

**RESOLUTION**

**ZONING BOARD OF ADJUSTMENT  
BOROUGH OF DEMAREST**

**FILE NO. 799-20**

---

IN THE MATTER OF THE APPLICATION OF:

MARK AND LORRAINE GOODMAN FOR VARIANCES  
RELATING TO BLOCK 156; LOT 11 ALSO KNOWN  
AS 17 RODNEY PLACE, DEMAREST, NEW JERSEY

---

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:

<b>Variance</b>	<b>Permitted</b>	<b>Existing</b>	<b>Sought</b>	<b>Deviation</b>
Improved Lot Coverage	30% (5,062.5sf)	34% (5,737.5sf)	32.1%* (5,416.5sf)	7% (354.5sf)

\*Letter of Denial-32.5%; Maser Engineering Review-33.95%; Lantelme Engineering "As Built"-34%; Revised to 32.50%; Revised to 32.1% during Public Hearings

**FINDINGS OF FACT**

An initial Application in this matter was filed on February 19, 2020 and withdrawn. A subsequent Application was filed on April 30, 2020 ("the Application"). Both Applications were assigned Docket No. 799-20.

Public hearings on the within matter were scheduled as follows (collectively, the "Public Hearing" or "Hearings"):

July 21, 2020 - legal notice could not be done in a timely fashion and the matter was adjourned.

August 18, 2020 - Zoom details not included in the legal notice and the matter was adjourned.

September 15, 2020 - Applicant not prepared and the matter was adjourned.

October 20, 2020 - The matter was not reached on the agenda and adjourned.

November 17, 2020 – Applicant requested an adjournment seeking counsel.

January 19, 2021 – Applicant requested an adjournment seeking counsel.

February 17, 2021 – Applicant presented Application.

April 20, 2021 – Applicant adjourned Application.

May 18, 2021 – Applicant presented Application.

All Public hearings were held using the “Zoom” digital conferencing platform. During the course of Public Hearings, the Applicant was represented *pro se*; as well as by Daniel Steinhagen, Esq., and Ira Weiner, Esq., of the Law Firm of Beattie Padovano, LLC, (collectively, “Counsel”).

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

1. Application for Variances, dated April 30, 2020;
2. Exhibit A-1, As Built Survey, prepared by Lantelme, Kurens & Associates, dated November 30, 2018, revised through April 17, 2020 (33.9% Lot Coverage);
3. Exhibit A-2, As Built Survey, prepared by Lantelme, Kurens & Associates, dated November 30, 2018 (30% Lot Coverage);
4. Exhibit A-3, As Built Survey, prepared by Lantelme, Kurens & Associates, dated November 30, 2018, revised through October 2, 2020 (34% Lot Coverage);
5. Exhibit A-4, Site Plan, prepared by Lantelme, Kurens & Associates, dated October 24, 2017 (29.9% Lot Coverage);
6. Exhibit A-5, Drainage Calculations, prepared by Lantelme, Kurens & Associates, dated October 24, 2017, revised through October 3, 2020;
7. Exhibit A-6, Photographs of Existing Conditions;
8. Exhibit A-7, Landscape Plan
9. Exhibit B-1, Report of Maser Engineering, dated June 24, 2020;

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

1. Mark Goodman (“Goodman”);
2. Sean McClellan, PE (“McClellan”);
3. Carl O’Brien, PE (“O’Brien”).

1. The address of the Property is 17 Rodney Place and is also designated as Block 155; Lot 11 on the Borough’s Tax Assessment Map of the Borough (hereinafter, “the Property”). The Applicant was represented by Counsel who set forth the existing conditions and factual background related to the Property. It was noted that the subject property is located in the Residence Zone C within the municipality and contains 16,875 sf. As a result, Lot Coverage can occupy 5,062.5 sf of the Property.

2. It was indicated the Property was occupied and fully developed, with a two story, single family dwelling with a three car garage, covered porch and a paver driveway. The Property has two existing seepage pits and is located in Flood Hazard Zone X. The Applicant seeks to legitimize the prior construction of a 31.4' x 19.9'-30' patio (666 sf) which results in Lot Coverage of 34% where 30% is permitted. Counsel indicated this is the sole variance related to this Application. This is confirmed by the Board Engineer. (See, Exhibit B-1)
3. Upon completion of the home on the Property, As-Built plans indicate that Lot Coverage was conforming or less than 30%. (See, Exhibits A-2 and A-4) Prior to filing the Application, approximately 666 sf of non-permitted Lot Coverage was constructed on the Property in the form of a patio and various appurtenances. The result was Lot Coverage of approximately 34%. This figure is also, occasionally, referred to as 33.95% or similar.
4. McClellan testified as to the existing conditions and confirmed the information set forth above. During the course of testimony, the Applicant agreed to remove a portion of the patio (324 sf) resulting in a reduction in the "overage" of Lot Coverage to 342 sf and a total Lot Coverage of 32.1%.
5. McClellan testified that the patio was surrounded by a "Stormwater Perimeter Drain" and that the 2 existing seepage pits on the Property were sufficient for the proposed additional coverage and had sufficient excess capacity. This was confirmed by the Drainage Calculations, prepared by Lantelme, Kurens & Associates. (See Exhibit A-5)
6. McClellan testified as to the configuration of the Property and the existing home and improvements. He indicated that, while the Property is slightly oversized, it is relatively narrow (75') and deep (225'). As a result, the home was designed to have a garage and automobile court/driveway in front of the home. This configuration utilizes a significant amount of Lot Coverage for the footprint of the home and the garage as well as the driveway areas. McClellan testified that it is this design that creates the excessive Lot Coverage on the Property. He indicated that the patio, while constructed after the home, is only a portion of the excessive coverage on the Property. The root cause of this issue is a larger home, garage and driveway that utilizes all available Lot Coverage.
7. At the May meeting, the Applicant introduced the Landscape Plan prepared by Blossoming

Beginnings. A summary of the Plan was presented and a description as to the quantity and type of plantings was provided. The net result of the aforesaid plantings was to limit the impact of Lot Coverage in front of the home and lessen the overall impact of Lot Coverage.

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

- A. The application before the Board is for a patio and related improvements and landscaping in accordance with submitted plans except that total permitted coverage shall be no greater than 32.88%.
- B. The Applicant seeks these variances pursuant to both NJSA 40:55d-70(c)(1) and (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 the location of the existing improvements limited options to provide a reasonable use of the property and that the configuration of the Property and the nature of the improvements served to eliminate any negative impact of the variances. 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.
- C. The within approval is specifically conditioned on the following:
  - 1. Applicant shall provide drainage and retention to assure "0" additional runoff and otherwise comply with the recommendations of the Board Engineer.
  - 2. All improvements shall be in compliance with the reports of the Borough professionals.
  - 3. The Applicant and the Board Engineer shall assure that the lawn drains and seepage pits are functioning properly and maximize drainage from the Property. Applicant shall in all events comply with the Board Engineer.

Motion was made by: Mr. Davis  
Motion was seconded by: Mr. Corrado

Roll Call to Approve:

Mr. Woods absent  
Mr. Davis yes  
Mr. Corrado yes  
Mr. Morrison absent

Mr. Park no vote  
Mr. Press no vote  
Ms. Hayden yes  
Mr. McLain absent

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 **June 15**, 2021.

M Francis  
Marti Francis, Board Secretary

