

**RESOLUTION  
ZONING BOARD OF ADJUSTMENT  
BOROUGH OF DEMAREST**

FILE NO. 809.21

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IN THE MATTER OF THE APPLICATION OF:

STUART ENTNER FOR VARIANCES RELATING  
TO BLOCK 144; LOT 4 ALSO KNOWN AS  
14 ERIC PLACE, DEMAREST, NEW JERSEY

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BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Demarest that the following Procedural History, Findings of Fact, Conclusions of Law and Conclusion/Determination be and are hereby adopted:

**PROCEDURAL HISTORY**

The within application was commenced by the filing of an application for variances, as follows:

Variance	Permitted	Existing	Sought	Deviation
Improved Lot Coverage	30%	41.42%	41.42%*	38%

**\*There is no change to the Improved Lot Coverage. The applicant is to maintain the existing variance with the installation of a swimming pool/patio.**

**FINDINGS OF FACT**

Public hearing was held on July 20, 2021 utilizing a digital meeting platform.

The following documents were considered by the Zoning Board in review of this matter:

1. Application for Variances;
2. Exhibit A-1, Survey prepared by Lakeland Surveying, dated August 20, 2020;
3. Exhibit A-2, Site Plan, prepared by L2A Land Design, dated October 26, 2020, revised through January 8, 2021.
4. Exhibit B-1, Correspondence dated February 3, 2021 prepared by Carl P. O'Brien, PE, Board Engineer.

The following witnesses appeared and offered sworn testimony on behalf of the Applicants:

1. Treavor Curtis, PE ("Curtis")

The subject property is located in the Residence Zone B within the municipality. The address of the Property is 14 Eric Place and is also designated as Block 144; Lot 4 on the Borough's Tax Assessment Map of the Borough (hereinafter, "the Property").

Curtis testified as to the existing conditions, the neighborhood and the proposed addition. He testified that the Property was a 100' x 150', interior lot, fully developed with a single family home. He testified that the Property contains 6,194 sf of Improved Lot Coverage. Pursuant to the Ordinance, 4,486 sf is permitted. Curtis testified that a substantial amount of what is currently counted as Improved Lot Coverage is actually made up of a "permeable paver system" that was permitted – apparently without basis in Borough Ordinance.

Curtis testified that the Applicant is seeking to construct a swimming pool and related improvements in the rear yard of the Property of 763 sf. In order to compensate for this additional 763 sf, the Applicant seeks to remove exactly 763 sf of existing Improved Lot Coverage. The Board Engineer has confirmed that the amount of additional Improved Lot Coverage and the amount of removed Improved Lot Coverage are equivalent. The testimony was clear that there was no "net" increase in Improved Lot Coverage.

#### **CONCLUSIONS OF LAW; RESOLUTION**

The application before the Board is to maintain the previously approved Improved Lot Coverage at 41.42% both before, and after, the construction of pool and patio improvements on the Property and the removal of existing Improved Lot Coverage on the Property. The Board takes no position on prior approvals that have resulted in 41.42% Improved Lot Coverage. However, the within Applicant does not seek to alter that amount.

The Applicant seeks the within amended to previously granted variances pursuant to NJSA 40:55d-70(c)(2). The Board found in its review that the variance was justified and should be granted for the reasons set forth herein in testimony offered by the witnesses. The Board found that the variance could be granted without any detrimental impact to the adjoining property owners or the zone plan and that the grant would not compromise the intent and purpose of the zoning ordinance. The Board found that the unique factors concerning all of the existing conditions served to eliminate any negative impact of the application. The Board notes there are no new or increased variances and from the perspective of the zoning schedule, the Property remains exactly the same both before and after the Application. The Board further found that there were no adverse impacts of the variance and that there was no detriment to the purposes of zoning and that light, air and open space was preserved while providing a desirable visual environment and providing sufficient zoning for a variety of uses.

The within approval is specifically conditioned on the following:

1. Applicant shall maintain all permeable pavers in accordance with manufacture's recommendations and manual and the direction of the Board or Borough Engineer.
2. Applicant shall extend the landscaping on the right side of the Property to a point beyond the Air Conditioning unit.

Motion was made by: Mr. McLain  
Motion was seconded by: Mr. Press

Roll Call to Approve:

Mr. Woods - absent  
Mr. Davis - no vote  
Mr. Corrado - no vote  
Mr. Morrison - yes

Mr. Park - no vote  
Mr. Press - yes  
Ms. Hayden - yes  
Mr. McLain - yes  
Mr. Adelman - yes

Accordingly, a majority of the Board voted to approve the application as presented.

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment at its meeting held on August 17, 2021

  
Marti Francis, Board Secretary