

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

FILE NO. 804-20

IN THE MATTER OF THE APPLICATION OF:

**BRAD AND TINA SCHWEID FOR VARIANCES RELATING
TO BLOCK 84.07; LOT 10 ALSO KNOWN
AS 32 PINE HILL ROAD, 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:

Variance	Permitted	Existing	Sought	Deviation
Improved Lot Coverage	30%	30.09%*	31.50%*	5%

*Amended and reduced during Application process from 32.50. No approval for Existing Condition exceeding 30%

FINDINGS OF FACT

Public hearing was held on February 16, 2021 utilizing a Virtual Meeting Platform due to the COVID Emergency.

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

1. Application for Variances;
2. Exhibit A-1, Site Plans, prepared by Michael Dipple, PE, dated September 15, 2020;
3. Exhibit A-3, Photographs of Property;

The following witnesses appeared and may have been called upon to offer sworn testimony on behalf of the Applicants:

1. Michael Dipple, PE (“Dipple”) of L2A Land Design, LLC;

THE TESTIMONY

1. The address of the Property is 32 Pine Hill Road and is also designated as Block 84.07; Lot 10 on the Borough’s Tax Assessment Map (hereinafter, “the Property”). The Applicant was represented by Matthew G. Capizzi, Esq. The subject property is located in the Residence Zone BB within the municipality.
2. Mr. Capizzi presented an introduction to the existing Property and to the issues to be presented during the Application. It was indicated the Property was occupied and fully developed, with a two story, single family dwelling with a three car garage, raised patio and driveway with additional parking pad. The Property existing seepage pits and is slightly undersized interior, Lot of 28,000sf.
3. Mr. Capizzi specified as to the proposed development and the relief sought during the Application: The Applicant proposes to alter the existing raised patio to provide a roof over ½ of same creating a pavilion of no greater than 12’ in height. The remainder of the existing raised patio will remain “open”. Applicant also seeks to construct a 20’ x 40’ pool with a 1’ coping around the perimeter as well as patio areas on 2 sides of the pool – one for lounge chairs that is approximately 14.5’ wide and the other (approximately 18’ in length and 14’ wide) for more seating. This equates to 700sf of additional impervious/improved lot coverage on the Property bringing the total to 32.5%. During the course of the Application, the Applicant withdrew the request for 32.5% and reduced same to 31.5% Improved Lot Coverage.
4. The aforesaid reduction was accomplished by reducing the pool to 18’ x 36’ (reduction of 152sf); the reduction of the lounge chair patio area from 14.5’ wide to 11’ wide (reduction of 80.5sf); and the reduction of the additional seating area from 14’ to 7’ in width (reduction of 126sf). While the Improved Lot Coverage might be slightly less than

31.5%, that was the maximum and the amount sought.

5. Dipple testified that the information provided by Capizzi during his opening was accurate and verified the increases in Improved Lot Coverage by both percentage and square feet.
6. Dipple testified as to the existing conditions, the neighborhood and the proposed addition. He testified that the Property was a fully developed interior lot with single family home and limited opportunities for outdoor entertainment. Dipple testified that there would be a "0" increase in runoff as a result of the improvements and that the proposal was reasonable to create a usable rear yard and patio.
7. Dipple also testified that there was no negative impact of granting the requested variance and that the existing large home and driveway utilized a significant amount of Lot Coverage permitting no additional coverage as being available for "normal" exterior recreational use. He noted that the Applicant had removed an existing parking area off of the driveway in order to reduce and mitigate the additional Improved Lot Coverage and there was no other option for significant reduction.

CONCLUSIONS OF LAW; RESOLUTION

- A. The application before the Board is for a pool, patios and related improvements and landscaping in accordance with submitted plans except that total permitted Coverage shall be no greater than 31.5%.
- 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 significant existing coverage limited options to provide a reasonable use and the construction of a swimming pool, 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 are no adverse impacts of the variance and that there is no detriment to the purposes of zoning and that light, air and open space are 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. The roof over the raised patio have a height measured per ordinance of no greater than 12'
 3. Amended plans with revisions discussed by the Board shall be provided.
 4. An as-built shall be provided.
 5. All improvements shall be in compliance with the reports of the Borough professionals.

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

Marti Francis, Board of Adjustment Secretary