

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

**FILE NO. 807-20**

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IN THE MATTER OF THE APPLICATION OF:

PURNEMA AND CHRISTOPHER VARUGHESE  
FOR VARIANCES RELATING TO BLOCK 46;  
LOT 681 ALSO KNOWN AS 18 CHRISTIE STREET,  
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:

<b>Variance</b>	<b>Permitted</b>	<b>Existing</b>	<b>Sought</b>	<b>Deviation</b>
Pool in Front Yard	NO	NO	YES	NA

**FINDINGS OF FACT**

Public hearing was held on February 16, 2020 by electronic meeting. The Application was presented by the Applicants through counsel, Matthew G. Capizzi, Esq.

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

1. Application for Variances;
2. Exhibit A-1, Site Plan, prepared by Lantelme, Kurens & Associates, PC, dated August 5, 2020, revised through November 9, 2020. (An alternate Plan, revised through February 16, 2020, altering the orientation of the proposed pool to be perpendicular to the home was withdrawn)
3. Exhibit B-1, Report of Maser Consulting, dated September 24, 2020;
4. Exhibit B-2, Report of Maser Consulting, dated December 18, 2020.

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

1. Sean McClellan, PE (hereinafter, "McClellan")

The subject property is located in the Residence Zone D within the municipality. The address of the Property is 18 Christie Street and is also designated as Block 46; Lot 681 on the Borough's Tax Assessment Map of the Borough (hereinafter, "the Property").

The Applicants, through counsel, Matt Capizzi, Esq., presented the matter and provided an overview and background of the Application. The Applicant presented McClellan, who testified as to all engineering matters. He testified as to existing conditions on the property and the neighborhood.

He testified that the Property was an oversized, oddly shaped, triangular lot containing an existing home and playset. The Lot – and the home thereon - fronts on the terminus of Christie Street and Christie Street delineates the northern Lot line. The rear of the home faces, and to the south partially fronts on, the terminus of Achilles Street. The western side of the Property adjoins neighboring properties on Lot 676 and 751. The eastern side of the Property borders on Madison Avenue which delineates a sweeping arc that serves to connect Christie Street and Madison Avenue. As a result of this configuration, the rectangular house fronts on 3 streets and has 3 front yards: Christie (faced by the front, north, side of the house); Achilles (faced by the rear, south, side of the house) and Madison (faced by the east and, partially, the south side of the house). The result is a Lot that forms a peninsula, has streets on 3 sides, and has 3 front yards. Additionally, Madison Avenue is an "unimproved paper street" and, in its present state, is part of a much larger tract of wooded property.

The home is located 10' from the lot line with Lots 676 and 751 creating a 10' side yard pursuant to the Ordinance. The Property does not have a rear yard as defined in the ordinance although the area south of the home is the "apparent" or "practical" rear yard containing a patio and a playset.

The Property does not have a "Rear Yard", where a pool would traditionally be located, and has a 10' wide Side Yard where a pool cannot be located.

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

The application before the Board is for the location of a pool in a Front Yard setback. Other than a designated Side Yard setback, the subject Property only has Front Yard setbacks facing three sides of the house.

The Applicant seeks these variances pursuant to NJSA 40:55d-70(c)(1). The Board found in its review that the variance was justified and should be granted for the reasons set forth herein. 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 shape and configuration of the Property; the lack of a rear yard; the presence of three front yards; the location at the home at the terminus of both Christie Street and Achilles Street; the existence of Madison Avenue as a paper street size and the peninsula configuration of the Property created a unique hardship and practical difficulty. The Property simply has no Rear Yard Setback as defined in the Ordinance.

The within approval is conditioned on the following:

1. All fencing shall be comply with applicable codes as to swimming pools.
2. Dense plant screening shall be placed between the pool and Achilles Street to buffer the pool area from said street. The plantings shall be considered appropriate in the sole discretion of the Board Engineer.

Motion was made by:

Motion was seconded by:

Roll Call to Approve:

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 \_\_\_\_\_, 2021.

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Marti Francis, Board of Adjustment Secretary