

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

FILE NO. 808-20 (SEE ALSO, 739-14)

IN THE MATTER OF THE APPLICATION OF:

DRS. STEVEN AND DEBBIE GLASSMAN, RELATING
TO BLOCK 154; LOT 1.01 ALSO KNOWN AS
218 COUNTY 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	Required Permitted	Existing	Sought	Deviation
Improved Lot Coverage	30%	27.42%	34.43%*	4.43/6.7%

***Application amended during public hearing to 30.7%**

FINDINGS OF FACT

Public hearing was held on March 16, 2021 by "Virtual Meeting" using a commercially available service known as Zoom. The Application was presented by Matthew Capizzi, Esq.

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

1. Application for Variance, filed on, or about, December 11, 2021 along with all application documents.
2. Exhibit A-1, Google Map of Property and surrounding area.
3. Exhibit A-2, "Site Plan", prepared by Hubschman Engineering, PE, PP, consisting of 2 pages.
4. Resolution 739-14, previously adopted by the Board of Adjustment granting the

Applicant an approval for Impervious Coverage of 34.43%.

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

1. Michael Hubschman, PE, PP.

The subject property is located in the Residence Zone B within the municipality. The address of the Property is 218 County Road, also designated as Block 154; Lot 1.01 on the Borough's Tax Assessment Map of the Borough (hereinafter, "the Property"). The Property is 24,180 s.f. and the Applicant seeks to add pool and patio improvements which would result in Improved Lot Coverage exceeding that which is permitted by 176 square feet (30.7%) comprised of a pool, pavers, and a patio area. The Applicants' initial request was for substantially greater square footage and percentage of Improved Lot Coverage. The proposed pool is 14.5' from the rear property line.

The Applicant was represented by Matthew Capizzi, Esq., who presented the Project and presented testimony with regard to the application regarding the Property, the area, and other similar uses on the street. Mr. Capizzi made reference to Resolution 739-14 which provided for substantially similar approvals and coverage. Although the Ordinance regarding Impervious Coverage has been significantly changed since the adoption of that Resolution, and now uses the term, Improved Lot Coverage, the improvements currently sought by the Applicant were of the same type and dimension as previously granted. Despite this, during the course of public hearing, the Applicant amended the Application to seek 30.7% of Improved Lot Coverage.

The Applicant referenced the Exhibits and also adduced the testimony of Michael Hubschman, PE, PP. Mr. Hubschman originally testified that the proposed improvements would exceed permitted by 1,071 square feet for a total Improved Lot Coverage of 34.43%. During the course of public hearing, this was amended to 176 square feet for a total of Improved Lot Coverage of 30.7%.

Mr. Hubschman testified that the location of the Property on County Road caused the home to be constructed at a setback of 60', rather than 50', and County requirements mandated that the driveway have a turnaround which also utilized significant impervious coverage. As a result, the Property had minimal room for any improvement where a variance as to Improved Lot Coverage would not be required.

Testimony was presented that there were no revisions to grading on the site and that the proposed improvements would be accompanied by an increase in seepage pits in order to assure that stormwater was properly addressed. Mr. Hubschman testified that paving stones were placed in the lawn to lessen the impervious coverage and that patio was created by the placement of planks directly on a stone base to facilitate water drainage. Additionally, a significant portion of the added impervious coverage was the swimming pool. As a result, even though all of these improvements are counted toward Improved Lot coverage, they contribute less Improved Lot Coverage and runoff issues than if they were less sensitively designed.

Testimony was presented that the benefits of granting the variance outweighed the detriments thereof and that the purposes of the Municipal Land Use Law were advanced by the granting of the requested variance. These advanced purposes were public safety, preservation of light, air and open space, and sufficient spaces for appropriate uses. He further testified that there was no substantial detriment to the public good. He testified that a seepage pit would be added to assure that the additional impervious coverage resulted in no additional runoff and that the proposal did not impair the intent and purpose of the zoning ordinance. He further testified that a significant portion of the existing Improved Lot Coverage was made up of the long driveway and turnaround which provided for safe ingress and egress to the property.

The Applicant sought the variances based upon the requirements of NJSA 40:55D-70(c)(2) and offered testimony that the benefits of the granting of the variance outweighed any detriment and any detriment was determined to be minimal.

CONCLUSIONS OF LAW; RESOLUTION

The Applicant sought a variance for Improved Lot Coverage. The Property has no existing variances and is located on a County Road. The applicant proposes an increase in Improved Lot Coverage to construct a patio, pavers and a swimming pool. The Board finds that this increase in Impervious Coverage is warranted. Additionally, the Applicant sought the subject variances pursuant to NJSA 40:55d-70(c)(2). The Board found in its review that all variances were justified and that the benefit of granting these variances outweighs any detriment to the granting of the variances. The Board found that these variances 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 within approval is conditioned upon the Applicant providing significant additional landscaping in order to provide a visual and noise barrier between the improvements and the property located to the east of the Property. This must include by low and high landscaping designed to fill any gaps in the existing landscaping and provide a strong, continuous visual barrier. This approval is also conditioned upon the Applicant constructing Improved Lot Coverage of no greater than 30.7% or 176 square feet over that which is permitted. In order to reach this figure, the Applicant verbally removed various improvements during the course of public hearing including the bluestone walkway and the seating wall as well as providing for the reduction of the pool size and patio area. This Approval is also conditioned upon the Applicant providing no building or overhead lighting and assuring the site is lit by ground and bollard lighting of a low level so as to assure a de minimus impact on the neighbors.

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

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


Roll Call to Approve:

Ayes: Mr. Woods, Mr. Davis, Mr. Corrado, Mr. Morrison
Mr. Press, Mr. McLain, Ms. Hayden

Absent: Mr. Park

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