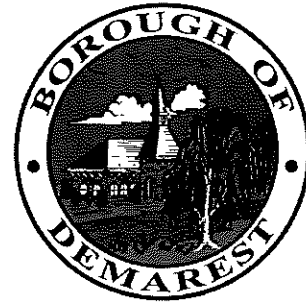


BOROUGH OF DEMAREST
JOINT PLANNING BOARD
REGULAR MEETING AGENDA
Wednesday, July 1, 2026 @ 7:30 PM
118 Serpentine Road, Demarest, NJ 0762



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 inclusion of the date, time and place of this meeting in the annual schedule of meetings. Such schedule of meetings was published as required by law and is posted at Borough Hall, on the Borough website and filed in the office of the Borough Clerk.

3. FLAG SALUTE

4. ROLL CALL

- | | |
|---|---|
| ☐ Mr. Adelman | ☐ Mr. Lerner |
| ☐ Mayor Bernstein | ☐ Dr. Mamdani |
| ☐ Ms. Brenner | ☐ Chair Woods |
| ☐ Vice Chair Chin | ☐ Mr. Yu |
| ☐ Ms. DiSclafani | ☐ Ms. Hamilton |
| ☐ Councilman Jiang | ☐ Mr. Alevrontas |

5. RESOLUTION(S)

Resolution JPB-012-26 - JPB-A-25-013 – Scott Lavin

Appeal of the Zoning Officer's Decision

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Mr. Lerner							
Mr. Yu (<i>Alt #1</i>)							
Ms. Hamilton (<i>Alt #2</i>)							

Resolution JPB-013-26 - JPB-26-002 – 75 Anderson Avenue – 75 Anderson Ave LLC

Seeking Variances related to the construction of a new single-family home on an existing non-conforming lot.

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Ms. Brenner							
Vice Chair Chin							
Mr. Lerner							
Dr. Mamdani							
Mr. Yu (<i>Alt #1</i>)							
Chair Woods							

Resolution JPB-010-26 - JPB-25-010 – 8 Glenwood Ave

Correction of Typographical error on approved variances.

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Vice Chair Chin							
Mr. Lerner							
Dr. Mamdani							
Mr. Jiang (<i>Alt #1</i>)							

6. NEW/CONTINUING APPLICATIONS**JPB-26-001 – 8 Ross Avenue – 8 Ross Avenue LLC**

Seeking a Variances to the construction and renovate an existing home.

☐ APPROVE ☐ DENY ☐ CARRY DATE: _____

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

JPB-26-003 – 52 Edward Street – 52 Edward LLC

Seeking Variances related to the construction of a new single-family home on an existing non-conforming lot.

☐ APPROVE ☐ DENY ☐ CARRY DATE: _____

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

7. PUBLIC COMMENT PERIOD**8. ADJOURNMENT*****NEXT REGULAR MEETING – WEDNESDAY, AUGUST 5, 2026***

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

RESOLUTION JPB-012-26

**APPEAL OF ZONING OFFICER'S DETERMINATION THAT APPELLANT'S
APPEAL OF THE BUILDING PERMIT ISSUED FOR 3 CENTRAL AVENUE IS
UNTIMELY**

In the Matter of the Appeal of
Scott Lavin

WHEREAS, Scott Lavin is the appellant and owner (the "Appellant") of the property located at 40 Lincoln Street, which is adjacent to the property that is the subject of the appeal located at 3 Central Avenue and designated as Lot 140 in Block 65 on the Tax Maps of the Borough of Demarest (the "Property"); and

WHEREAS, on October 16, 2025, the Appellant, through counsel, John Lamb of the law firm Beattie Padovano LLC, submitted correspondence to the Zoning Officer of the Borough of Demarest (the "Zoning Officer") and the Construction Official of the Borough of Demarest (the "Construction Official") questioning the height of the residence being constructed and requesting that the Zoning Officer and Construction Official "...immediately revoke the permits and issue a stop work order until this matter can be properly evaluated" (the "October 16, 2025 Letter"); and

WHEREAS, on November 4, 2025, the Appellant, through counsel, John Lamb of the law firm Beattie Padovano LLC ("Appellant's Counsel"), submitted correspondence to the Zoning Officer enclosing an application to appeal the zoning decision and requesting an interpretation of maximum height in the R-D Zone where the Property is located (the "Appeal"); and

WHEREAS, on November 5, 2026, Appellant's Counsel was notified of and attended an interpretation request regarding building heights in the Borough Zoning Ordinance which was already pending before the Borough of Demarest Planning Board (the "Board"); and

WHEREAS, on November 13, 2025, Appellant's Counsel submitted correspondence to the Board "...continu[ing] to request a stay of our Appeal while further investigation is made by submissions of the information the Zoning Officer has requested;" and

WHEREAS, the Appellant's appeal concerning the issuance of a building permit for the Property was denied by the Zoning Officer on December 15, 2025 (the "Denial Letter"), stating:

After considering your correspondence, the application and issued permit, as well as conferring with the Borough's engineer and obtaining an as built survey from the developer, we've determined that (i) your appeal is untimely and (ii) even if timely, the structure has been built in accordance with the submitted plans and building permit.

Your letter requesting the building permit be revoked due to alleged building height elevation and grade violations was dated October 16, 2025. However, we've confirmed that the roof was constructed as early as mid-August making your October 16, 2025 letter objecting to the issuance of the building permit untimely.

Notwithstanding, we have confirmed that the roof elevation was built in compliance with the building permit. Additionally, please see attached survey submitted with the building permit application and as-built survey evidencing the grades are also compliant, along with the Borough engineer's comparison of same; and

WHEREAS, thereafter, on December 24, 2025, Appellant's Counsel advised they would be proceeding with the Appeal to the Board pursuant to N.J.S.A. 40:55D-70(a) concerning the Zoning Officer's determination that Appellant's appeal of the building permit issued for the Property is untimely; and

WHEREAS, the Board is empowered pursuant to N.J.S.A. 40:55D-70(a) to "[h]ear and decide appeals where it is alleged by the [A]ppellant that there is error in any order, requirement,

decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;" and

WHEREAS, such appeal determinations must be based upon the facts presented, credibility findings which the Board is entrusted to make and legal determinations which the Board is statutorily obligated to make; and

WHEREAS, the Board conducted public hearings on May 6, 2026 and June 3, 2026 in accordance with the Municipal Land Use Law ("MLUL") and the Open Public Meetings Act, at which time the Appellant requested the Board determine whether his appeal of the building permit issued for the Property is untimely; and

WHEREAS, at the public hearings the Appellant: (a) presented proof of notice and publication as required by law; and (b) submitted the following evidence to the Board in support of Appellant's Appeal including:

- A. Cover letter from Appellant to Zoning Officer dated April 15, 2026, including the following exhibits:
 - a. As-Built Survey of the Property prepared by Lantelme, Kurens & Associates, PC dated November 13, 2025;
 - b. Letter to the Borough Building Department prepared by Lantelme, Kurens & Associates, PC dated November 6, 2025 regarding the measured elevation of the structure built on the Property;
 - c. Email correspondence from Nick Chelius, PE of Colliers Engineering & Design (the "Board Engineer") to the Zoning Officer regarding his review of the height of the principal building and cabana on the Property; and

- d. Notice of Appeal prepared by Appellant to all Property Owners within 200 feet of the Property dated April 20, 2026; and
- e. Testimony from Appellant with can be summarized as follows:
 - i. The Appeal relates to the height of the dwelling constructed on the Property.
 - ii. The building permit was issued on or around May 15, 2025.
 - iii. The relevant issue is when the alleged height condition was reasonably noticeable or reasonably discoverable.
 - iv. At the time the building permit was issued, there was no clear or meaningful notice of the alleged height condition from ground-level observations.
 - v. Once the dwelling was constructed, Appellant acted diligently, including speaking with neighbors and retaining counsel.
 - vi. The October 16, 2025 Letter was the first time Appellant, through counsel, contacted the Zoning Officer regarding their complaint regarding the height of the dwelling on the Property.
 - vii. The height of the structure affects the scale of the neighborhood.
 - viii. Appellant seeks a determination from the Board that the Appeal is timely and requests that the Board hear the Appeal on the merits, including the issue of roof height.
 - ix. Strict application of the 20-day appeal period from when the permit was first issued would be inappropriate because the nature and extent of the alleged height issue were not known earlier.

- x. Recent caselaw, Lema v. Borough of Garwood, supports the expansion of the 20-day appeal period beyond when the building permit was first issued to when someone knew or should have known of the height issue regarding the dwelling.
- xi. Appellant was away on vacation in August 2025 when the roof of the dwelling on the Property was constructed and was not aware of the height issue until he returned from vacation and spoke with neighbors.
- xii. Appellant has no way of knowing the actual height of the dwelling being constructed and only had a general impression that it appeared too high.
- xiii. The peak of the dwelling on the Property does not face Appellant's house and is not easily visible from any vantage point.
- xiv. Appellant does not have the equipment to survey the height of the dwelling on the Property.
- xv. It is difficult for a layperson to estimate the height of a structure by sight; and

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

- A. Photograph of the dwelling on the Property depicting the construction of the roof taken by the developer's contractor dated August 15, 2025, marked as Board Exhibit 1; and
- B. Testimony from the Board Engineer, who confirmed that it would be difficult for the public to definitively determine the height of the dwelling constructed on the Property without elevation calculations or the as-built survey; and

WHEREAS, an adjoining property owner appeared at the public hearings to express concerns regarding the ability of the public to determine the height of the building when the building is framed and stated Appellant should be given more latitude with the timing of the Appeal, especially given that the Property was not fully graded in August 2025 when the roof was constructed and given that there is no practical way Appellant could have determined the height of the dwelling without elevation calculations; and

WHEREAS, the current owner of the Property appeared at the June 3, 2026 public hearing to express concerns regarding the timeliness and fairness of the Appeal given that he just recently moved into the dwelling and relied in good faith on the Final As-Built Survey dated May 21, 2026 and Certificate of Occupancy issued for the Property dated May 11, 2026, which was also marked as Exhibit, as confirmation that the dwelling was constructed in compliance with the Borough's Zoning Code when he purchased 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 Appeal:

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 by the Board and members of the public at the public hearings on May 6, 2026 and June 3, 2026 are incorporated herein by reference.

2. The Property that is the subject of the Appeal is located at 3 Central Avenue and designated as Lot 140 in Block 65.

3. A building permit for the construction of a new single-family dwelling was issued for the Property on May 15, 2025.

4. The roof of the dwelling on the Property was constructed by August 15, 2025.

5. The October 16, 2025 Letter was Appellant's first contact with the Borough regarding concerns regarding the height of the dwelling.

6. The only issue being considered by the Board at this time is the timeliness of Appellant's Appeal.

7. The Board carefully considered the issue regarding the builder's right to rely on permits and inequities regarding when a layperson should have been aware of the height concern regarding the dwelling.

8. The Board finds that the 20-day appeal period under N.J.S.A. 40:55D-72(a) for appealing the Zoning Officer's issuance of the building permit should not run from May 15, 2025, as Appellant did not receive direct notice of the permit and would not know or should have known that the building permit was issued.

9. The Board relies on Lema v. Borough of Garwood A-3086-23 (App. Div. Nov. 21, 2025), as well as Harz v. Borough of Spring Lake, 234 N.J. 317 (2018), and finds that the time for notice of the appeal begins to run when the interested party knew or should have known of the issuance of the building permit and height concern regarding same.

10. The Board finds that strict application of the 20-day appeal period from when the building permit was issued on May 15, 2025 would be inappropriate because the nature and extent of the alleged height issue would not be known until after the roof was constructed.

11. Further, the Board finds that it would be difficult for a layperson to estimate the height of a structure by sight, particularly where the magnitude of the alleged deviation is not readily apparent.

12. The Board finds that, once the alleged height issue became reasonably apparent to Appellant, Appellant acted diligently, including by retaining counsel, to notify the Borough of his concerns.

13. The Board finds that the merits of Appellant's Appeal should be heard in light of the difficulty in determining when the height issue was reasonably discoverable.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning Board of the Borough of Demarest, based upon the above findings of fact and conclusions of law, that the within Appeal be granted, reversing the Zoning Officer's determination that Appellant's Appeal regarding the issuance of a building permit for the Property is untimely and permitting Appellant to proceed with a public hearing on the merits regarding the issue raised by Appellant regarding the roof height of the dwelling on the Property.

AND IT IS FURTHER RESOLVED that the above Appeal is granted subject to the following condition:

1. Appellant shall comply with all notice requirements for the public hearing on the merits of the roof height issue; and
2. Appellant shall submit all documents it intends to rely on to the Board at least ten (10) days prior to the public hearing.

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 July 1, 2026.

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

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

KIRAN CHIN, Vice Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

**VOTE THAT APPELLANT'S APPEAL REGARDING
3 CENTRAL AVENUE IS UNTIMELY**

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

Date of Approval: June 3, 2026

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Mr. Lerner							
Mr. Yu (<i>Alt #1</i>)							
Ms. Hamilton (<i>Alt #2</i>)							

Date of Adoption: July 1, 2026

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

RESOLUTION JPB-013-26

VARIANCE APPROVAL

In the Matter of the Application of
75 Anderson Ave LLC
75 Anderson Avenue
Block 85.04, Lot 3

WHEREAS, 75 Anderson Ave LLC is the applicant and owner (the “Applicant”) of the property (the “Application”) located at 75 Anderson Avenue and designated as Lot 3 in Block 85.04 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, the Applicant’s request for a Zoning Permit to construct a new 2-story, single-family dwelling on the Property was denied by the Zoning Officer of the Borough of Demarest (the “Zoning Officer”) on January 9, 2026 (the “Denial Letter”), stating:

Your request is hereby denied based upon the following requirements:

LOT AREA= 14,534.23 SF (40,000 SF REQUIRED)
FRONTAGE= 78.69 FT (200 FT REQUIRED)
LOT DEPTH= 183.74 FT (200 FT REQUIRED)
SIDE YARD SET BACK (LEFT)= 12.72 FT (25 FT REQUIRED)
SIDE YARD SETBACK (RIGHT) = 20.53 FT (25 FT REQUIRED)
BUILDING COVERAGE = 19.5% (15% MAXIMUM)
RES. & PARKING COVERAGE= 34.2% (25% MAXIMUM)
IMPROVED LOT COVERAGE = 34.46% (30% MAXIMUM)
LIVABLE FLOOR AREA= 28.37% (22.5% MAXIMUM)

WINDOW WELL DIMENSIONS MAY REQUIRE VARIANCES
IN SIDE YARD
NO A/C UNITS OR GENERATORS SHOWN, MAY REQUIRE
VARIANCES DEPENDING ON LOCATION...; and

WHEREAS, thereafter, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for D(4) variance and “C” variance approval to

construct a new 2-story, single-family dwelling, attached garage and related improvements on the Property (the “Application”); and

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

- A. Variance Application dated February 8, 2026 (the “Application”);
- B. Property Tax Certification executed April 23, 2026;
- C. Site Plan prepared by Hubschman Engineering, P.A. dated December 3, 2025 and consisting of two (2) sheets;
- D. Architectural Plans prepared by Blueline Architecture, L.L.C. dated January 29, 2026 and consisting of three (3) sheets; and
- E. Affidavit of Mailing for notices mailed on April 23, 2026 and Proof of Publication in northjersey.com on April 25, 2026 prepared by Ferraro & Stamos, LLP; and

WHEREAS, a public hearing was held by the Board on June 3, 2026 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented by Dean Stamos, Esq. of the Ferraro & Stamos, LLP: (a) presented proof of notice and publication as required by law; and (b) submitted the following evidence to the Board in support of Applicant’s Application including:

- A. Colorized Site Plan prepared by Hubschman Engineering, P.A. dated December 3, 2025, marked as Exhibit A-1;
- B. Colorized Architectural plans prepared by Blueline Architecture, LLC dated January 29, 2026, marked as Exhibit A-2;

- C. Testimony of the Applicant's civil engineer and professional planner, Michael Hubschman of Hubschman Engineering, P.A., whose testimony can be summarized as follows:
- a. The Applicant is seeking to demolish the existing single-family dwelling and construct a new single-family dwelling on the Property.
 - b. The Property is significantly undersized, containing approximately 14,584 square feet where 40,000 square feet is required, or approximately 38% of the required lot area.
 - c. The minimum lot area, minimum frontage and minimum lot depth deficiencies are pre-existing nonconforming conditions.
 - d. Variance relief is required for the proposed maximum building coverage, maximum residential parking coverage, side yard setbacks, and floor area ratio.
 - e. The Property is located across from the Alpine Country Club, with the Belaire condominiums to the right, Green Acres property to the south, and residential homes to the north and along Orchard Road.
 - f. Although the property is undersized for the R-A Zone, it is more comparable in size to a lot in the R-15 Zone and the proposed dwelling was designed to fit within the character and scale of the surrounding neighborhood.
 - g. The proposed dwelling would be shifted toward the south in order to provide greater separation from the neighboring residential property.
 - h. The proposed floor area ratio is approximately 28.37%, or approximately 4,100 square feet, which is consistent with or smaller than certain nearby

homes, including a neighboring home of approximately 4,234 square feet and another nearby home of approximately 6,034 square feet.

- i. The proposed dwelling would not be oversized and the proposed height complies with ordinance requirements.
- j. A driveway turnaround area was originally proposed to allow vehicles to exit the driveway in a forward direction rather than backing out onto Anderson Avenue. However, during the course of the public hearing, the Applicant agreed to revise the plans to remove approximately 500 square feet of existing driveway area and replace certain paved areas with grass or permeable area. As revised, the residential and parking coverage is approximately 4,470 square feet, or 30.07%, and the improved lot coverage is approximately 4,508 square feet, or 31.0%, reflecting an approximate four (4%) percent reduction in each category.
- k. The proposed home would include five total bedrooms, including one bedroom located in the basement.
- l. With respect to drainage, runoff generally flows toward the wooded area and seepage pits are proposed to address stormwater runoff associated with the increase in impervious coverage of approximately 504 square feet.
- m. The proposed drainage system is designed to collect runoff from the entire roof area. Seepage pits are proposed and are required to comply with applicable engineering and environmental requirements, including sensitivity to the nearby Demarest Brook and the need to preserve vegetation within the

riparian buffer. Any sump pump discharge shall be directed to a separate seepage pit and shall not be connected to the roof drainage seepage pit.

- n. Water will not be redirected to the south.
- o. Additionally, water will not be directed toward 171 Orchard Road. Additional landscaping may be provided along the property line with 171 Orchard Road to mitigate any drainage concerns.
- p. The Property is within a 200-foot riparian area requiring a permit by registration from the New Jersey Department of Environmental Protection (NJDEP).
- q. Significant existing landscaping and vegetation, including arborvitae hedges and trees, are located to the east of the Property.
- r. The west-side window well will be reduced or revised to provide a 10-foot setback.
- s. From a planning perspective, the requested variances are justified under both the c(1) hardship criteria, due to the undersized nature of the Property and its pre-existing nonconforming conditions, and the c(2) flexible criteria, based upon the aesthetic and functional improvements proposed.
- t. The lot can accommodate the proposed dwelling.
- u. The benefits of the application outweigh any potential detriments, as the proposal would result in a new code-compliant dwelling that benefits the neighborhood, advances the purposes of zoning, including purposes (a), (g), and (i), and does not create a substantial detriment to the public good or

substantially impair the intent and purpose of the zone plan and zoning ordinance; and

D. Testimony of Applicant's architect, Eric Kiellar of Blueline Architecture, LLC whose testimony can be summarized as follows:

- a. The proposed dwelling is shifted south toward the Green Acres area (further away from neighboring residential dwellings) and maintains the front setback of the existing dwelling, which will be demolished.
- b. The Property is a narrow lot, requiring a narrower house and footprint.
- c. The proposed dwelling is a Dutch Colonial style with a gambrel roof, stone, trim, and other architectural details intended to create a timeless and classic appearance.
- d. The one-story portion at the front and right side of the proposed dwelling reduces the visual appearance of a large two-story mass.
- e. The proposed dwelling contains a total of five bedrooms (four bedrooms upstairs and one bedroom in the basement).
- f. The basement is more than 70% below grade and is not counted toward floor area ratio.
- g. The proposed dwelling includes a garage measuring approximately 22 feet by 26 feet, which is smaller than a standard 24-foot by 24-foot garage due to the narrow lot and footprint.
- h. The proposed dwelling will comply with all height requirements in the Zoning Ordinance, as the ridge height is 115.96 feet and the midpoint height is 111.25 feet.

- i. The portion of the garage located within the five-foot side yard setback is one story; and

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

- A. Completeness Letter from the Zoning Officer dated March 31, 2026;
- B. Board Planner Report prepared by Colliers Engineering and Design dated May 4, 2026 (the “Board Planner Report”), along with testimony from Darlene A. Green, PP, AICP of Colliers Engineering & Design (the “Board Planner”);
- C. Board Engineer Report prepared by Colliers Engineering and Design dated April 2, 2026 (the “Board Engineer Report”), along with testimony from Nick Chelius, PE of Colliers Engineering & Design (the “Board Engineer”); and

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

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

WHEREAS, 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 June 3, 2026, are incorporated herein by reference.

2. The Property is located at 75 Anderson Avenue and designated as Lot 3 in Block 85.04 on the Tax Maps of the Borough of Demarest and is a rectangular-shaped, undersized parcel consisting of 14,534.23 square feet.

3. The Property is located on the west side of Anderson Avenue between Country Club Way and Orchard Road and is located in the Single-Family Residence A Zone (the “R-A Zone”).

4. The Property is currently occupied by a 2-story single-family dwelling with associated driveway, walkways, deck and other related improvements.

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

6. By this Application, the Applicant is seeking D(4) FAR variance and C variance relief to demolish the existing dwelling and all existing site improvements and construct a new two-story dwelling with attached garage on the Property, including a new driveway, rear patio, drainage improvements and other related improvements on the Property.

7. The Property has pre-existing non-conformities with respect to lot area (40,000 square feet required; 14,534.23 square feet existing and proposed), lot frontage (200 feet required; 78.69 feet existing and proposed), lot depth (200 feet required; 183.74 feet existing and proposed), front yard setback (50 feet required; 39 feet existing, 50 feet proposed), side yard setback – North (25 feet required; 21.79 feet existing and 20.53 feet proposed), side yard setback – South (25 feet required; 8.10 feet existing and 12.72 feet proposed), residential and parking coverage (25% permitted; 26.1% existing and 30.07% proposed) and improved lot coverage (30% permitted; 30.99% existing and 31% proposed).

8. The pre-existing non-conforming front yard setback was eliminated by this Application.

9. The Applicant is seeking variance relief from the requirements of the R-A Zone pursuant to N.J.S.A. 40:55D-70(d)(4) with respect to maximum livable floor area (22.5% permitted; 28.37% proposed).

10. The Applicant is seeking variance relief from the requirements of the R-A Zone pursuant to N.J.S.A. 40:55D-70(c) with respect to: (i) side yard setback abutting a lot (25 feet required; 12.72 feet proposed to the southern side lot line; 20.53 feet proposed to the northern side lot line); (ii) maximum building coverage (15% permitted; 19.5% proposed); (iii) maximum improved lot coverage (30% permitted; 31% proposed); and (iv) maximum residential parking coverage (25% permitted; 30.07% proposed).

11. During the course of the public hearing, the Applicant modified the Application to eliminate 500 square feet of the existing driveway. The modification will remove the existing turnaround area (driveway entrance closer to Orchard Road) so that the entrance/exit will be from a single entrance/exit point. The modification will also slightly widen the driveway entrance to make it safer to enter/exit onto Anderson Avenue without the need for the turnaround.

12. The Board finds that the proposed new two-story single-family dwelling, which is a permitted use in the R-A Zone and consistent with the surrounding neighborhood, provides safety and aesthetic improvements to the Property, as the proposed dwelling will be up to current code requirements and is an attractive design.

13. The Board finds that the Applicant suffers a hardship as a result of the Property being severely undersized and that the proposed development eliminates an existing pre-existing, non-conforming front yard setback.

14. The Board further finds that there are no realistic alternatives to the proposed variances for maximum livable floor area, side yard setback abutting a lot, maximum building coverage, maximum improved lot coverage and maximum residential parking coverage, as the proposed dwelling is moderately sized and there is no available land for the Applicant to purchase to increase the size of their severely undersized lot.

15. 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 approximately 843 square feet, as the proposed dwelling complies with building height, front yard setback and rear yard setback requirements.

16. The Board finds that, in light of the significantly deficient lot size, the modest size of the dwelling, the attractive design of the proposed dwelling and the dwelling's maintenance of building height, front yard setback and rear yard setback requirements, the requested variances are reasonable and appropriate.

17. 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.

18. The Board finds that the proposed stormwater management improvements are a substantial net improvement to the existing Property, which does not have any stormwater management.

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

20. The Board finds that the Application and the proposed improvements, as modified at the public hearing to remove 500 square feet of the driveway (including the turnaround), 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.

21. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(d)(4), N.J.S.A. 40:55D-70(c)(1) and N.J.S.A. 40:55D-70(c)(2) and hereby grants the following variances:

Zoning Code Section	Required/Permitted	Proposed & Granted
Section 175-16 (livable floor area/FAR)	22.5%	28.37%
Section 175-16 (side yard setback abutting a lot)	25 feet	12.72 feet to the southern side lot line; 20.53 feet to the northern side lot line
Section 175-16 (maximum building coverage)	15%	19.5%
Section 175-16 (maximum improved lot coverage)	30%	31%
Section 175-16 (maximum residential parking coverage)	25%	30.07%

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

- a) The Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property.
- b) The Applicant shall provide a separate seepage pit for the sump pump. The size, design and installation of the seepage pit shall be reviewed and approved by the Board Engineer.

c) The Applicant shall revise their plans to ensure that all of the proposed window wells comply with the Borough Ordinance and are no closer than 10 feet from the side lot lines.

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

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

f) 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.

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

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

i) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment of all outstanding taxes and the payment of all fees to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto. The Applicant shall pay any fees or additional escrow deposits which may be due and owed within ten (10) days of notification.

j) All construction, use and development of the Property shall be in conformance with the plans approved by the Board. In the event the Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of

this approval, the Board hereby reserves the right to withdraw, amend or replace the instant approval. The Applicant's failure to comply with this condition may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

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

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on July 1, 2026.

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

ATTEST:

SO APPROVED:

MICHAEL GRECO, Secretary

TIMOTHY WOODS, Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTE TO APPROVE THE APPLICATION

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

Date of Approval: June 3, 2026

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Ms. Brenner							
Vice Chair Chin							
Mr. Lerner							
Dr. Mamdani							
Mr. Yu (<i>Alt #1</i>)							
Chair Woods							

Date of Adoption: July 1, 2026

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

RESOLUTION JPB-010-26

VARIANCE APPROVAL – Revised to correct scrivener’s error¹

In the Matter of the Application of
Barbara and Martin Vitale
8 Glenwood Avenue
Block 121, Lot 7

WHEREAS, Barbara and Martin Vitale (the “Applicants”) as the applicants and owners of the property located at 8 Glenwood Avenue and designated as Lot 7 in Block 121 on the Tax Maps of the Borough of Demarest (the “Property”); and

WHEREAS, the Applicants’ request for a Zoning Permit to construct a one-story addition along the rear portion of the existing single-family home was denied by the Zoning Officer of the Borough of Demarest on October 21, 2025 (the “Denial Letter”), stating:

Your request is hereby denied based on the following requirements:

YOUR ZONING PERMIT IS DENIED FOR THE BELOW REASONS WHICH WOULD REQUIRE VARIANCES FROM THE JOINT PLANNING BOARD OF DEMAREST

BUILDING COVERAGE = 21.55% WHERE 20% IS ALLOWED

LIVABLE FLOOR AREA = 35% WHERE 30% IS ALLOWED

RESIDENTIAL AND PARKING COVERAGE= 27.77% WHERE 25% IS ALLOWED

I WOULD LIKE TO NOTE THAT THERE IS AN EXISTING NONCONFORMITY OF THE FRONT YARD

¹ This resolution is being adopted to correct an error regarding approved Maximum Residential and Parking Coverage Variance from 28.82% to 29.23% and minimum required front yard setback for covered entryway variance from 24.87 ft to 21.87 ft. Typographical errors existed in the originally adopted resolution and are corrected herein, paragraph 20 and other relevant sections.

SETBACK WHICH IS 24.9 FEET WHERE 25 FEET IS
REQUIRED...; and

WHEREAS, thereafter, the Applicants filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for D(4) floor area ratio (“FAR”) variance and “C” variance approval to construct a one-story addition to the rear of the existing single-family dwelling on the Property (the “Application”); and

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

- A. Correspondence from Capizzi Law Offices regarding the Initial Application Submission dated October 29, 2025;
- B. Correspondence from Capizzi Law Offices regarding the revised Application Submission dated December 18, 2025;
- C. Correspondence from Capizzi Law Offices regarding the revised Application Submission dated March 19, 2026;
- D. Variance Application dated October 28, 2025 (the “Application”);
- E. Denial Letter from the Borough of Demarest Zoning Department dated October 21, 2025 and consisting of one (1) page;
- F. Affidavit of Representation dated October 29, 2025;
- G. Deed dated February 20, 2025;
- H. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated October 29, 2025;
- I. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated March 18, 2026;

- J. Engineering Plans prepared by L2A Land Design, LLC dated September 19, 2025 and consisting of five (5) sheets;
- K. Engineering Plans prepared by L2A Land Design, LLC dated September 19, 2025, last revised December 8, 2025, and consisting of five (5) sheets;
- L. Engineering Plans prepared by L2A Land Design, LLC dated September 19, 2025, last revised March 16, 2026, and consisting of five (5) sheets;
- M. Zoning Analysis prepared by L2A Land Design, LLC dated October 14, 2025;
- N. Zoning Analysis prepared by L2A Land Design, LLC dated December 18, 2025;
- O. Zoning Analysis prepared by L2A Land Design, LLC dated March 17, 2026;
- P. Correspondence prepared by L2A Land Design, LLC dated March 17, 2026 outlining plan revisions;
- Q. Architectural Plans prepared by Jose Carballo Architecture P.C. dated September 19, 2025 and consisting of one (1) sheet;
- R. Architectural Plans prepared by Jose Carballo Architecture P.C. revised December 3, 2025 and consisting of one (1) sheet;
- S. Architectural Plans prepared by Jose Carballo Architecture P.C. revised March 3, 2026 and consisting of three (3) sheets;
- T. Survey prepared by EIS Associates, Inc. dated May 23, 2025 and consisting of one (1) sheet;
- U. Affidavit of Service for notices mailed on December 19, 2025 prepared by Capizzi Law Offices;

- V. Affidavit of Service for notices mailed on March 26, 2026 prepared by Capizzi Law Offices;
- W. Affidavit of Publication on December 24, 2025 prepared by The Record and Herald News;
- X. Affidavit of Publication on March 26, 2026 prepared by The Record and Herald News; and

WHEREAS, public hearings were held by the Board on January 7, 2026 and April 8, 2026 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant, represented by Matthew 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 Applicants’ Application including:

- A. Colorized Site Plan sheet C-08 dated December 8, 2025, marked as Exhibit A-1;
- B. Colorized Site Photos/Renderings dated March 3, 2026 and consisting of three (3) pages, marked as Exhibit A-2;
- C. Colorized Site Plan sheet C-03 dated March 16, 2026, marked as Exhibit A-3;
- D. Colorized aerial and photographs of the Property, marked as Exhibit A-4;
- E. Testimony of Applicant’s engineer, Michael Dipple of L2A Land Design, LLC, whose testimony can be summarized as follows:
 - a. The Applicants seeks approval to renovate a recently acquired home to permit full-time, first-floor living, motivated by relocation needs and anticipated in-home care.
 - b. The existing house is currently 2.5 stories, but the Applicants do not expect to make meaningful use of the second floor.

- c. The proposed addition is intended to allow the Applicants to remain in the home long term.
- d. The Property is located in the Single-Family Residence D Zone (the “R-D Zone”) and is slightly oversized (10,000 square feet required; 10,179 square feet existing) and is compliant as to lot size, depth, and width.
- e. The Property presently contains an existing driveway and two-car garage.
- f. The proposed improvement is a one-story, first-floor rear addition of approximately 1,200 square feet, intended to create full-time first-floor living space.
- g. The proposed addition is fully within the rear yard.
- h. The Property has a pre-existing non-conforming front yard setback.
- i. The Property has a significant slope to the west, with about five feet of grade change.
- j. The rear yard is elevated because of the grade change and the rear of the Property is vacant, wooded land.
- k. The revised proposal also attempts to manage coverage impacts through narrowing the driveway, reducing front sidewalk area, adding a grass strip, and tying a new drainage system into roof runoff and a drywell.
- l. As initially presented, the proposal required variances for: side yard setback - east (10 feet required; 8.36 feet proposed), rear yard setback (30 feet required; 38.8 feet proposed to balcony), building height, building coverage, livable floor area/FAR, improved lot coverage and residential and parking coverage.

- m. In response to comments made by the Board at the January 7, 2026 hearing, plans were revised to reduce the front sidewalk area, reduce impervious coverage, reduce building coverage, eliminate the variance originally requested for the right side yard, add landscaping to the east and west sides, reconfigure stairs, narrow the driveway to 20 feet, relocate the HVAC equipment and add a generator in the rear yard behind the addition, add a new 42 square foot portico and add a new 12 square foot window well.
- n. As revised, the Applicants are requesting variances for building coverage (20% permitted; 23.10% proposed including the portico), improved lot coverage (30% permitted; 30.84% proposed including the window well and covered entryway), residential and parking coverage (25% permitted; 29.23% proposed), livable floor area/FAR (30% permitted; 35.71% proposed), front yard setback to the covered front entryway (25 ft. is permitted; 21.87 ft. proposed).
- o. A new drainage system is proposed which captures the roof runoff of the entire addition.
- p. Landscaping will include evergreen screening, specifically eastern red cedar and green giant arborvitae, to be planted at heights of 8 to 10 feet.
- q. No rear patio or back stairs/doorway are proposed.
- r. The Property itself is conforming and that revised plans reduced some impacts of the proposed addition through narrower paving, landscaping, and drainage measures.

- F. Testimony of Applicant's architect, Jose Carballo of Jose Carballo Architecture P.C., whose testimony can be summarized as follows:
- a. The proposed addition is intended to improve accessibility and livability for the Applicants, particularly the wife, who needs mobility assistance and wheelchair-accessible space.
 - b. The proposed addition creates a home layout that allows movement without obstacles and improves ambulatory/ADA-compliant access and creates a primary bedroom on the first-floor.
 - c. The house is relatively small, with tight interior spaces and a small kitchen.
 - d. The current layout is not well suited for wheelchair navigation or barrier-free movement.
 - e. The proposed addition has more open modern living space with a first floor that allows easy movement without barriers.
 - f. The existing house is all brick and presents significant visual mass.
 - g. The proposed addition keeps changes largely to the rear of the house.
 - h. In response to comments made by the Board at the January 7, 2026 hearing, plans have been revised and the addition has reduced significantly from a prior version (the original proposed addition was 20 feet wide across the rear of the dwelling; the revised addition is 11 feet wide across the rear of the dwelling).
 - i. As revised, the addition is now flush with the existing structure, continues the façade, and does not increase height.

- j. The rear elevation height is 16 feet from average grade, within the permitted maximum.
- k. A Juliette balcony projecting 12 inches into the rear yard could be made flush with the rear wall, which would eliminate the need for the rear yard variance.
- l. The revised plans include a new front portico with curved detailing that echoes the windows above; it is about 3 feet deep and 5 feet wide and slightly increases the front-yard encroachment (25 feet is required; 24.9 feet is existing; 24.87 feet is proposed) and building coverage.
- m. Proposed materials include leaving some brick exposed and adding Hardie board to reduce the appearance of massing.
- n. The revised plans eliminate the right-side-yard variance, reduce building coverage from 27.67% to 22.69%, reduce impervious coverage from 36% to 30.73% and reduce FAR from 41.22% to 35.71%,.
- o. FAR is affected in part by a two-story foyer, which takes up substantial floor area, but does not translate into especially usable living space.
- p. The revised design includes new landscaping and reduced walkways to lessen lot coverage.
- q. The basement will contain a study.
- r. The Applicants will ensure that the basement will not be counted as livable floor area.
- s. If needed, a 12-square-foot window well will be added to the basement.

G. Testimony of the Applicants' professional planner, David Spatz of Community Housing & Planning Associates, Inc., whose testimony can be summarized as follows:

- a. The Property can accommodate the proposed FAR.
- b. The proposed addition is concentrated in the rear, which minimizes visibility and impact to any of the surrounding neighbors.
- c. There will be no perceptible impact from the proposed addition on the streetscape, since the proposed addition is entirely within the rear yard.
- d. Further, there will be no impact on any rear yard neighbors, as the parcel in the rear of the Property is vacant, wooded land.
- e. The proposed addition improves first-floor living conditions, especially for senior living needs.
- f. The additional drainage improvements, provides benefits both to the subject Property and adjoining properties.
- g. The enhanced landscaping and reduced impervious coverage in the front of the Property mitigate any detriment to neighboring properties.
- h. The Application advances several zoning purposes, including:
 - i. Purpose A: promotion of the public health, safety, and general welfare;
 - ii. Purpose E: encouraging appropriate population density / land use; and
 - iii. Purpose I: creating a desirable visual environment.
- i. The Application provides an attractive design and enhances the Property with the addition of the small, covered entry, new siding and reduced impervious coverage in the front yard.

- j. The slight increase in coverages is mitigated by the drainage improvements, enhanced landscaping and the generous sized lot; and

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

- A. Completeness Letter from the Borough Zoning Officer, Michael Greco (the “Zoning Officer”) dated November 3, 2025 deeming the Application complete;
- B. Board Planner Reports prepared by Colliers Engineering and Design dated December 15, 2025, December 30, 2025 and March 25, 2026 (collectively, the “Board Planner Report”), along with testimony from Darlene A. Green, PP, AICP of Colliers Engineering & Design (the “Board Planner”);
- C. Board Engineer Reports prepared by Colliers Engineering and Design dated December 16, 2025, January 5, 2026 and March 30, 2026 (collectively, the “Board Engineer Report”), along with testimony from Nick Chelius, PE of Colliers Engineering & Design (the “Board Engineer”); and

WHEREAS, the Board and the Board Engineer had extensive questions for the Applicants and the Applicants’ professionals regarding the proposed addition; and

WHEREAS, no members of the public appeared at the public hearing to ask questions of the Applicants or offer any comments 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 Applicants, including those produced at the public hearings on January 7, 2026 and April 8, 2026, are incorporated herein by reference.

2. The Property is located at 8 Glenwood Avenue and designated as Lot 7 in Block 121 on the Tax Maps of the Borough of Demarest and is a rectangular-shaped, slightly oversized parcel consisting of 10,179 square feet.

3. The Property is located on the north side of Glenwood Avenue, between County Road and Elm Place and is located in the R-D Zone.

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

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

6. By this Application, the Applicants are seeking D(4) FAR variance and C variance relief to construct a new one-story addition on the rear of the existing dwelling, along with a new paver walkway, concrete steps, concrete walkway, drainage improvements, façade improvements and landscape improvements.

7. The Applicants are proposing to remove the existing wood deck and steps at the rear of the home, the existing paver walkway and the existing sidewalk within the right-of-way to construct the proposed improvements.

8. The Property has a pre-existing non-conformity with respect to minimum front yard setback (25 feet is required; 24.9 feet is existing).

9. The Applicants are seeking variance relief from the requirements of the R-D Zone pursuant to N.J.S.A. 40:55D-70(d)(4) with respect to maximum livable floor area (30% is permitted; 35.71% is proposed).

10. The Applicants are seeking variance relief from the requirements of the R-D Zone pursuant to N.J.S.A. 40:55D-70(c) with respect to: (i) maximum building coverage, as 20% is permitted and 23.10% is proposed with the new portico; (ii) maximum improved lot coverage, as 30% is permitted and 30.84% is proposed with the new window well; and (iii) maximum residential and parking coverage, as 25% is permitted and 28.82% is proposed.

11. The Board finds that the proposed one-story addition to the existing single-family dwelling, which is a permitted use in the R-D Zone and consistent with the surrounding neighborhood, along with the enhanced landscaping and façade improvements, such as the new portico, provide an aesthetic improvement to the Property.

12. The Board finds that the addition of Hardie board siding to the existing brick façade reduces the appearance of massing of the dwelling.

13. The Board finds that the proposed one-story addition will not be visible to the street or any neighbors in the rear of the Property.

14. The Board finds that the Property can support the FAR and that the increase in building coverage, residential and parking coverage and impervious coverage is mitigated by the drainage and landscaping improvements and fact that the Property is oversized.

15. Despite the FAR, the home is not an overbuilt design. The Applicants have proven their Property can reasonably accommodate any problem associated with the structure exceeding the permitted FAR by 581.22 square feet, as the Property is compliant in lot area, lot

frontage and lot depth and the dwelling complies with all side yard, rear yard and building height requirements.

16. The Board finds that in light of the modest size of the dwelling, the attractive design of the improvements and the dwelling's maintenance of building height, side yard setback and rear yard setback requirements, the requested variances are reasonable and appropriate.

17. 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.

18. 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.

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

20. The Board finds that the Applicants have proven their entitlement to variance approval under N.J.S.A. 40:55D-70(d)(4), N.J.S.A. 40:55D-70(c)(1) and N.J.S.A. 40:55D-70(c)(2) and hereby grants the following variances:

Zoning Code Section	Required/Permitted	Proposed & Granted
Section 175-16 (maximum floor area ratio)	30%	35.71%
Section 175-16 (maximum building coverage)	20%	23.10%
Section 175-16 (maximum improved lot coverage)	30%	30.84%
Section 175-16 (maximum residential	25%	29.23%

and parking coverage)		
Section 175-16 (minimum front yard setback)	25 feet	21.87 feet (to the covered entryway)

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, as modified on the record at the public hearings, is hereby granted, subject to the following conditions:

a) The Applicants shall revise their plans and update their zoning chart to include changes made during the course of the April 8, 2026 public hearing with respect to the new portico and new window well.

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

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

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

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

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

g) The Applicants shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment of all outstanding taxes and the payment of all fees to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto. The Applicants shall pay any fees or additional escrow deposits which may be due and owed within ten (10) days of notification.

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

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

j) The Applicants 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 Applicants or their 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 Applicants agree not to commit any public or private nuisance by reason of dirt, dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting

from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.

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

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on April 8, 2026.

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

KIRAN CHIN, Vice Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTE TO APPROVE THE APPLICATION

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

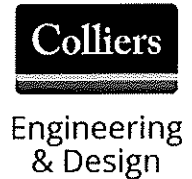
Date of Initial Approval: April 8, 2026

VOTE TO APPROVE THE CORRECTIVE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Mr. Adelman							
Vice Chair Chin							
Mr. Lerner							
Dr. Mamdani							
Mr. Jiang (<i>Alt #1</i>)							

Date of Adoption: July 1, 2026

400 Valley Road Suite 304
Mt. Arlington, NJ 07856
Main: 877 627 3772



June 24, 2026

Michael Greco, Board Secretary
Zoning Board of Adjustment
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

8 Ross Avenue
Block 133, Lot 42
Borough of Demarest, Bergen County, NJ
Joint Land Use Board Application County - **Engineering Review 5**
Colliers Engineering & Design Project No. DEZ0059

Dear Mr. Greco:

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a Variance Application. The Applicant is proposing to construct a two-story addition, driveway, patio, and other related improvements at the subject property;

- a) Site plans consisting of one (1) sheet, prepared by prepared and signed by Stephen P. EID, P.E, PLS, of EID Associates, Inc, dated November 20, 2025, **last revised June 16, 2026;**
- b) Architectural Plans consisting of ~~five (5)~~ **four (4) sheets**, prepared and signed by Stanley J. Kufel, RA, dated ~~October 14, 2025, last revised April 23, 2026~~ **dated June 19, 2026;**
- c) Topographic survey of the property consisting of one (1) sheet, prepared and signed by Stephen P. EID, PLS, of EID Associates, Inc, dated February 11, 2025;
- d) Variance Application for the subject property and attachments; signed and dated January 20, 2026;
- e) Zoning Analysis prepared by Stephen P. EID, P.E, PLS, of EID Associates dated January 13, 2026;
- f) Zoning Denial letter dated January 14, 2026.
- g) Engineer Response letter by Stephen P. EID, P.E, PLS, of EID Associates, Inc, dated April 20, 2026; and
- h) Cover letter prepared by Gloria Duby, of Capizzi Law Offices, dated May 22, 2026.

The Property Owner/Applicant is:

8 Ross Avenue LLC
c/o Scott Nela
8 Ross Avenue
Demarest, NJ 07627

The Applicant/Owner shall notify the Borough of Demarest Zoning Board of Adjustment of any changes to the above information.

Engineering Review

I. Project Description & Location

According to the property survey, the site is currently occupied by a 2-story single-family dwelling with associated driveway, walkways, deck, frame garage, and other related improvements, some of which are to be demolished. The Applicant is proposing to construct a new 2 story addition on the east side of the existing dwelling, driveway, rear patio, drainage improvements and other related improvements on the property.

The property is a rectangular shaped parcel consisting of 7,000 SF. The property is located on the north side of Ross Ave, between County Road and Elm Place. The dwelling front faces Ross Avenue and driveway access is provided on Ross Avenue. The property is located in the residential D Zone according to the Borough Zoning Map.

The property is located in Zone X (area determined to be outside the 0.2% annual chance floodplain) as shown on the Flood Insurance Rate Map (FIRM) for the Borough of Demarest dated August 2019.

II. Zoning Requirements & List of Variances / Waivers Requested

A. Bulk Zoning Requirements:

Zone: D

Use: Single Family Residential

Description	Required	Existing	Proposed	Complies
Lot area**	10,000 sf.	7,000 sf.	7,000 sf.	☐ Yes ☒ No
Lot Frontage**	100 ft.	70 ft.	70 ft.	☐ Yes ☒ No
Lot depth	100 ft.	100 ft.	100 ft.	☒ Yes ☐ No
Front yard setback**	20.8 ft.	15.0 ft.	15.0 ft.	☐ Yes ☒ No
Side yard setback-west **	10.0 ft.	9.9 ft.	9.9 ft.	☐ Yes ☒ No
Side yard setback-east	10.0 ft.	35.9 ft.	15.5 ft.	☒ Yes ☐ No
Rear yard depth	30 ft.	44.20 ft.	44.20 ft.	☒ Yes ☐ No
Building Height	30 ft.	30.15 ft.**	30.36 ft. 30.0 ft.	☒ Yes ☐ No
Max Building Coverage*	20 %	16.2 %	26.9 % 24.94%	☐ Yes ☒ No
Max Livable Floor Area*	30 %	22.6 %	39.1 % 37.36%	☐ Yes ☒ No
Residential & Parking Coverage*	25 %	27.3 %	30.7 % 28.63%	☐ Yes ☒ No

Improved Coverage*	30 %	30.9%**	35.2% 33.26%	☐ Yes ☒ No
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N/A = not applicable

* = variance required

** = pre-existing non-conformance

B. The Following Variances Appear to be Required:

1. Lot Area – There is a pre-existing nonconformance for lot area of 7,000 SF, where a minimum of 10,000 is required.
2. Lot Frontage – There is a pre-existing nonconformance for lot frontage of 70 FT, where a minimum of 100 FT is required.
3. Minimum Front Yard setback – There is a pre-existing non-conformance for the existing dwelling for front yard setback of 15 FT where a minimum of 20.8 FT is required. The Applicant is proposing an addition with a front yard setback of 19.1 FT where a minimum of 20.8 FT is required.
A variance is required for this condition.
4. Building Coverage – The Applicant is proposing a max building coverage of 1,880 SF (26.9%) **1,746 SF (24.94%)** where the maximum of 1,400 SF (20%) is permitted.
A variance is required for this condition.
5. Livable Floor Area – The Applicant is proposing a max livable floor area of 2,737 SF (39.1%) **2,615.52 SF (37.36%)** where a maximum of 2,100 SF (30%) is permitted.
A variance is required for this condition.
6. Residential & Parking Coverage – The Applicant does not include this calculation of the zoning sheet and should revise the plans to include this calculation. Based on the coverage breakdown provided on the plans; it appears the district maximum is exceeded. The Applicant should be prepared to provide testimony to clarify the total residential and parking coverage proposed. The Applicant is proposing a residential and parking coverage area of 2,152 SF (30.7%) **2,004 SF (28.63%)** where the maximum of 1,750 SF (25%) is permitted.
A variance is required for this condition.
7. There is an existing garage in the northern corner of the property which is considered an accessory structure. The existing garage encroaches on the rear and side yard accessory structure setbacks. The Applicant is proposing to remove the garage as part of this application.
8. As noted in comment D below, there is a pre-existing nonconformance for building height of 30.1 FT, where a maximum of 30 FT is permitted. *The Applicant proposes to construct the addition to a building height of 30.36 FT.*
A variance is required for this condition.

6/19/26 – The plans have been revised to reduce the building height to 30 feet. The Applicant has provided a revised average grade calculation. A variance is no longer required. The Applicant to confirm in testimony.

- 9. Improved Coverage – The Applicant is proposing a max improved coverage of 2,328 SF (33.26%) where the maximum of 2,100 SF (30%) is permitted.**

A variance is required for this condition.

III. Engineering Review

- B. The Applicant is proposing to increase improved lot coverage from 2,160 SF (30.9%) to 2,464 SF (35.2%) ~~2,328 SF (33.26%)~~ with a net increase in coverage of ~~304 SF~~ 168 SF.**
1. There is a wooden deck, stairs, and frame garage in the rear of the existing dwelling which are to be removed.
 2. **Per the revised the plans the applicant is reducing the proposed addition from 820 SF to 502 SF**
- C. The Applicant is proposing one (1) precast concrete seepage pit in the rear yard area to collect and store stormwater runoff from what appears to be the roof area of the proposed addition. We offer the following comments related to the drainage design:
1. The Applicant has provided design calculations which indicate approximately 2,446 SF of area being collected and conveyed to the proposed seepage pit. The Applicant has provided adequate storage for this drainage area. We take no exception to the calculations provided. The Applicant should provide testimony if there are any existing drainage improvements on-site.
 2. The Applicant should provide testimony indicating where the seepage pit is proposed to overflow.
 3. A soil test shall be provided prior to the installation of the proposed seepage pits. Soil test shall include information regarding the location of the seasonal high-water table (SHWT) and percolation rate of the soil.
 4. The Applicant proposed an at-grade manhole cover for future maintenance. We take no exception.
 5. The Borough Engineer shall be notified to inspect the seepage pits prior to backfilling.
- D. There is an existing basement. No basement is proposed for the new addition. The Applicant is advised that any basement must be a minimum of 70% below finished grade; otherwise, the area shall be included in the calculation of gross livable floor area.

Calculations have been provided and indicate the existing basement is 48.7 % below grade, and 51.4 % below the proposed finished grade. As such, the basement does not appear to meet the 70% below-grade requirement. The Applicant indicates that the existing basement is utilized solely for storage and utilities and has therefore not been included in the gross livable floor area calculation. No basement is proposed as part of the new addition. *Revised calculations have been submitted indicating that the existing basement is currently approximately 54% below grade. Based on the proposed grading modifications, the basement is projected to be approximately 73% below grade.*

- E. The Applicant has depicted existing and proposed contours on the property. We offer the following comments related to grading:
1. Under existing conditions, the site drains from north to south. The highest point of the property is in the southeastern side where elevations are approximately 78 and the lowest point of the property is in the northeastern corner, where elevations are approximately 77.5.
 2. Under proposed conditions, the high and low points are generally maintained, and drainage patterns should not be substantially impacted. Proposed grading appears to be minimal.
 3. *The grading plan has been revised since the previous submission and reflects increased proposed elevations adjacent to portions of the existing dwelling and proposed addition foundation, resulting in additional fill placement. In particular, the proposed grades along the northern side of the property appear to be raised by more than one (1) foot in certain areas located approximately six (6) feet from the adjacent property line. The Applicant should be prepared to provide testimony and demonstrate that the revised grading will not adversely impact drainage patterns or result in stormwater runoff, ponding, or other drainage-related issues on neighboring properties. Continuing comment.*
- F. The Applicant has submitted calculations indicating approximately 80 cubic yards of cut and 65 cubic yards of fill, for a total soil movement of 145 cubic yards. Based on the information provided, the proposed soil movement does not exceed the 250 cubic yard threshold, and a soil movement permit does not appear to be required. *Revised fill calculations have been provided, indicating 95 cubic yards of fill and a total movement of 175 cubic yards.*
- G. Should the Board act favorably upon this application, the Applicant is hereby made aware that drainage issues may arise during or after the proposed construction. It will be the Applicant's responsibility to remedy any drainage issues caused by the proposed improvements. In addition, water runoff directed to neighboring properties is prohibited. If runoff water does enter neighboring properties as a result of the proposed improvements, the Applicant will be responsible to remedy the situation at no cost to the Borough.

Should you have any questions, you may contact me at (201) 775-1283.

Sincerely,

Colliers Engineering & Design



Nick Chelius, P.E., C.M.E.
Joint Land Use Board Engineer

CC: Board Members (via Joint Land Use Board Secretary)
Matthew Capizzi, Applicant's Attorney (via email)

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June 25, 2026

PLANNING REPORT

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

RE: 8 Ross Avenue, LLC c/o Scott Nela

8 Ross Avenue
Block 133, Lot 42
Review Letter #5
Project No. DEP-0262

Dear Board Members,

8 Ross Avenue, LLC c/o Scott Nela, the Applicant, seeks variance relief to construct a two-story addition to the southeast side of the existing home. A new driveway to the proposed addition, a rear patio adjacent to the addition, and stormwater management facilities are also proposed. To enable the construction, the Applicant intends to remove the existing driveway on the northwest side of the home, the existing detached garage in the northern corner of the property, and the existing wood deck. The Application requires a D(4) floor area ratio (FAR) variance and "C" variances, which are detailed in Section B.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled "Site Plan Proposed Addition", prepared by Stephen P. Eid, PE, PLS of Eid Associates, Inc., dated November 20, 2025, revised through June 16, 2026, consisting of 1 sheet.
2. Plan entitled "Proposed Addition to an Existing Two-Story Frame Dwelling", prepared by Stanley J. Kufel, RA, dated June 16, 2026, consisting of 4 sheets.
3. Survey entitled "Location Survey", prepared by Stephen P. Eid, PE, PLS of Eid Associates, Inc., dated February 11, 2025, consisting of 1 sheet.
4. Variance Application, dated January 20, 2026. Note that a revised Application, dated March 27, 2026, was also submitted.
5. Zoning Permit Denial, dated January 14, 2026, consisting of 1 page.
6. Letter entitled "Single Family Residential Addition", prepared by Eid Associates, Inc., dated January 13, 2026, consisting of 2 pages.
7. Letter entitled "Initial Submittal for Completeness Review", prepared by Gloria Duby, Paralegal of Capizzi Law Offices, dated January 20, 2026, consisting of 2 pages.

8. Letter entitled "8 Ross Avenue, LLC – Demarest JPB (the "Applicant")", prepared by Matthew G. Capizzi, Esq. of Capizzi Law Offices, dated March 16, 2026, consisting of 1 page. (Note that two copies were submitted, which were addressed to different people.)
9. Letter entitled "8 Ross Avenue, LLC – Demarest JPB (the "Applicant")", prepared by Gloria Duby of Capizzi Law Offices, dated March 27, 2026, consisting of 2 pages.
10. Letter entitled "Single Family Residential Addition", prepared by EID Associates, Inc., dated April 20, 2026, consisting of 2 pages.
11. Letter entitled "List of Revisions Made 4/23/2026; Proposed addition to existing 2 story frame dwelling", prepared by Sidiq Ghaleb, dated April 23, 2026, consisting of 1 page.

A. Existing Zoning and Surrounding Land Use

The subject property is located on the north side of Ross Avenue in the Residence D (R-D) District. The property is surrounded by residential uses. See the image below for the approximate location of the subject property shown in red.¹



Yard and bulk requirements in the R-D District are:

Minimum Lot Area – 10,000 square feet
Minimum Lot Frontage – 100 feet
Minimum Lot Depth – 100 feet
Minimum Front Yard Setback – 25 feet²
Minimum Side Yard Setback Abutting a Street – 25 feet
Minimum Side Yard Setback Abutting a Lot – 10 feet
Minimum Rear Yard Setback Depth – 30 feet³
Maximum Number of Families per Building – 1
Maximum Building Coverage – 20%
Maximum Height of Building – 24 feet/30 feet⁴
Maximum Livable Floor Area (1 or 2 stories) – 30%⁵
Maximum Improved Lot Coverage – 30%⁶
Maximum Residential and Parking Coverage – 25%

B. Variances

The Application requires the following “D” variance:

1. Section 175-16 – D(4) variance for floor area ratio (“FAR”). The Ordinance limits the livable floor area for one- or two-story dwellings in the R-D District to 30% of the lot area. (It should be noted that a footnote for livable floor area describes the method to calculate said area, which is the same as a FAR calculation.) This site is limited to 2,100 square feet.

The Applicant proposes a livable floor area (FAR) of 2,615.52 square feet or 37.36% of the lot area.

The Application requires the following “C” variances:

1. Section 175-16 – Variance for front yard setback. The Ordinance requires a 25-foot front yard setback. However, Footnote B of the Limiting Schedule requires an alternative setback on all streets, except some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback.

According to the Chart of Average Front Setbacks on the Site Plan, the average front yard setback of the properties along the north side of Ross Avenue between County Road and Elm Place, excluding the subject property, is 20.8 feet. The existing front yard setback is 15 feet. The Applicant proposes a front yard setback to the addition of 19.4 feet. It should be noted that the proposed overhang above the garage has a front yard setback of approximately 15.1 feet.

2. Section 175-16 – Variance for maximum building coverage. The Ordinance limits building coverage to 20% of the lot area. The site is limited to 1,400 square feet.

According to General Note 13 of the Site Plan, the Applicant proposes a building coverage of 1,746 square feet or 24.94% of the lot area, which includes the dwelling and garage (1,635 square feet), covered porch (29 square feet), and proposed overhang above the garage (82 square feet).

3. Section 175-16 – Variance for maximum improved lot coverage. The Ordinance limits improved lot coverage to 30% of the lot area. The site is limited to 2,100 square feet.

The Applicant proposes an improved lot coverage of 2,328 square feet or 33.26% of the lot area, which includes the dwelling and garage (1,635 square feet), walks, porches, and steps (110 square feet), driveway (340 square feet), and deck, patio, and AC units (243 square feet). It should be noted that the existing improved lot coverage is 2,160 square feet or 30.9% of the lot area.

4. Section 175-16 – Variance for maximum residential and parking coverage. The Ordinance limits residential and parking coverage to 25% of the lot area, which includes the residential use, vehicle access, and parking areas. The site is limited to 1,750 square feet.

According to the calculation in General Note 12 of the Site Plan, the Applicant proposes 2,004 square feet of residential and driveway area (house, covered porch, and driveway area) or 28.63% of the lot area. It should be noted that the existing residential and parking coverage is 1,912 square feet or 27.3% of the lot area.

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-16 – The Ordinance requires a minimum lot area of 10,000 square feet. The subject property is only 7,000 square feet.
2. Section 175-16 – The Ordinance requires a minimum lot frontage of 100 feet. The subject property only has 70 feet of frontage along Ross Avenue.
3. Section 175-16 – The Ordinance requires a ten-foot side yard setback in the R-D District. The existing side yard setback to the western property line is 9.9 feet.
4. Section 175-16 – The Ordinance limits building height to 30 feet. According to General Note 9 on the Site Plan, the existing building is 30.15 feet from the average existing grade around the existing footprint to the roof peak ($108.2 - 78.05 = 30.15$ feet). It should be noted that the proposed addition would lower the building height to 30 feet measured from the average proposed grade around the proposed footprint to the roof peak ($107.8 - 77.8 = 30$ feet), which would **eliminate** this pre-existing non-conforming condition.
5. Section 175-19A.(1)(c) – The Ordinance does not permit decks, platforms, and porches, whether roofed or unroofed, enclosed or unenclosed, as structural features to encroach into any yard. The existing covered front porch encroaches into the front yard.
6. Section 175-19A.(1)(d) – The Ordinance does not permit impervious surfaces within the front yard setback requirement or within ten feet of any side or rear lot line, except for driveways

and access walks to the principal building. The existing detached garage has a 1.1-foot side yard setback and a 3.2-foot rear yard setback. It should be noted that the Applicant proposes to remove the existing detached garage, which would **eliminate** this pre-existing non-conforming condition.

7. Section 175-19A.(4)(c) – The Ordinance permits accessory uses, buildings, and structures to encroach into the rear yard, except that no encroachment may be closer than ten feet to the rear lot line. The existing detached garage has a 3.2-foot rear yard setback. It should be noted that the Applicant proposes to remove the existing detached garage, which would **eliminate** this pre-existing non-conforming condition.

C. Variance Proofs

D(4) Variance

The Board should note that the court found, in Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), that the Applicant need not show “special reasons” that a site is particularly suited for more intensive development if the use is permitted. The Applicant is only required to demonstrate that the site will accommodate the problems associated with a larger floor area than that permitted by Ordinance. These problems typically involve the relationship of the proposal to the neighboring properties, such as intrusion into the side yard or visual incompatibility with the existing and surrounding buildings. The Board needs to determine whether the intent of zone plan and zoning ordinance will be substantially impaired by the proposed increase floor area.

“C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Waivers/Exceptions

The Application does not require any waivers/exceptions based on the information provided.

E. Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that the current status of previously issued comments and new comments are provided in italics. Additionally, previously addressed comments have been removed.

General

1. The Applicant's professionals must provide testimony to support the grant of the D(4) FAR variance and "C" variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.

Site Plans

2. The Zoning Schedule indicates the proposed building coverage is 25.3%, which includes the dwelling and garage (1,771 square feet) according to the Lot Improvement Areas. However, this area does not include the 29 square foot covered front porch indicated in the Improved Lot Coverage table in the Engineer's January 13, 2026 Letter. Therefore, the proposed building coverage is 1,800 square feet or 25.7% of the lot area. The Zoning Schedule and Lot Improvement Areas shall be revised accordingly, which can be a condition of any potential Board approval.

April 6, 2026 Response: According to General Note 12 on the revised Site Plan, the existing covered porch is 41 square feet. Therefore, based on the information provided, the proposed building coverage is 1,812 square feet or 25.9% of the lot area. However, the Zoning Schedule indicates the proposed coverage is 25.3%, which would only include the proposed dwelling. Additionally, the Lot Improvement Areas table does not separate the covered porch from the "walks, porches & steps" line. The Site Plan shall be revised to eliminate these discrepancies, which can be a condition of any potential Board approval.

April 29, 2026 Response: The revised Site Plan includes new General Note 13, which indicates the proposed building coverage is 1,880 square feet or 26.9% of the lot area, which includes the proposed dwelling (1,771 square feet), covered porch (29 square feet), and overhang above the garage (80 square feet). This comment has been addressed.

May 29, 2026 Response: Stephen Eid, the Applicant's Engineer, testified at the May 6, 2026 meeting that the correct area of the covered porch is 41 square feet. This would increase the proposed building coverage to 1,892 square feet or 27.0% of the lot area. However, General Note 13 still indicates the covered porch is 29 square feet and the proposed building coverage is 1,880 square feet (26.9% of the lot area). This discrepancy shall be eliminated, which can be a condition of any potential Board approval.

The Site Plan has been revised to reduce the size of the proposed addition, which results in a building coverage of 1,746 square feet or 24.94% of the lot area.

3. The Proposed Front Elevation and Proposed Right Elevation on Sheet A-04 of the Architectural Plans illustrate an overhang above the garage doors. However, this overhang is not illustrated on the Site Plans or included in the building coverage calculation. The Applicant shall revise the Site Plans to illustrate the proposed overhang, which can be a condition of any potential Board approval. Additionally, the area of the overhang shall be provided to determine the exact building coverage relief required.



Engineering
& Design

April 6, 2026 Response: The revised Site Plan has not illustrated the overhang above the garage as shown in the Architectural Plans. Therefore, the proposed building coverage remains unclear. The Applicant shall revise the Site Plan to illustrate the overhang and include the area in the building and/or improved lot area to determine the exact relief required. This can be a condition of any potential Board approval.

April 29, 2026 Response: The revised Site Plan illustrates the overhang above the garage. Additionally, new General Note 13 indicates the overhang is 80 square feet and the proposed building coverage is 1,880 square feet or 26.9% of the lot area. This comment has been addressed.

May 29, 2026 Response: As noted above, General Note 13 shall be revised to reflect the covered porch area of 41 square feet and proposed building coverage of 1,892 square feet (27.0%), which can be a condition of any potential Board approval.

The scale provided on the Site Plan yields an approximate area of 29 square feet for the existing covered porch.

4. The Ordinance defines "Building, Height of" as "The vertical distance measured from the average natural grade all around the building to the highest point of the roof." Additionally, "Average Natural Grade" is defined as "An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation." General Note 9 on the Site Plan indicates the average grade around home is 78.2 feet and the roof midpoint grade is 104.6 feet, which equates to a height of 26.4 feet. This calculation of the building height does not comply with the Ordinance as the "highest point of the roof" was not utilized. The Site Plans indicate the roof peak is 108.2 feet, which results in a height of 30 feet. This is the maximum permitted height of the R-D District. However, the Applicant shall provide a detailed calculation of the average natural grade to ensure compliance.

April 6, 2026 Response: General Note 9 on the revised Site Plan indicates the proposed building height is 29.9 feet measured from the average proposed grade around the home (78.3 feet) to the roof peak (108.2 feet). However, the calculation is not consistent with the average natural grade definition. The Applicant shall revise the average natural grade and proposed building height calculation to determine compliance. We strongly encourage the Applicant to prepare an exhibit to confirm Ordinance compliance for the hearing.

April 29, 2026 Response: General Note 9 has been revised to calculate the existing building height at 30.15 feet from an average natural grade of 78.05 feet to the roof peak at 108.2 feet. Additionally, the proposed building height is calculated to be 30.36 feet from the average natural grade of 77.84 feet to the roof peak at 108.2 feet. Based on this information, variance relief is required to permit an increased building height. However, it should be noted that the proposed roof peak remains unchanged, while the average natural grade is slightly reduced due to the increased building footprint. This comment has been addressed.

May 29, 2026 Response: The Site Plan has been revised to increase the grade elevation around the dwelling. The elevations around the dwelling on the Site Plan last revised on April 20, 2026 were 78.1 at the front left corner of the dwelling and 78.4 at the front right corner and rear corners of the dwelling. The revised Site Plan now illustrates elevations of 79.5 at the front left corner, 79 at the front right corner, and 79.8 at the rear corners of the dwelling. Based on this change, the average natural grade should be higher than 77.84, which would reduce the proposed building height. However, General Note 9 has not been revised to amend the average natural grade calculation to reflect the modified elevations shown on the Site Plan. It should be noted that based on the revisions to General Note 10, it appears the new average natural grade is 79.4. However, the Site Plan shall be revised (Note 9 and the Zoning Schedule) to provide the updated proposed average natural grade calculation and modified proposed building height. These modifications can be a condition of any potential Board approval.

*The Zoning Schedule has been revised to indicate the proposed building height is 30 feet. General Note 9 provides the grades around the proposed home and indicates the proposed average natural grade is 77.84. All of the listed elevations are not indicated on the Site Plan, so we are unable to verify if the proposed average natural grade is correct. A **condition** of approval should be the submission of a separate plan or detail that illustrates the proposed grades around the home and confirms 77.84 is correct.*

5. The Ordinance defines "Livable Floor Area" as

The aggregate area of all floors included within the outer walls of a 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 feet six inches, and then only if at least 75% of such floor area has a ceiling height of not less than seven feet six inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway and has a permanent, complete floor and a means of heating to 70° F. at all times.

Additionally, on May 7, 2025 via Resolution JPB-006-25, the Board made an interpretation of how livable floor area should be calculated and determined the Livable Floor Area "does not include basements that are at least 70% below average grade whether heated or unheated". According to the Zoning Requirements information on Sheet A-00 of the Architectural Plans and the Engineering's January 2026 Letter, the proposed livable floor area is 2,737 square feet. However, the area of each floor was not provided. Additionally, the Applicant shall provide information to clarify if the basement is at least 70% below the average natural grade, which shall include a calculation of the average natural grade and the elevation of the basement floor and ceiling. Until this information is provided, we are unable to determine the exact relief required.

April 6, 2026 Response: General Note 10 on the revised Site Plan indicates the existing/proposed 7.4-foot-tall basement is only 3.8 feet below grade or 51.4% below grade. Pursuant to the Board's interpretation, the existing/proposed basement must be included in

the livable floor area. However, as noted above, the Applicant has not calculated the average natural grade pursuant to the Ordinance's definition. The Applicant shall revise the average natural grade calculation and provide the basement area to determine the exact D(4) FAR variance relief required.

April 29, 2026 Response: As noted above, General Note 9 has been revised to indicate the existing average natural grade is 78.05 feet and the proposed average natural grade is 77.84 feet. The Proposed Elevations on Sheet 5 of the Architectural Plans indicate the basement is six feet, eight inches tall (6.67 feet), not 7.4 feet tall as indicated in General Note 10. Based on the elevations provided by the Architectural Plans, the 6.67-foot-tall basement is 3.34 feet below the existing average natural grade (50%). Therefore, the basement floor area must be included in the FAR calculation to determine the exact D(4) variance relief required.

Testimony shall be provided to clarify the existing and proposed FAR, which includes the basement, first, and second floors but excludes the proposed garage.

General Note 10 has been revised to indicate the floor of the basement is 4.9 feet below the proposed average natural grade (79.4). This translates to 73.1% of the basement being below the average natural grade, which would exclude the existing/proposed basement from being included in the FAR.

*However, General Note 9 indicates the proposed natural average grade is 77.84. The basement is 6.7 feet tall, and the floor is at an elevation of 74.5. This translates to 3.34 feet of the basement below the proposed average natural grade or 49.8% below grade, which would result in the basement's inclusion in the calculation of FAR. **Testimony** shall be provided to clarify the proposed natural average grade and what impact, if included in the FAR, it has on the D(4) FAR variance.*

6. The Zoning Schedule does not include a line for the existing or proposed residential and parking coverage. However, based on the information provided, the proposed residential and parking area is 2,140 square feet or 30.6% of the lot area. This includes the proposed dwelling (1,771 square feet), covered porch (29 square feet), and proposed driveway (340 square feet). However, the area of the overhang above the proposed garage has not been provided, which would increase the proposed residential and parking coverage. The Applicant shall revise the Zoning Schedule to include the residential and parking coverage information and provide the area of the overhang to determine the exact relief required.

April 6, 2026 Response: The Zoning Schedule has been revised to provide the existing and proposed residential and parking coverage information. Additionally, General Note 12 provides a calculation of the coverage. This comment has been addressed.

April 29, 2026 Response: General Note 12 has been revised to indicate the proposed residential and parking coverage is 2,152 square feet or 30.7% of the lot area, which includes the proposed dwelling (1,771 square feet), driveway (340 square feet), and covered porch (41 square feet). However, new General Note 13 indicates the covered porch is only 29 square feet, which would reduce the residential and parking coverage from 30.7% to 30.6% of the lot area. Testimony shall be provided on the correct square footage of the porch, which will

impact either the building coverage percentage or the residential and parking coverage percentage.

May 29, 2026 Response: As discussed above, Mr. Eid clarified the covered porch is 41 square feet, which results in a proposed residential and parking coverage of 2,152 square feet or 30.7% of the lot area. This comment has been addressed.

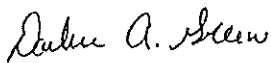
The Site Plan has been revised to reduce the size of the proposed addition, which decreased the proposed residential and parking coverage to 2,004 square feet or 28.63% of the lot area.

7. *The "General Notes" text conflicts with the first note. This drafting error shall be eliminated, which can be a **condition** of any potential Board approval.*
8. *General Note 7 indicates the proposed addition is 502 square feet. The previously submitted Site Plan indicated the proposed addition was 820 square feet. This translates to a reduction of 318 square feet. However, the dwelling and garage area in General Notes 12 and 13 and the Lot Improvement Areas table indicate a reduction of only 136 square feet (1,771 square feet – 1,635 square feet). Reviewing the Architectural Plans, the dimensions of the proposed addition equate to 686.3 square feet, excluding the new area within the dining room that is not dimensioned. Based on the scale provided on the Site Plan, the total area of the addition is approximately 742 square feet. The Applicant shall provide **testimony** to clarify the size of the proposed addition. General Note 7 shall be revised to provide the correct area of the proposed addition, which can be a **condition** of any potential Board approval.*

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP
Borough Planner

cc: Michael Greco, Board Secretary (via email mgreco@demarestnj.gov)
Tim Woods, Board Chair (via email timwoods12@gmail.com)
Danielle Federico, Board Attorney (via email dfederico@csglaw.com)
Nick Chelius, Board Engineer (via email nick.chelius@collierseng.com)
Scott Nela, Applicant (via email snela1981@yahoo.com)
Matthew G. Capizzi, Applicant's Attorney (via email matthew@capizzilaw.com)
Stephen Eid, Applicant's Engineer (via email stepheneid@gmail.com)
Stanley J. Kufel, Applicant's Architect (via email sidgx306@gmail.com)

¹ Image courtesy of <https://www.nearmap.com/us/en>, dated October 1, 2025.

² On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road, and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within 300 feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three or more houses.

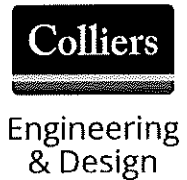
³ For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

⁴ Measured from the average natural grade around the perimeter of the proposed structure. No more than 50% of the roof area shall exceed the specified average height. Flat roofs above 30 feet in height are expressly prohibited in all zones.

⁵ Maximum livable floor area (as defined in §175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed.

⁶ The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs, or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers, or similar improvements; and any other structures or impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall not be greater than 25%.

400 Valley Road Suite 304
Mt. Arlington, NJ 07856
Main: 877 627 3772



June 24, 2026

Michael Greco, Board Secretary
Zoning Board of Adjustment
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

52 Edward Street
Block 90, Lot 211
Borough of Demarest, Bergen County, NJ
Joint Land Use Board Application - **Engineering Review #2**
Colliers Engineering & Design Project No. DEZ0061

Dear Mr. Greco:

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a Variance Application. The Applicant is proposing to construct a new single-family dwelling and other related improvements at the subject property;

- a) Site plans consisting of one (1) sheet, prepared by Thomas W. Skrabble, P.E, Consulting Engineer, dated March 17, 2026, **last revised June 17, 2026;**
- b) Architectural Plans consisting of four (4) sheets, prepared by Stephanie De Carlo Pantale, Architect, dated March 17, 2026, **last revised June 15, 2026;**
- c) Variance Application for the subject property and attachments; signed and dated March 27, 2026; and
- d) Completeness letter dated May 5, 2026.

The Property Owner/Applicant is:

52 Edward LLC
c/o Yitzhak Evar
72 Sherman Avenue
Closter, NJ 07624

The Applicant/Owner shall notify the Borough of Demarest Zoning Board of Adjustment of any changes to the above information.

Engineering Review

For ease of review, updated comments related to review #2 are shown in **bold**:

I. Project Description & Location

According to the existing conditions plan, the site is currently occupied by a 1 ½ -story single-family dwelling with associated driveway, walkways, enclosed porch, and other related

improvements, which are proposed to be demolished. The Applicant is proposing to construct a new 2 story single family dwelling, attached garage, driveway, rear patio, drainage improvements and other related improvements on the property.

The property is a rectangular shaped parcel consisting of 10,000 SF. The property is located between Lake Road and County Road. The dwelling front faces Edward Avenue and driveway access is provided on Edward Avenue. The property is located in the residential R-A Zone according to the Borough Zoning Map.

The property is located in Zone X (area determined to be outside the 0.2% annual chance floodplain) as shown on the Flood Insurance Rate Map (FIRM) for the Borough of Demarest dated August 2019.

II. Zoning Requirements & List of Variances / Waivers Requested

A. Bulk Zoning Requirements:

Zone: R-A

Use: Single Family Residential

Description	Required	Existing	Proposed	Complies
Lot area**	40,000 sf.	10,000 sf.**	10,000 sf.	☐ Yes ☒ No
Lot Frontage**	200 ft.	100 ft.**	100 ft.	☐ Yes ☒ No
Lot depth**	200 ft.	100 ft.**	100 ft.	☐ Yes ☒ No
Front yard setback**	32.7 ft.	25.2 ft.**	33.6 ft.	☒ Yes ☐ No
Side yard setback-West*	25 ft.	24.00 ft.**	16.1 ft.*	☐ Yes ☒ No
Side yard setback-East*	25 ft.	24.90 ft.**	16.2 ft.*	☐ Yes ☒ No
Rear yard depth*	50 ft.	41.1 ft.**	33.10 ft.*	☐ Yes ☒ No
Building Height	33 ft.	+/-25 ft	30.0 ft.	☒ Yes ☐ No
Max Building Coverage*	15 %	19.34 %**	21.83%*	☐ Yes ☒ No
Max Livable Floor Area*	22.5 %	N/A	29.98 %*	☐ Yes ☒ No
Residential & Parking Coverage*	25 %	23.50 %	27.30%*	☐ Yes ☒ No
Improved Coverage*	30 %	30.99%**	32.35%*	☐ Yes ☒ No

N/A = not applicable

* = variance required

** = pre-existing non-conformance

B. The Following Variances Appear to be Required:

1. Lot Area – There is a pre-existing nonconformance for lot area of 10,000 SF, where a minimum of 40,000 is required.
2. Lot Frontage – There is a pre-existing nonconformance for lot frontage of 100 FT, where a minimum of 200 FT is required.
3. Lot Depth – There is a pre-existing nonconformance for lot depth of 100 FT, where a minimum of 200 FT is required.
4. Front Yard– There is a pre-existing nonconformance for the front yard of 25.2 FT, where a minimum of 50 FT is required in this zone. The Applicant has provided a front setback study which finds an alternative setback of 32.7 FT is required based on the four nearest properties average front setback on the same side of the street. The Applicant is proposing a front setback of 33.6 feet.
5. Side Yard (West side) – There is a pre-existing nonconformance for the side yard of 24.00 FT, where a minimum of 25 FT is required. The Applicant proposes a reduced setback of 16.1 feet, which further deviates from the ordinance requirement and intensifies the nonconformity.

A variance is required for this condition.

6. Side Yard (East side) – There is a pre-existing nonconformance for the side yard of 24.90 FT, where a minimum of 25 FT is required. The Applicant proposes a reduced setback of 16.2 feet, which further deviates from the ordinance requirement and intensifies the nonconformity.

A variance is required for this condition.

7. Rear Yard – There is a pre-existing nonconformance for the rear yard of 41.1 FT, where a minimum of 50 FT is required. The Applicant proposes a reduced setback of 33.1 feet, which further deviates from the ordinance requirement and intensifies the nonconformity.

A variance is required for this condition.

8. Building Coverage – There is a pre-existing nonconformance for the building coverage of 1,935 SF (19.34%), where the maximum of 1,500 SF (15%) is permitted. **The Applicant proposes an increased building coverage of 2,183 SF (21.83%).**

This further deviates from the ordinance requirement and intensifies the nonconformity.

A variance is required for this condition.

9. Livable Floor Area – The Applicant is proposing a livable floor area of 2,250 SF (22.5%) where a maximum of 3,270 SF (22.5%) is permitted.

A variance is required for this condition.

10. Improved lot coverage – The Applicant is proposing an improved lot coverage of 3,235 SF (32.35%) where a maximum of 3,000 SF (30.0%) is permitted.

A variance is required for this condition.

11. Residential & Parking Coverage – The Applicant is proposing a Residential & Parking Coverage of 2,730 SF (27.30%) where a maximum of 2,250 SF (22.5%) is permitted.

A variance is required for this condition.

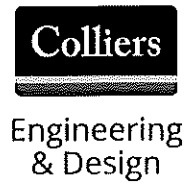
III. Engineering Review

- B. The Applicant proposes a building height of 30.0 feet. In the Residential R-A Zone, building height is measured from the average natural grade to the average roof height. Calculations have been provided for review, and our office takes no exception to the proposed height.
- C. The Applicant has provided average front yard setback chart on the site plans. We suggest the Applicant submit an alternative setback study prior to the hearing to substantiate the proposed front yard set back provided on the site plans.
- D. The Applicant is proposing to remove one tree as part of the proposed improvements. We defer to the Shade Tree Commission for review and approval.
- E. The Applicant is proposing to increase the improved lot coverage from 3082 SF (30.82%) to 3,235 SF (32.35%) with a net increase in coverage of 153 SF.**
- F. The Applicant is proposing one (1) precast concrete seepage pit in the front yard area to collect and store stormwater runoff from what appears to be the roof area of the proposed dwelling. We offer the following comments related to the drainage design:
1. The Applicant has provided design calculations which indicate approximately 1,900 SF **2,183 SF** of area being collected and conveyed to the proposed seepage pit. The Applicant has provided adequate storage for this drainage area. We take no exception

to the calculations provided. The Applicant should provide testimony if there are any existing drainage improvements on-site.

2. The Applicant should provide testimony indicating where the seepage pit is proposed to overflow.
 3. A soil test shall be provided prior to the installation of the proposed seepage pits. Soil test shall include information regarding the location of the seasonal high-water table (SHWT) and percolation rate of the soil.
 4. The Applicant proposed an at-grade manhole cover for future maintenance. We take no exception.
 5. The Borough Engineer shall be notified to inspect the seepage pits prior to backfilling.
- G. The Applicant has depicted existing and proposed contours on the property. We offer the following comments related to grading:
1. Under existing conditions, the site drains from west to east. The highest point of the property is in the northeastern side where elevations are approximately 100 and the lowest point of the property is in the southwestern corner, where elevations are approximately 94.
 2. Under proposed conditions, the high and low points are generally maintained, and drainage patterns should not be substantially impacted. Proposed grading appears to be minimal.
- H. The Applicant has provided cut/fill calculations indicating a net export of 206 CY. The Applicant should confirm in testimony regarding the proposed soil movement on site. The Applicant should be aware that any soil movement quantity in excess of 250 CY will require Mayor and Council approval pursuant to Chapter 147 of Borough Ordinance
- I. Should the Board act favorably upon this application, the Applicant is hereby made aware that drainage issues may arise during or after the proposed construction. It will be the Applicant's responsibility to remedy any drainage issues caused by the proposed improvements. In addition, water runoff directed to neighboring properties is prohibited. If runoff water does enter neighboring properties as a result of the proposed improvements, the Applicant will be responsible to remedy the situation at no cost to the Borough.

Should you have any questions, you may contact me at (201) 775-1283.



Sincerely,

Colliers Engineering & Design

A handwritten signature in black ink, appearing to read "NCh", with a long horizontal flourish extending to the right.

Nick Chelius, P.E., C.M.E.
Joint Land Use Board Engineer

cc: Board Members (via Joint Land Use Board Secretary)
Matthew Capizzi, Applicant's Attorney (matthew@capizzilaw.com)
Darlene Greene (CED)

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June 25, 2026

PLANNING REPORT

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

RE: 52 Edward Street, LLC c/o Yitzhak Evar

52 Edward Street
Block 90, Lot 211
Review Letter #2
Project No. DEP-0269

Dear Board Members,

52 Edward Street, LLC c/o Yitzhak Evar, the Applicant, seeks variance relief to construct a new two-story single-family dwelling on the subject property. Other site improvements include a new driveway, front walkway, rear patio, and stormwater management facilities. The Applicant proposes to remove all existing improvements to construct the proposed dwelling. The Application requires a D(4) floor area ratio (FAR) variance and "C" variances, which are detailed in Section B.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled "Soil Erosion & Sediment Control & Site Plan", prepared by Thomas W. Skrable, PE, dated March 17, 2026, revised through June 17, 2026, consisting of 1 sheet.
2. Plans entitled "Proposed Single Family Residence", prepared by Stephanie DeCarlo Pantale, RA, dated March 17, 2026, revised through June 15, 2026, consisting of 4 sheets.
3. Survey entitled "Topographic Survey - 52 Edward Street", prepared by Christopher J. Lantelme, PE, PLS of Lantelme, Kurens & Associates, PC, dated February 10, 2026, consisting of 1 sheet.
4. Variance Application, dated March 27, 2026. Note that a revised Application was submitted on or about June 18, 2026 with changes highlighted in yellow.
5. Zoning Permit Denial, dated March 26, 2026, consisting of 2 pages.
6. Copy of Deed, dated March 25, 2026, recorded on May 14, 2026.
7. Letter entitled "Proposed Dwelling, #52 Edward Street, Borough of Demarest", prepared by Thomas W. Skrable PE, PP, CME, dated March 20, 2026, consisting of 1 page.
8. Letter entitled "Initial Submittal for Completeness Review", prepared by Gloria Duby, Paralegal of Capizzi Law Offices, dated March 30, 2026, consisting of 2 pages.

9. Letter entitled "JPB-26-003; 52 Edward LLC, 52 Edward Street, Demarest, NJ 07627", prepared by Michael Greco, CMR, Borough Land Use Secretary, dated May 5, 2026, consisting of 1 page.
10. Letter entitled "52 Edward LLC – Demarest JPB (the "Applicant")", prepared by Matthew Capizzi, Esq. of Capizzi Law Offices, dated June 8, 2026. (Letter to adjacent Lot 205).
11. Letter entitled "52 Edward LLC – Demarest JPB (the "Applicant")", prepared by Matthew Capizzi, Esq. of Capizzi Law Offices, dated June 8, 2026. (Letter to adjacent Lot 215).
12. Letter entitled "Proposed Dwelling, #52 Edward Street, Borough of Demarest", prepared by Thomas W. Skrable PE, PP, CME, dated June 17, 2026, consisting of 1 page.

A. Existing Zoning and Surrounding Land Use

The subject property is located on the north side of Edward Street in the Residence A (R-A) District. The property is surrounded by residential uses. See the image below for the approximate location of the subject property shown in red.¹



Yard and bulk requirements in the R-A District are:

- Minimum Lot Area – 40,000 square feet
- Minimum Lot Frontage – 200 feet
- Minimum Lot Depth – 200 feet
- Minimum Front Yard Setback – 50 feet²

Minimum Side Yard Setback Abutting a Lot – 25 feet
Minimum Rear Yard Setback Depth – 50 feet³
Maximum Number of Families per Building – 1
Maximum Building Coverage – 15%
Maximum Height of Building – 33 feet⁴
Maximum Livable Floor Area (1 or 2 stories) – 22.5%⁵
Maximum Improved Lot Coverage – 30%⁶
Maximum Residential and Parking Coverage – 25%

B. Variances

The Application requires the following “D” variance:

1. Section 175-16 – D(4) variance for floor area ratio (“FAR”). The Ordinance limits the livable floor area for one- or two-story dwellings in the R-A District to 22.5% of the lot area. (It should be noted that a footnote for livable floor area describes the method to calculate said area, which is the same as a FAR calculation.) The site is limited to 2,500 square feet.

According to Sheet Z1 of the Architectural Plans, the Applicant proposes a livable (“habitable”) floor area (FAR) of 2,998.3 square feet or 29.98% of the lot area.

The Application requires the following “C” variances:

1. Section 175-16 – Variance for side yard setback. The Ordinance requires a side yard setback of 25 feet.

The Applicant proposes a 16.1-foot setback to the eastern side lot line and a 16.2-foot side yard setback to the western side lot line. It should be noted that the existing eastern side yard setback is 24.9 feet and the existing western side yard setback is 24 feet.

2. Section 175-16 – Variance for rear yard setback. The Ordinance requires a 50-foot rear yard setback.

The Applicant proposes a 33.1-foot rear yard setback. It should be noted that the existing rear yard setback to the dwelling is 41.1 feet and the existing rear yard setback to the attached enclosed porch is approximately 30.1 feet.

3. Section 175-16 – Variance for maximum building coverage. The Ordinance limits building coverage to 15% of the lot area. The site is limited to 1,500 square feet.

The Applicant proposes a building coverage of 2,183 square feet or 21.83% of the lot area, which includes the proposed dwelling and roof overhang. It should be noted that the existing building coverage is 1,935 square feet or 19.35% of the lot area.

4. Section 175-16 – Variance for maximum improved lot coverage. The Ordinance limits improved lot coverage to 30% of the lot area. The site is limited to 3,000 square feet.

The Applicant proposes an improved lot coverage of 3,235 square feet or 32.35% of the lot area, which includes the proposed dwelling and roof overhang (2,183 square feet), driveway (547 square feet), walkway and steps (142 square feet), patio (310 square feet), window wells (43 square feet), and AC units (10 square feet). It should be noted that the existing improved lot coverage is 3,082 square feet or 30.82% of the lot area.

5. Section 175-16 – Variance for maximum residential and parking coverage. The Ordinance limits residential and parking coverage to 25% of the lot area. The site is limited to 2,500 square feet.

The Applicant proposes a residential and parking coverage of 27.3%, which includes the proposed dwelling and roof overhang (2,183 square feet) and driveway (547 square feet).

6. Section 175-19B.(2) – The Ordinance requires accessory buildings, uses, structures, and improvements to conform to all side yard setback requirements. In this case, a 25-foot side yard setback is required in the R-A District.

The Applicant proposes a rear patio with a side yard setback of approximately 17.5 feet to the eastern side lot line. It should be noted that the existing metal shed has a side yard setback of approximately seven feet to the western side lot line. Additionally, the existing patio has a side yard setback of approximately 17.1 feet to the western side lot line. If the Application is approved, the pre-existing non-conforming conditions associated with the existing metal shed and patio would be **eliminated**.

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-16 – The Ordinance requires a minimum lot area of 40,000 square feet. The subject property is only 10,000 square feet.
2. Section 175-16 – The Ordinance requires a minimum lot frontage of 200 feet. The subject property only has 100 feet of frontage along Edward Street.
3. Section 175-16 – The Ordinance requires a minimum lot depth of 200 feet. The subject property only has 100 feet of lot depth.
4. Section 175-16 – The Ordinance requires a front yard setback of 50 feet. However, Footnote B of the limiting Schedule requires an alternative setback on all streets, except some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback. According to the "Building Offsets to Edward Street" table on the Site Plan, the average setback of properties on the north side of Edward Street within 300 feet of the subject property is 32.7 feet. The existing dwelling has a front yard setback of 25.2 feet. It should be noted that the Applicant proposes a front yard setback of 33.6 feet, which would **eliminate** this pre-existing non-conforming condition.

5. Section 175-19A.(4)(c) – The Ordinance permits accessory uses, buildings, and structures to encroach into the rear yard, except that no encroachment may be closer than ten feet to the rear lot line. The existing metal shed has a rear yard setback of approximately 5.3 feet. Additionally, the existing brick patio has a rear yard setback of approximately 6.2 feet. It should be noted that the Applicant proposes to remove the existing metal shed and brick patio, which would **eliminate** this pre-existing non-conforming condition.

C. Variance Proofs

D(4) Variance

The Board should note that the court found, in Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), that the Applicant need not show “special reasons” that a site is particularly suited for more intensive development if the use is permitted. The Applicant is only required to demonstrate that the site will accommodate the problems associated with a larger floor area than that permitted by Ordinance. These problems typically involve the relationship of the proposal to the neighboring properties, such as intrusion into the side yard or visual incompatibility with the existing and surrounding buildings. The Board needs to determine whether the intent of zone plan and zoning ordinance will be substantially impaired by the proposed increase floor area.

“C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Waivers/Exceptions

The Application does not require any waivers/exceptions based on the information provided.

E. Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that status of previously issued comments and new comments are provided in italics

General

1. The Applicant’s professionals must provide testimony to support the grant of the D(4) FAR variance and “C” variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. After reviewing the Application, we have identified one “C” variance that has not been requested or identified by the Applicant. Additionally, the D(4) FAR variance is not noted on

the Site Plan. The Site Plan shall be revised to list all required relief or amended to comply with the Ordinance, which can be a condition of any potential Board approval.

The Site Plan has been revised to note the D(4) FAR variance and the variance for the patio setback. This comment has been addressed.

3. The Topographic Survey and Site Plan submitted with the Application are not signed or sealed. A signed and sealed Topographic Survey and Site Plan shall be supplied, which can be a **condition** of any potential Board approval.

Site Plans

4. The R-A District requires front yard setback of 50 feet. However, Footnote B of the Limiting Schedule requires an alternate setback on all streets, except for some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback. The "Building Offsets to Edward Street" table on the Site Plan indicates the average front yard setback along the north side of Edward Street within 300 feet of the subject property, which includes 40, 44, and 48 Edward Street and 15 Anderson Avenue, is 32.7 feet. The Applicant proposes a 33.6-foot front yard setback, which complies with the alternate front yard setback requirement.
5. The Zoning Schedule indicates the proposed building coverage is 19%, which includes the 1,900 square foot dwelling. However, it is unclear if this includes the three window wells depicted on the Site Plan. Testimony shall be provided to confirm the proposed building coverage. The Applicant shall note that the Ordinance defines "Coverage, Maximum" as "That percentage of the plot or lot area covered by the principal building and the accessory use building and/or structure."

The Zoning Schedule and Lot Coverage Calculations have been revised to indicate the proposed building coverage is 2,183 square feet or 21.83% of the lot area. This includes the building footprint (1,900 square feet) and the one-foot, ten-inch-deep roof overhang (283 square feet). This comment has been addressed. Additionally, it should be noted that since the issuance of our previous letter, we have received clarification regarding building coverage. Window wells are not included in building coverage; they are only calculated in improved lot coverage.

6. The Proposed Side (West) and Side (East) Elevations on Sheet Z2 of the Architectural Plans appear to illustrate building overhangs and/or projections along the front and rear walls of the dwelling. However, these overhangs are not dimensioned, and it is unclear if the proposed building coverage includes these overhangs. Section 175-19A.(1)(a) allows projects to encroach not more than three feet. Testimony shall be provided to clarify what these features are, if they were included in building coverage, and their depth.

The Architectural Plans have been revised to illustrate the proposed building overhangs. The projection from the rear façade is one foot, four inches deep. However, the covered porch is not

*dimensioned. The building coverage has also been revised to include the overhang area in the calculation. However, it is unclear if the building coverage includes the entirety of the covered porch, which projects 2.5 feet from the front façade. **Testimony** shall be provided regarding the covered porch.*

7. The Ordinance defines "Average Natural Grade" is defined as "An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation." According to the "Height Calculations" information on the Site Plan, the average natural grade is at 99 feet and the roof ridge is at 129 feet. Therefore, the proposed building height is 30 feet to the roof peak, which means the average roof height is less than 30 feet. Additionally, the Elevations on Sheets Z1 and Z2 of the Architectural Plans illustrate a building height of 30 feet from the average natural grade to the roof ridge. Therefore, the Applicant complies with the Ordinance.

8. The Ordinance defines "Livable Floor Area" as

The aggregate area of all floors included within the outer walls of a 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 feet six inches, and then only if at least 75% of such floor area has a ceiling height of not less than seven feet six inches and if any such floor that is situated above another story has access to the floor below by a permanent built-in stairway and has a permanent, complete floor and a means of heating to 70° F. at all times.

Additionally, on May 7, 2025 via Resolution JPB-006-25, the Board made an interpretation of how livable floor area should be calculated and determined the Livable Floor Area "does not include basements that are at least 70% below average grade whether heated or unheated". According to the Elevations, the basement ceiling is one foot, two inches below the first floor elevation, which is at 101 feet. The first floor elevation is two feet above the average natural grade. Therefore, eight inches of the nine-foot tall basement is above the average natural grade, which translates to 92.6% of the basement below the average natural grade. Therefore, the basement is not included in the FAR calculation.

9. According to the Improved Lot Coverage Calculations on the Site Plan, the proposed lot coverage is 2,992 square feet or 29.92% of the lot area, which includes the dwelling (1,900 square feet), driveway (550 square feet), walkway and steps (142 square feet), patio (370 square feet), and AC units (30 square feet), which complies with the Ordinance. However, as noted above, it is unclear if the overhangs/projections illustrated on the Architectural Plans are included in the building coverage calculation. Additionally, the three proposed window wells do not appear to be included in the improved lot coverage calculation. The Applicant shall provide testimony to clarify the improved lot coverage calculation, which may trigger an additional variance. The Applicant shall note that the Ordinance defines "Improved Lot Coverage" as:

The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers or similar improvements; and any other structures or impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall be not greater than 25%. Any portion of the 30% of lot coverage not devoted to the residence proper, parking and vehicular access may be used for outdoor appurtenances such as patio, deck, swimming pool or other recreational uses. This limitation shall apply to all residential districts and zones regulating single-family homes.

The Improved Lot Coverage Calculations have been revised to indicate the proposed improved lot coverage is 3,235 square feet or 32.35% of the lot area, which includes the dwelling (2,183 square feet), driveway (547 square feet), walkway and steps (142 square feet), patio (310 square feet), window wells (43 square feet), and AC units (10 square feet). It should be noted that the areas of the proposed driveway, walkway and steps, patio, window wells, and AC units have been updated to include the area outside of the building overhang. Based on the information provided, variance relief is required to permit the proposed improved lot coverage of 32.35%.

10. The Zoning Notes and Improved Lot Coverage Calculation indicates the proposed residential and parking coverage is 2,450 square feet, which includes the dwelling (1,900 square feet) and driveway (550 square feet), which complies with the Ordinance. However, as noted above, it is unclear if the potential overhangs/projections and window wells are included in the building coverage calculation. Testimony shall be provided to clarify, which may trigger an additional variance.

The Zoning Notes have been revised to indicate the proposed residential and parking coverage is 2,730 square feet or 27.3% of the lot area, which includes the dwelling (2,183 square feet) and driveway (547 square feet). Based on the information provided, variance relief is required to permit the proposed residential and parking coverage of 27.3%.

11. The Site Plan indicates a 32-inch Maple tree is to be removed. Section 163-19C.(3)(a) contains the mitigation requirements, which requires two replacement trees. No replacement trees are illustrated on the Site Plan, which can be a condition of any potential Board approval.

*As of June 25, 2026, the Site Plan has not been revised to illustrate any replacement trees. The Site Plan shall be revised to illustrate at least two replacement trees in compliance with Section 163-19C.(3)(a), which can be a **condition** of any potential Board approval.*

Architectural Plans

12. The Basement Plan on Sheet Z2 of the Architectural Plans illustrates what appears to be doors on the window wells. Additionally, the front and rear elevations appear to illustrate

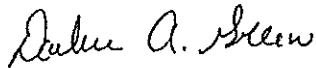
some type of railing roughly three feet tall around the window wells. Testimony shall be provided to clarify if these are doors or another feature.

The Basement Plan and Elevations on Sheets Z1 and Z2 have been revised to label these features as railing gates. This comment has been addressed.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP
Borough Planner

cc: Michael Greco, Board Secretary (via email mgreco@demarestnj.gov)
Tim Woods, Board Chair (via email timwoods12@gmail.com)
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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated April 8, 2026.

² On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road, and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within 300 feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three or more houses.

³ For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line. This requirement applies to all residence districts.

⁴ Measured from the average natural grade around the perimeter of the proposed structure. No more than 50% of the roof area shall exceed the specified average height. Flat roofs above 30 feet in height are expressly prohibited in all zones.

⁵ Maximum livable floor area (as defined in §175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed.

⁶ The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs, or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers, or similar improvements; and any other structures or

impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall not be greater than 25%.