



Borough of Demarest
Zoning Board of Adjustment
MINUTES

November 19, 2024

7:30 PM

DEMAREST BOROUGH HALL

The Borough of Demarest Zoning Board of Adjustment held its regular meeting on TUESDAY, NOVEMBER 19, 2024, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chair Hayden.

FLAG SALUTE

The Board was led in a salute to the flag by Chair Hayden.

ROLL CALL

MEMBERS PRESENT: Todd Adelman, Robert Corrado, Ted Davis, Dorothy Hayden, Diana Pavlova, Timothy Woods

MEMBER(S) ABSENT: Robert Hirsh, David McLain, Steve Park

ALSO PRESENT: Michael Greco – Secretary, Mark Madaio – Attorney, Nick Chelius – Engineer

APPLICATIONS:

Chair Hayden announced that the organization of the meeting would be changed, and that the applications would switch who was being heard first.

ZB-24-006 – 22 Drury Lane

Matthew Capizzi, the attorney representing the application, introduced the application. Mr. Capizzi explained the nature of the undersized lot. He also explained all of the variances they would be seeking.

Mike Dipple, L2A Land Design LLC, the applicant's engineer, was sworn in by Mr. Madaio. Mr. Madaio confirmed his qualifications. Mr. Madaio marked the board brought in as A1 – Single Family Residential Addition, dated 10/29/24, pages C01-C04.

Mr. Dipple explained the location of the home and the current state of the building.

Mr. Madaio marked in A2- Colorized Site Plan Rendering, page R01, dated 11/19/2024.

Mr. Dipple presented their plan for the property.

Mr. Madaio asked for clarification on the coverage numbers.

Chair Hayden asked a question about the addition and if it increases outward. Mr. Dipple explained where it increases but said that this would be answered by the architect.

Mr. Madaio marked in A3 – Pictures of the Property.

Vice Chair Woods asked about the fireplace and its location.

Mr. Dipple explained the drainage plan.

Mr. Chelius clarified some differences in the zoning table and the coverage summary. Mr. Dipple clarified the maximum livable floor area. Mr. Chelius stated that a soil moving application would be required.

Vice Chair Woods asked about the concrete patio proposed to be removed. Mr. Ditto explained that the patio will be removed in its entirety.

Ms. Pavlova asked if the building would keep the foundations and Mr. Ditto confirmed that yes, the foundation remains the same.

Peter Dito, FDS Architects, the applicant's architect, was sworn in by Mr. Madaio and had his credentials confirmed.

Mr. Madaio marked in A3 – As Built Drawings

Mr. Madaio marked in A5 – Colorized Floor Plan

Mr. Madaio marked in A6 – Blown up Elevation

Mr. Dito presented the application.

Vice Chair Woods asked Mr. Dito to describe the roof line on the back and the front of the home, and Mr. Dito clarified.

Chair Hayden asked for clarification on the size of the cantilever.

Ms. Pavlova asked for clarification on the extra square footage.

Vice Chair Woods asked to hear about how the fireplace is an architectural element. Mr. Dito explained that the chimney is pre-existing and that they are not adding it.

Mr. Madaio stated that the fireplace exists, and the rest of the addition is conforming.

Mr. Chelius pointed out that two of the sheets are not matching when it comes to the fireplace. Mr. Dito explained that they are not touching the fireplace.

Mr. Madaio stated that the planner would focus on the FAR, but Mr. Pessolano stated that they would like to give testimony on the whole application. Mr. Madaio stated that the board breaks early and asked that the testimony should be brief.

Michael J. Pessolano, the applicant's planner, was sworn in by Mr. Madaio and had his credentials confirmed.

Mr. Madaio marked in A7 – Planning Exhibit dated 11/2024, 5 pages

Mr. Pessolano presented the application.

Chair Hayden thanked the planner and asked the board if there were any more questions.

A motion to open the meeting to the public was made by: Mr. Corrado and seconded by Mr. Davis.

With no public seeking to ask questions or make comments a motion to close the meeting to the public was made by: Mr. Corrado and seconded by Mr. Davis.

Mr. Capizzi made closing remarks on the application.

A motion was made to approve application ZB-24-006, by Vice Chair Woods and seconded by Ms. Corrado.

On the roll call, the vote was recorded as follows:

Vice Chair Woods:	Yes	Mr. Davis:	Yes	Mr. Corrado:	Yes
Mr. McLain:	Absent	Mr. Park:	Absent	Mr. Adelman:	Yes
Chair Hayden:	Yes	Mr. Hirsh:	Absent	Ms. Pavlova:	Yes

Motion Carries.

ZB-24-005 – 17 Duck Pond Road

Matthew Capizzi, Attorney for the Applicant, introduced the application as an appeal of the zoning officer's decision. Mr. Capizzi explained the concerns of the Academy Estate Community Association in relation to the proposed turf field sports area, and answered the concerns stating that the applicant is amenable to all the requests from the association.

Charles Rabolli, president of the Academy Estate Community Association, was sworn in by Mr. Madaio.

Mr. Capizzi finished his introduction of the application.

Chair Hayden addressed the appeal and stated that she believes the zoning officer made the correct call.

Mr. Capizzi answered that the application is too complex to so easily come to that conclusion. Mr. Capizzi explained what a through lot is, and why in this instance this does not apply. He explained that between the property and the road is a landscaping easement owned by the Academy Estate Community Association.

Mr. Madaio clarified where the applicant's property ends.

Mr. Capizzi explained that Mr. Hubschman worked on the Academy Lane Subdivision and can testify to the specifics of this.

Mr. Madaio stated that the lot existed before the subdivision, and that when Academy Lane was created there was an easement separating the street from the property meaning that the lot does not touch the street. Mr. Capizzi confirmed this.

Mr. Capizzi explained that to classify the lot as a through lot would be a misclassification due to these facts.

Mr. Madaio called a resident to order.

The meeting was adjourned for a short break at 8:59 pm.

The meeting returned from the break at 9:12 pm.

Mr. Madaio explained that a discussion was had during the break and that in his opinion there is no easy answer to whether the lot touches Academy Lane.

Mr. Madaio stated that Mr. Rabolli gave testimony that the property located behind the application lot, located between the lot and the road, is in fact owned by the Academy Estate Community Association and not accessible by the applicant's property. Mr. Rabolli confirmed this.

Mr. Madaio suggested that the board put a pin in the argument of whether the zoning officer was correct. Mr. Madaio suggested that the board discuss the variance request, and suggested that the board has granted through lot front yard variances in the past.

Mr. Chelius stated that he is unsure of whether this is a through lot, and even if it is not the sport court is encroaching on the side yard and would still require a variance.

Mr. Madaio explained that it is important that the applicant is requesting to have a rear yard. Mr. Madaio explained why this is extremely important to consider for the application.

Mr. Madaio explained that the rear yard if granted the sport court could be shifted to be entirely in the rear yard and not require variance.

Mr. Madaio requested the applicant show where the rear yard would be.

Mike Hubschman, Hubschman Engineering, was sworn in by Mr. Madaio, and had his qualifications accepted by the board.

Mr. Madaio marked exhibit A1 – Yard Analyses

Mr. Madaio and Mr. Hubschman discussed where the line of the rear yard is drawn.

Mr. Hubschman explained that the court is currently in the side yard, but that it could be moved.

Chair Hayden commented that the sport court is in the side yard.

Mr. Chelius stated that the question is how the line of the rear yard should be drawn.

Mr. Madaio summed up the line that Mr. Hubschman had drawn and questioned the interpretation of how the rear yard is determined.

Mr. Corrado asked if the applicant would be willing to rotate the sport court to be entirely in the rear yard.

Vice Chair Woods stated that he does not agree with Mr. Hubschman's interpretation of where the rear yard is located.

Mr. Capizzi stated that Mr. Hubschman as a credible witness testified where the rear yard is and that the applicant is willing to reorient the sport court.

Mr. Madaio asked if there is a rear yard would there be a need for any variances. Mr. Hubschman stated that there would not be any variances if there were a rear yard, and the court rotated into the rear yard.

Mr. Madaio asked if Mr. Riboli's client would have any issues with this adjustment, and Mr. Riboli stated they would not.

Mr. Hubschman presented the application at Mr. Madaio's request.

Mr. Madaio marked exhibit A2 – Aerial Photo

Mr. Madaio marked exhibit A3 – Turf Sample

Mr. Madaio marked exhibit A4 – Lighting Plan

Mr. Madaio confirmed with the board that there are no other variances needed.

The board discussed all the possible variances.

Vice Chair Woods clarified that the board has not yet decided that there is a rear yard and what it looks like. Vice Chair woods stated he does not agree with the applicant's interpretation of the rear yard line. Mr. Madaio agreed with Vice chair Woods.

Mr. Madaio asked Mr. Capizzi if the applicant would be comfortable with altering the plan.

Chair Hayden requested more clarity on the easement and who owns it.

Mr. Madaio asked if the applicant is comfortable with carrying the application. Mr. Capizzi stated that he does not anticipate much of a plan modification.

Chair Hayden questioned the lights and the number of children playing on the court and the times they would be playing.

Mr. Capizzi stated that the lighting of the court meets the borough’s code, and that children using the court is a permitted use, and that the family does not anticipate the court to be used all day every day. It will be having periodic use like any other back yard.

The board discussed concerns with Mr. Capizzi.

Chair Hayden stated that some lighting needs to be approved by the Mayor and Council, and Mr. Capizzi stated that the proposed court does not exceed the wattage stated in the ordinance.

Chair Hayden expressed concern over the use of the court at night. Mr. Capizzi stated that the stipulation about the court not being used past a certain time and the lights being off after that time.

Mr. Capizzi explained the stipulations discussed with Mr. Rabolli.

Mr. Madaio confirmed that Mr. Capizzi extends the boards time to act on the application.

Chair Hayden asked that the applicant address the engineer’s concern about a lack of a fence around the pool.

A motion to open the meeting to the public was made by: Mr. Corrado and seconded by Mr. Adelman.

Maya Wrubel, 9 Deerhill Road, was sworn in by Mr. Madaio. Ms. Wrubel spoke in favor of the applicant having a rear yard, as the property has always had a rear yard. Ms. Wrubel noted that as a former member of the zoning board the board is doing a very thorough job.

With no more public seeking to ask questions or make comments a motion to close the meeting to the public was made by: Mr. Corrado and seconded by Mr. Davis.

Mr. Madaio announced that the application would be carried to the December 17, 2024, meeting of the Zoning Board of Adjustment with no additional notice.

NEW/OLD BUSINESS:

APPROVAL OF MINUTES:

A motion was made to approve the September 17, 2024, minutes, by Mr. Corrado and seconded by Ms. Davis.

On roll call, the vote was recorded as follows:

Vice Chair Woods:	-	Mr. Davis:	Yes	Mr. Corrado:	Yes
Mr. McLain:	Absent	Mr. Park:	Absent	Mr. Adelman:	Yes
Chair Hayden:	Yes	Mr. Hirsh:	Absent	Ms. Pavlova:	Yes

Motion Carries.

ADJOURNMENT

With no further business presented, a motion to adjourn the meeting was made by: Mr. Corrado and seconded by Mr. Adelman.

All in Favor – Motion Carries

The meeting was adjourned at 10:03 PM.

Respectfully Submitted,
Michael Greco
Land Use Secretary

