

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

RESOLUTION JPB-016-26

**DENIAL OF APPEAL OF ZONING OFFICER'S ISSUANCE OF A ZONING AND
CONSTRUCTION PERMITS FOR PROPERTY LOCATED AT 3 CENTRAL AVENUE**

In the Matter of the Appeal of
Scott Lavin – under N.J.S.A. 40:55D-70 (a)

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

WHEREAS, on November 5, 2025, 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”) which was heard by the board at a public meeting held on October 15, 2025, pursuant to N.J.S.A. 40:55D-70(b) which empowers the Board to “[h]ear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;” and

WHEREAS, on December 3, 2025, the Board adopted a Resolution, JPB-016-25, memorializing its determinations regarding building height as set forth therein, and

WHEREAS, following the Board's determination on November 5, 2025, but prior to the adoption of Resolution JPB-016-25, 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 was untimely; and

WHEREAS, the Board heard the appeal with respect to the timeliness of the appeal and determined, by Resolution No.: JPB-012-26 adopted on July 1, 2026, that the appeal of the permits was timely given the testimony and arguments offered by Mr. Lavin at the May 6, 2026 and June

3, 2026 public meetings held on the matter as set forth in Resolution No.: JPB-012-26 for the reasons set forth in in that Resolution; and

WHEREAS, having prevailed on the issue of the timeliness of the Appeal, the Appellant, *pro se*, submitted a letter dated July 21, 2026 enclosing a legal memorandum, proof of public notice and service in accordance with the Municipal Land Use Law together with Exhibits A through R comprising approximately seventy (70) pages, which is attached to this Resolution as Exhibit A; and

WHEREAS, a meeting was held by the Board in accordance with the Open Public Meetings Act and the Municipal Land Use Law with respect to the merits of the Appellant's request to invalidate the Zoning Officer's issuance of the permits for the Property on August 5, 2026; and

WHEREAS, at the hearing held on August 5, 2026 (August Hearing) the Appellant appeared and presented legal arguments, his own sworn testimony and submitted his July 21, 2026 submission into the record; and

WHEREAS, at the August Hearing, the owners of the subject Property, Oh-Hyun Kwon and his spouse, Hyeyoung Lim, appeared, with counsel, Bruce Rosenberg, Esq., of the firm Winne Banta Basralian & Kahn, who offered legal arguments and entered exhibits into the record (and which are attached hereto collectively as Exhibit B) follows:

Kwon -1: Resolution JPB-016-25

Kwon -2: Minutes of the Board's November 7¹, 2025 meeting

Kwon -3: Limiting Schedule found in the Borough's Land Use Ordinance, adopted in 2021; and

¹ The minutes of the November 5, 2025 meeting contain a clerical error showing the date on the minutes as November 7, 2025.

WHEREAS, Attorney Rosenberg specifically reviewed with the Board the history of the issuance of the Permit being challenged by the Appellant. He noted the following:

- May 15, 2025: Building Permit for Property issued by Demarest
- August 15, 2025: Roof of house completed by builder.
- November 5, 2025: (174 days after permit was issued) Board conducted a public meeting on Request For Interpretation of Maximum Building Height.
- December 3, 2025: (202 days after permit was issued) Board Resolution JPB-016-25 regarding a Request for Interpretation of Maximum building height was adopted.
- May 11, 2026: Demarest issued a Certificate of Occupancy for the Kwon's home.
- May 21, 2026: The Kwons purchased their home at 3 Central Avenue.; and

WHEREAS, the Board took testimony from the Zoning Officer, Michael Greco with respect to the issuance of the permit for the Property, which the Board finds to be complete, candid, truthful and reasonable; and

WHEREAS, Mr. Greco testified that with respect to the Permits issued for the Property, he relied upon the most current version of the Limiting Schedule with permitted Bulk Standards (the "Limiting Schedule"), including maximum permitted height adopted by the Governing Body and;

WHEREAS, the Limiting Schedule was adopted by Ordinance 1095-21, in 2021 and;

WHEREAS, Mr. Greco further testified that the manner in which height was measured under the Limiting Schedule had been the cause of some confusion in the Borough because footnote “D” which is next to “Maximum Height of Building” states “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”; and

WHEREAS, the column for Maximum Building Height includes the R-D district where the Property is located leading to the reasonable determination that the maximum permitted height for a Property in the R-D district was to be based upon the average building height, rather than the peak of the roof. And;

WHEREAS, it was this issue which caused the Chairman to raise the question which was the subject of Resolution JPB-016-25, which has not been challenged in Superior Court; and

WHEREAS, it is and was the Board’s intention that the interpretation found in Resolution JPB-016-25 is only to be applied prospectively as was discussed on the record as noted in the minutes of the hearing on November 5, 2025, which was attended by Mr. Lavin and his then counsel; and

WHEREAS, the Board is aware of the law regarding the concept of municipal estoppel and equitable estoppel in cases such as this, including: Jantausch v. Borough of Verona, 41 N.J. Super 89; Gruber v. Mayor of Raritan Township, 39 N.J. 1 (1962); Motley v. Borough of Seaside Park ZBA, 430 N.J. Super 132 (App. Div. 2013); Hill v. Bd of Adjustment of Eatontown, 122 N.J. Super 156; Trenkamp v. Township of Burlington, 170 N.J. Super 251, Grasso v. Borough of Spring Lake Heights, 375 N.J. Super 41, which collectively speak to the law in this area, which the Board determines as set forth below based upon the evidence and testimony submitted:

- When a permit is issued in good faith and in apparent compliance with the law and the permit holder reasonably, and in good faith, relies on that permit the issuing municipality is estopped from revoking it, even if it was issued in error.
- The Board finds as a fact, based on the testimony of the Appellant and the Zoning Officer, that the permits in this case were issued in good faith and the builder reasonably relied upon the permits and expended substantial resources in such reliance to construct the home on the Property.
- The courts have equitably estopped revocation of valid permits or approval when builders have justifiably relied on them, as the Board concludes occurred here.
- The Zoning Officer had the authority to issue the Building and Zoning permit, and that the permits were issued within the ambit of his duty.
- A reasonable basis existed for the issuance of the Building and Zoning Permit.
- The Property was constructed in accordance with the approved plans
- The home on the Property was constructed by a builder and sold to the Kwons;
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 herein as if set forth at length as findings of fact and determinations of law.

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 Appellant seeks relief which may be summarized as finding that Zoning Permit Z-25-032 and Construction Permit 2025-0109 (the "Permits") be revoked, which the Board has jurisdiction over, through N.J.S.A 40:55D-70(a) as set forth below:

a. Hear and decide appeals where it is alleged by the appellant 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;

b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

7. The Board finds, as a fact, that the issuance of the Permits were reasonable and grounded in the Limiting Schedule which, since 2021, created an ambiguity in the manner in which the determination of permissible height was to be measured.

8. The Zoning Officer had the authority to issue the Permits.

9. The Zoning Officer issued the Permits in good faith.

10. The Property was developed in proper good faith reliance upon the Zoning Permit.

11. The Zoning Officer has consistently applied the Limiting Schedule to require the measurement of maximum permitted height for properties in the R-D District to be based upon average roof height and not the highest point of roof peak.

12. Substantial expense was incurred in reliance upon the Permits.

13. The Property was constructed in accordance with the approved plans.

14. The Property was sold to the Kwons after construction.

15. Any action to invalidate the Permits would be defeated by municipal estoppel and equitable estoppel.

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 DENIED, and AFFIRMS the Zoning Officer's determination that Zoning Permit Z-25-032 and Construction Permit 2025-0109 were properly issued.

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 September 2, 2026.

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

ATTEST:



MICHAEL GRECO, Secretary

SO APPROVED:



KIRAN CHIN, Vice Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTE THAT APPELLANT'S APPEAL OF THE ZONING PERMIT FOR 3 CENTRAL AVE IS DENIED

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 Denial: August 5, 2026

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	N/E
Vice Chair Chin	✓		✓				
Mr. Lerner		✓	✓				
Dr. Mamdani						✓	
Ms. Hamilton (<i>Alt #2</i>)			✓				
Mr. Alevrontas (<i>Alt #3</i>)						✓	

Date of Adoption: September 2, 2026



101 Park Avenue, 17th Floor
New York, NY 10178
☎ 212.878.7900 📠 212.692.0940
WWW.FOXROTHSCHILD.COM

SCOTT A. LAVIN
Direct No: 212.878.7932
Email: slavin@foxrothschild.com

July 21, 2026

Michael Greco
The Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627-2199

Re: 3 Central Avenue, Demarest, New Jersey

Dear Mr. Greco:

In connection with the upcoming August 5, 2026 planning board appeal for the above-referenced property, enclosed are the following:

1. Notice to Public
2. Letter Brief/Appeal
3. Exhibits A¹ through R.

Sincerely

Scott A. Lavin
Enclosures

¹ Exhibit A is the only Exhibit I do not have in my possession. Would you be able to help me locate in the Borough's records and include it when you are making copy sets? I would greatly appreciate it. Please let me know.

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BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT A

Hearing Date: August 5, 2026

SCOTT A. LAVIN

40 Lincoln Street, Demarest, NJ 07627

Tel. (215) 432-6839

Email: Slavin@FoxRothschild.com

VIA HAND DELIVERY

Borough of Demarest Joint Planning Board / Zoning Board of Adjustment

118 Serpentine Road

Demarest, New Jersey 07627-2199

Attn: Board Secretary / Chairman

Re: Appeal of Scott A. Lavin — 3 Central Avenue, Demarest, New Jersey (Block 65, Lot 140) — Zoning Permit No. Z-25-0032 and Construction Permit No. 2025-0109 — Appeal of Zoning Officer's Determinations Dated October 31, 2025 and December 15, 2025 — Letter Brief in Support of Appeal

HEARING DATE: AUGUST 5, 2026

Dear Chairman and Members of the Board:

Preliminary Statement

This letter brief is submitted on behalf of Appellant Scott A. Lavin ("Appellant"), a resident of 40 Lincoln Street, Demarest, New Jersey, in support of Appellant's pending appeal from determinations of the Borough of Demarest Zoning Officer concerning the property known as 3 Central Avenue, Block 65, Lot 140 (the "Property"). The appeal challenges the continued validity of Zoning Permit No. Z-25-0032 and Construction Permit No. 2025-0109 (together, the "Permit"), issued to 3 Central Avenue LLC / TanDor Development ("Applicant" or "Developer"), on the ground that the Permit authorized — and the structure as built contains — a roof height in excess of the thirty (30) foot maximum height applicable to the R-D zone under the Borough's Land Use Ordinance, Chapter 175.

The record shows that the Zoning Officer and Construction Official approved the Permit based on architectural and engineering plans said to reflect an "average building height of 30 feet, with the peak of the building at 35 feet." That approach rests on a misapplication of Ordinance No. 1025-15 (amending Chapter 175) to the R-D zone. Ordinance No. 1025-15 did not amend the R-D height standard: its recitals identify the height amendment as one intended to "increase the allowable roof height of homes in the Residence A, BB and B zones"; its operative height table changes the permitted average building height only for Residence A, Residence BB and Residence B; and the ordinance then provides that, "[i]n all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged." At its November 7, 2025 meeting, the

Planning Board addressed an internal request for interpretation of maximum building height and unanimously approved an interpretation that, in the R-C and R-D zones, building height is measured from average natural grade to the peak of the building, and that the 2015 ordinance changes were intended only for the R-A, R-B and R-BB zones. (Exhibits I, J.) That vote was actually not necessary to make the ordinance clear; the ordinance was already clear when enacted. To the extent the Board nevertheless took up the issue, the vote served only to reconfirm, unanimously, the governing rule that already applied, and it should not be treated as a curative act that retroactively sanitizes a Permit issued under the wrong standard. On this record, the Board should find that the Permit was issued in error, and should order the relief set forth below.

Ordinance No. 1025-15 is attached as Exhibit J. The marked copy of the ordinance highlights the provisions most material to this appeal: the limited scope of the height amendment to the R-A, R-BB and R-B zones, and the clause preserving the limiting schedule in all other respects. Appellant reserves the right to supplement this submission with certified copies of Chapter 175 and any formal interpretive resolution of the Board bearing on the R-D height standard.

Statement of Facts

A. The Property and the Applicable Zoning District

The Property is located at 3 Central Avenue, Demarest, New Jersey, designated as Block 65, Lot 140 on the Borough's tax map, and is situated in the R-D residential zoning district. The maximum building height applicable in the R-D zone is thirty (30) feet. Ordinance No. 1025-15 did not alter that standard for the R-D zone. The ordinance states that the proposed roof-height increase was for the Residence A, BB and B zones; the height-amendment table lists only Residence A, Residence BB and Residence B; and the ordinance expressly provides that, "[i]n all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged." The Planning Board's November 7, 2025 minutes confirm the Board's interpretation that, in the R-D zone, height is measured from average natural grade to the peak of the building, not by an average roof-height methodology, and that the 2015 ordinance changes were intended only for the R-A, R-B and R-BB zones. (Exhibits I, J.)

B. Issuance of the Permit Based on an "Average Height" Rationale

By letter dated October 31, 2025, Zoning Officer Michael Greco and Construction Official Robert Sherrow advised 3 Central Avenue LLC / TanDor Development that, "[p]ursuant to the Borough's Zoning Ordinance number 1025-15 Amending Chapter 175, the average roof height shall not exceed 30 feet," and that architectural plans dated March 24, 2025 and engineering site plans dated November 15, 2024 (last revised April 14, 2025) had been submitted in support of the Permit application. That letter states that the plans "evidenced an average building height of 30 feet, with the peak of the building at 35 feet," and that, as a result, Zoning Permit No. Z-25-0032 and Construction Permit No. 2025-0109 were issued. (Exhibit D.) The cited premise is contradicted by

Ordinance No. 1025-15 itself, which amended average building height only for Residence A, Residence BB and Residence B, and otherwise left the limiting schedule unchanged. (Exhibit J.)

The same October 31, 2025 letter further states that a visual inspection indicated the structure “may be exceeding the permissible maximum building height,” and required the Developer to submit a topographic survey with roof peak elevations within ten (10) days, measured in the same datum as the engineering site plans. The Borough reserved the right to take appropriate action and advised that continued construction, and any resulting corrective costs, would be at the Developer's own risk. (Exhibit D.)

C. The Grade and Fill Issue

By email dated October 31, 2025, to Deena Rosendahl, Esq., then-counsel for the Appellant, John J. Lamb, Esq., forwarded a photograph appearing to show that the prior grade at the Property had been altered — specifically, that a portion of the Property appeared to have been filled in when compared to the then-current grade — and noted that this appeared likely to have affected the height calculation, because height was measured from the current (post-fill) grade. Counsel requested further investigation of this issue. (Exhibit C.)

D. Independent Measurement Confirms the Height Exceeds Thirty Feet

By letter dated November 6, 2025, Christopher J. Lantelme, P.E. & L.S. of Lantelme, Kurens & Associates, P.C. reported to the Borough Building Department that his firm measured the structure on November 3, 2025 and found: First Floor Elevation 102.7 feet; Highest Roof Peak Elevation 137.5 feet; and Second Highest Roof Peak Elevation 135.0 feet. The letter states that the “Distance from First Floor to Highest Roof Peak measured” was 34.8 feet, and the “Distance from First Floor to Highest Roof Peak per Architect Plan” was 35.0 feet. (Exhibit E.) Both figures — the measured 34.8 feet and the plan's own 35.0 feet — exceed the thirty-foot maximum height that Appellant contends governs the R-D zone.

E. The Roof Was Substantially Complete by Mid-August 2025

By email dated November 13, 2025, Guy Tanne of Tandor Development forwarded to Zoning Officer Michael Greco a photograph taken by Ilan Doron on August 15, 2025, stating that “the roof structure is already finished, and the guys are installing the shingles.” (Exhibit F.) The Borough subsequently relied on this evidence, among other things, to conclude that the roof was constructed “as early as mid-August” 2025.

F. The Zoning Officer's December 15, 2025 Determination

By letter dated December 15, 2025, Zoning Officer Michael Greco responded to a filed appeal concerning issuance of the Permit. Mr. Greco stated that, after considering the correspondence, the

application and issued Permit, conferring with the Borough Engineer, and obtaining an as-built survey from the Developer, the Borough determined that (i) the appeal — which had been raised by an October 16, 2025, letter requesting revocation of the Permit based on alleged building height and grade violations — was untimely because the roof had been confirmed to have been constructed as early as mid-August 2025, and (ii) even if timely, the structure had been built in accordance with the submitted plans and the Permit. (Exhibit G.)

Appellant respectfully submits that this determination did not address — and could not resolve — the dispositive issue: it is undisputed that the structure was built in accordance with the Plans, but the Plans themselves applied the wrong height methodology (an average-height standard) to a zone governed by a mandatory thirty-foot maximum. Conformance with erroneous plans does not cure the underlying zoning violation.

G. The Planning Board's November 7, 2025, Height Interpretation and the Timeliness Correspondence

At the November 7, 2025, meeting, the Board considered a “Request for Interpretation” concerning “Maximum Building Height” and the definition of building height used in zoning approvals. Chair Woods explained that the Code had once differentiated height measurement by zone: R-A, R-BB and R-B were measured to mean roof height, while R-C and R-D were measured to the peak. The minutes further reflect that the later ordinance changed the height rules in the three larger zones but did not affect the two zones measured to the peak. (Exhibit I.) That description is consistent with the enacted text of Ordinance No. 1025-15, which lists only Residence A, Residence BB and Residence B in the operative average-building-height amendment and then preserves the limiting schedule in all other respects. (Exhibit J.)

The minutes record that Chair Woods and Councilwoman Fox, both present when the ordinance was approved, stated that the intent was to change only the R-A, R-BB and R-B zones, while the R-C and R-D zones should remain measured to the peak because those zones contain smaller lots. After public discussion and further review, the Board voted to approve an interpretation that, in the R-C and R-D zones, building height is measured from average natural grade to the peak of the building; that flat roofs in those zones have a maximum height of twenty-four (24) feet; and that the 2015 ordinance changes were intended only for the R-A, R-B and R-BB zones. The roll-call vote was unanimous among the voting members present, and the Board and counsel clarified the motion to the Zoning Officer and Planner for all pending applications. (Exhibit I.) Appellant respectfully submits that the vote was not necessary to establish the governing law, but it is significant because it unanimously confirmed what Ordinance No. 1025-15 already provided.

Consistent with the minutes, by letter dated December 18, 2025, Danielle M. Federico, Esq., counsel to the Planning Board, advised prior counsel for the Appellant that the Planning Board had already considered an interpretation request regarding the building height calculation identical to the issue raised in a November 4, 2025 letter, and that no further Board action on that separate interpretation request was necessary. (Exhibits H, I.) Ms. Federico's letter also states that Board counsel reviewed *Mullen v. Ippolito Corp.*, 428 N.J. Super. 85 (App. Div. 2012), and *Lema v. Borough of Garwood*, 2025 WL 3250852 (N.J. Super. Ct. App. Div. Nov. 21, 2025), and agreed with Mr. Greco's conclusion that the appeal was untimely. Critically, however, Ms. Federico's letter confirms that, “should you wish to proceed with an appeal to the Planning Board for a hearing

and decision on this matter, we will ensure your appeal is placed on the next available agenda.” (Exhibit H.) The instant appeal, and this letter brief, proceed pursuant to that confirmation.

H. Procedural History Before the Board

Consistent with N.J.S.A. 40:55D-70 and 40:55D-72, Appellant filed a Notice of Appeal challenging the Zoning Officer's decision/approval and continued validity of the Permit. A Notice of Hearing was thereafter issued by the Board. This letter brief, together with the accompanying exhibits, is submitted for the rescheduled/continued hearing scheduled to occur August 5, 2026, and is being served on the Board and on all owners of record within 200 feet of the Property in accordance with the Municipal Land Use Law and the Board's notice requirements, not less than ten (10) days prior to the hearing.

I. Notice: Service on the Board and the 200-Foot Neighbor List, and Publication of Notice

In accordance with N.J.S.A. 40:55D-12 and the Board's applicable notice requirements, Appellant has served, or will serve, this letter brief and accompanying exhibits, including the November 7, 2025 Joint Planning Board minutes annexed as Exhibit I and Ordinance No. 1025-15 annexed as Exhibit J, upon the Board and upon all owners of record of property located within two hundred (200) feet of the Property, as identified on the certified property owner list obtained from the Borough Tax Assessor, not less than ten (10) days prior to the scheduled hearing date of August 5, 2026. Service upon the Board was, or will be, effected on July 21, 2026, addressed to the Borough of Demarest Joint Planning Board / Zoning Board of Adjustment, 118 Serpentine Road, Demarest, New Jersey 07627-2199, Attn: Board Secretary / Chairman. Service upon the 200-foot list was, or will be, effected on or before July 26, 2026 via hand delivery, addressed to each property owner identified on the certified list annexed as Exhibit L. In further compliance with N.J.S.A. 40:55D-12, notice of the hearing has been, or will be, published in the Bergen Record, a newspaper of general circulation in the Borough of Demarest, on or about July 24, 2026, but in any case not less than ten (10) days prior to the scheduled hearing date. A copy of the published notice and the affidavit of publication will be provided to the Board (to be emailed on or about July 25, 2026).

Appellant respectfully submits that, upon completion of service and publication as described above, all statutory and Board notice prerequisites to a hearing on the merits of this appeal will have been satisfied, and Appellant reserves the right to supplement the record with proof of service and the affidavit of publication in advance of or at the hearing.

Issues Presented

1. Whether the maximum building height applicable to the R-D zone under Chapter 175 is, as the Board interpreted on November 7, 2025, and in fact was even prior to the

“interpretation” and prior to the issuance of the permit in question, a peak-height limitation measured from average natural grade to the peak of the building, rather than an “average” roof-height limitation of thirty (30) feet permitting a peak height of thirty-five (35) feet.

- II. Whether the Zoning Officer and Construction Official erred in issuing the Permit, and in declining to revoke or correct it, where the approved plans and as-built structure exceed the applicable thirty-foot maximum height and the approval relied on the limiting schedule’s “average height” language rather than the Board-confirmed R-D peak-height interpretation.
- III. Whether the Board should find that the Permit was issued in error and order that the Permit be corrected, suspended, or revoked, or that the Developer be required to seek variance relief or other relief, including but not limited to specific performance, unless and until the structure is brought into conformance with the thirty-foot height maximum.

Argument

I. The R-D Zone Imposes a Thirty-Foot Maximum Height Limit, Not an “Average” Height Limit

The Appellant's position — now substantiated by the Board's November 7, 2025 minutes and by the text of Ordinance No. 1025-15 — is that Chapter 175, as applicable to the R-D zone, has always measured building height from average natural grade to the peak of the building, not by an average roof-height methodology. The minutes reflect that the Code historically differentiated among zones: R-A, R-BB and R-B were measured to mean roof height, while R-C and R-D were measured to the peak. The ordinance text confirms why that distinction is clear and unambiguous: Ordinance No. 1025-15 described the height amendment as an increase in allowable roof height for the Residence A, BB and B zones; its height table amended the permitted “Average Height of Building” only for Residence A, Residence BB and Residence B; and it expressly stated that, “[i]n all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged.” (Exhibits I, J.) Thus, the R-D zone’s thirty-foot maximum remains a true peak-height cap, not an average-height allowance.

This distinction is dispositive. Under the average-height rationale applied by the Zoning Officer, a structure with a peak of thirty-five feet was deemed compliant because other portions of the roof were shorter, producing a computed “average” of thirty feet. Under the maximum-height standard that Appellant contends actually governs the R-D zone, a thirty-five-foot peak is a five-foot violation of the ordinance on its face, regardless of any averaging methodology borrowed from a different provision or by reference to a limiting schedule which is not dispositive on the issue.

II. The Permit Was Issued Based on a Misapplication of Ordinance No. 1025-15 to a Zone It Does Not Govern in the Manner Applied

Ordinance No. 1025-15 is a key local law passed in 2015 that updated the borough's zoning code to better manage home sizes and height limits. The 2015 height amendment was targeted, limited, and unambiguous. The ordinance first recites that the Borough sought to "increase the allowable roof height of homes in the Residence A, BB and B zones," while also recognizing that the Borough had previously imposed a thirty-foot maximum dwelling height throughout the Borough. It did not identify Residence C or Residence D as zones whose roof-height standard would be increased.

The operative height amendment is equally limited. Ordinance No. 1025-15 provides that the limiting schedule shall be amended "to change the permitted Average Building Height in certain zones," and the table that follows lists only three districts: Residence A, Residence BB and Residence B. Residence C and Residence D do not appear in that table. (Exhibit J.) The omission is not accidental, ambiguous, or reasonably susceptible to a contrary reading; it is the textual mechanism by which the ordinance left those smaller-lot zones outside the average-height amendment.

The savings clause removes any possible doubt. Immediately after the height amendment, Ordinance No. 1025-15 states that, "[i]n all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged." (Exhibit J.) In plain terms, if the ordinance did not change the R-D height standard in the specific height table, then that standard remained unchanged. A later schedule notation, administrative practice, or erroneous permit review cannot expand the ordinance beyond what the Mayor and Council enacted.

The November 7, 2025 vote was therefore not necessary to create, clarify, or amend the governing height rule. The ordinance already supplied the answer. To the extent the Board nevertheless took the vote, the vote served only to reconfirm by unanimous vote what Ordinance No. 1025-15 had already established: the 2015 ordinance changes were intended only for the R-A, R-B and R-BB zones, and the R-C and R-D zones remained measured from average natural grade to the peak of the building. Nor may the later vote be used to retroactively sanitize the Permit, because the Permit application's own architectural and engineering plans were premised on the incorrect "average height" methodology. The Zoning Officer's subsequent confirmation that the structure was "built in accordance with the submitted plans and building permit" does not establish zoning compliance — it merely establishes that the Developer built exactly what an erroneous plan authorized. Conformance with the Permit cannot cure a Permit that was itself issued in error.

III. The Measured and As-Designed Roof Heights Exceed Thirty Feet Under Any Reading of the Ordinance

Even setting the average-versus-maximum interpretive dispute to one side, the undisputed measurements of record confirm a height violation. The Developer's own architect's plan reflects a distance from the first floor to the highest roof peak of 35.0 feet. Independent survey measurement by Lantelme, Kurens & Associates, P.C. — taken on November 3, 2025 — confirmed a measured distance from first floor to highest roof peak of 34.8 feet, with a Highest

Roof Peak Elevation of 137.5 feet against a First Floor Elevation of 102.7 feet. Both figures exceed thirty feet by a substantial margin (4.8 to 5.0 feet), and both figures are drawn from the Developer's own design documents and the Borough's own retained surveyor — not merely from the Appellant's allegations.

Appellant further notes, without conceding the propriety of any averaging methodology in this zone, that even an averaging approach becomes unreliable here because the record raises an unresolved question as to whether the grade point from which height was measured was itself altered by fill after the original grade was established, as reflected in the October 31, 2025 correspondence regarding pre-fill and post-fill site photographs. That open grade question independently undermines the Borough's compliance determination and warrants further review by the Board.

A zoning permit that is void or issued in violation of an unambiguous ordinance requirement gives rise to a continuing violation for as long as the noncompliant structure stands, particularly where, as here, the underlying plans — not merely the field construction — embodied the ordinance error. The equities do not favor immunizing a permit issued in error from correction simply because construction proceeded quickly and at the Developer's own risk, particularly where the October 31, 2025 letter itself expressly placed the Developer on notice that continued construction, and any resulting corrective costs, would be at the Developer's own risk.

IV. The Board Should Find That the Permit Was Issued in Error and Order Corrective Relief

For the foregoing reasons, and consistent with both Ordinance No. 1025-15 and the Board's November 7, 2025 interpretation, the Board should find, as a matter of fact and ordinance interpretation, that the Permit was issued in error to the extent it authorized a roof and/or peak height in excess of thirty (30) feet in the R-D zone based on an "average height" methodology not applicable to that zone under Chapter 175. The Board should further find that the November 7, 2025 vote did not create a new rule, but merely reconfirmed the unambiguous rule already established by Ordinance No. 1025-15. The Board should further find that the structure, as designed and as built, exceeds the applicable thirty-foot maximum height and therefore does not conform to the Borough's zoning ordinance, and that the Permit should be corrected, suspended, or revoked, or that the Developer should be required to seek variance relief from the Board of Adjustment, or other remedies such as reducing the elevation of the roof, before the structure is permitted to remain as built.

V. Appellant Has Sustained Concrete Harm from the Improper Permit Issuance

The Board should also consider the concrete and continuing harm caused by the erroneous Permit. The massing of this home does not fit in with the neighboring homes in the R-D and it is totally out of place. Appellant resides in close proximity to the Property and has been directly affected

by the excessive height and massing of the structure that the Permit authorized. The injury is not abstract, trivial or procedural; it is the practical consequence of allowing a residence to be constructed above the maximum height permitted in the R-D zone. Those harms include loss of sunlight and light exposure, loss of the neighborhood scale and residential character protected by the R-D height restriction, impairment of Appellant's use and enjoyment of his property, and diminution in the value of Appellant's home. These harms are precisely the type of impacts that height restrictions are designed to prevent. They also underscore why the Board should not treat the matter as a harmless permitting irregularity, but instead as an ongoing zoning violation requiring meaningful, corrective relief.

Requested Relief

Appellant respectfully requests that the Board:

- Find that the Permit was issued in error because it authorized, and the structure as built contains, a roof/peak height in excess of the thirty (30) foot maximum height applicable to the R-D zone under Chapter 175;
- Find that the "average roof height" methodology applied by the Zoning Officer, drawn from Ordinance No. 1025-15 and/or the limiting schedule, does not govern the R-D zone because Ordinance No. 1025-15 amended average building height only for Residence A, Residence BB and Residence B, and was erroneously applied to the Permit application;
- Order that Zoning Permit No. Z-25-0032 and Construction Permit No. 2025-0109 be revoked, suspended, or modified pending correction of the height nonconformity, and/or direct the Developer to file and obtain approval of a variance application before the structure may remain as constructed;
- Direct the Zoning Officer and Construction Official to require correction of the nonconforming roof height and/or grade as a condition of any certificate of occupancy or continued validity of the Permit; and
- Grant such other and further relief as the Board deems just and proper, including referral of the grade/fill issue identified in Point III above for further engineering review and consideration of the concrete harms to Appellant identified in Point V above.
-

Conclusion

For all of the foregoing reasons, Appellant respectfully requests that the Board find that the Permit for 3 Central Avenue was issued in error under the applicable thirty-foot height maximum governing the R-D zone, as confirmed by Ordinance No. 1025-15 and reconfirmed by the Board's November 7, 2025 vote, and grant the relief requested above. Appellant reserves the right to supplement this letter brief with additional exhibits, certified copies of Chapter 175 and Ordinance

No. 1025-15, evidence of Appellant's damages and property-value impact, and any formal Planning Board resolution addressing the height standard in the R-D zone, and to present testimony and argument at the hearing.

Respectfully submitted,

Scott A. Lavin

Appellant

Schedule of Exhibits

The following Exhibits A through Exhibit R accompany this letter brief and are served on the Board concurrently herewith. Exhibit letters are provisional and subject to renumbering by the Board Secretary/Clerk.

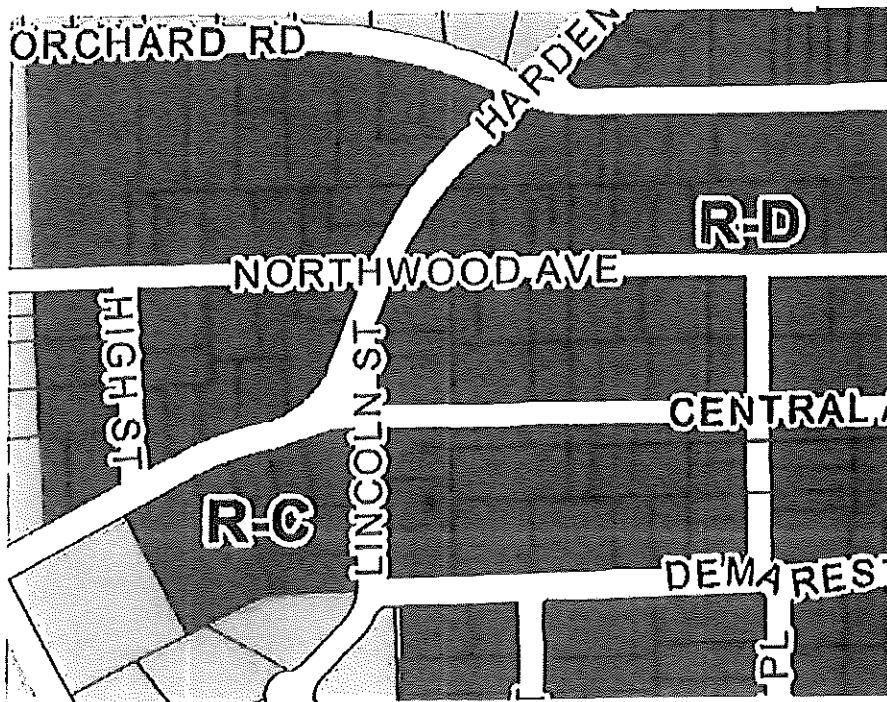
Exhibit	Description
A	Zoning Permit No. Z-25-0032 and Construction Permit No. 2025-0109, and underlying architectural plans (dated March 24, 2025) and engineering site plans (dated November 15, 2024, last revised April 14, 2025)
B	Zone Map showing subject property and Appellant's property in the R-D Zone
C	October 16, 2025 letter from John J. Lamb, Esq. to Richard Bolan (Construction official) and Michael Greco (Zoning Officer) requesting review/revocation of the Permit based on alleged height and grade violations
D	Portion of Developer's architectural plan shows the height from the ground to the peak of the roof to be 35 feet from grade
E	October 31, 2025 email, John J. Lamb, Esq. to Deena B. Rosendahl, Esq., re: prior grade/fill photograph and height calculation concern
F	October 31, 2025 letter, Michael Greco (Zoning Officer) and Robert Sherrow (Construction Official) to 3 Central Avenue LLC / TanDor Development, re: Ordinance No. 1025-15, average roof height rationale, and 10-day topographic survey demand
G	November 3, 2025 email from John J. Lamb, Esq. to Deena B. Rosendahl, Esq. – Comparison of old grades and current grades (with photos)
H	November 6, 2025 letter, Christopher J. Lantelme, P.E. & L.S. (Lantelme, Kurens & Associates, P.C.) to Borough Building Department, re: measured elevations and roof peak heights
I	November 7, 2025 Joint Planning Board Regular Meeting Minutes, including the Request for Interpretation regarding maximum building height, the limiting-schedule discussion, and the Board's unanimous interpretation that R-C and R-D building height is measured from average natural grade to the peak of the building
J	November 13, 2025 Letter, John J. Lamb, Esq. to Danielle M. Federico, Esq. – Outline of Issues in Pending Appeal
K	December 15, 2025 letter, Michael Greco (Zoning Officer) to John J. Lamb, Esq., determination re: timeliness and plan conformance
L	December 18, 2025 letter, Danielle M. Federico, Esq. (Board Counsel, CSG Law) to John J. Lamb, Esq., re: mootness/res judicata, timeliness, and confirmation of next-agenda hearing
M	Ordinance No. 1025-15 (2015) Amending Chapter 175-Zoning, including the marked provisions showing that the average-building-height amendment applies only to Residence A, Residence BB and Residence B, and that "[i]n all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged"
N	Limiting Schedule 2005

O	Limiting Schedule 2021 – Borough of Demarest, showing maximum height for peaked roofs in the R-D Zone is 30 feet. Footnote D of the Limiting Schedule defines "maximum height" as the height <u>"measured from the average natural grade around the perimeter of the proposed structure."</u>
P	Notice of Appeal and Notice of Hearing materials
Q	Affidavit/Certification of Service on the Board and on the 200-foot list of neighboring property owners, with certified property owner list and proof of mailing
R	Affidavit of Publication of Notice of Hearing, together with copy of published notice [TO BE OBTAINED/ATTACHED]

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT B

Hearing Date: August 5, 2026



BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin --- 3 Central Avenue (Block 65, Lot 140)

EXHIBIT C

Hearing Date: August 5, 2026

MARTIN W. KAFAFIAN (NJ, NY, DC BARS)
ADOLPH A. ROMEL (NJ, NY BARS)
JOHN J. LAMB (NJ BAR)
ANTIMO A. DEL VECCHIO (NJ, NY, DC BARS)
ROBERT A. BLASS (NJ, NY BARS)
ARTHUR N. CHAGARIS (NJ BAR)
STEVEN A. WEISFELD (NJ, NY BARS)
RENATA A. HELSTOSKI (NJ, NY BARS)
DANIELE CERVIHO (NJ, NY BARS)
ARTHUR M. NEISS (NJ, NY BARS)
DANIEL L. STEINHAGEN (NJ, NY BARS)
MARTIN R. KAFAFIAN (NJ, NY BARS)
JAMES V. ZARRILLO (NJ, NY BARS)
MATTHEW J. ROSS (NJ, NY, OH BARS)

OF COUNSEL

EMERY C. DUELL (NJ, NY BARS)
PATRICK J. MONAGHAN, JR. (NJ, NY BARS)
IRA E. WEINER (NJ BAR)
MICHAEL STERNLIEB (NJ BAR)



BEATTIE
PADOVANO LLC

COUNSELLORS AT LAW
200 MARKET STREET, SUITE 401
MONTVALE, NEW JERSEY 07645

(201) 573-1810

www.beattielaw.com

NEW YORK OFFICE:
99 MAIN STREET, SUITE 319
NYACK, NEW YORK 10960
(845) 512-8584

COUNSEL TO THE FIRM
BRENDA J. STEWART (NJ BAR)
JEANETTE A. ODYSKI (NJ, NY BARS)
CRISTIN M. KEEGAN (NJ, NY BARS)
BARBARA M. MARTIN (NJ, NY BARS)
CHARLES J. RABOLLI, JR. (NJ BAR)

SHKELQIM (JIM) PILINCI (NJ, NY, IT BARS)
DEMETRIA M. BOGOSIAN (NJ BAR)
GABRIELLA M. PASCARELLI (NJ, NY BARS)
CONOR C. O'SHAUGHNESSY (NJ, NY BARS)
NICOLE A. SERELL (NJ, CT BARS)
GABRIELLE G. DRILLICH (NJ, NY BARS)
MAGGIE MINAS (NJ BAR)

RALPH J. PADOVANO (1935-2016)
JAMES R. BEATTIE (1935-2021)

Reply to New Jersey Office
Writer's Direct Access
Email: craboli@beattielaw.com
Direct Dial and Fax: (201) 799-2169

October 16, 2025

OUR FILE NO. 250682-1

BY EMAIL TO: construction@demarestnj.gov

Mr. Richard Bolan
Construction Official
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

BY EMAIL TO: mgreco@demarestnj.gov

Mr. Michael Greco
Zoning Officer
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

Re: 3 Central Avenue
Demarest, New Jersey
Block 65, Lot 140

Dear Gentlemen:

Please be advised that we represent the interests of Scott Lavin and his wife, Jennifer Lavin. They reside at 40 Lincoln Street, Demarest, New Jersey, adjacent to the subject property.

We are in receipt of a portion of the architectural plans for the property. It appears that the construction far exceeds the height limitation for the R-D Zone, where the property is located. See Zone Map attached as Exhibit A.

A large residence is under construction. See Photos attached as Exhibit B.

Fifty-Five Years of Service

7007127_1\250682

**NOTICE OF VIOLATION OF
HEIGHT LIMITATION IN
ZONING CODE**

A portion of an architectural plan shows the height from the ground to the peak of the roof to be 35 feet from grade. See Architect's Plan attached as Exhibit C. In particular, the lower left of the plan shows "AVG GRADE" to be 99.3 ft and printed vertically, there is language on the plan that states "35-0 O.A. FIRST FLOOR TO ROOF PEAK." We infer that "O.A." means "overall."

The Demarest Code and relevant ordinance indicate that "Maximum Height" for peaked roofs in the R-D zone is 30 feet. See Limiting Schedule attached as Exhibit D.

We understand the notation "24/30" in the Limiting Schedule to mean the maximum height of a flat roof and peak roof, respectively.

The Limiting Schedule at Footnote D defines "maximum height" as the height "measured from the average natural grade around the perimeter of the proposed structure." Separately, it continues: "No more than 50% of the roof area shall exceed the specified average height." The code does not define "average height"; but as discussed further below, the Ordinance does - and is inapplicable to the R-D zone.

By way of background, we provide the Limiting Schedule from 2005. See Exhibit E. In 2015, due to the increasing size of newly constructed homes, the Zoning Board recommended increasing the height limitation in R-A, R-BB and R-B zones *only*. This was codified in Ordinance No. 1025-15, which provides, in part:

...the Demarest Zoning Board of Adjustment has petitioned the Mayor and Council...to...increase the allowable roof height of homes in the Residence A, BB and B zones...the demands of current architectural and engineering design require that residential dwellings in the larger A, BB and B zones be taller to improve construction quality and aesthetic appeal....The limiting Schedule shall be further amended to change the permitted Average Building Height in certain zones as follows:

District	Bulk	
	Average Height of Building	
	Stories	Feet
Residence (A)	-	33
Residence (BB)	-	30
Residence (B)	-	30

(Borough Ordinance 1025-15; Exhibit F)

The Ordinance continues: "This section expressly prohibits more than fifty percent (50%) of the roof area exceeding the specified "Average Height", and it expressly prohibits flat roofs above 30 feet in all zones....In all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged."

Richard Bolan
October 16, 2025
Page 3

The concept of "Average Height" applies only to the A, BB and B zones. The Code uses "Average Height"; "Average Building Height"; and "Average Height of Building" interchangeably.

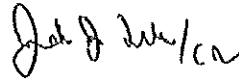
Further, a review of the property indicates that the "Average Grade" cited in the plan may not actually reflect the Average Natural Grade required to be used under the code. "Average Natural Grade" is defined as the "average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation." Demarest Code §175-27, Definitions. "Building height" is defined as "the vertical distance measured from the average natural grade all around the building to the highest point of the roof." *Id.*

It appears that the natural topography of the property was altered to increase the elevation of the "average grade" from the "average natural grade" that existed with the previous home. We are in the process of obtaining supporting information.

Based upon the above, we hereby request that you immediately revoke the permits and issue a stop work order until this matter can be properly evaluated. The Applicant is proceeding at their own risk. We reserve the right to challenge any certificate of occupancy issued if improvidently granted. If there is additional information which is relevant, we reserve the right to evaluate and reconsider our position.

Thank you for your cooperation.

Very truly yours,



John J. Lamb

JJL/abp

cc: 3 Central Ave LLC, Owner

(by certified mail and first class mail to: 64 North Summit Street, Tenafly, NJ 07670)

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT D

Hearing Date: August 5, 2026

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT E

Hearing Date: August 5, 2026

Lavin, Scott A.

From: Lamb, John J. <JLamb@beattielaw.com>
Sent: Friday, October 31, 2025 3:25 PM
To: Deena Rosendahl
Cc: Rabolli, Charles J., Jr.
Subject: [EXT] Lavin-Preconstruction grade (photo #2)

Ms. Rosendahl: Here is the second photo just referenced in my prior email.

Thank you for considering same in your review of this issue.

John J. Lamb



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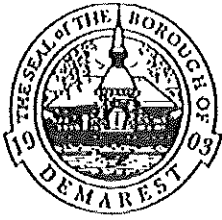
DEPARTMENT OF THE TREASURY CIRCULAR 230 DISCLOSURE

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BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT F

Hearing Date: August 5, 2026



THE BOROUGH OF DEMAREST

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

MICHAEL GRECO
ZONING OFFICER
(201) 768-0167 x 110
mjgreco@demarestnj.gov

October 31, 2025

3 CENTRAL AVENUE LLC
3 Central Avenue
Demarest, NJ 07627

RE: 3 Central Avenue, Demarest, New Jersey
Block 65, Lot 140
Zoning and Construction Permits

Dear TanDor Development:

Pursuant to the Borough's Zoning Ordinance number 1025-15 Amending Chapter 175, the average roof height shall not exceed 30 feet. As you know, Architectural Plans dated March 24, 2025, and Engineering Site Plans dated November 15, 2024, last revised April 14, 2025, were previously submitted in support of your request for a construction and zoning permit (the "Plans"). The Plans submitted in support of issuance of both a construction and zoning permit evidenced an average building height of 30 feet, with the peak of the building at 35 feet. As a result, zoning permit number Z-25-0032 and construction permit number 2025-0109 were issued.

A visual inspection of the as built height of the structure indicates the structure may be exceeding the permissible maximum building height. As such, we require a topographic survey with roof peaks provided measured in the same datum as the engineering site plans to be provided within ten (10) days.

The Borough reserves the right to take any appropriate action following receipt of the requested documents. Accordingly, please be advised that if construction continues while this matter is under review, any work performed, or expenses incurred are done so at your own risk. Should the review determine that changes or corrections are required, all resulting actions or costs will be your responsibility.

Sincerely,

MICHAEL GRECO
ZONING OFFICER

ROBERT SHERROW
CONSTRUCTION OFFICIAL

CC (via email): Construction@demarestnj.gov, drosendahl@cgajlaw.com,
boroadmin@demarestnj.gov, nick.chelius@collierseng.com, dhaight@demarestnj.gov

CC (via mail): TanDor Development, 64 N. Summit St, Tenafly, NJ 07670

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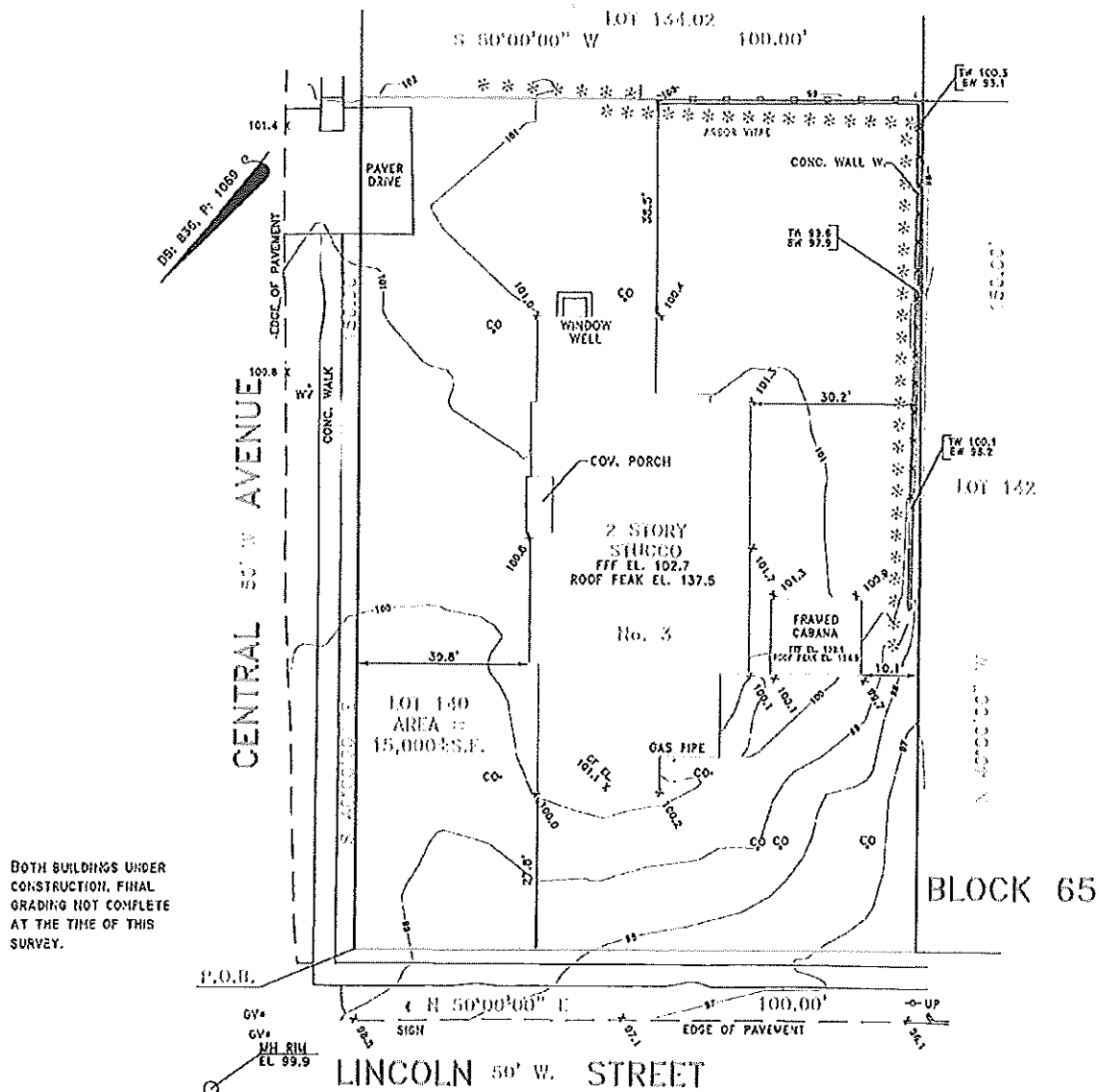
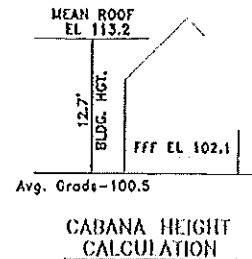
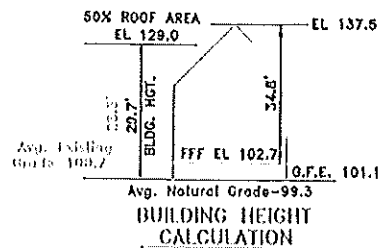
DEPARTMENT OF THE TREASURY CIRCULAR 230 DISCLOSURE

Nothing contained in this communication was intended or written by the author to be used, or can be used by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code of 1986, as amended.

Lantelme, Kurens & Associates, PC

Engineers & Surveyors

101 West Street, Hillsdale, N.J. 07612 Ph. 201-666-2450 Fax 201-666-9745



BOTH BUILDINGS UNDER CONSTRUCTION, FINAL GRADING NOT COMPLETE AT THE TIME OF THIS SURVEY.

A PORTION WATER AND C SECTIONS NOT TO SET OTHER PARTS HAS BEEN OBTAINED FROM THE ULTIMATE JEN PARTS TO P.L. 2003, 2 15(15) 1-18 3) AND 15(15) 15 40-5 100

ELEVATIONS BASED ON AN ASSUMED DATUM.

THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.

AS-BUILT SURVEY 3 CENTRAL AVENUE

PROPERTY SITUATED IN: BOROUGH OF DEHAREST, BERGEN COUNTY, NEW JERSEY

CERTIFIED TO: TANDOR DEVELOPMENT LLC.

LOT NO.: 140 (TAX MAP) 140 & 141 (FILE MAP)

BLOCK NO.: 65 (TAX MAP) N/A (FILE MAP)

MAP SOURCE: 'MAP OF PROPERTY OF THE TENAKILL TERRACE CO., DEHAREST, N.J.' FILED IN THE BERGEN COUNTY CLERK'S OFFICE DECEMBER 6, 1907 AS MAP NO. 1121.

Christopher J. Lantelme, P.E. & L.S. 39580
LAND SURVEYOR

SCALE: 1" = 20'

DATE: 11/13/25

PARTY: EW/VD

DRAWN BY: DR

NO. 3CENTRALAB

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT G

Hearing Date: August 5, 2026

From: Lamb, John J.
Sent: Monday, November 3, 2025 11:14 AM
To: Deena Rosendahl
Subject: Lavin-Demarest 3 Central Ave LLC [Comparison of old grades and current grades]

Good morning Ms. Rosendahl:

I wanted to give up an update on the grade elevation issue:

1. Prior photos previously sent: I sent you the last 3 photos attached to this email last week.
2. Inspection yesterday: I inspected the area and the construction in the neighborhood this weekend and took the first photo on Saturday.
3. First photo: The first photo shows the current grade ,sloping "up" from the Central Ave sidewalk .
4. Old grade: I looked closely at the "old" grade – shown on the last 3 photos.
5. Comparison of old and new grades: You can easily see:
 - (a) the current grade from the sidewalks on two sides on the pre-construction photos - to the interior of the lot- which shows the slope goes down, not up.
 - (b) On the other hand by way of comparison, the first two photos show the current grade from Central Ave and on the other intersection . They confirm the grade slopes "up" from the streets .
 - (c) The current grade no longer slopes "down" from the sidewalk to the middle of the lot.
6. Change of grade: The first photo of the front yard now- during construction. The grade has been changed and the current day photos show the current slope of the grade-which as stated rises from the sidewalk .
7. Current grade on foundation of house being constructed: The second photo shows the difference in grades at the lower end of the new house being constructed -and it appears that the bottom of the house not finished is intended to be covered by dirt at some point, like the left side of the photo
8. Visual appearance of house now: The height of the house from my view and from some locations looks like a 4-story structure, but I will let others make that determination.
9. Old photos if needed: We can likely find more "old" photos- to the extent necessary.
10. Construction continuing: I note that there were about 5 workers on the site- continuing with the construction-on Saturday

Hope this helps with any analysis by the Borough officials.

John J. Lamb
Cell 201-655-5334

1:47



Home

January 12, 2020 3:55 PM



1:48



Home

January 12, 2020 3:55 PM

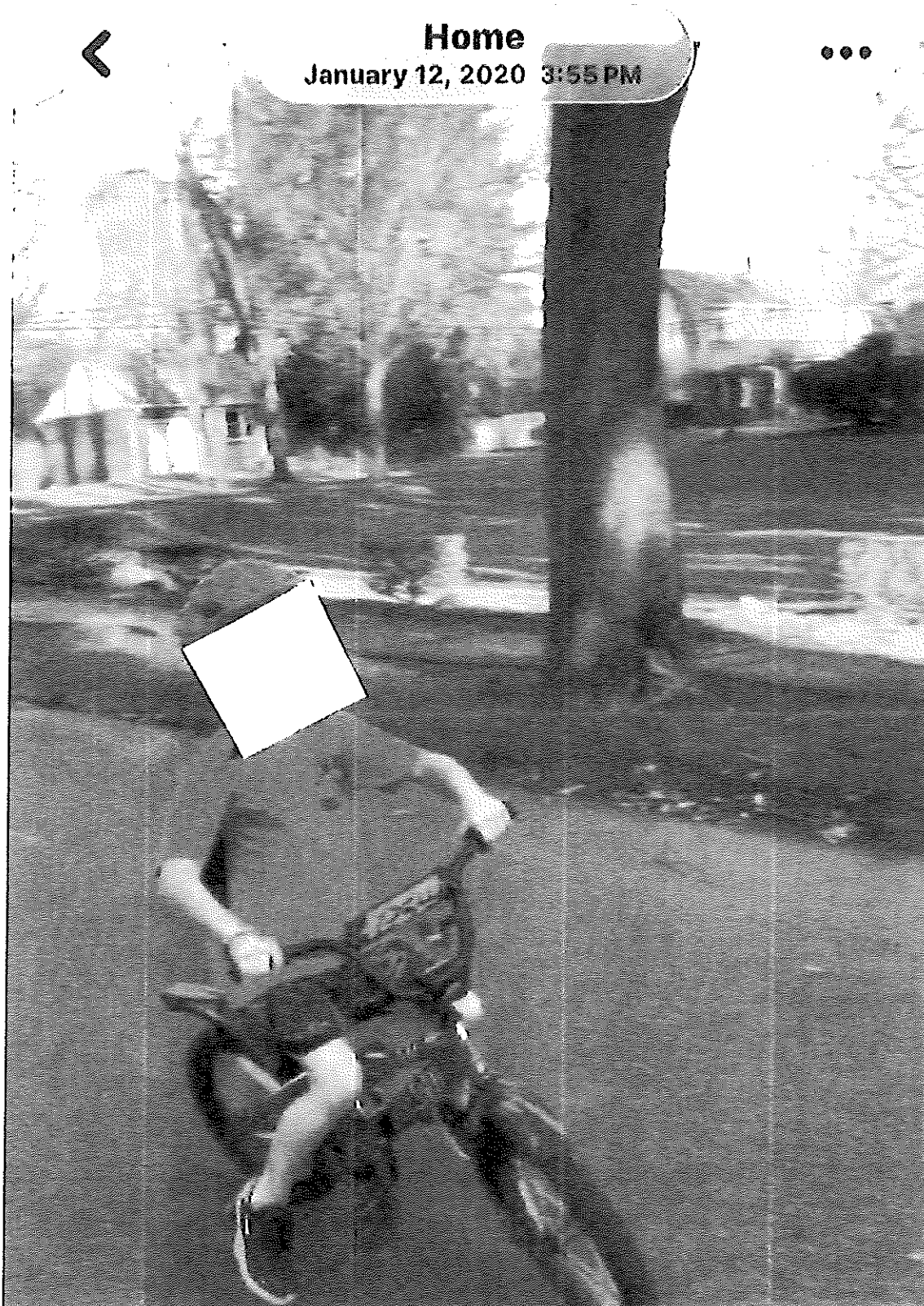


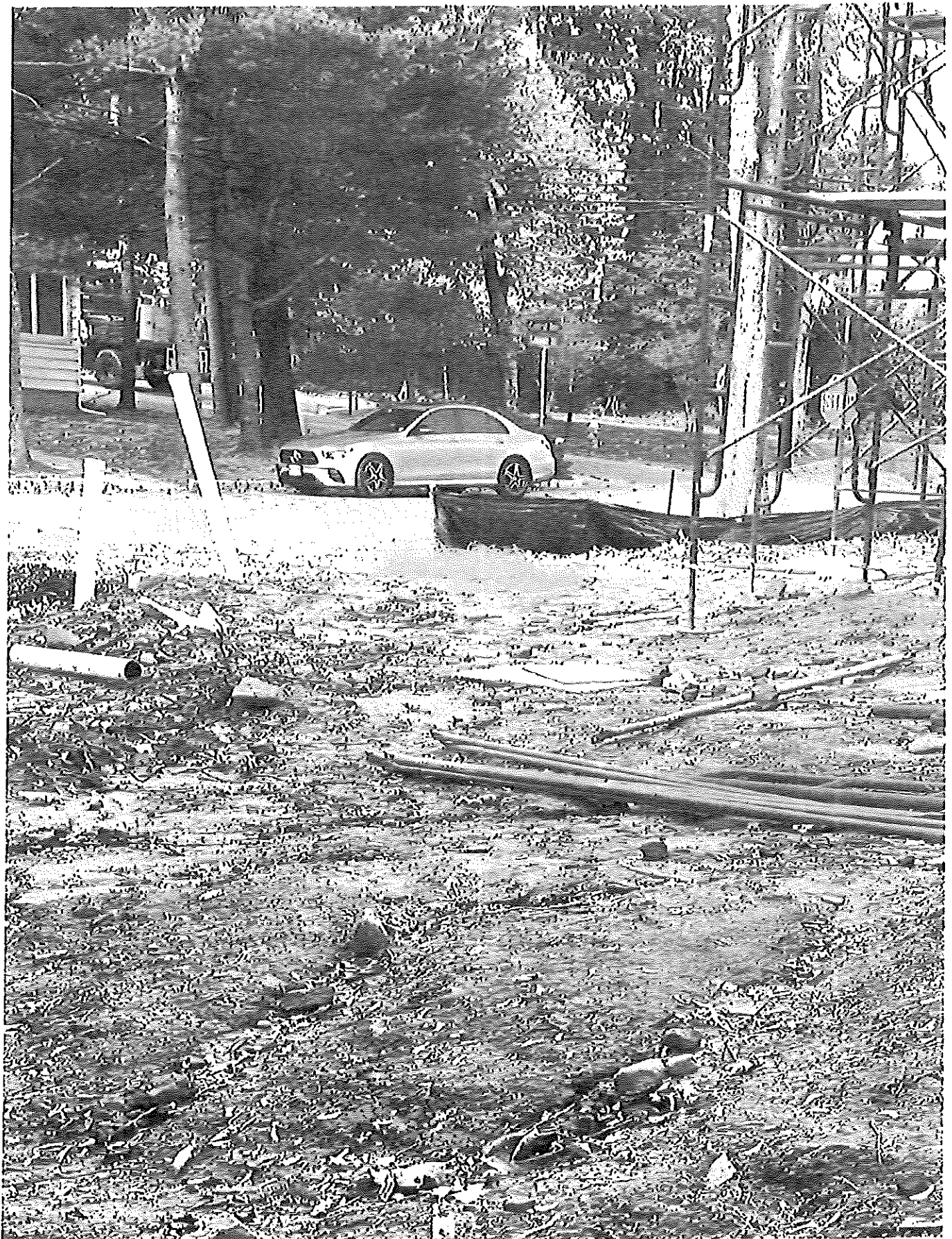
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Home

January 12, 2020 3:55 PM







BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT H

Hearing Date: August 5, 2026

Lantelme, Kurens & Associates, P.C.

ENGINEERS & SURVEYORS 101 West Street, P.O. Box 486, Hillsdale, New Jersey 07642 (201) 666-2450
Fax (201) 666-9745

Christopher J. Lantelme, P.E. & L.S.

November 6, 2025

Building Department
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

Re: 3 Central Avenue, Lot 140, Block 65

Dear Building Department:

On 11/03/2025 this firm measured the elevation of the structure being built at the above referenced site and offer the following data:

First Floor Elevation	102.7'	
Highest Roof Peak Elevation	137.5'	
2 nd Highest Roof Peak Elevation	135.0'	
Distance from First Floor to Highest Roof Peak measured = 34.8 feet		
Distance from First Floor to Highest Roof Peak per Architect Plan = 35.0 feet		

Please direct any questions to the undersigned.

Sincerely,

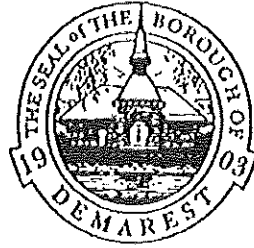


Chris Lantelme, PE & LS

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT I

Hearing Date: August 5, 2026



Borough of Demarest
Joint Planning Board Regular Meeting
MINUTES

November 7, 2025**7:30 PM****DEMAREST BOROUGH HALL**

The Borough of Demarest Planning Board held a special meeting on WEDNESDAY, NOVEMBER 7, 2025, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chair Woods.

FLAG SALUTE

The Board was led in a salute to the flag by Chair Woods.

ROLL CALL

MEMBERS PRESENT: Theodore Alevrontas, Mayor Brian Bernstein, Jodi Brenner, Camile DiSclafani, Councilwoman Daryl Fox, Mary Hamilton, Fatemah Mamdani, Chair Woods

MEMBER(S) ABSENT: Todd Adelman, Kiran Chin

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

CLOSED SESSION

Ms. Federico state that the board is in receipt of a letter for John Lamb's office dated November 14, 2025, concerning a potential litigation, and requested to enter a closed session to discuss.

A motion was made to enter a closed session for the purpose of discussing a potential litigation by Mayor Bernstein and was seconded by Councilwoman Fox.

Chair Woods recused himself from the Closed Session due to his proximity to the property related to this matter.

The board entered a closed at 7:32 pm.

A motion was made to end closed session and return to open session by Mayor Bernstein and was seconded by Councilwoman Fox.

The board returned to open session at 7:42 pm.

RESOLUTIONS

Resolution JPB-014-25 – JPB-25-005 – 93 Pine Terrace – Jason Lieberman

Councilwoman Fox asked for clarification on the conditions in the resolution, stating that she saw some new clauses which seemed too strict for a fence application.

Ms. Federico explained that the new clauses were added in, on the last resolution and are standard clauses to protect the Borough and for the sake of consistency across resolutions, they would be in all resolutions moving forward.

A motion was made to approve resolution JPB-014-25 for the Joint Planning Board Application JPB-25-005, requesting variances related to the construction of a fence in a front yard by Vice Chair Brenner, and was seconded by Mr. Alevrontas

On a roll call, the vote was recorded as follows

n/e = not eligible

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Absent	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Absent	Ms. DiSclafani:	Yes
Councilwoman Fox:	No	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

NEW/CONTINUING APPLICATIONS

JPB-25-007 – 32 Brookside Avenue – Patrick Min

Mr. Greco stated that the applicant requested to adjourn to the next meeting, due to an inability to get the necessary documents for the board. Mr. Greco stated that the applicant has given the board an extension of time to act.

Ms. Federico stated that application JPB-25-007, for the property known as 32 Brookside Avenue would be carried to the December 3, 2025, meeting without further notice.

MASTER PLAN CONSISTENCY REVIEW

Ordinance 1170-25 Ordinance of the Borough of Demarest Adopting the Amended Redevelopment Plan produced by Colliers Engineering (formerly Maser Consulting) on behalf of the Borough of Demarest

Ms. Green explained to the board that the ordinance before the board is an amendment to the Borough's Downtown Redevelopment plan. She went on to explain that the last ordinance before the board was a change to the borough's set-aside requirements, and that with the changes in redevelopment with the current round, all affordable housing when triggered will be required to provide a 20% set-aside. In addition, it alters the duration of the deed restrictions, and the text has been amended to say that they have to be consistent with the uniform housing and affordable controls. This change is to make the redevelopment plan consistent with the master plan and the fair share and housing plan. She stated that the ordinance is not inconsistent with the 2025 fair share and housing plan and the board should act favorably on this ordinance.

A motion was made to approve resolution JPB-015-25 as consistent with the intent and purpose of the master plan by Councilwoman Fox, and seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Absent	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chln:	Absent	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

REQUEST FOR INTERPRETATION

Maximum Building Height – Chair Woods – The definition of building height, and how it is being used in zoning approvals.

Chair Woods presented that he was bringing to the board a request to discuss the required height for certain zones in the borough. He explained that the code once differentiated the definition of height measurement between the zones, where R-A, R-BB & R-B were measured to the mean roof height, but the R-C & R-D zones were measured to the peak. There was an ordinance adopted that changed the heights in the 3 zones to be higher and stated that it did not affect the 2 zones to the peak. Some time after that the limiting schedule was changed and did not differentiate between zones and claimed all height is measured to the mean roof height. The definition in the code for building height is not consistent with this, and they are in conflict.

Mr. Greco explained that as the zoning officer he went through the ordinance and that the most recent change to the code is the limiting schedule which shows all zones as to the average height of the roof. He agreed that the code is inconsistent and that he encourages the board to discuss the intent of the code to set the record.

Chair Woods stated that he was at the meeting when the ordinance was approved and that he knows that the intent was a change only meant for A, BB & B which are the larger zones in town, but that the C&D zones should remain as they are smaller lots and can not handle the bulk of the taller buildings.

Councilwoman Fox stated that she was also there and agrees with the intent stated by Chair Woods.

Ms. Green stated that she agrees that the ordinance is inconsistent in their decision, and that the ordinance makes Demarest unique in that she has never seen a town that measures roof height differently across different zones. She and the engineer agreed that the roof height would be easier measured to the peak in all zones, but that requires a change in the zoning code by ordinance. She stated that looking at the code, in addition that the board should set a maximum on stories of a building, as a 30 ft. tall building could easily have 3 floors, and that a roof measured to the mean, could get as high as 8 ft. above this and could feasibly have a fourth floor, which she does not think was ever the intention of the Borough.

Chair Woods also talked about flat rooves, and that once the code had limitations on these roof styles, but now it seems to have disappeared from the code. He explained that the old ordinance limited flat rooves in the C&D zones to 24 feet, but that the A, BB & B zones would have flat roofs up to 30 ft. and this did not translate into the limiting schedule correctly.

Councilwoman Fox stated that the limiting schedule shows clearly that flat rooves are limited to 30 ft. in all zones. Chair Woods pointed to the ordinance which said that in all other respects the ordinance should not be changed, meaning that the ordinance was only meant for the A, BB & B zones.

A motion was made to open the meeting to the public by Councilwoman Fox and seconded by Mayor Bernstein.
All in favor – Motion passed.

Noelle Tutunjian, 8 John Street, was sworn in by Ms. Federico, and requested clarification on whether these changes would impact future or prior applications.

Ms. Tutunjian asked why the limiting schedule would be used over the code, and Mr. Greco explained that the limiting schedule is the primary method of determining bulk criteria and is not a “cheat sheet” but that when an inconsistency exists in the code, the most recent update would be the guiding factor.

Ms. Federico explained that the purpose of the interpretation is to determine the intent behind the mayor and council’s decision, and if it is determined that the intent is not accomplished, then the board has the power to set the record clear and give guidance on how to utilize the ordinance.

The board and Ms. Federico explained that this interpretation would affect future applications but would not affect applications which have already been approved. Ms. Federico also explained that over time there has been different views from past and current, boards, zoning officers, builders and professionals over the meaning behind the code, and that is why interpretation is important to set the record moving forward.

Councilwoman Fox asked if the board finds in favor of the interpretation, does the mayor and council need to change the limiting schedule. Ms. Federico explained that the interpretation can be relied on when making decision, and that a change would not be necessary, unless the board finds that the limiting schedule is correct and needs to be changed to alter the rule. The board discussed whether a change to the limiting schedule was necessary or should be done either way. The decision was that it should be changed to match the interpretation and should go before the mayor and council to do that.

Diane Rothman, who was sworn in by Ms. Federico, stated that she is a realtor and asked if a prior approval exists for a property that is changing owners. Ms. Federico explained that when a zone changes, approvals run with the land but that all approvals have expirations based on the type of approval, and so it is not guaranteed if no work commenced.

Michael Peterman, 15 Central Avenue, was sworn in by Ms. Federico, stated that he is living next door to a construction site and that he is a licensed architect. Mr. Peterman stated that the massing of the home next to him is out of control, and that he believes the height and size of the building is bad. He stated his opposition to a construction in town and that it is a problem.

Ms. Federico explained that the interpretation of the ordinance does not require public portion and does not connect to a specific application, but the board is inviting the public to comment on height of buildings only now, and asked that other comments be saved for the zoning ordinance discussion.

Mr. Peterman stated that the height is too high.

A motion was made to close the meeting to the public by Mayor Bernstein and seconded by Mr. Alevrontas.
All in favor – Motion passed.

Mr. Greco explained that he can’t seem to find an ordinance that approved the new limiting schedule in the prior ordinances. Ms. Federico stated that the publication date on the limiting schedule may not be the ordinance but instead is when it was changed.

Mayor Bernstein asked for clarification on the specific section of the limiting schedule which calls to the height of buildings. Mr. Greco read "Note D" of the limiting schedule.

A motion was made to approve the interpretation of the height of a building in the R-C & R-D zone would be from the average natural grade to the peak of the building, and that flat roofs in the same ones have a maximum of 24 feet and that the changes in the 2015 ordinance was meant only for the R-A, R-B & R-BB zones.. The motion was seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Absent	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Absent	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

The board and Ms. Federico clarified their motion to the Zoning Officer and the Planner for all pending applications.

DISCUSSION ON BOARD MATTERS – NEW/OLD BUSINESS

2026 Meeting Dates

Mr. Greco explained that he is trying to schedule a number of future applications and it would help him if the board could set a schedule for 2026, subject to confirmation by the 2026 Joint Planning Board, so that he could set dates for the future applications.

The board discussed the proposed dates and made some changes.

A motion was made to approve the amended 2026 meeting dates, subject to the approval of the 2026 Joint Planning Board by Councilwoman Fox and seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Absent	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Absent	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

Zoning Ordinance Discussion

Chair Woods requested that the board begin the zoning ordinance discussion by opening the meeting to hear the public's input before the board discussion.

A motion was made to open the meeting to the public for comments by Mayor Bernstein and seconded by Councilwoman Fox.

All in favor – Motion passed.

Diane Rothman was confirmed still sworn in by Ms. Federico. Ms. Rothman made some comments on the problems that construction is creating in the neighborhood, especially in regard to sidewalks and the public's ability to utilize the Borough's right-of-way.

Ms. Federico explained that this is not a zoning issue, but there are rules in place in property maintenance for maintaining sidewalks.

Michael Peterman was confirmed still sworn in by Ms. Federico.

Mr. Peterman stated some concerns about a property on his block. Chair Woods recused himself on this discussion due to his proximity. The property he expressed concern over is 3 Central Avenue. He explained that the new building would create a drainage issue. Councilwoman Fox explained that when there is new construction there are drainage standards that must be met if they are built according to the approved plans. Ms. Federico explained that we are not here to discuss individual properties so much as suggestions for the zoning ordinance. She asked Mr. Peterman if he has specific concerns or recommendations for the zoning ordinance.

Mayor Bernstein asked if there is a condition that he has observed that if we could change the zoning ordinance to mitigate these concerns.

Mr. Peterman stated that he believes the code is not clear on storm water requirements.

Mr. Greco asked the attorney if regrading can be controlled by the zoning ordinance. Ms. Green explained that regrading is handled in engineering through a soil moving permit, which Mr. Greco stated that Demarest has.

The board discussed storm water and how it relates to the zoning ordinance.

A motion to close the meeting to the public was made by Mayor Bernstein. Seconded by Mr. Alevrontas.
All In Favor – Motion Passed

Councilwoman Fox explained that she created a summary of the changes from the original code to the new code, as well as broke down some of the functions in the code and how it works. She highlighted the inconsistencies in the definitions and how to move forward with them.

Chair Woods asked Mr. Greco to explain the districts.

Mr. Greco explained the different zones in town and how the ordinance interacts with those zones. He explained that the town is mostly Residence Zones, with a few multi-family zones, which are set for specific developments as a part of settlements. He also explained the other districts but pointed the board to focus on the Residence zones which is the bulk of the town. He explained that those zones are governed by the limiting schedule which sets the bulk requirements, and that this is the most important piece of discussion. He further pushed the zone to mostly review the R-C and R-D zones as they are where all the variances are.

Chair Woods directed the board to the recommendations submitted by the zoning officer and asked the board if they had any questions or concerns to raise.

Mr. Greco suggested that the board start by discussing F.A.R. (Livable Floor Area), and that his main suggestion was to include garages in the F.A.R. calculation.

Councilwoman Fox suggested that if this is done, then they should increase the F.A.R. number.

Mr. Greco also explained that a recommendation was made to create rules that offer bonuses to F.A.R. based on certain criteria the borough can encourage, e deferred to the Board's Planner on the language.

Chair Woods stated that his view is that the public is concerned with the massing of the buildings and that they are being built too large. He asked the board what they want.

Councilwoman Fox stated that there is a balance between regulating size and not limiting people's ability to build a house worth it to them.

Vice Chair Brenner asked if these are homes with variances built to big, and Mr. Greco stated that they are built as of right by the ordinance.

Mayor Bernstein suggested that the board focus more on the intention first for Livable Floor Area verses F.A.R.. He brought up these homes that build an accessory building and it is being built a foot from the house and escaping the rules of the principal building and circumventing the F.A.R..

Mr. Greco explained that he put in language to say that if an accessory building is built too close to the principal building it becomes part of the principal building.

Chair Woods aske the Board Planner for her thoughts.

Ms. Green explained that a lot of towns don't even have an F.A.R. and that they focus more on coverage numbers and setbacks as well as height to lessen the scale of buildings. Some towns even differentiate from principal building coverage and total building coverage.

The board discussed the use of F.A.R. in the town and how to best use all the different bulk requirements to help reduce the size of buildings fairly with the planner.

The board also discussed the use of a combined side yard setback for further limiting scale.

Mr. Greco explained that the problem with removing F.A.R. leads to developers building tall boxy buildings to maximize their space within the building.

The board agreed to maintain that a basement which is 70% below grade does not need to be included in F.A.R..

The board discussed coverage limitations with the planner, who told the board that some of her towns have a front yard coverage allowance, and the rear yard coverage allowance to encourage more structures in the rear yard.

Mr. Greco showed the board a table which breaks down the accessories a property could have and how he has come up with suggestions for rules governing accessories differently based on type. He explained that the current ordinance has a single rule for all accessories of 10 feet from the side lot line and 10 feet from the rear lot line and only allowed in the rear yard. He stated that he believes that different structures and buildings should have different standards.

The board discussed the rules of the accessories with Mr. Greco and asked questions.

The board discussed how they would move forward with their review of the code, and that as they discuss the secretary can make notes on the things they agree on, and then once everything is compiled it can be voted on as a recommendation to the Mayor and Council.

The board asked if there was a way to compile information on other towns and see how Demarest compares with similar towns.

Councilwoman Fox pointed out that on the chart Mr. Greco made he breaks down the coverage types to make it easier for residents to know where different things fall and that this is important and helpful to residents.

Ms. Green explained that towns who have F.A.R. are usually responding to larger homes being built, and towns who don't use F.A.R. most likely have never experienced these problems. Why they have not experienced the same problem is speculation.

The board discussed the reason for the rewrite and that step one is to create a well written ordinance which fixes the inconsistencies, and fixing the scale is secondary to this, but since the ordinance is being altered it is good to address it now while the process happens. They brought up the importance of balancing regulations against the homeowner's ability to improve their properties.

The board discussed the use of a number as opposed to percentage.

Ms. Green explained that she has a town that uses a fraction which increases the side yard requirements based on the size of the lot if it is larger than the required lot for the zone.

Mayor Bernstein asked a question about swimming pools in the new ordinance and suggested that a pool should not be too close to any buildings on the lot. Chair Woods agreed that pools are a more intense use and should have more restrictions than other structures.

The board discussed the difference between structures and how intense the rules should be on a structure like a walkway. Mr. Greco explained that everything is a structure, but that they do not need rules for setbacks of lesser structures.

Chair Woods asked for clarification on his section about decks, patios and pools. Mr. Greco provided clarification on the location of front, rear and side yards. Then explained how in some unique scenarios where a building is built in an odd shape the location of certain structures needs special rules to make them okay in those areas.

Ms. Green asked about a rule in the chart about accessory building height in relation to the principal building.

The board decided to table this discussion and continue at the next meeting.

Chair woods discussed with the board a possible future holiday party for this year.

APPROVAL OF MINUTES

A motion was made to approve the regular meeting minutes of September 3, 2025, by Councilwoman Fox and was seconded by Mr. Alevrontas.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	Absent	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	Absent	Ms. DISclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

ADJOURNMENT

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

All in Favor – Motion Passed

The meeting was adjourned at 10:03 PM.

Respectfully Submitted,

Michael Greco, Joint Planning Board Secretary

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT J

Hearing Date: August 5, 2026

MARION W. KAFAFIAN (NJ, NY, DC BARS)
ADOLPH A. ROMET (NJ, NY BARS)
JOHN J. LAMB (NJ BAR)
ANTIMO A. DEL VECCHIO (NJ, NY, DC BARS)
ROBERT A. BLASS (NJ, NY BARS)
ARTHUR N. CHAGARIS (NJ BAR)
STEVEN A. WEISFELD (NJ, NY BARS)
RENATA A. HELSTOSKI (NJ, NY BARS)
DANIELE CERVINO (NJ, NY BARS)
ARTHUR M. NEISS (NJ, NY BARS)
DANIEL L. STEINHAGEN (NJ, NY BARS)
MARTIN R. KAFAFIAN (NJ, NY BARS)
JAMES V. ZARRILLO (NJ, NY BARS)
MATTHEW J. ROSS (NJ, NY, OH BARS)

OF COUNSEL

EMERY C. DUELL (NJ, NY BARS)
PATRICK J. MONAGHAN, JR. (NJ, NY BARS)
IRA E. WEINER (NJ BAR)
MICHAEL STERNLIEB (NJ BAR)



BEATTIE
PADOVANO III

COUNSELLORS AT LAW
200 MARKET STREET, SUITE 401
MONTVALE, NEW JERSEY 07645

(201) 573-1810

www.beattielaw.com

NEW YORK OFFICE:
99 MAIN STREET, SUITE 319
NYACK, NEW YORK 10960
(845) 512-8584

COUNSEL TO THE FIRM
BRENDA J. STEWART (NJ BAR)
JEANETTE A. ODYNSKI (NJ, NY BARS)
CRISTIN M. KEEGAN (NJ, NY BARS)
BARBARA M. MARTIN (NJ, NY BARS)
CHARLES J. RABOLLI, JR. (NJ BAR)

SHKELQIM (JIM) PILINCI (NJ, NY, NY BARS)
DEMETRIA M. BOGOSIAN (NJ BAR)
GABRIELLA M. PASCARELLI (NJ, NY BARS)
CONOR C. O'SHAUGHNESSY (NJ, NY BARS)
NICOLE A. SERELL (NJ, CT BARS)
GABRIELLE G. DRILLICH (NJ, NY BARS)
MAGGIE MINAS (NJ BAR)

RALPH J. PADOVANO (1935-2016)
JAMES R. BEATTIE (1935-2021)

Reply to New Jersey Office
Writer's Direct Access
Email: jlamb@beattielaw.com
Direct Dial and Fax: (201) 799-2173

November 13, 2025

Via Email [dfederico@csglaw.com]
and First Class Mail

OUR FILE NO. 250682-1

Danielle M. Federico, Esq.
Chiesa Shaninian & Giantomasi PC
105 Eisenhower Parkway
Roseland, New Jersey 07068

OUTLINE OF ISSUES IN
PENDING LAVIN APPEAL

Re: 3 Central Ave LLC
Premises: 3 Central Avenue
Block 65, Lot 140
Demarest, New Jersey

Dear Ms. Federico:

As you know, this office represents Mr. and Mrs. Lavin in the above matter.

On November 4, 2025, we filed a Notice of Appeal of (i) the "decision" of the Zoning Officer (for the lack of a reply to our inquiry letter of October 16, 2025¹), that assumed by lack of a response that there were no zoning violations or no reply to our allegations of an illegal height and the measurement of same, (ii) an appeal of the Zoning Officer's letter to the Owner dated October 31, 2025, indicating there appeared to be an issue with height – which issue was not however specified – and which therefore needed to be identified, and (iii) an interpretation of the Zoning Ordinances as to the proper calculation and determination of height and grade level for calculating height using the applicable legal Zoning Ordinances. This is hereinafter referred to collectively as the "Appeal." This Appeal was served upon the Borough Planning Board and Owner.

¹ No comment or criticism is intended against Mr. Greco. The lack of any reply requires that we file the Appeal by virtue of the silence or incomplete reply.

You requested a more detailed outline as to the particular issues to be appealed. The following is a list of issues to supplement the Notice of Appeal. (We reserve the right to amend as additional information becomes available.)

1. The applicability of the 30-foot maximum height allowed in the subject R-D zone: The Borough has already noted that the building "appears" to exceed the code height limitations. However, it has not specified the relevant code provisions or how the height limitation is exceeded. (We understand there is still an investigation on the issue with height and the applicability of the Zoning Ordinances, but we filed the Appeal based upon the lack of a response to our prior letter of October 16, 2025, so as not to jeopardize the timeliness of asserting our rights.) The relevant code sections should be specified and other ordinances that we have stated in our Appeal are accurate.
2. Maximum height: The maximum height of 30 feet is the applicable requirement, and any determination to the contrary is not correct.
3. The plans have the wrong calculation of height: The submitted plans used the wrong calculations for the height of a home in the R-D zone. (Prior to 2015, in all zones - R-A, R-B, R-BB, R-C and R-D, there was no "average height," but only "height" that was later changed, but not for the R-D Zone.) There did not appear to be any proper calculation of actual "peak height" under the legal ordinances.
4. "Average height" and applicability to use same to determine "height": The 2015 ordinance revised *only* zones R-A, R-BB and R-B to permit an "average height" of 35 feet, allowing half the roof surface area to be above and half the roof surface area to be below 35 feet. The ordinance did not change the R-C and R-D zones, and therefore there is no concept of "average height" being applicable in those zones and on this project. The "average height" is not correct, and any permits or approvals based upon same are invalid.
5. Limiting schedule is not legally applicable: As of the last Planning Board meeting on November 5, 2025, Mr. Greco confirmed that it did not appear that the limiting schedule had been legally adopted by the Borough. As such, any permits or approvals using same are invalid.
6. The proper measurement of height; original grade of the old house: It is still unclear how height is measured using "average grades." The site plans call out "average grade" to be 99.3 feet and provide measurements to produce that "average." However, it is unclear if those readings were properly taken from the "existing grade" of the original home. There was clearly a large depression on the Lincoln side of the property before construction, which should place the existing grade much lower than indicated for calculation of height. (See photos previously supplied.)

Danielle M. Federico, Esq.
November 13, 2025
Page 3

7. "Average grade" from original elevation grades: Even if the concept of "average grade" is incorrectly applied, despite the clear fact it was not legal, the original "average grades" were not properly calculated and/or need to be determined, and any approvals based on same are incorrect.

8. Interpretation: The Zoning Ordinances as applied to the project do not warrant any permits or approvals using the heights and average grades. The permits and approvals are invalid.

9. Application of Planning Board decision: As the Planning Board just interpreted the calculation of height in a separate application, that determination is binding on this application and project to the extent it addresses some of the issues raised.

* * *

We trust this further delineates the issues before the Planning Board raised in our Appeal. As we note that the Planning Board, independently of our Appeal, had already raised some of these issues and decided same at its November 5, 2025 Planning Board hearing, that decision likely affects much of our Appeal. We continue to request a stay of our Appeal while further investigation is made by submissions of the information the Zoning Officer has requested. We note that the Owner has an adequate remedy of law. It can apply for the necessary variances.

Thank you for considering our comments. Please do not hesitate to contact me if you have any questions with regard to the above.

Very truly yours,

/s/ John J. Lamb

John J. Lamb

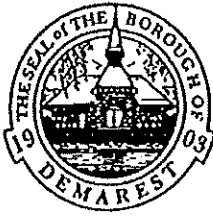
JJL:abp/l

cc: Mr. Michael Greco, Zoning Officer
and Secretary of Joint Planning Board
[mgreco@demarestnj.gov]
Mr. Richard Bolan, Construction Code Official
[construction@demarestnj.gov]

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin --- 3 Central Avenue (Block 65, Lot 140)

EXHIBIT K

Hearing Date: August 5, 2026



THE BOROUGH OF DEMAREST
118 SERPENTINE ROAD
DEMAREST, N.J. 07627-2199

December 15, 2025

Via Email Only jlamb@beattielaw.com

Beattie Padovano
200 Market Street
Suite 401
Montvale, New Jersey 07645
ATT: John J. Lamb, Esq.

RE: 3 Central Avenue, Demarest, New Jersey

Mr. Lamb,

Please accept the following in response to your filed appeal concerning the issuance of a building permit for the above referenced matter. 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.

Very truly yours,

Michael Greco

Encl.

Cc: Danielle Federico, Esq. (via email only)
Deena B. Rosendaht, Esq. (via email only)

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT L

Hearing Date: August 5, 2026



CHIESA SHAHINIAN & GIANTOMASI PC

105 Eisenhower Parkway, Roseland, NJ 07068
csglaw.com

DANIELLE M. FEDERICO
Counsel

dfederico@csglaw.com

O 973.530.2384 F 973.325.1501

December 18, 2025

Via Email Only – jlamb@beattielaw.com pperez@ridgewoodnj.net

Mr. John J. Lamb, Esq.
Beattie Padovano LLC
200 Market Street, Suite 401
Montvale, New Jersey 07645

Re: 3 Central Avenue, Demarest, New Jersey

Dear Mr. Lamb,

I write in response to your December 8, 2025 and December 12, 2025 emails ("December Emails"). As you know from Charles Rabolli's attendance at the November 5, 2025 public hearing and as previously mentioned in my letter of the same date, the Borough of Demarest Planning Board (the "Planning Board") has already considered an interpretation request with respect to the building height calculation, which was identical to the issue raised in your November 4, 2025 letter. Therefore, no further action by the Planning Board regarding your clients' separate request for interpretation is necessary. It is moot and res judicata applies.

Further, as mentioned in your November 13, 2025 letter and our prior phone conversations, it is my understanding that you had requested a stay of your appeal with respect to any "lack of decision" by the Zoning Officer concerning 3 Central Avenue while the Zoning Officer conducted further review. I had not heard from you further until your December Emails. Therefore, no further action by the Planning Board was warranted.

I have reviewed the case law you provided, Mullen v. Ippolito Corp., 428 N.J. Super. 85 (App. Div. 2012) and Lema v. Borough of Garwood, 2025 WL 3250852 (N.J. Super. Ct. App. Div. Nov. 21, 2025), but do not agree with your interpretation. I have also reviewed Mr. Greco's December 15, 2025 letter and agree with his conclusion that your appeal is untimely. However, should you wish to proceed with an appeal to the Planning Board for a hearing and decision on this matter, we will ensure your appeal is placed on the next available agenda.

Please advise how you would like to proceed no later than Monday, December 29, 2025 or we will consider this matter closed.

Very truly yours,

Danielle M. Federico

Cc: Michael Greco, Zoning Officer
Deena Rosendahl, Esq., Borough Attorney

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT M

4

Hearing Date: August 5, 2026

BOROUGH OF DEMAREST
BERGEN COUNTY, NEW JERSEY

ORDINANCE # 1025-15

AMENDING CHAPTER 175-ZONING SO AS TO:

REVISE LIMITING SCHEDULE, IMPROVED LOT COVERAGE;

REVISE LIMITING SCHEDULE, HEIGHT OF RESIDENTIAL DWELLINGS;

DEFINE DEMOLITION / NEW CONSTRUCTION;

REGULATE FENCES THAT BORDER PUBLIC STREETS;

**AMEND THE DEFINITION OF IMPERVIOUS SURFACES; and AMEND THE FEE SCHEDULE FOR
VARIANCE AND CONDITIONAL USE APPLICATIONS**

WHEREAS, It appears that Borough of Demarest Zoning Board of Adjustment has petitioned the Mayor and Council of the Borough to amend Section 175-Zoning of the Municipal Code of the Borough of Demarest to: (1) add a limitation on Improved Lot Coverage, (2) increase the allowable roof height of homes in the Residence A, BB and B zones, (3) modify the ordinance relating to fences to address yards that border public streets and to define certain related terms, (4) add a definition of Demolition/New Construction, and (5) amend and clarify the definition of Impervious Surface;

WHEREAS, the Zoning Board of Adjustment has indicated that certain proposed improvements which do not fall within the definitions of Building Coverage or Impervious Surface may nonetheless affect or impair the intent and purposes of the Municipal Land Use Act and/or the Borough's Master Plan, and has requested that the Borough regulate such improvements by adopting a limitation on Improved Lot Coverage; and

WHEREAS, the current restrictions on roof height were adopted by way of Ordinance 662 on April 17, 1989, and modified by Ordinance 774 on April 15, 1996 to impose a 30-foot maximum dwelling height throughout the Borough; the demands of current architectural and engineering design require that residential dwellings in the larger ABB and B zones be taller to improve construction quality and aesthetic appeal; and the Zoning Board of Adjustment has indicated that it has been required to consider many applications seeking variance solely for bulk building height, imposing unnecessary economic hardship upon property owners seeking to make improvements;

WHEREAS, the Zoning Board of Adjustment has indicated that the ordinance regulating fences neglects to specifically address fences on yards that border public streets, and certain relevant terms are not defined, resulting in inconsistent and unpredictable enforcement relating to newly-installed fences on residential properties;

WHEREAS, the Zoning Board of Adjustment has indicated that the ordinance fails to address when an application for a building permit to renovate an existing structure should be treated as a permit for demolition and new construction, resulting in inconsistent and unpredictable treatment of certain applications for building permits; and

WHEREAS, the Governing Body now seeks to amend Chapter 175-Zoning of the Municipal Code of the Borough of Demarest to adopt the aforesaid recommendations of the Zoning Board of Adjustment,

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Demarest, County of Bergen and State of New Jersey, that the following amendments be made to the Municipal Code of the Borough of Demarest:

Section 1: Amendment of Zoning Ordinance.

A. The Limiting Schedule shall be amended to add the following limitation on Improved Lot Coverage:

District	Bulk
	Maximum Improved Lot Coverage
Residence (A)	30%
Residence (BB)	30%
Residence (B)	30%
Residence (C)	30%
Residence (D)	30%

The following definition shall be added to Section 175-27:

IMPROVED LOT COVERAGE: The part of the site that is covered by Buildings, Accessory Buildings or Swimming Pools; Impervious or pervious tennis courts, basketball courts, decks, patios, fire pits, 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.

The Limiting Schedule shall be further amended to change the permitted Average Building Height in certain zones as follows:

District	Bulk	
	Average Height of Building	
	Stories	Feet
Residence (A)	--	33
Residence (BB)	--	30
Residence (B)	--	30



DEMOLITION / NEW CONSTRUCTION: An altered structure shall be deemed new construction for all development, building and zoning purposes if: (i) the square footage of the foundation of the altered structure is increased by 50% or more when compared to the square footage of the foundation of the structure prior to alteration, or (ii) the floor area of the altered structure (meaning the livable floor area plus basements, garages and other unheated areas) is increased by more than 50% of the floor area (meaning the livable floor area plus basements, garages and other unheated areas) of the structure prior to alteration.

This section expressly prohibits more than fifty percent (50%) of the roof area exceeding the specified Average Height, and it expressly prohibits flat roofs above 30 feet in all zones.

In all other respects, the limiting schedule of the Municipal Code of the Borough of Demarest shall remain unchanged.

B. Section 175-24 (Fences) shall be amended to further clarify and regulate the installation of new fences on residential properties as follows:

- No fence may be erected in excess of 6 feet
- No fence may be erected within 10 feet of the curb line or edge of pavement of any street (whether in front, side or rear yards)
- Any fence erected within 25 feet of any street, as defined herein (whether in front, side or rear yards) may be no higher than 4 feet and must be at least 50% open
- Fence heights will be measured from the Average Natural Contour (as defined in the Zoning Ordinance), excluding berms and swales
- Fences may not be erected on walls, except that fences may be erected on retaining walls provided the combined height of the retaining wall and fence do not exceed the applicable fence height limit.

The following definitions shall be added to Section 175-27:

FENCE: Any substantially vertical structure, wall, or barrier, regardless of material composition, but excluding vegetation and living fences, whether supported by a foundation, footing, piling, stake, post, aboveground member, or whether self-supporting, to prevent escape or intrusion, to mark a boundary or the proximity thereof to ensure privacy, or to act as a support for vegetation.

LIVING FENCE: Plantings created by human effort consisting of the growth or placement of hedges, trees, bushes, or any other plants, or any combination thereof, creating a vision-impairing barrier or boundary between properties.

C. Section 175-27 shall be amended to add the following definitions:

DEMOLITION / NEW CONSTRUCTION: An altered structure shall be deemed new construction for all development, building and zoning purposes if: (i) the square footage of the foundation of the altered structure is increased by 50% or more when compared to the square footage of the foundation of the structure prior to alteration, or (ii) the floor area of the altered structure (meaning the livable floor area plus basements, garages and other unheated areas) is increased by more than 50% of the floor area (meaning the livable floor area plus basements, garages and other unheated areas) of the structure prior to alteration.

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT N

Hearing Date: August 5, 2026

Limburg Schedule from September 2005

22-15-2009

4 The other data not available here, a census year problem is requested that is equal to the housing requirement in the district, and with no observed section points on each side that are closest to the housing line. The number of 1994, reported on the minimum lot sized requirement in the district, such side line points to be occurred or right angles in the housing line. This requirement applies to all residential districts.

[illegible]

* The Old Thimbleton Road, side yard yards is required if access to off-street parking and/or loading and unloading facilities in the rear is provided and if conditions are satisfactory to Ord. No. 00221.

21. Moreover, it is the improper exclusion of the proposed Excluded Grade all around the principal building, secondary building or structure, Unexcused 4-15-1988 by Ord. No. 7761.

[illegible]

^a Information on the number of children arriving in the United States as unauthorized immigrants is not available. The number of children arriving in the United States as unauthorized immigrants is estimated by the Department of Homeland Security.

1. Approved by 27 Jan 1961

* Submitted & accepted by editor Nov 22nd

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT O

Hearing Date: August 5, 2026

ZONING

175 Attachment 1

Repealed of Democrat

Lebanon Schedule, District

[Amended 4-17-1989 by Ord. No. 682; 4-15-1996 by Ord. No. 774; 8-20-2001 by Ord. No. 840; 6-22-2015 by Ord. No. 1825; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Area										Bulk				
Minimum Lot Dimensions ^a		Minimum Yard Dimensions ^a						Maximum Number of Structures	Maximum Building Coverage ^d	Maximum Height of Building ^e		Maximum Improved Surface Area ^f	Maximum Improved Lot Coverage ^g	Maximum Residential and Parking Coverage ^h
Frontage (feet)	Depth (feet)	Area (square feet)	Front Yard Setback (feet)	Side Yard Width (feet)	Abutting 2nd Street (feet)	Abutting 1st Lot (feet)	Depth (feet)			Width (feet)				
Minimum (R-1)	200	200	40,000	50'	30	25	50	A	1	33	22.5%	—	30%	25%
Minimum (R-2B)	150	150	22,500	50'	30	25	50	A	1	30	22.5%	—	30%	25%
Minimum (R-3)	100	100	10,000	35'	35	15	30	A	1	24/10	30%	—	30%	25%
Minimum (R-3D)	100	100	10,000	25'	25	10	30	A	1	24/30	30%	—	30%	25%
See Note 4 below														
Minimum (R-4)	See Note 4 below													
Minimum (R-5)	See Note 4 below													
Minimum (R-6)	See Note 4 below													
Minimum (R-7)	See Note 4 below													
Minimum (R-8)	See Note 4 below													
Minimum (R-9)	See Note 4 below													
Minimum (R-10)	See Note 4 below													
Minimum (R-11)	See Note 4 below													
Minimum (R-12)	See Note 4 below													
Minimum (R-13)	See Note 4 below													
Minimum (R-14)	See Note 4 below													
Minimum (R-15)	See Note 4 below													
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Minimum (R-98)	See Note 4 below													
Minimum (R-99)	See Note 4 below													
Minimum (R-100)	See Note 4 below													

See Note 4 below

See Note 5 below

NOTES:

- For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement to the extent the width is 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 residential districts.
- On all streets other than Kellenburger Road, Lindenbush Avenue, County Road, Anderson Avenue, Pleasant Road and 1st Avenue, an abutment setback will be required, conforming to the established average setback on the street on which the lot fronts within the same district and within 200 feet on each side of the lot along the same side of the street, but not beyond any intersecting street established by these or more houses. [Amended 4-15-1996 by Ord. No. 774]

DEMANDS CODE

- ² The part of the site that is covered by buildings or temporary buildings, impervious or pervious hard courts, basketball courts, decks, pergolas, pools, decks, patios, terraces, balconies, or other structural members or components, impervious or pervious parking areas, driveways, walls, walkways, porches or other improvements, and any other structures or improvements on the site. The area covered by the impervious or pervious hard courts, basketball courts, decks, patios, terraces, balconies, or other structural members or components, impervious or pervious parking areas, driveways, walls, walkways, porches or other improvements, and any other structures or improvements on the site shall be used for the principal residential use and all vehicle access and parking areas shall be not greater than 25%. (Added 10-26-2017 by Ord. No. 1083-20)
- ³ Zone R-40F (Residential Medium-Density) was created as a single lot "spot" zone by Ord. No. 1066-19, adopted 11-26-2019. See § 175-12.1.
- ⁴ The R-40F-2 Overlay District (Residential Medium-Density 2 Overlay District) was created with Zone R-4 by Ord. No. 1180-20, adopted 5-18-2020. See § 175-12.1.

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT P

Hearing Date: August 5, 2026

BOROUGH OF DEMAREST JOINT PLANNING BOARD
NOTICE OF PUBLIC HEARING

NOTICE OF HEARING REGARDING THE APPEAL FILED BY SCOTT LAVIN ("APPELLANT") RELATING TO THE ISSUANCE AND CONTINUED VALIDITY OF ZONING PERMIT NO. Z-25-0032 AND CONSTRUCTION PERMIT NO. 2025-0109 FOR THE CONSTRUCTION OF A NEW HOME LOCATED IN THE "R-D" ZONE OF THE BOROUGH OF DEMAREST. THE SUBJECT PREMISES ON WHICH THE APPEAL IS TAKEN FOR BUILDING IN EXCESS OF THE MAXIMUM HEIGHT ALLOWED IS 3 CENTRAL AVENUE, DEMAREST, NJ 07627, ALSO KNOWN AS BLOCK 65, LOT 140.

PLEASE TAKE NOTICE that the Planning Board / Zoning Board of Adjustment of the Borough of Demarest will hold a public hearing on **WEDNESDAY, AUGUST 5, 2026, AT 7:00PM**, at the Demarest Borough Hall, 118 Serpentine Road, Demarest, New Jersey, to hear and determine the merits of Appellant's appeal from the Zoning Officer's determinations and actions relating to the issuance and continued validity of the permits for 3 Central Avenue. The appeal challenges the approval of a new home in the R-D zone on the grounds that the permits were issued in error because the approved plans permitted a roof/peak height in excess of the thirty (30) foot maximum height applicable in the R-D zone, including a peak height of approximately thirty-five (35) feet, based on an erroneous "average building height" or "average roof height" methodology. Appellant contends that operative Ordinance No. 1025-15 did not amend the R-D zone height restriction, that the ordinance amended average building height only for the Residence A, Residence BB and Residence B zones, and that the November 7, 2025 Joint Planning Board vote merely reconfirmed that R-C and R-D building height is measured from average natural grade to the peak of the building. Appellant seeks relief including, without limitation, a determination that the permits were issued in error; revocation, suspension, modification, or correction of the permits; a direction that the structure be brought into compliance with the applicable thirty (30) foot maximum height limitation; a direction that no certificate of occupancy issue unless and until the height violation is corrected or all required variance relief is obtained; and such other relief as the Board deems just and proper.

THIS NOTICE is given in accordance with the requirements of New Jersey Law and is also published, as required by law. During the public hearing, any interested party will have an opportunity to ask questions or provide comments. The appeal, permits in question, surveys and elevations, letter brief, exhibits, Ordinance No. 1025-15, the November 7, 2025 Joint Planning Board minutes, and related materials will be available for inspection at least ten (10) days prior to the aforesaid meeting and may be inspected in the office of the Secretary of the Joint Planning Board in the Borough of Demarest Municipal Building, 118 Serpentine Road, Demarest, New Jersey 07627 between the hours of 8:00a.m. and 4:00p.m. Monday through Thursday and 8:00a.m.-12:30p.m. on Fridays. Appellant: Scott Lavin, Tel. (215) 432-6839.

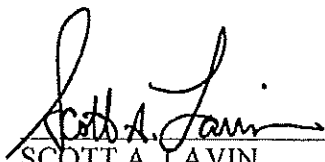
BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT Q

Hearing Date: August 5, 2026

Certification of Service

I certify that a true and correct copy of this letter brief, together with the exhibits referenced herein, including the November 7, 2025 Joint Planning Board minutes attached as Exhibit I and Ordinance No. 1025-15 attached as Exhibit J, was served upon the Borough of Demarest Joint Planning Board / Zoning Board of Adjustment and upon all owners of record of property located within two hundred (200) feet of 3 Central Avenue, Demarest, New Jersey, as identified on the certified property owner list attached as Exhibit L, by hand delivery on July 22, being not less than ten (10) days prior to the scheduled hearing date of AUGUST 5, 2026. I further certify that notice of the hearing will be, or was published in the Bergen Record on or about July 24, 2026, as reflected in the affidavit of publication attached as Exhibit M – to be assigned, in accordance with N.J.S.A. 40:55D-12.


SCOTT A. LAVIN

BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT R

Hearing Date: August 5, 2026

Lavin, Scott A.

From: North Jersey Legals <BERlegals@usatodayco.com>
Sent: Tuesday, July 21, 2026 9:35 PM
To: Lavin, Scott A.
Subject: [EXT] Thank you for placing your order with us.

THANK YOU for your ad submission!

This is your confirmation that your order has been submitted to publish in the Public Notice/Classified section of the paper. Below are the details of your transaction. Please save this confirmation for your records.

We appreciate you using our online self-service ads portal, available 24/7. Please continue to visit northjersey.com's online Classifieds [HERE](#) to place your legal notices in the future.

Deadlines vary by publication, changes and/or cancellations may not be honored due to deadline restrictions.

Job Details

Order Number:
LNYS0562183
Classification:
Public Notices
Package:
General Package North Jersey
Additional Options:
1 Affidavit \$30.00
Total payment:
\$81.48
Payment Type:
Mastercard

Account Details

SCOTT LAVIN
40 LINCOLN STREET
Demarest, NJ 07627
215-432-6839
slavin@foxrothschild.com
Credit Card - Mastercard *****8220

Schedule for ad number LNYS05621830

Fri Jul 24, 2026
northjersey.com
All Zones
Sat Jul 25, 2026
Bergen Record and Herald News
All Zones

BOROUGH OF DEMAREST JOINT
PLANNING BOARD - NOTICE OF
PUBLIC HEARING

NOTICE OF HEARING REGARD-
ING THE APPEAL FILED BY SCOTT
LAVIN ("APPELLANT") RELATING TO
THE ISSUANCE AND CONTINUED
VALIDITY OF ZONING PERMIT NO.
Z-25-0032 AND CONSTRUCTION
PERMIT NO. 2025-0109 FOR THE
CONSTRUCTION OF A NEW HOME
LOCATED IN THE "R-D" ZONE OF
THE BOROUGH OF DEMAREST. THE
SUBJECT PREMISES ON WHICH THE
APPEAL IS TAKEN FOR BUILDING IN
EXCESS OF THE MAXIMUM HEIGHT
ALLOWED IS 3 CENTRAL AVENUE,
DEMAREST, NJ 07627, ALSO KNOWN
AS BLOCK 65, LOT 140.

PLEASE TAKE NOTICE that the
Planning Board / Zoning Board
of Adjustment of the Borough of
Demarest will hold a public hearing
on WEDNESDAY, AUGUST 6, 2026,
AT 7:00PM, at the Demarest
Borough Hall, 118 Serpentine Road,
Demarest, New Jersey, to hear and
determine the merits of Appellant's
appeal from the Zoning Officer's
determinations and actions relat-
ing to the issuance and continued
validity of the permits for 3 Central
Avenue. The appeal challenges
the approval of a new home in
the R-D zone on the grounds that
the permits were issued in error
because the approved plans permit-
ted a roof/peak height in excess of
the thirty (30) foot maximum height
applicable in the R-D zone, includ-
ing a peak height of approximately
thirty-five (35) feet, based on an
erroneous "average building height"
or "average roof height" method-
ology. Appellant contends that
operative Ordinance No. 1025-15
did not amend the R-D zone height
restriction, that the ordinance
amended average building height
only for the Residence A, Residence
BB and Residence B zones, and that
the November 7, 2025 Joint Plan-
ning Board vote merely reconfirmed
that R-C and R-D building height
is measured from average natural
grade to the peak of the building.
Appellant seeks relief including,
without limitation, a determina-
tion that the permits were issued
in error; revocation, suspension,
modification, or correction of the
permits; a direction that the struc-
ture be brought into compliance
with the applicable thirty (30) foot
maximum height limitation; a direc-
tion that no certificate of occupancy
issue unless and until the height
violation is corrected or all required
variance relief is obtained; and such
other relief as the Board deems just
and proper.

THIS NOTICE is given in accordance
with the requirements of New
Jersey Law and is also published, as
required by law. During the public
hearing, any interested party will
have an opportunity to ask ques-
tions or provide comments. The
appeal, permits in question, surveys
and elevations, letter brief, exhibits,
Ordinance No. 1025-15, the Novem-
ber 7, 2025 Joint Planning Board
minutes, and related materials will
be available for inspection at least
ten (10) days prior to the aforesaid
meeting and may be inspected in
the office of the Secretary of the
Joint Planning Board in the Borough
of Demarest Municipal Building, 118
Serpentine Road, Demarest, New
Jersey 07627 between the hours
of 8:00a.m. and 4:00p.m. Monday
through Thursday and 8:00a.m.-
12:30p.m. on Fridays. Appellant:
Scott Lavin, Tel. (215) 432-6839.
Publication Dates

LNYS0562183

§

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

RESOLUTION JPB-016-25

**REQUEST FOR INTERPRETATION
N.J.S.A. 40:55d-70(b)**

Request for Interpretation
Maximum Building Height

WHEREAS, at the public hearing on October 15, 2025, Chair Woods requested the Joint Planning Board of the Borough of Demarest (the "Board") make an Interpretation regarding building heights arising from reoccurring issues within the Borough Zoning Ordinance that has resulted in inconsistent interpretations and enforcement in the Borough of Demarest (the "Borough") concerning building heights; and

WHEREAS, the Board is empowered pursuant to N.J.S.A. 40:55D-70(b) to "[h]ear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;" and

WHEREAS, the Chair Woods requested the Board interpret the following questions: a) did Ordinance 1025-15 change the height restrictions in all zones or just Zones A, BB and B?; b) are Zones C and D subject to 24'/30' height restrictions?; c) how is height measured – to the "highest point of the roof" or using the "average mean height"?; and d) what are the flat roof restrictions in the Zones A, BB, B, C and D?; and

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

WHEREAS, the Board conducted a public hearing on November 5, 2025 in accordance with the Municipal Land Use Law ("MLUL") and the Open Public Meetings Act; and

WHEREAS, at the public hearing the Zoning Officer appeared and presented testimony and evidence regarding various and inconsistent interpretations and enforcement in the Borough regarding building height and the Board took testimony and evidence into the record as set forth herein; and

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

- A. Documents submitted by the Chair Woods to the Board on October 19, 2025, including the September 2005 Limiting Schedule, August 22, 2002 Amendment to the Zoning Ordinance (the "2002 Ordinance"), Ordinance 1025-15 adopted June 22, 2015 (the "2015 Ordinance") and August 2021 Limiting Schedule; and
- B. Testimony of the Board Planner regarding the history of building height ordinances, the intent of building height ordinances to regulate the scale and massing of development in various zones and inconsistencies in the Borough Code regarding height calculations; and

WHEREAS, the Board, during the course of the hearing, discussed the history and intent regarding the 2022 Ordinance, the 2015 Ordinance, the September 2005 Limiting Schedule and the August 2021 Limiting Schedule; and

WHEREAS, the Board, during the course of the hearing, considered the definition of Height of Building in Section 175-27B. of the Borough Code, which is:

The vertical distance measured from the average natural grade all around the building to the highest point of the roof; and

WHEREAS, the Board, during the course of the hearing, also considered the definition of Average Natural Grade in Section 175-27B. of the Borough Code, which is:

An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting the lowest elevation; and

WHEREAS, the August 2021 Limiting Schedule has led to contradictory and inconsistent applications and confusion in the Borough regarding how building height is calculated and the maximum building height in Zones A, BB, B, C and D and is open to interpretation; and

WHEREAS, the Board, having heard and considered the testimony, arguments and documents referenced above, makes the following findings of fact:

1. The Board has elected to exercise its jurisdiction under N.J.S.A. 40:55D-70(b);
and
2. The public was invited to speak after testimony was given and Noelle Tutunjian, Diane Rothman and Michael Petermann, all residents of the Borough of Demarest, asked questions and wished to be heard concerning inconsistencies in how the Zoning Code has been interpreted regarding building height.

CONCLUSIONS AND DETERMINATIONS

NOW, THEREFORE, BE IT RESOLVED that the Board of the Borough of Demarest makes the following conclusion of law with respect to the within Request for Interpretation:

1. The Above "WHEREAS" clauses are incorporated herein as if set forth at length.
2. The Board finds that the 2021 Limiting Schedule is inconsistent on its face and did not accurately reflect the amendments made by the 2015 Ordinance with respect to maximum building heights.
3. The Board finds that the intent of the 2015 Ordinance was that the use of average height, as opposed to maximum height, be applied only to Zones A, B and BB.
4. Therefore, the Board finds that the maximum average building height is 33 feet in Zone A and 30 feet in Zones B and BB and in Zones A, B and BB is measured by the Average Natural Grade all around the building to average height of the roof.

5. The Board finds that the intent of the 2015 Ordinance to increase the maximum height for flat roofs to 30 feet be applied only to Zones A, B and BB.
6. The Board finds that the 2015 Ordinance explicitly stated that Zones C and D remain unchanged.
7. Therefore, the Board finds that the maximum building height in Zones C and D is 30 feet and is measured by the Average Natural Grade all around the building to the highest point of the roof.
8. The Board further finds that the maximum building height for flat roofs in Zones C and D is 24 feet.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Planning Board of the Borough of Demarest upon a roll call vote at its regular meeting held on December 3, 2025.

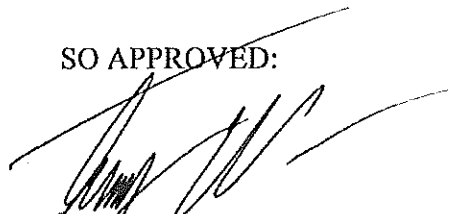
A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:



MICHAEL GRECO, Secretary

SO APPROVED:



TIMOTHY WOODS, Chairman

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTE REGARDING INTERPRETATION

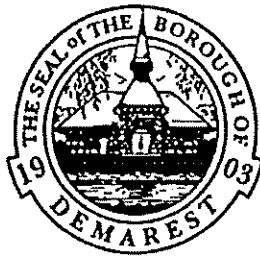
BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
Mr. Adelman	☐	☐	☐	☐	☐	✓	☐
Mr. Alevrontas	☐	☐	✓	☐	☐	☐	☐
Vice Chair Brenner	☐	☐	✓	☐	☐	☐	☐
Ms. Chin	☐	☐	☐	☐	☐	✓	☐
Ms. DiSclafani	☐	☐	✓	☐	☐	☐	☐
Councilwoman Fox	✓	☐	✓	☐	☐	☐	☐
Ms. Hamilton	☐	☐	✓	☐	☐	☐	☐
Ms. Mamdani	☐	☐	✓	☐	☐	☐	☐
Mayor Bernstein	☐	✓	✓	☐	☐	☐	☐
Chair Woods	☐	☐	✓	☐	☐	☐	☐

Date of Approval: November 5, 2025

VOTE TO APPROVE THE RESOLUTION

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
Mr. Adelman							✓
Mr. Alevrontas	☐	✓	✓	☐	☐	☐	☐
Vice Chair Brenner	☐	☐	✓	☐	☐	☐	☐
Ms. Chin							✓
Ms. DiSclafani	☐	☐	✓	☐	☐	☐	☐
Councilwoman Fox	☐	☐	☐	☐	☐	☐	☐
Ms. Hamilton	☐	☐	✓	☐	☐	☐	☐
Ms. Mamdani	☐	☐	✓	☐	☐	☐	☐
Mayor Bernstein	✓	☐	✓	☐	☐	☐	☐
Chair Woods	☐	☐	✓	☐	☐	☐	☐

Date of Adoption: December 3, 2025



**Borough of Demarest
Joint Planning Board Regular Meeting
MINUTES**

November 7, 2025**7:30 PM****DEMAREST BOROUGH HALL**

The Borough of Demarest Planning Board held a special meeting on WEDNESDAY, NOVEMBER 7, 2025, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chair Woods.

FLAG SALUTE

The Board was led in a salute to the flag by Chair Woods.

ROLL CALL

MEMBERS PRESENT: Theodore Alevrontas, Mayor Brian Bernstein, Jodi Brenner, Camile DiSciafani, Councilwoman Daryl Fox, Mary Hamilton, Fatemah Mamdani, Chair Woods

MEMBER(S) ABSENT: Todd Adelman, Kiran Chin

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

CLOSED SESSION

Ms. Federico state that the board is in receipt of a letter for John Lamb's office dated November 14, 2025, concerning a potential litigation, and requested to enter a closed session to discuss.

A motion was made to enter a closed session for the purpose of discussing a potential litigation by Mayor Bernstein and was seconded by Councilwoman Fox.

Chair Woods recused himself from the Closed Session due to his proximity to the property related to this matter.

The board entered a closed at 7:32 pm.

A motion was made to end closed session and return to open session by Mayor Bernstein and was seconded by Councilwoman Fox.

The board returned to open session at 7:42 pm.

RESOLUTIONS

Resolution JPB-014-25 – JPB-25-005 – 93 Pine Terrace – Jason Lieberman

Councilwoman Fox asked for clarification on the conditions in the resolution, stating that she saw some new clauses which seemed too strict for a fence application.

Ms. Federico explained that the new clauses were added in, on the last resolution and are standard clauses to protect the Borough and for the sake of consistency across resolutions, they would be in all resolutions moving forward.

A motion was made to approve resolution JPB-014-25 for the Joint Planning Board Application JPB-25-005, requesting variances related to the construction of a fence in a front yard by Vice Chair Brenner, and was seconded by Mr. Alevrontas

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	<i>Absent</i>	Mr. Alevrontas:	<i>Yes</i>	Mayor Bernstein:	<i>Yes</i>
Vice Chair Brenner:	<i>Yes</i>	Ms. Chin:	<i>Absent</i>	Ms. DiSclafani:	<i>Yes</i>
Councilwoman Fox:	<i>No</i>	Ms. Mamdani:	<i>Yes</i>	Chair Woods:	<i>Yes</i>
Mrs. Hamilton:	<i>Yes</i>				

Motion passed

NEW/CONTINUING APPLICATIONS

JPB-25-007 – 32 Brookside Avenue – Patrick Min

Mr. Greco stated that the applicant requested to adjourn to the next meeting, due to an inability to get the necessary documents for the board. Mr. Greco stated that the applicant has given the board an extension of time to act.

Ms. Federico stated that application JPB-25-007, for the property known as 32 Brookside Avenue would be carried to the December 3, 2025, meeting without further notice.

MASTER PLAN CONSISTENCY REVIEW

Ordinance 1170-25 Ordinance of the Borough of Demarest Adopting the Amended Redevelopment Plan produced by Colliers Engineering (formerly Maser Consulting) on behalf of the Borough of Demarest

Ms. Green explained to the board that the ordinance before the board is an amendment to the Borough's Downtown Redevelopment plan. She went on to explain that the last ordinance before the board was a change to the borough's set-aside requirements, and that with the changes in redevelopment with the current round, all affordable housing when triggered will be required to provide a 20% set-aside. In addition, it alters the duration of the deed restrictions, and the text has been amended to say that they have to be consistent with the uniform housing and affordable controls. This change is to make the redevelopment plan consistent with the master plan and the fair share and housing plan. She stated that the ordinance is not inconsistent with the 2025 fair share and housing plan and the board should act favorably on this ordinance.

A motion was made to approve resolution JPB-015-25 as consistent with the intent and purpose of the master plan by Councilwoman Fox, and seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	<i>Absent</i>	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	<i>Absent</i>	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

REQUEST FOR INTERPRETATION

Maximum Building Height – Chair Woods – The definition of building height, and how it is being used in zoning approvals.

Chair Woods presented that he was bringing to the board a request to discuss the required height for certain zones in the borough. He explained that the code once differentiated the definition of height measurement between the zones, where R-A, R-BB & R-B were measured to the mean roof height, but the R-C & R-D zones were measured to the peak. There was an ordinance adopted that changed the heights in the 3 zones to be higher and stated that it did not affect the 2 zones to the peak. Some time after that the limiting schedule was changed and did not differentiate between zones and claimed all height is measured to the mean roof height. The definition in the code for building height is not consistent with this, and they are in conflict.

Mr. Greco explained that as the zoning officer he went through the ordinance and that the most recent change to the code is the limiting schedule which shows all zones as to the average height of the roof. He agreed that the code is inconsistent and that he encourages the board to discuss the intent of the code to set the record.

Chair Woods stated that he was at the meeting when the ordinance was approved and that he knows that the intent was a change only meant for A, BB & B which are the larger zones in town, but that the C&D zones should remain as they are smaller lots and can not handle the bulk of the taller buildings.

Councilwoman Fox stated that she was also there and agrees with the intent stated by Chair Woods.

Ms. Green stated that she agrees that the ordinance is inconsistent in their decision, and that the ordinance makes Demarest unique in that she has never seen a town that measures roof height differently across different zones. She and the engineer agreed that the roof height would be easier measured to the peak in all zones, but that requires a change in the zoning code by ordinance. She stated that looking at the code, in addition that the board should set a maximum on stories of a building, as a 30 ft. tall building could easily have 3 floors, and that a roof measured to the mean, could get as high as 8 ft. above this and could feasibly have a fourth floor, which she does not think was ever the intention of the Borough.

Chair Woods also talked about flat rooves, and that once the code had limitations on these roof styles, but now it seems to have disappeared from the code. He explained that the old ordinance limited flat rooves in the C&D zones to 24 feet, but that the A, BB & B zones would have flat roofs up to 30 ft. and this did not translate into the limiting schedule correctly.

Councilwoman Fox stated that the limiting schedule shows clearly that flat rooves are limited to 30 ft. in all zones. Chair Woods pointed to the ordinance which said that in all other respects the ordinance should not be changed, meaning that the ordinance was only meant for the A, BB & B zones.

A motion was made to open the meeting to the public by Councilwoman Fox and seconded by Mayor Bernstein. All in favor – Motion passed.

Noelle Tutunjian, 8 John Street, was sworn in by Ms. Federico, and requested clarification on whether these changes would impact future or prior applications.

Ms. Tutunjian asked why the limiting schedule would be used over the code, and Mr. Greco explained that the limiting schedule is the primary method of determining bulk criteria and is not a “cheat sheet” but that when an inconsistency exists in the code, the most recent update would be the guiding factor.

Ms. Federico explained that the purpose of the interpretation is to determine the intent behind the mayor and council’s decision, and if it is determined that the intent is not accomplished, then the board has the power to set the record clear and give guidance on how to utilize the ordinance.

The board and Ms. Federico explained that this interpretation would affect future applications but would not affect applications which have already been approved. Ms. Federico also explained that over time there has been different views from past and current, boards, zoning officers, builders and professionals over the meaning behind the code, and that is why interpretation is important to set the record moving forward.

Councilwoman Fox asked if the board finds in favor of the interpretation, does the mayor and council need to change the limiting schedule. Ms. Federico explained that the interpretation can be relied on when making decision, and that a change would not be necessary, unless the board finds that the limiting schedule is correct and needs to be changed to alter the rule. The board discussed whether a change to the limiting schedule was necessary or should be done either way. The decision was that it should be changed to match the interpretation and should go before the mayor and council to do that.

Diane Rothman, who was sworn in by Ms. Federico, stated that she is a realtor and asked if a prior approval exists for a property that is changing owners. Ms. Federico explained that when a zone changes, approvals run with the land but that all approvals have expirations based on the type of approval, and so it is not guaranteed if no work commenced.

Michael Peterman, 15 Central Avenue, was sworn in by Ms. Federico, stated that he is living next door to a construction site and that he is a licensed architect. Mr. Peterman stated that the massing of the home next to him is out of control, and that he believes the height and size of the building is bad. He stated his opposition to a construction in town and that it is a problem.

Ms. Federico explained that the interpretation of the ordinance does not require public portion and does not connect to a specific application, but the board is inviting the public to comment on height of buildings only now, and asked that other comments be saved for the zoning ordinance discussion.

Mr. Peterman stated that the height is too high.

A motion was made to close the meeting to the public by Mayor Bernstein and seconded by Mr. Alevrontas. All in favor – Motion passed.

Mr. Greco explained that he can’t seem to find an ordinance that approved the new limiting schedule in the prior ordinances. Ms. Federico stated that the publication date on the limiting schedule may not be the ordinance but instead is when it was changed.

Mayor Bernstein asked for clarification on the specific section of the limiting schedule which calls to the height of buildings. Mr. Greco read "Note D" of the limiting schedule.

A motion was made to approve the interpretation of the height of a building in the R-C & R-D zone would be from the average natural grade to the peak of the building, and that flat roofs in the same ones have a maximum of 24 feet and that the changes in the 2015 ordinance was meant only for the R-A, R-B & R-BB zones.. The motion was seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	<i>Absent</i>	Mr. Alevrontas:	<i>Yes</i>	Mayor Bernstein:	<i>Yes</i>
Vice Chair Brenner:	<i>Yes</i>	Ms. Chin:	<i>Absent</i>	Ms. DiSclafani:	<i>Yes</i>
Councilwoman Fox:	<i>Yes</i>	Ms. Mamdani:	<i>Yes</i>	Chair Woods:	<i>Yes</i>
Mrs. Hamilton:	<i>Yes</i>				

Motion passed

The board and Ms. Federico clarified their motion to the Zoning Officer and the Planner for all pending applications.

DISCUSSION ON BOARD MATTERS – NEW/OLD BUSINESS

2026 Meeting Dates

Mr. Greco explained that he is trying to schedule a number of future applications and it would help him if the board could set a schedule for 2026, subject to confirmation by the 2026 Joint Planning Board, so that he could set dates for the future applications.

The board discussed the proposed dates and made some changes.

A motion was made to approve the amended 2026 meeting dates, subject to the approval of the 2026 Joint Planning Board by Councilwoman Fox and seconded by Mayor Bernstein.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	<i>Absent</i>	Mr. Alevrontas:	<i>Yes</i>	Mayor Bernstein:	<i>Yes</i>
Vice Chair Brenner:	<i>Yes</i>	Ms. Chin:	<i>Absent</i>	Ms. DiSclafani:	<i>Yes</i>
Councilwoman Fox:	<i>Yes</i>	Ms. Mamdani:	<i>Yes</i>	Chair Woods:	<i>Yes</i>
Mrs. Hamilton:	<i>Yes</i>				

Motion passed

Zoning Ordinance Discussion

Chair Woods requested that the board begin the zoning ordinance discussion by opening the meeting to hear the public's input before the board discussion.

A motion was made to open the meeting to the public for comments by Mayor Bernstein and seconded by Councilwoman Fox.

All in favor – Motion passed.

Diane Rothman was confirmed still sworn in by Ms. Federico. Ms. Rothman made some comments on the problems that construction is creating in the neighborhood, especially in regard to sidewalks and the public's ability to utilize the Borough's right-of-way.

Ms. Federico explained that this is not a zoning issue, but there are rules in place in property maintenance for maintaining sidewalks.

Michael Peterman was confirmed still sworn in by Ms. Federico.

Mr. Peterman stated some concerns about a property on his block. Chair Woods recused himself on this discussion due to his proximity. The property he expressed concern over is 3 Central Avenue. He explained that the new building would create a drainage issue. Councilwoman Fox explained that when there is new construction there are drainage standards that must be met if they are built according to the approved plans. Ms. Federico explained that we are not here to discuss individual properties so much as suggestions for the zoning ordinance. She asked Mr. Peterman if he has specific concerns or recommendations for the zoning ordinance.

Mayor Bernstein asked if there is a condition that he has observed that if we could change the zoning ordinance to mitigate these concerns.

Mr. Peterman stated that he believes the code is not clear on storm water requirements.

Mr. Greco asked the attorney if regrading can be controlled by the zoning ordinance. Ms. Green explained that regrading is handled in engineering through a soil moving permit, which Mr. Greco stated that Demarest has.

The board discussed storm water and how it relates to the zoning ordinance.

A motion to close the meeting to the public was made by Mayor Bernstein. Seconded by Mr. Alevrontas.
All in Favor – Motion Passed

Councilwoman Fox explained that she created a summary of the changes from the original code to the new code, as well as broke down some of the functions in the code and how it works. She highlighted the inconsistencies in the definitions and how to move forward with them.

Chair Woods asked Mr. Greco to explain the districts.

Mr. Greco explained the different zones in town and how the ordinance interacts with those zones. He explained that the town is mostly Residence Zones, with a few multi-family zones, which are set for specific developments as a part of settlements. He also explained the other districts but pointed the board to focus on the Residence zones which is the bulk of the town. He explained that those zones are governed by the limiting schedule which sets the bulk requirements, and that this is the most important piece of discussion. He further pushed the zone to mostly review the R-C and R-D zones as they are where all the variances are.

Chair Woods directed the board to the recommendations submitted by the zoning officer and asked the board if they had any questions or concerns to raise.

Mr. Greco suggested that the board start by discussing F.A.R. (Livable Floor Area), and that his main suggestion was to include garages in the F.A.R. calculation.

Councilwoman Fox suggested that if this is done, then they should increase the F.A.R. number.

Mr. Greco also explained that a recommendation was made to create rules that offer bonuses to F.A.R. based on certain criteria the borough can encourage, e deferred to the Board's Planner on the language.

Chair Woods stated that his view is that the public is concerned with the massing of the buildings and that they are being built too large. He asked the board what they want.

Councilwoman Fox stated that there is a balance between regulating size and not limiting people's ability to build a house worth it to them.

Vice Chair Brenner asked if these are homes with variances built to big, and Mr. Greco stated that they are built as of right by the ordinance.

Mayor Bernstein suggested that the board focus more on the intention first for Livable Floor Area verses F.A.R.. He brought up these homes that build an accessory building and it is being built a foot from the house and escaping the rules of the principal building and circumventing the F.A.R..

Mr. Greco explained that he put in language to say that if an accessory building is built too close to the principal building it becomes part of the principal building.

Chair Woods aske the Board Planner for her thoughts.

Ms. Green explained that a lot of towns don't even have an F.A.R. and that they focus more on coverage numbers and setbacks as well as height to lessen the scale of buildings. Some towns even differentiate from principal building coverage and total building coverage.

The board discussed the use of F.A.R. in the town and how to best use all the different bulk requirements to help reduce the size of buildings fairly with the planner.

The board also discussed the use of a combined side yard setback for further limiting scale.

Mr. Greco explained that the problem with removing F.A.R. leads to developers building tall boxy buildings to maximize their space within the building.

The board agreed to maintain that a basement which is 70% below grade does not need to be included in F.A.R..

The board discussed coverage limitations with the planner, who told the board that some of her towns have a front yard coverage allowance, and the rear yard coverage allowance to encourage more structures in the rear yard.

Mr. Greco showed the board a table which breaks down the accessories a property could have and how he has come up with suggestions for rules governing accessories differently based on type. He explained that the current ordinance has a single rule for all accessories of 10 feet from the side lot line and 10 feet from the rear lot line and only allowed in the rear yard. He stated that he believes that different structures and buildings should have different standards.

The board discussed the rules of the accessories with Mr. Greco and asked questions.

The board discussed how they would move forward with their review of the code, and that as they discuss the secretary can make notes on the things they agree on, and then once everything is compiled it can be voted on as a recommendation to the Mayor and Council.

The board asked if there was a way to compile information on other towns and see how Demarest compares with similar towns.

Councilwoman Fox pointed out that on the chart Mr. Greco made he breaks down the coverage types to make it easier for residents to know where different things fall and that this is important and helpful to residents.

Ms. Green explained that towns who have F.A.R. are usually responding to larger homes being built, and towns who don't use F.A.R. most likely have never experienced these problems. Why they have not experienced the same problem is speculation.

The board discussed the reason for the rewrite and that step one is to create a well written ordinance which fixes the inconsistencies, and fixing the scale is secondary to this, but since the ordinance is being altered it is good to address it now while the process happens. They brought up the importance of balancing regulations against the homeowner's ability to improve their properties.

The board discussed the use of a number as opposed to percentage.

Ms. Green explained that she has a town that uses a fraction which increases the side yard requirements based on the size of the lot if it is larger than the required lot for the zone.

Mayor Bernstein asked a question about swimming pools in the new ordinance and suggested that a pool should not be too close to any buildings on the lot. Chair Woods agreed that pools are a more intense use and should have more restrictions than other structures.

The board discussed the difference between structures and how intense the rules should be on a structure like a walkway. Mr. Greco explained that everything is a structure, but that they do not need rules for setbacks of lesser structures.

Chair Woods asked for clarification on his section about decks, patios and pools. Mr. Greco provided clarification on the location of front, rear and side yards. Then explained how in some unique scenarios where a building is built in an odd shape the location of certain structures needs special rules to make them okay in those areas.

Ms. Green asked about a rule in the chart about accessory building height in relation to the principal building.

The board decided to table this discussion and continue at the next meeting.

Chair woods discussed with the board a possible future holiday party for this year.

APPROVAL OF MINUTES

A motion was made to approve the regular meeting minutes of September 3, 2025, by Councilwoman Fox and was seconded by Mr. Alevrontas.

On a roll call, the vote was recorded as follows *n/e = not eligible*

Board Member	Vote	Board Member	Vote	Board Member	Vote
Mr. Adelman	<i>Absent</i>	Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes
Vice Chair Brenner:	Yes	Ms. Chin:	<i>Absent</i>	Ms. DiSclafani:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Chair Woods:	Yes
Mrs. Hamilton:	Yes				

Motion passed

ADJOURNMENT

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

All in Favor – Motion Passed

The meeting was adjourned at 10:03 PM.

Respectfully Submitted,

Michael Greco, Joint Planning Board Secretary

ZONING

175 Attachment 1

Borough of Demarest

Limiting Schedule, District

[Amended 4-17-1989 by Ord. No. 662; 4-15-1996 by Ord. No. 774; 8-20-2001 by Ord. No. 840; 6-22-2015 by Ord. No. 1025; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

District	Minimum Lot Dimensions ^a				Minimum Yard Dimensions ^a				Bulk							
	Frontage (feet)	Depth (feet)	Area (square feet)	Front Yard Setback (feet)	Side Yard Width		Rear Yard		Maximum Number of Families per Building	Maximum Building Coverage ¹	Maximum Height of Building ^b		Maximum Livable Floor Area ^c		Maximum Improved Lot Coverage ²	Maximum Residential and Parking Coverage ³
					Abutting a Street (feet)	Abutting a Lot (feet)	Depth (feet)	Width (feet)			Stories	Feet	1- story	2- story		
Residential (R-A)	200	200	40,000	50 ^a	50	25	50	A	1	15%	—	33	22.5%	—	30%	25%
Residential (R-BB)	150	150	30,000	50 ^a	50	25	50	A	1	15%	—	30	22.5%	—	30%	25%
Residential (R-B)	150	150	22,500	50 ^b	50	20	40	A	1	15%	—	30	22.5%	—	30%	25%
Residential (R-C)	100	100	15,000	35 ^b	35	15	30	A	1	20%	—	24/30	30%	—	30%	25%
Residential (R-D)	100	100	10,000	25 ^a	25	10	30	A	1	20%	—	24/30	30%	—	30%	25%
Residential Multifamily (R- MF) ⁴	See Note 4 below															
See Note G below																
Golf Course (G) ^c	See Note G below															
Golf Course (G) ⁱⁱ Single-Family Residence	200	200	40,000	50 ^b	50	25	50	A	1	15%	—	33	22.5%	—	30%	25%
Community Business I (CB-I)				—	—	15 ^c	30	—	None	50%	2	30	None	90%	—	—

NOTES:

^a 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.

^b On all streets other than Knickerbocker Road, Hardinburg 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. [Amended 4-15-1996 by Ord. No. 774]

^c In the Business District, side yard width is required if access to off-street parking and/or loading and unloading facilities in the rear is provided and if transition at district boundary. [Amended 4-17-1989 by Ord. No. 662]

^d 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. [Added 8-22-2002 by Ord. No. 862; amended 6-22-2015 by Ord. No. 1025]

^e In all districts and in connection with all brooks and streams, a mandatory open space, unencumbered by any building or structure, shall be maintained as follows: bordering Tenakill Brook, no footing or foundation of any building or structure shall be closer than 50 feet to the top of the bank of the stream; bordering all other brooks and streams, no footing or foundation of any building or structure shall be closer than 25 feet to the top of the bank of the stream. These minimum open space setbacks may be expanded as a result of applications to the New Jersey Department of Environmental Protection for stream encroachment permits. Said permit applications shall be required when the tributary drainage area for the brook or stream exceeds 50 acres. [Amended 4-15-1996 by Ord. No. 774]

^f Maximum livable floor area (as defined at § 175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed. [Added 4-17-1989 by Ord. No. 662]

^g See § 175-25.1, Golf courses. [Added 8-20-2001 by Ord. No. 840]

^h See § 175-13.1, Permitted uses. [Added 8-20-2001 by Ord. No. 840]

¹ [Amended 4-17-1989 by Ord. No. 662; added 4-15-1996 by Ord. No. 774]

² For all residential uses, impervious surface is included within the improved lot coverage. For Community Business District (CB-I) impervious coverage is 90% maximum. [Added 4-15-1996 by Ord. No. 774; amended by 10-26-2020 by Ord. No. 1083-20]

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³ 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%. **Added 10-26-2020 by Ord. No. 1083-20]**

⁴ Zone R-MF (Residential Multifamily District) was created as a single lot "spot" zone by Ord. No. 1066-19, adopted 8-26-2019. See § 175-12.

⁵ The R-MF-2 Overlay District (Residential Multifamily 2 Overlay District) was created with Zone R-A by Ord. No. 1080-20, adopted 5-18-2020. See § 175-12.1.

Chapter 175 Zoning

New Laws			
Title	Adopted	Subject	Affects
New Zoning Code (Ord. 1180-26)	2026-05-11	Zoning Amendment	Ch 175
Zoning Amendment		Zoning Amendment	Ch 175

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-15-1985 by Ord. No. 596.11. Amendments noted where applicable.]

ATTACHMENTS
Attachment 1 - Limiting Schedule, District
Attachment 2 - Limiting Schedule, Conditional Uses
Attachment 3 - Roof Styles

Editor's Note: This ordinance also specifically repealed former Ch. 175, Zoning, adopted 12-21-1966 by Ord. No. 319, as amended.

- ☐ Article I Short Title

☐ § 175-1 Title.
- ☐ Article II Establishment of Districts

☐ § 175-2 Districts enumerated.

☐ § 175-3 Zoning Map.

☐ § 175-4 Interpretation of boundaries.
- ☐ Article III Application of Regulations

- Part I: Administrative

Part II: General Legislation

Ch 60 Alarm Systems

Ch 62 Alcoholic Beverages

Ch 63 Architectural Contours

Ch 65 Backfilling

Ch 72 (Reserved)

Ch 73 Buildings, Numbering of

Ch 80 Buildings, Unfit

Ch 84 Construction Codes, Uniform

Ch 89 Dogs and Other Animals

Ch 95 (Reserved)

Ch 96 Filming, Motion-Picture and Television

Ch 99 Fire Prevention

Ch 100 Flood Hazard Control

Ch 101 Food Vending, Mobile

Ch 104 Handicapped Parking

Ch 107 Housing Standards

Ch 110 Insurance Claims Eligibility

Ch 113 Lighting

Ch 116 (Reserved)

Ch 118 Map, Official

Ch 122 Noise

Ch 125 Obstructions at Intersections

Ch 127 Outdoor Cafes

Ch 129 Parking Lots, Municipal

Ch 130 Parks and Playgrounds

Ch 132 Peddling and Soliciting

Ch 135 Property Maintenance

Ch 141 Sewers

Ch 143 (Reserved)

Ch 144 (Reserved)

Ch 147 Soil Removal

Ch 149 Stormwater Control

1998

Master Plan and Re-examination Reports

Documents

- | | | |
|--------------------------|---|---|
| ☐ |  | 2010 Third Round Substantive Cert |
| ☐ |  | 2020 Land Use Plan Element Amendment |
| ☐ |  | 2025 Housing Element & Fair Share Plan |
| ☐ |  | 2025 Housing Element & Fair Share Plan APPENDIX |
| ☐ |  | Demarest Limiting Schedule (Zoning Requirements) |
| ☐ |  | Downtown Area in Need of Redevelopment Study - ADOPTED |
| ☐ |  | Downtown Redevelopment Plan July 25, 2021 |
| ☐ |  | Housing Element & Fair Share Plan |
| ☐ |  | Site Plan Application |
| ☐ |  | Subdivision Application |
| ☐ |  | Variance Application |

