

**ZONING BOARD OF ADJUSTMENT  
BOROUGH OF DEMAREST**

**FILE NO.**

23-001

---

IN THE MATTER OF THE APPLICATION OF:

FUNDA TEZOL, FOR VARIANCES RELATING  
TO BLOCK 55; LOT 10 ALSO KNOWN AS 36  
MAPLE AVENUE, 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>Variances</b>	<b>Per./Req.</b>	<b>Existing</b>	<b>Proposed</b>
Building Coverage	20%	23.58%	25.68%*
Maximum Improved Coverage	30%	33.08%	33.86%*
Minimum Side Yard	25'	9.8'	9.8'
Maximum Residential/Parking Coverage	25%	27.42%	29.1%*
Accessory Structure	Rear Yard Only	Side Yard	Side Yard***

Side Yard (Abutting a Street – Evergreen Place)	25’	22’	22’**
Rear Yard Setback	30’	<30’	26.83’*

**\*New variance or increased existing variance – Requires Variance Approval**  
**\*\*Expansion of Non-Conforming Structure – Requires Variance Approval**  
**\*\*\*Constructed by Applicant without Approval – Requires Variance Approval**

### FINDINGS OF FACT

A Public Hearing was held on March 21, 2023, utilizing an electronic meeting platform wherein the Applicant was pro se, and on April 18, 2023, at the Borough of Demarest - Council Chambers - in the Municipal Building where the Applicant was represented by counsel, Dean Stamos, Esq. (“Stamos”).

The Applicant marked the following documents into evidence for consideration by the Board:

1. Site Plan, prepared by Eric Kiellar, AIA of Blueline Architecture, LLC, dated October 12, 2022, revised through November 9, 2022.
2. Photographs of Existing Conditions.

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

1. Eric Kiellar, AIA (“Kiellar”);
2. Funda Tezol (“Tezol”);
3. Uluturk Topdemir (“Topdemir”)

The subject property is in the D Residence Zone of the municipality. The address of the property is 36 Maple Avenue, and it is also designated as Block 55; Lot 10 on the Borough’s Tax Assessment Map (hereinafter, “the Property”). Kiellar testified that the Property was a corner lot of 10,000 sf in area. He testified that the Property was fully developed with a single-family residence, and accessory shed, and that variances required are as set forth above for the proposed improvements.

Kiellar testified that the existing home was a small (1,620 sf) single story ranch structure approximately 10’ high, except for a 24’x24’ center, family room, section that was 12’ high. More specifically, he described the structure as a “low profile

ranch” that was not centered on the Property and was offset toward Evergreen Place. He testified that the Applicant sought, to extend the existing rear patio rearward 2’9” for the existing patio width of 25.6’ for a total expansion of the existing patio of 78 sf. He testified that the existing patio roof – which extends from the home approximately 5’ and only partially covers the existing patio – would be extended forward approximately 8’ and cover the entire proposed patio. The roof would extend approximately 13’ from the existing home and be supported with columns. The patio would remain an “open but roofed” structure but for potential, “drop down” or “hanging” screening. No other improvements are sought. Kiellar referred to **A-1** during his testimony and explanation of existing and proposed conditions.

Kiellar testified that projection of the patio and roof rearward, as described above, resulted in the need for variances as to Building Coverage; Maximum Improved Coverage; Maximum Residential/Parking Coverage; Rear Yard Setback and Side Yard Setback abutting a street. The Side Yard Setback for the proposed work is to continue the existing patio and roof rearward at the existing Side Yard Setback of 22’, thereby constituting the “expansion of a non-conforming structure”.

Topdemir testified that he had constructed the existing shed in the Evergreen Place Side Yard Setback without a permit. A shed is a permitted Accessory Use in the Zone, but it must be located in a permitted location. He testified that he believed a permit was not required inasmuch as the shed is less than 100 sf. However, it appears that he did not understand that he could not construct the shed in a Side Yard Setback at all and that such construction would have to comply with Setback requirements. The within Application does not alter the shed in any way, and the Applicant seeks variances to lawfully continue the shed in its’ present location. Variances for the shed are: Accessory Use in a Side Yard Setback and a Setback of 9.8’, where 25’ is required.

Kiellar testified that the expansion of the patio and roof rearward adjoined a wooded portion of the neighbor’s property and did not result in a negative impact to the adjoining property owner.

### **CONCLUSIONS OF LAW**

The Application before the Board is for a relatively minimal construction that implicates the expansion or creation of the numerous variances set forth above. The Board finds that the Applicant has demonstrated that the Property is developed in such a manner as to result in “peculiar and exceptional practical difficulty” in the development and use of the Property pursuant to NJSa 40:55D-70(c)(1).

The Board finds, the existing home is exceptionally small, lacks storage areas, and is “off center” on the Property. The home, since it is a one-story ranch, results in significant Building Coverage; Improved Coverage and Maximum Residential Lot

Coverage despite having minimal living area and its's design, size and location offers few options to create additional, useable, living or storage areas. These variances – all related to impervious coverage or building area – are not significantly impacted by the proposed 78 sf expansion of the open patio and the 8' extension of the roof which results in a covered, open patio. The open nature of the patio results in less impact of these coverage related variances and assures that these variances have no detrimental or negative impact.

Two variances relate to the existing shed and are not altered by the within Application. These are for the location of the shed – an accessory structure – in a Side Yard Setback and at a Setback of 9.8' where 25' is required. The Board finds that there is no detrimental or negative impact to the granting of these variances as to the existing shed and that there is no alternative, or better, locations for a shed.

The Side Yard Setback of 22', where 25' is required for the expansion of a non-conforming structure. The existing Side Yard Setback is insufficient, and the variance is for the continuation of this same, deficient, setback, rearward, for the construction of the patio and roof over the patio.

The Rear Yard Setback of 26.83' (where 30' is required) is for the expansion of the patio and the roof cover over the patio.

The Applicant has demonstrated there is no negative impact to the above yard variances.

The Board finds that the following specific conditions apply to the within Application.

1. The permitted, excess, Building Coverage, Maximum Improved Coverage and Maximum Residential/Parking Coverage are granted solely for the purposes, and in the specific locations, proposed on the Site Plan. The permitted deviations cannot be utilized elsewhere on the Property for any purpose.
2. There shall be no walls, of any height or nature, constructed in connection with this Approval. The patio may be covered, as proposed, but walls are not permitted with the exception of "drop down" or similar temporary screens for insects.

Motion was made by: Mr. Robert Corrado

Motion was seconded by: Mr. David McLain

Roll Call to Approve:

YES: Woods, Corrado, McLain, Adelman, Hayden

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 May 16, 2023.

*Teresa Ferrentino*

---

Teresa Ferrentino  
Zoning Board Secretary