be removed;

- p. Applicant will maintain the existing grade of the Property;
 - q. Applicant is proposing pervious pavers;
 - r. Applicant will not be raising the existing groundwater;
 - s. The proposed drainage system is oversized (3 – 1,000 gallon seepage pits were originally proposed on each lot and were further increased by revised plans);
 - t. In response to the Board’s and the public’s concerns, the Applicant performed soil testing and revised the locations of the proposed seepage pits;
 - u. Applicant revised their plans to show one (1) seepage pit in the front yard area of Proposed Lot 3.08 and two (2) seepage pits in the rear yard area of Proposed Lot 3.08 and three (3) seepage pits in the front yard area of Proposed Lot 3.09;
 - v. Applicant also revised their plans to install a trench drain to collect water from the driveway on Proposed Lot 3.08 before it enters the street (Pine Terrace);
and
 - w. Applicant will work with the Board Engineer regarding adding an additional seepage pit(s) and/or trench drain(s) in the back corner near the pool and patio of Proposed Lot 3.09; and
- H. Testimony of the Applicant’s architect, Piero Gabucci of Axis Architectural Group, whose testimony can be summarized as follows:
- a. Applicant is proposing to maintain the existing Dutch colonial style, single-family dwelling on Proposed Lot 3.08, except that the garage will be modified and the existing wood deck will be removed;

- b. Both dwellings comply with the floor area ratio requirements;
 - c. The new single-family dwelling on Proposed Lot 3.09 will have an estate-style design, consisting of approximately 5,400 square feet and contain 5 bedrooms, 5 bathrooms, a guest room, an office and a three-car garage;
 - d. The proposed dwelling is in-scale with surrounding dwellings in the neighborhood; and
 - e. The proposed dwelling will use traditional materials (stone, clapboard siding and shingles) and blend with other homes in the neighborhood; and
- I. Testimony of Applicant's professional planner, Michael Pessolano of MJP Land Use Planning LLC, who testified as to the justification for the "C" variances for lot frontage and lot area. Mr. Pessolano testified that the Application is an improvement in the use of the land and that the proposed dwelling on Proposed Lot 3.09 will not be inconsistent with other homes on the street. Mr. Pessolano spoke regarding the lot area variance and testified that the properties surrounding the Property are mostly undersized in the same way that the Applicant is requesting for Proposed Lot 3.08 and Proposed Lot 3.09. Mr. Pessolano presented the required positive and negative statutory criteria. He testified that the Application meets the required criteria and the application warrants approval from the Board; and

WHEREAS, at the public hearings, the Board also took testimony from the Board Engineer, Nick Chelius, and Board Planners, Darlene Green and Austin Bejin, and the Borough Zoning Officer, Michael Greco, and considered the following items submitted by the Board's professionals:

- A. Completeness Review Board Report prepared by Colliers Engineering and Design dated May 8, 2025;
- B. Completeness Letter from Michael Greco dated May 9, 2025;
- C. Board Planner Report prepared by Colliers Engineering and Design dated May 26, 2025 and Revised Board Planner Report dated June 30, 2025 (collectively, the “Board Planner Reports”); and
- D. Board Engineer Report prepared by Colliers Engineering and Design dated May 21, 2025 and Revised Board Engineer Report prepared by Colliers Engineering and Design dated June 27, 2025 (collectively, the “Board Engineer Reports”); and

WHEREAS, two (2) adjacent property owners were present at the public hearing on June 4, 2025 and asked questions of the Applicant’s professionals regarding the proposed impervious coverage and expressed concerns regarding stormwater runoff and flooding near the Property; 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 hearings on June 4, 2025 and July 2, 2025 are incorporated herein by reference.

2. The Property is located at 44 Pine Terrace and designated as Lot 3.07 in Block 84 on the Tax Maps of the Borough of Demarest and is a rectangularly shaped, oversized, interior lot.

3. The Property is located along the north side of Pine Terrace in the R-BB Zone and consists of 1.14 acres (49,814.8 square feet).

4. The Property is currently occupied by a single-family dwelling with associated gravel driveway, wooden rear deck, pergola, in-ground pool, wooden pool deck, tennis court and related improvements.

5. The Property has pre-existing non-conformities with respect to improved lot coverage (30% permitted; 40.22% existing), accessory uses in the side yard (prohibited; existing tennis court is partially located in the eastern side yard) and rear yard setback - accessory structures (10 feet required; the existing pergola is 4.67 feet from the rear lot line, the existing tennis court is 4.25 feet from the rear lot line, the existing wood deck near the pool is 1.58 feet from the rear lot line and the existing pool equipment extends beyond the rear lot line by 1.33 feet). The Application eliminates all of these pre-existing non-conformities by removing the existing pergola, tennis court and wood deck from the Property and relocating the existing pool equipment 10 feet from the rear lot line.

6. The Property is oversized with respect to lot area (30,000 square feet required; 49,814.8 square feet existing).

7. By this Application, the Applicant is seeking to subdivide the Property into two (2) lots. Proposed Lot 3.08 will consist of 25,047 square feet (30,000 square feet required) and will contain the existing single-family dwelling, modified driveway, new paver walkway and the existing in-ground pool and associated paver patio. The garage of the existing dwelling will be

modified to convert the existing garage from side-loading to front loading. Proposed Lot 3.09 will consist of 24,768 square feet (30,000 square feet required) and will contain a new single-family dwelling, driveway, in-ground pool and associated patio and related improvements. As noted above, the Applicant is also proposing to remove the existing pergola, wood deck and tennis court from the Property and relocate the existing pool equipment to a compliant 10 feet from the rear lot line of Proposed Lot 3.08.

8. The proposed subdivision is classified as a Minor Subdivision under the Borough Code and the MLUL.

9. The Applicant is seeking variance relief from the Board pursuant to N.J.S.A. 40:55D-70(c)(2) for lot size (the Ordinance does not permit any lot to be reduced so that it does not meet the area requirements and 30,000 square feet is required in the R-BB Zone; Proposed Lot 3.08 and Proposed Lot 3.09 do not meet the lot size requirements), minimum lot area for Proposed Lot 3.08 (30,000 square feet required; 25,047 square feet proposed), minimum lot frontage for Proposed Lot 3.08 (150 feet required; 144.90 feet proposed), minimum lot area for Proposed Lot 3.09 (30,000 square feet required; 24,768 square feet proposed) and minimum lot frontage for Proposed Lot 3.09 (150 feet required; 144.89 feet proposed).

10. Single-family residential dwellings are permitted uses in the R-BB Zone.

11. The Board finds that the proposed subdivision complies with the purposes set forth in the MLUL by promoting appropriate uses in proper locations with appropriate density, promoting the general welfare by continuing the existing single-family nature of the existing neighborhood, promoting appropriate population densities, promoting open space and prevents urban sprawl and degradation of natural resources.

12. The Board finds that adequate light air and open space are provided, as both lots comply with all setback, impervious coverage, building coverage, floor area ratio and height requirements.

13. The Board finds that the Application improves the existing conditions of the Property by removing 6,083 square feet of impervious coverage and eliminating the pre-existing non-conformity with respect to improved lot coverage.

14. The Board further finds that the Application improves the existing conditions of the Property by removing pre-existing non-conformities with respect to the rear yard - accessory structures and by moving existing encroaching accessory structures (the pool equipment) into compliance.

15. The Board finds that the single-family dwelling on Proposed Lot 3.09, which is a permitted use in the R-BB Zone and consistent with the surrounding neighborhood, provides an aesthetic improvement to the Property, as opposed to the existing non-conforming tennis court.

16. The Board finds that the "C" variances requested by the Applicant for lot frontage are de minimis in nature and off-set by the deeper side yards proposed on both lots.

17. The Board finds that the "C" variances requested by the Applicant for lot area are also de minimis in nature and consistent with other lot areas in the immediate neighborhood.

18. The Board finds that the Application also provides significant benefits by providing an oversized stormwater management system to collect stormwater not only from the proposed dwelling and improvements on Proposed Lot 3.09, but from existing improvements on Proposed Lot 3.08, where none exist today.

19. The Board finds that the benefits of granting the Application outweigh any detriments.

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. adequate light, air and open space is provided.

21. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(c)(2).

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 Variance Approval is hereby granted, subject to the following conditions:

- a) Applicant shall work with the Board Engineer and add an additional seepage pit and/or trench drain in the back corner near the pool and patio on Proposed Lot 3.09 and revise their plans accordingly to the satisfaction of the Board Engineer;
- b) Applicant shall work with the Board Engineer regarding soil permeability testing and regarding the number, sizing and location of the proposed stormwater management facilities on both lots. Applicant shall relocate, increase the number and/or enlarge the proposed stormwater management facilities proposed on either lot in the sole discretion of the Board Engineer.
- c) Applicant shall file Deed Restrictions requiring the owners of Proposed Lot 3.08 and Proposed Lot 3.09 to maintain the proposed stormwater management systems for the life of the improvements, which Deed Restrictions shall be subject to the review and approval of the Board Attorney and the Board Engineer prior to being recorded.

- d) Applicant shall relocate the proposed seepage pit on Proposed Lot 3.08 so that it is 10-15 feet from the property line.
- e) Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property.
- f) 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, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.
- g) 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. The Property shall be kept neat during all construction.
- h) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.
- i) The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.
- j) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.

- k) 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.
- l) 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.
- m) The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for 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 6, 2025.

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

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<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"/>	<input type="checkbox"/>
Mayor Bernstein	<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"/>

Date of Adoption: August 6, 2025

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

RESOLUTION JPB-012-25

MINOR SUBDIVISION WITH VARIANCE APPROVAL

In the Matter of the Application of
M&M Developers LLC
30 Hardenburgh Avenue
Block 27, Lot 269

WHEREAS, M&M Developers LLC (the “Applicant”) is the contract purchaser of the property located at 30 Hardenburgh Avenue and designated as Lot 269 in Block 27 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, Biagioni Family Limited Partnership is the owner of the Property and authorized the Applicant to submit the proposed application; and

WHEREAS, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for Minor Subdivision and “C” Variance approval to subdivide the Property into three (3) lots (Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03), remove all of the existing improvements on the Property and construct three (3) single-family dwellings (one on each proposed lot) and other related improvements (the “Application”); and

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

- A. Subdivision Application and Application Rider with Subdivision Information (the “Application”);
- B. Affidavit of Representation executed June 20, 2025;

- C. Certification of Ownership and Authorization to Make Application executed June 20, 2025;
- D. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated June 12, 2025;
- E. Minor Subdivision Plat prepared by Mark Martins Engineering dated June 16, 2025 and consisting of one (1) sheet;
- F. Memorandum regarding Existing and Proposed Coverages from Mark Martins Engineering LLC dated June 17, 2025 and consisting of one (1) sheet;
- G. Survey prepared by Mark Martins Engineering LLC dated March 21, 2025 and consisting of one (1) sheet;
- H. Affidavit of Service prepared by Capizzi Law Offices; and
- I. Affidavit of Publication prepared by The Record and Herald News; and

WHEREAS, a special public hearing was held by the Board on July 29, 2025 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented by Matthew Capizzi, Esq. of 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. Aerial side yard setback exhibit titled “SK-1” and “SK-1” dated July 25, 2025, marked as Exhibit A-1;
- B. Testimony of the Applicant’s civil engineer, Mark Martins of Mark Martins Engineering LLC, whose testimony can be summarized as follows:

- a. The Property is located in the Single-Family Residence D District (the “R-D Zone”) with frontage on the north side of Hardenburgh Avenue, the west side of Prescott Street and the east side of Woodland Road;
- b. The Property is oversized in lot area (10,000 square feet required; 29,000 square feet existing) and has 200 feet of frontage on Hardenburgh Avenue;
- c. The Property contains a three-story, mixed-use structure containing commercial and multi-family residential uses, which are pre-existing non-conforming uses in the R-D Zone;
- d. The Property has two (2) non-conforming driveways accessed from Hardenburgh Avenue, a two-car garage and five, irregular parking spaces, which will all be removed;
- e. The existing building meets all setback requirements, but has pre-existing non-conformities with respect to improved lot coverage and residential and parking coverage;
- f. Applicant is proposing to remove all existing improvements on the Property and subdivide the Property into three (3) lots in order to construct three (3) single-family residential dwellings;
- g. The two (2) corner lots (Proposed Lot 269.01 and Proposed Lot 269.03) will each measure 70 feet wide by 145 feet in depth; the interior lot will be slightly smaller than the corner lots and measure 60 feet wide by 145 feet in depth;
- h. As corner lots, Proposed Lot 269.01 and Proposed Lot 269.03 have each have two (2) front yards;

- i. The proposed single-family dwellings will comply with all side yard setback, rear yard setback, floor area ratio and height requirements;
- j. The proposed single-family dwellings will also comply with all front yard setback requirements on Hardenburgh Avenue;
- k. Removal of the existing improvements will result in a net decrease of 51.7 square feet in improved coverage;
- l. Proposed Lot 269.01 will have an access driveway on Prescott Street, which is a front yard since Proposed Lot 269.01 is a corner lot;
- m. Proposed Lot 269.03 will have an access driveway on Woodland Road, which is a front yard since Proposed Lot 269.03 is a corner lot;
- n. Proposed Lot 269.02 will have an access driveway on Hardenburgh Avenue, which will contain a turn-around area for safety;
- o. Applicant is requesting "C" variances for improved lot coverage and residential and parking coverage with respect to the interior lot (Proposed Lot 269.02) due to the driveway turnaround and proposed improvements, which will also include a patio, sidewalks and a pad for an A/C unit and/or generator;
- p. There are no existing stormwater management facilities on the Property, but Applicant is proposing to, at a minimum, provide seepage pits on all three (3) lots to capture all roof areas;
- q. Applicant is proposing to match the existing grade with the proposed development; and

r. There is an existing three (3) lot subdivision across the street from the Property; and

C. Testimony of Applicant's professional planner, David Spatz of Community Housing & Planning Associates, Inc., who testified that the neighborhood is primarily comprised of single-family residential dwellings and that the Property is the largest lot in a 200 foot radius. Mr. Spatz testified that the Applicant's three (3) lot subdivision will create three (3) lots that are more consistent with existing lots in the neighborhood. He testified that the design of the subdivision, with the two (2) proposed outside lots being conforming with respect to lot area and the proposed interior lot being slightly undersized with respect to lot area, mitigates any impact on adjacent properties. Mr. Spatz also testified that the proposed three (3) lot subdivision is consistent with the three (3) lot subdivision on the opposite side of Hardenburgh Avenue and that the proposed single-family residential dwellings, which will comply with the height, floor area ratio and front yard setback requirements from Hardenburgh Road, are consistent in size and massing with the surrounding single-family residential dwellings. He stated that the proposed single-family residential uses are less intense from a unit perspective than the pre-existing, non-conforming multi-family use. Mr. Spatz also stated that the setback variances requested are similar to other existing setbacks in the neighborhood. He also testified as to the justification for the "C" variances for lot size and lot area for Proposed Lot 269.02, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, front yard setback (Prescott Street) for Proposed Lot 269.01, front yard setback (Woodland Road) for

Proposed Lot 269.03, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, improved lot coverage for Proposed Lot 269.02 and residential and parking coverage Proposed Lot 269.02. He stated that the benefits of granting the Application and requested variances outweigh any detriment. Further, he stated that the removal of the pre-existing, non-conforming mixed-use building containing commercial and multi-family apartment uses brings the Property into greater conformity with the neighborhood, Zoning Ordinance and Master Plan. He testified that the Application meets the required criteria and the application warrants approval from the Board; and

WHEREAS, at the public hearings, the Board also took testimony from the Board Engineer, Nick Chelius, and Board Planner, Darlene Green, and the Borough Zoning Officer, Michael Greco, and considered the following items submitted by the Board's professionals:

- A. Completeness Letter from Michael Greco dated July 3, 2025;
- B. Board Planner Report prepared by Colliers Engineering and Design dated July 7, 2025 (the "Board Planner Report"); and
- C. Board Engineer Report prepared by Colliers Engineering and Design dated July 11, 2025 (the "Board Engineer Report"); and

WHEREAS, no members of the public were present to ask questions of the Applicant or express any concern regarding 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 special public hearing on July 29, 2025 are incorporated herein by reference.

2. The Property is located at 30 Hardenburgh Avenue and designated as Lot 269 in Block 27 on the Tax Maps of the Borough of Demarest.

3. The Property is an oversized, corner lot located in the R-D Zone with frontage on the north side of Hardenburgh Avenue, the west side of Prescott Street and the east side of Woodland Road.

4. The Property consists of 0.67 acres (29,000 square feet existing; 10,000 square feet required).

5. The Property is currently improved with a three (3) story, mixed-use building containing a dentist office and multi-family residential uses. The multi-family residential use consists of four, one-bedroom apartments.

6. The Property has pre-existing non-conformities with respect to the existing commercial and multi-family residential uses, improved lot coverage (30% permitted; 31.37% existing) and residential and parking coverage (25% permitted; 29.56% existing).

7. By this Application, the Applicant is seeking to remove the existing improvements on the Property and subdivide the Property into three (3) lots. Proposed Lot 269.01 will consist of 10,150 square feet (10,000 square feet required) and will contain a new single-family dwelling. Proposed Lot 269.02 will consist of 8,700 square feet (10,000 square feet

required) and will contain a new single-family dwelling. Proposed Lot 269.03 will consist of 10,150 square feet (10,000 square feet required) and will contain a new single-family dwelling.

8. The proposed subdivision is classified as a Minor Subdivision under the Borough Code and the MLUL.

9. The Application proposes the front yard for each lot to be along Hardenburgh Avenue and the rear yard for each lot adjacent along the northern property line.

10. Proposed Lot 269.01 and Proposed Lot 269.03 are corner lots and, as such, have two (2) front yards.

11. The Applicant is seeking variance relief from the Board pursuant to N.J.S.A. 40:55D-70(c)(2) for lot size (the Ordinance does not permit any lot to be reduced so that it does not meet the area requirements and 10,000 square feet is required in the R-D Zone; Proposed Lot 269.02 does not meet the lot size requirements), minimum lot width for Proposed Lot 269.01 (100 feet required; 70 feet proposed), minimum front yard setback (Prescott Street) for Proposed Lot 269.01 (25 feet required, 20 feet proposed), minimum lot area for Proposed Lot 269.02 (100 feet required, 60 feet proposed), improved lot coverage for Proposed Lot 269.02 (30% permitted, 33.97% proposed), maximum residential and parking coverage for Proposed Lot 269.02 (25% permitted, 28.97% proposed), minimum lot width for Proposed Lot 269.03 (100 feet required, 70 feet proposed) and minimum front yard setback (Woodland Road) for Proposed Lot 269.03 (25 feet required, 20 feet proposed).

12. The Applicant is also seeking a waiver for lot size and dimensions, as the R-D Zone requires a minimum lot size of 10,000 square feet and lot frontage of 100 feet and as Proposed Lot 260.02 does not comply with the minimum lot area and as Proposed Lot 269.01,

Proposed Lot 269.02 and Proposed Lot 269.03 do not comply with the minimum frontage along Hardenburgh Avenue.

13. The proposed single-family residential dwellings are permitted uses in the R-D Zone.

14. The Board finds that the proposed subdivision complies with the purposes set forth in the MLUL by promoting appropriate uses in proper locations with appropriate density, promoting the general welfare by continuing the existing single-family nature of the existing neighborhood, promoting appropriate population densities, promoting open space and preventing urban sprawl and degradation of natural resources.

15. The Board finds that adequate light air and open space are provided, as all three (3) lots will comply with the front yard setback requirements on Hardenburgh Avenue and all side yard setback rear yard setback, floor area ratio and height requirements.

16. The Board finds that the Application improves the existing conditions of the Property by removing 51.7 square feet of impervious coverage, eliminating the pre-existing, non-conforming mixed-uses and eliminating the two (2) existing non-conforming driveways on Hardenburgh Avenue.

17. The Board finds that the proposed single-family residential uses, which are permitted uses in the R-D Zone, are consistent with the surrounding neighborhood in size and scale and provides an aesthetic improvement to the Property, as opposed to the existing non-conforming uses.

18. The Board finds that the Property is oversized and that the proposed three (3) lot subdivision brings the lot sizes more into conformance with other lots in the surrounding neighborhood.

19. The Board finds that the “C” variances requested by the Applicant for improved lot coverage and residential and parking coverage on Proposed Lot 269.02 are de minimis in nature and off-set by the net reduction in impervious coverage on the Property.

20. Further, the Board finds that the benefits of granting the improved lot coverage and residential and parking coverage variances on Proposed Lot 269.02, which are partially triggered by the proposed driveway turn-around area, outweigh any detriment as the turn-around area will enhance the safety of the access driveway on Hardenburgh Avenue.

21. The Board finds that the “C” variances requested by the Applicant for lot size and lot area for Proposed Lot 269.02, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, front yard setback (Prescott Street) for Proposed Lot 269.01, front yard setback (Woodland Road) for Proposed Lot 269.03, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03 are also de minimis.

22. The Board finds that removal of the pre-existing, non-conforming mixed-use reduces the density of Property and brings it into greater conformity with the neighborhood, Zoning Ordinance and Master Plan.

23. The Board finds that the Application also provides significant benefits by providing stormwater management systems to collect stormwater, where none currently exist on the Property.

24. The Board finds that removal of the two (2) existing non-conforming driveways reduces any traffic impacts on Hardenburgh Avenue.

25. The Board finds that the proposed variances are justified given that the proposed single-family dwellings comply with the floor area ratio and height requirements and fact that the lot sizes and proposed setbacks are similar to those in the surrounding neighborhood.

26. The Board finds that the benefits of granting the Application outweigh any detriments.

27. 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 is provided.

28. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(c)(2).

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 Variance Approval is hereby granted, subject to the following conditions:

- a) Applicant shall work with the Board Engineer regarding the proposed stormwater management systems on the lots and, at minimum, provide seepage pits to capture all roof area for the proposed dwellings. All stormwater management plans and calculations submitted by the Applicant shall be revised to the satisfaction of the Board Engineer.
- b) Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property.
- 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, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.

- 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. The Property shall be kept neat during all construction.
- 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 Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.
- g) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.
- h) 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.
- i) 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.

- j) The Applicant’s failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for 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 6, 2025.

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

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
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. 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"/>
Ms. Mamdani	<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"/>
Mayor Bernstein	<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"/>



Joint Planning Board
 Borough of Demarest
 118 Serpentine Road
 Demarest, NJ 07627

Received Date:

VARIANCE APPLICATION

Section 1: Project Summary

1A. Property Information

Property Address			
Block and Lot	B:	L:	Qual:
Zone			
Total Lot Area (sq.ft.)			

1B. Contacts

Owner

Applicant

	Owner	Applicant
Name		
Address		
Phone #		
Email		

1C. "C Variances" Requested

What are you requesting?

Amount over Allowed?

	What are you requesting?	Amount over Allowed?
Improved Lot Coverage		%
Building Coverage		%
Residential & Parking Coverage		%
Setback-Front		Ft
Setback-Rear		Ft
Setback-Side		Ft
Building Height		Ft
Fence		
Other		
Other		

1D. "D Variances" Requested

What are you requesting?

Description

	What are you requesting?	Description
D (1) – Use		
D (2) – Expanding Nonconforming Use		
D (3) - Conditional Use		
D (4) – FAR Livable Floor Area		%
D (6) – Height (10ft or 10%)		Ft



Section 2: Zoning Analysis

2A. Property Description – Including Setbacks, Frontage, Size & Depth

Lot & Building Zoning	i. Required	ii. Existing	iii. Proposed	Variance Requested (Yes / No)
1. Lot Area Square Feet (sq.ft.)				
2. Lot Frontage				
3. Lot Depth				
4. Setback-Front Yard				
5. Setback-Front Yard 2 (if applicable)				
6. Setback-Rear Yard				
7. Setback-Side Yard (Left)				
8. Setback-Side Yard (Right)				
9. Maximum Height				

2B. Maximum Coverages – Including Building, Livable Floor Area, Lot Coverage and Building + Parking

Maximum Permitted	i. Required	ii. Existing	iii. Proposed	Variance Requested (Yes / No)
1. Building Coverage (%)				
a. Building Coverage (sf)				
2. Livable Floor Area (%)				
a. Livable Floor Area (sf)				
3. Improved Lot Coverage (%)				
a. Improved Lot Coverage (sf)				
4. Residential & Parking (%)				
a. Residential & Parking (sf)				

2C. Livable Floor Area Summary

	Floor 1	Floor 2	Attic	Basement*	Other	Other
Total Square Feet (sq.ft.)						
Total Sq. Ft						
Percentage of Lot (%)						

*Calculated only if less than 70% of basement is below average-grade.



Section 3. Accessory Calculations

- A. Improved Lot Coverage: Any section of your property covered by a Building or Structure
- B. Building Coverage: The percentage of the plot or lot area covered by the principal building and accessory use building(s) and/or structures(s).
- C. Setback(s): The required distance between a building or structure and a property line or right-of-way line
- D. Floor Area Ratio (FAR) / Livable Floor Area: The aggregate of all floors included within the outer walls of the building, excluding basements, garages and other unheated areas and including only such floor area under a sloping ceiling for which the headroom is not less than five (5) feet six (6) inches and then only if at least seventy-five percent (75%) of such floor area has a ceiling height of not less than seven (7) feet, six (6) inches and if any such floor that is situated above another story has access to the floor by a permanent, built-in stairway and has a permanent complete floor and a means of heating to seventy-five degrees Fahrenheit (75F) at all times.

Square Feet (sq.ft.)	3A. Improved Lot Coverage		3B. Building Coverage		3C. Side Set Back	3C. Rear Set Back
	Existing	Proposed	Existing	Proposed	Proposed	Proposed
Building						
Garage						
Driveway						
Covered Patio						
Patio						
Deck						
Shed						
Front Walkway						
Side Walkway						
Rear Walkway						
Retaining Wall						
AC & Generator Pads						
Swimming Pool						
Sports Court						
Other						
Other						
Other						
Total Sq. Ft.						
% of Total Lot Area						



Section 4. Site & Building Information

A. What is the reason for the new construction or the desired use

B. Describe the current use of buildings on the property:

C. Describe any adjacent environmental areas to the property – including any creeks, rivers, ponds, environmentally protected areas, riparian zones, etc.

D. Describe any existing deed restrictions or easements on property if any; these include but are not limited to storm drains, sidewalk, open space, streams, brooks, etc.

E. Is the lot or the building non-conforming to the Demarest Zoning Ordinance or any other Borough ordinances? If so, please describe.

F. Has a variance been previously granted on the subject property? If so, please describe what it is and when it was issued.

I, being of full age, hereby swear that all the information I have provided in the above application and the attached survey and / or plans are true and correct to the best of my knowledge.

Print Name of Applicant

Signature

Date

Section I: Representatives' Contact Information

5A. Legal Representative Contact Info

Contact Name

Business Name

Address

Phone

5B. Engineer Contact Info

Contact Name

Business Name

Address

Phone

5C. Planner Contact Info

Contact Name

Business Name

Address

Phone

5D. Architect Contact Info

Contact Name

Business Name

Address

Phone

5E. Other

Contact Name

Business Name

Address

Phone

Section II: Application Fees

For your application to be considered, you must remit both an application fee and an escrow amount that will be used towards the costs of evaluating your application.

You will need to bring TWO (2) checks to pay for the application fees and a separate check to pay for the escrow and the total fees will be calculated by the Board Secretary.

Note:

- Application fees are non-refundable
- Escrow amounts will be held on deposit by the Borough of Demarest in an account to pay for any costs associated with reviewing the application. Escrow monies will be returned at upon request, after confirming all outstanding bills have been paid.

TABLE 1: FEE SCHEDULE

Fixed Fee	Application Fee	Escrow Deposit
A or B Variance Pursuant to NJSA 40:55D-70a or b	\$200	\$2,500
Conditional Use	\$500	\$5,000
Variable Fee	Application Fee	Escrow Deposit
C Variance Pursuant to NJSA 40:55D-70C	\$250 for the 1 st C Variance + \$100 for each subsequent C variance requested	\$2,500 for the 1 st C Variance + \$250 for each subsequent C variance requested
D Variance Pursuant to NJSA 40:55D-70D	\$500 per D variance	\$3,000 for the 1 st D Variance + \$1,000 for each subsequent D variance requested

Section III: Instructions for Submitting Your Application

A. Submitting Your Application

Please fill out this application in its entirety and submit to the Secretary for the Joint Planning Board. Remember to bring your 2 checks to pay the non-refundable application fee and escrow deposit (in accordance with the Fee Schedule in Section 7).

For your application to be considered "Complete" – the following must be provided

TABLE 2: VARIANCE APPLICATION CHECKLIST

To be submitted at time of filing your application	
1.	Completed Variance Application
2.	Application Fees (Section 7-Fee Schedule)
3.	Escrow Deposit (Section 7-Fee Schedule)
4.	W-9 Form
5.	5x Current & Accurate Singed & Sealed Survey
6.	5x All Signed & Sealed Plans
7.	Digital Copies of all Forms and Plans
8.	Signed and dated proof of current taxes from the Tax Collector (Exhibit A)

B. Making a Determination of Application "Completeness" & Scheduling Your Hearing

Once the Board Secretary makes a notice of "Completeness" determination for your application indicating that all required information and fees have been submitted – they will notify you of such and schedule a review of your application in front of the Joint Planning Board at one of their upcoming Board Meetings ("Hearing"). Please note that Board Meetings take place on the 1st Wednesday of each month and begin at 7:30 in the evenings. You or your representative is required to attend these meetings to present your application and defend the need for a variance.

Once a hearing date has been assigned, you should work to obtain a list of properties located within 200 feet of your project location. This information can be obtained from the Tax Assessor. A form for requesting this information from the Tax Assessor can be found in Exhibit B. These homes and businesses must be sent a Notice of your Application via **Certified Mail** (postage receipts must be provided to the Board Secretary) or delivered by hand with an affidavit of service filled out to be submitted to the Board Secretary. An example of what should go in these notices is provided as "Exhibit C" and **must be mailed or delivered at least ten (10) days prior to and NOT including the meeting date.**

If your application has been included on the agenda for an upcoming Board Meeting, you will be required to bring additional documentation to support your application in to the Board Secretary at least 15 days and 10 days prior to the scheduled meeting. Fifteen days prior to the board meetings are typically the 3rd Tuesday of the month at 7:30pm.

C. Important Noticing Requirements

Please ensure that you publish NOTICE of HEARING with a detailed description of the requested variance in The Record newspaper.

It is important that you follow the public noticing requirements and ensure that the notice appears in the newspaper at least **at least ten (10) days prior to and not including the meeting date.**

Please contact the Bergen Record newspaper directly for their publication deadlines at (732) 643-2534 (OPTION #5).

Proof of publication of this notice of public hearing received from the individual newspaper MUST be submitted to the Board Secretary as soon as it is received. **If your notice does not appear 10 days prior to the meeting date, your hearing will be rescheduled.**

TABLE 3: Public Notice Proofs to be Submitted 10 Days Prior to Your Hearing

To be submitted <u>10 days</u> prior to your scheduled hearing	
1.	Green USPS Certified Receipts or Affidavit of Service of Notice (for hand delivered notices)
2.	Affidavit of Public Notice from "The Bergen Record"

D. Printed & Required Documentation for Board Meeting to be Submitted 15 Days Prior to Your Hearing

Please note that while the Board appreciates the large format architectural and engineering plans, it is the preference of this Board to review these plans on 24"x36" paper.

To support your application and to provide the Board with a general sense of the site and property conditions of your project, we ask that you please **print and submit the following documentation to the Board Secretary at least 15 Days Prior to your hearing.**

All documents submitted by professionals (ie. engineering, architectural, surveyor, landscape) should include the following:

- i. Title block that includes the name of the applicant and owner, name of the preparer, block and lot numbers and the date the document was prepared
- ii. A compass rose with North clearly delineated
- iii. Zoning district in which parcel is located
- iv. Location of all existing buildings and structures (including fences and retaining walls)
- v. Scale of map (written and graphic)
- vi. All existing and proposed impervious surfaces should be shown
- vii. All existing and proposed easements or rights-of-way
- viii. Landscaping and/or lighting plans
- ix. Proposed stormwater management measures (if applicable)
- x. Existing and proposed contours to determine the natural drainage of the land

Please note that all plans prepared by your professionals should try to follow the same cardinal orientation so that when the plans are viewed, they illustrate the property and roads in the same general orientation (when possible).

Depending on your requested variance, the Board typically reviews the following professional documents:

1. **Topographical Survey:** completed in the last 9 months, sealed and signed by a licensed NJ professional
2. **Site Plan:** Clearly identify the location of existing buildings and structures, including fences, retaining walls and improved coverage. The site plan should outline the proposed changes to the site, all existing easements, proposed stormwater management measures (if applicable),
3. **Architectural Building Elevations** (Front, Rear, Side Left, Side Right) that provide a general idea of the appearance of the existing structures and proposed construction – to include dimensions.
4. **Landscaping Plan** that provides an overview of the lighting and landscaping proposed for the property.
5. **Photographic Evidence** illustrating current conditions, neighboring properties, etc are also helpful but not required. These can be presented at the hearings as Exhibits.

TABLE 4: MINIMUM REQUIRED BOARD MEETING DOCUMENTS TO BE HANDED IN

To be submitted <u>15 days</u> prior to your scheduled hearing	
1.	Bring 15 printed copies of each of the following a) Completed Variance Application; b) Denial Letter from Zoning Officer; c) Current & Accurate Survey d) All Plans (print size preference is 24"x36")

2.	Tax certification (approved within 3 months)
3.	Copies of all Notices

E. Witnesses & Letters of Support

While it is not required, it would be helpful to have in-person support testimony from adjoining neighbors most impacted by your variance request. Written letters of support are not admissible as evidence.

F. Legal Representation

If your property is owned by a corporation, then legal representation is required.

If your property is owned by an individual, while it is not a requirement, you may also want to consider retaining an attorney to represent you and/or to engage expert witnesses (ie. professional engineer, architect, planner) to testify on your behalf at the hearing.

G. Non-conforming lot

If your application concerns development of a lot deficient for its zone ("Undersized Lot"), you should submit evidence that you tried to make the lot conforming by requesting to purchase any available land from adjoining neighbors, which would not then render their property non-conforming.

EXHIBIT A: FORM REQUESTING PROPERTY TAX CERTIFICATION
DEPARTMENT OF FINANCE - OFFICE OF THE TAX COLLECTOR

DATE				
OWNER				
ADDRESS				
BLOCK		LOT	QUAL.	

Below Line for Borough Use Only

Date: _____
I, _____ Tax Collector of the Borough of Demarest, hereby certify that the property taxes on the property known as, Block (s) _____, Lot (s) _____, as shown on the Borough Tax Assessment Maps, have been paid through _____ and that the taxes on the aforementioned property are not past due nor are there any penalties, assessments, or interest due or outstanding as of this date.
_____ Signature of Tax Collector

Please contact the Borough's Tax Office with any questions. Andrea Johe, Deputy Tax Collector, via phone (201) 768-0167 x 142, or by email ajohe@demarestnj.gov

§ 27-32 Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

EXHIBIT B: FORM REQUESTING LIST OF PROPERTIES LOCATED WITHIN 200 FEET
TAX ASSESSOR**

OWNER			
ADDRESS			
BLOCK		LOT	
FEE		CHECK #	
EMAIL CONTACT			
PHONE # (IF PICKUP)			

**** Please allow the Tax Assessor one (1) week to prepare the list ****

Applicant's Signature _____

Date _____

I understand that if the application is not deemed complete and placed on the agenda within 3 months, a new tax certification and 200 foot list will be required. This is to maintain up to date information in the application, as well as an accurate notice to surrounding neighbors and properties. I will re-submit this request form should that become necessary. _____ (Initial)

Please contact the Borough Tax Assessor's Office with any questions. Lee Campbell, Tax Assessor's Assistant, via phone (201) 768-0167 x 130, or by email lcambell@demarestnj.gov

Below Line for Borough Use Only

Date Request Filled _____

By _____
Signature

§ 27-29 List of property owners furnished.

Upon the written request of an applicant, the Tax Assessor shall, within seven days, make and certify a list from the current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to § 27-28 of this chapter. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name or \$10, whichever is greater, may be charged for such list.

EXHIBIT C

NOTICE OF HEARING
BOROUGH OF DEMAREST
JOINT PLANNING BOARD

VARIANCES REQUESTED: [What is the relief requested?]

ADDRESS OF PROPERTY REQUESTING VARIANCE: xxx Street, Demarest, NJ 07627

This is to notify that the undersigned owners of Block ____, Lot ____, known as _____, on the Borough Tax Assessment Map shall appear before the Joint Planning Board of the Borough of Demarest on _____ at 7:30 pm, in the Council Chambers of the Borough Hall, 118 Serpentine Road, Demarest, NJ 07627, for the purpose of seeking **(relief sought)** and any other variances that should become apparent in the course of testimony. The purpose of this Notice is to afford the public, if they so desire, to appear before the said Joint Planning Board at the time and place designated above for the purpose of being heard with respect to this application.

All documents and maps relevant to this application are on file in the Borough Clerk's Office Monday through Friday (excluding legal holidays) from 8:00 am to 4:30 pm.

(Owners)
Street Address
Demarest, NJ 07627

**** This Notice is a sample only and should not be used verbatim to notice either newspaper or property owners.**

EXHIBIT D: AFFIDAVIT OF SELF REPRESENTATION

STATE OF NEW JERSEY) ss:
COUNTY OF BERGEN)

Name of Applicant

_____ being duly sworn deposes and says: That he/she resides at the Address _____ in the City of Demarest in the County of Bergen in the State of State of New Jersey and says that he/she is the appellant making appeal for a variation of the provisions of the Zoning Ordinance of the Borough of Demarest in connection with the property which is the subject matter of this appeal and known as _____, designated as Block _____ and Lot _____ on the Assessment Map of the Borough of Demarest: That all statements made in this application and statements made in the plans submitted herewith are true: The applicant further states that he/she is ready and able to proceed with the construction of if and when the application is granted.

Signature of Applicant

State of _____

County of _____

This Affidavit was sworn to before me

On this day _____ of _____, 20____.

Notary Public

*****This form is for when the Applicant is representing themselves****

EXHIBIT E: AFFIDAVIT AUTHORIZING REPRESENTATIVE

STATE OF NEW JERSEY) ss:
COUNTY OF BERGEN)

Name of Applicant

_____ of full age, being duly sworn according to law on his/her oath deposes and says that he/she resides at _____ in the city of _____ in the County of _____ and in the State of _____ that he/she is the owner in fee of all that certain lot, piece of land situated lying and being in the Borough of Demarest aforesaid and known and designated as _____ and that he/she hereby authorizes _____ to make the within application in his/her behalf and that the statements contained in said application are true.

Signature of Applicant

State of _____

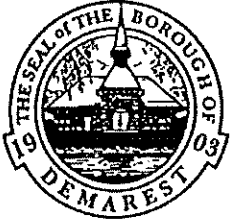
County of _____

This Affidavit was sworn to before me

On this day _____ of _____, 20____.

Notary Public

*****This form is for when the Applicant is represented by someone else*****



THE BOROUGH OF DEMAREST

118 SERPENTINE ROAD
DEMAREST, N.J. 07627-2199

MICHAEL GRECO
ZONING OFFICER
(201) 768-0167 X 110
mgreco@demarestnj.gov

March 25, 2025

The Joint Planning Board
The Borough of Demarest

Emailed:

RE: Interpretation of the Borough Code, § 175-27 Definitions.

Dear Board Members,

At the July 2, 2024 meeting, the Board discussed with an applicant the difference between an **Accessory Building** and an **Accessory Structure**. It appeared at the time that there was no uniform agreement on the interpretation of these definitions, and the matter was requested to be brought back to the Board for a more formal discussion.

I have reviewed the relevant sections of the Borough Code and respectfully request that the Board clarify and formally record how we should distinguish and categorize **Buildings**, **Structures**, and **Uses** when evaluating accessory improvements. Below are the definitions from § 175-27 for reference:

1. ACCESSORY BUILDING

A subordinate building or structure which is located on the same zoning lot as the principal building or structure, whose use is clearly incidental and subordinate to the principal use and which use is customary in connection with the principal use; for example, but not by way of limitation, sheds, gazebos, decks, detached garages and structures attendant to accessory uses.

2. ACCESSORY USE

Either a subordinate use or a building, structure or land whose use is clearly incidental to the principal use and which is customary in connection with the principal use and which is located on the same zoning lot as the principal use; for example, but not by way of limitation, swimming pools, tennis courts and other active recreational areas.

3. BUILDING

A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

4. COVERAGE, MAXIMUM

That percentage of the plot or lot area covered by the principal building and the accessory use building and/or structure.

5. DECK

A structure assembled with level walking surface(s), with or without railings, any part of which, including railings, is on, above or below grade.

6. STRUCTURE

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

7. USE, ACCESSORY (BUILDING, STRUCTURE)

A building, structure or use detached from the principal use, building or structure which is located on the same zoning lot and customarily incidental and subordinate to the principal use, building or structure.

(1) Examples.

- a) Use: Tennis, volleyball, full or half basketball courts, etc.
- b) Building: Shed, gazebo, garage, etc.
- c) Structure: Swimming pool (aboveground or in-ground), playground equipment, arbor, pergola, deck, antennae, patio, retaining wall, etc.

(2) The examples for use, building and structure set forth above are mentioned as examples only and are not meant to be, nor will they be interpreted as an exclusive list.

As written, these definitions are overlapping and at times conflicting. In particular, it is unclear where certain accessory improvements, such as pergolas, should fall. In analyzing the definitions, the distinction between **Building** and **Structure** appears to hinge on the presence of a **roof**. The generally accepted definition of a roof is:

"The top covering of a building, including all materials and constructions necessary to support it on the walls or uprights, providing protection against rain, snow, sunlight, temperature extremes, and wind."

By this definition, a **roof** is intended to provide shelter or protection. A pergola, which has open rafters intended for aesthetics rather than shielding those below, would not meet the definition of a building.

Further, § 175-27 explicitly lists examples of accessory uses, buildings, and structures. Based on this list and the definition of a roof, it appears clear that pergolas and similar open-roofed features were intended to be classified as **structures, not buildings**.

Request for Clarification:

I respectfully ask the Board to make a formal determination as to whether a **pergola** constitutes a building. Additionally, I request that the Board provide guidance on the classification of other common accessory improvements, such as: Gazebos, Covered decks, Portions of decks or patios existing beneath balconies, etc.

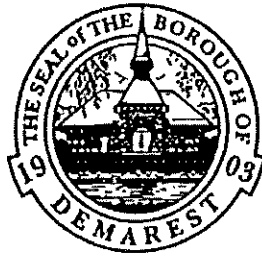
Clarity on these classifications will help ensure consistent application of coverage and zoning calculations going forward.

Thank you for your consideration of this matter.

Sincerely,



MICHAEL GRECO, CMR, Notary Public State of New Jersey
ZONING OFFICER



**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. DiSclafani 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	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. 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.

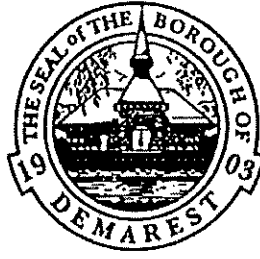
ADJOURNMENT

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



Borough of Demarest
Joint Planning Board Special Meeting
MINUTES

July 29, 2025

7:30 PM

DEMAREST BOROUGH HALL

The Borough of Demarest Planning Board held a special meeting TUESDAY, JULY 29, 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, Jodi Brenner, Camille DiSclafani, Councilwoman Daryl Fox, Fatemah Mamdani, Timothy Woods, Mary Hamilton

MEMBER(S) ABSENT: Mayor Brian Bernstein, Kiran Chin

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

Mr. Greco explained that Mayor Bernstein is absent for this meeting due to his conflict with the application, as he lives within 200 feet of the home being discussed.

NEW/OLD BUSINESS**30 Hardenburgh Ave**

Mr. Capizzi begins with an opening statement on this application. Mr. Capizzi states that it is an oversized lot in the R-D zone with 29,000 sq ft, having a mixed use of four residential units and a dentist's office. Mr. Capizzi also expands on the parking area that accesses Hardenburgh Ave through curb cuts, as well as needing improved vegetation and drainage. Mr. Capizzi explains the applicant wants to remove all the existing improvements and turn them into three residential lots. These lots will need their own variances although many non-conforming conditions will be eliminated. Mr. Capizzi states that Lot 26.01 has 70ft width rather than the required 100ft, and the front yard setback is 20ft rather than the required 25ft. Mr. Capizzi explains on the middle lot of 26.02 will need variances in lot area, as it is slightly undersized. Finally, the last lot of 26.03 will need a variance for lot width as it is 70ft rather than the required 100ft.

Mr. Capizzi explains the benefits of this building. He explains how all other measurements are conforming, the density is being reduced from four residential units to three, and the mixed use non-conforming condition will be

eliminated. In addition, drainage and impervious coverage will be generally improved. Mr. Capizzi invites Mr. Martins to speak.

Ms. Federico swears Mr. Martins in and his credentials are confirmed and accepted by the Board Chair.

Mr. Martins identifies the plan, and the survey, beginning to explain the current state of the plan with the four residential units, dentist's office, and parking lots. Mr. Martins mentions the property slopes from the east down to the west. Mr. Martins states that in terms of building, an increased building area will be needed with a non-conforming front setback. Although the building complies, the building and driveway coverage goes over 25% maximum at 29.6% with the improved lot coverage of 31.37%. Mr. Martins states there are no existing drainage improvements on the property.

Mr. Martins continues to review the proposed plan. This plan is a minor subdivision of 3 lots with 2 corner lots, and there are variances needed for the lot size, driveway, and building. Mr. Martins addresses neighboring setbacks on corner lots in the area, addressing how their requested setbacks do not differ greatly from other setbacks nearby. These documents are labeled SK1 and SK2 and are aerial images of buildings with similar setbacks on the same street. Ms. Federico marks this exhibit as A1. Mr. Martins confirms these setbacks were calculated by a surveyor.

Chair Woods asks about lot 26.02, and how the calculation for building coverage was made, including the area of the driveway. Mr. Martins explains that the building coverage was calculated with the building area and driveway in mind, including the turnaround areas for vehicles exiting onto Hardenburgh Ave. Chair Woods asks whether the improved lot coverage includes more than the driveway and building. Mr. Martin states it does, as it also includes a patio and walkway for the residents.

Councilwoman Fox asks if all the front yards are in Hardenburgh and therefore are referring to side yard deficiencies on Prescott St. Mr. Martin states that it does apply to the side yards. Chair Woods clarifies both sides on a corner lot are front yards and both must comply.

Chair Woods asks if Mr. Chelius has questions.

Mr. Chelius asks about stormwater improvements. Mr. Martin states the applicant will be adding drainage improvements once the official site plan is created. Mr. Chelius therefore wants to require additional mitigations for stormwater via the roof and seepage pits as a condition of approval. Mr. Chelius then asks whether any trees will be removed. Mr. Martins states at least 5 will be, but more will be known when the site plan is created. He adds that the applicant plans to be in full compliance with the tree ordinance. Mr. Chelius asks if there will be any extra retaining walls put in place to mitigate the site grading. Mr. Martins states that wasn't looked at yet, but the intention is not to create any more variances. Mr. Chelius reminds that retaining walls over 2ft would be considered accessory structures and therefore adding to improved lot coverage and require a variance.

Councilwoman Fox clarifies there is a 10ft pitch down from higher to lower. Mr. Martin confirms this.

Mr. Capizzi clarifies a conversation he had between him and Mr. Martins, stating that there were conversations about having a retaining wall in the driveway although that is not confirmed. Mr. Martins states that all retaining walls would be under 2ft.

Chair Woods asks if the board planner has any questions.

Ms. Green asks if the current spaces for parking are delineated and conforming. Mr. Martins states they are marked but very irregular. Ms. Green also asks if the driveway in the rear of the property is also non-conforming, which Mr. Martins confirms. However, Mr. Martins clarifies that both non-conforming structures will be removed in the new plan.

Ms. Green noted some minor discrepancies in the plans and therefore makes a condition of approval that they get revised. In addition, Ms. Green asks that the applicant comply with the rule that there should be one shade tree planted every 40ft upon a street frontage. Mr. Martins agrees.

Chair Woods asks if anyone on the board has questions. There are none, so Mr. Capizzi invites up David Spatz. Ms. Federico swears in David Spatz. Mr. Spatz has his credentials accepted by the Board Chair.

Mr. Spatz briefly summarizes the plot as a mixed-use unit on an otherwise single-family neighborhood. Mr. Spatz goes into the pros of the plan, stating that, Property is well suited for 3 lots, two lots are already conforming, and the one non-conforming lot matches other non-conforming lots on the street. In addition, although variances are needed for the middle plot, the size and frontage are still consistent with other plans. Mr. Spatz adds the street space will not be affected because there is a subdivision across the street that is similar. Mr. Spatz reiterates that the mixed use will be eliminated by the creation of these residential units. Furthermore, the elimination of the pre-existing driveways also stops mixed use, as the turnarounds in the new driveways will prevent the cars from backing into the street and causing congestion. Finally, trees will be added to all lots as well as drainage, reducing impervious coverage overall. Mr. Spatz states there are very minimal drawbacks to this plot besides the bulk variances being requested.

Ms. Green clarifies that the current building is 4 residential units and a dentist's office, which is confirmed. She further clarifies that the application reduces all units and is therefore less intense as well as more conforming with the new plan. Mr. Martins confirms this as well.

A motion was made to open the meeting to the public for questions of the applicant's professionals by Councilwoman Fox and seconded by Mr. Adelman.
All in Favor – Motion Passed

Having no public wishing to ask questions.

A motion was made to close the meeting to the public by Councilwoman Fox and was seconded by Mr. Adelman.
All in favor – Motion Passed.

A motion was made to open the meeting to the public for comments on the application by Councilwoman Fox and seconded by Mr. Adelman.
All in Favor – Motion Passed

Having no public wishing to ask questions.

A motion was made to close the meeting to the public by Councilwoman Fox and was seconded by Vice Chair Brenner.
All in favor – Motion Passed.

Mr. Capizzi makes a brief closing statement.

Chair Woods asks in the event of approval if the applicant understands it will be based upon what is presented with limited variances with the intent to not encourage more variances as the plan moves forward. Mr. Capizzi states it is impossible to prevent future variances, and the applicants have done their best to comply with current standards. In addition, there is improved coverage for a patio in the middle lot, and therefore there is room for adjustment if variances should arise.

Chair Woods directs this question to Federico, asking if conditions can be created that reflect the approval of the plan as it stands. Ms. Federico states that an opinion and reasoning as to this approval can be written into the resolution to reflect the current state of the plan.

A motion was made to approve the variances and the subdivision of 30 Hardenburgh Ave, with full summary of the plan and conditions provided by Ms. Green and Mr. Chelius was made by Councilwoman Fox, and was seconded by Mr. Adelman.

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:	n/e
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

ADJOURNMENT

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

All in Favor – Motion Passed

The meeting was adjourned at 8:19 PM.

Respectfully Submitted,
Michael Greco, Joint Planning Board Secretary

