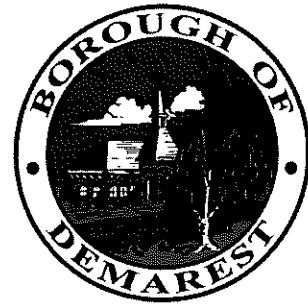


**BOROUGH OF DEMAREST**  
**ZONING BOARD of ADJUSTMENTS**  
**REGULAR MEETING AGENDA**  
**Tuesday, February 18, 2025 @ 7:30 PM**  
**118 Serpentine Road, Demarest, NJ 0762**



1. CALL TO ORDER
2. PUBLIC ANNOUNCEMENT OF MEETING

**Sunshine Law Statement:** The notice requirements of the Open Public Meetings Act of the State of New Jersey, P.L. 1975, Chapter 231, have been satisfied by the publication of the date, time and place of this regular meeting in the Record and Star Ledger on January 26, 2025, notice posted at Borough Hall, on the Borough website and was filed in the office of the Borough Clerk.

3. FLAG SALUTE
4. ROLL CALL

- |  |   |
|--|---|
| <input type="checkbox"/> Todd Adelman      | <input type="checkbox"/> Robert Corrado |
| <input type="checkbox"/> Michael Feinstein | <input type="checkbox"/> David McLain   |
| <input type="checkbox"/> Steve Park        | <input type="checkbox"/> Timothy Woods  |
| <input type="checkbox"/> Diana Pavlova     |   |

5. RESOLUTIONS:

**ZB-24-009 – 20 Pine Hill Road**

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSENT	NOT ELIGIBLE
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

6. NEW/CONTINUING APPLICATIONS:

**ZB-24-007 – 109 Lake Road**

MOTION MADE TO:

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSENT	NOT ELIGIBLE
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. APPROVAL OF MINUTES:

Motion to approve the minutes of the Regular Meeting; January 21, 2025

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSENT	NOT ELIGIBLE
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**8. 2024 ZONING BOARD OF ADJUSTMENT YEAR END REPORT**

Resolution ZB-005-25 – Resolution Adopting the 2024 Year End Report

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSENT	NOT ELIGIBLE
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**9. DISCUSSION ON BOARD MATTERS – NEW/OLD BUSINESS**

**10. PUBLIC COMMENT PERIOD**

**11. ADJOURNMENT**

*NEXT MEETING – WEDNESDAY, MARCH 18, 2025*

**ZONING BOARD OF ADJUSTMENT  
BOROUGH OF DEMAREST**

**RESOLUTION NO: ZB-004-25**

**FILE NO: ZB-24-009**

---

IN THE MATTER OF THE APPLICATION OF:

MIA RAPAPORT FOR VARIANCES RELATING  
TO BLOCK 84.07; LOT 12 COMMONLY KNOWN  
AS 20 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:

<b>Variance</b>	<b>Permitted</b>	<b>Existing</b>	<b>Sought</b>
Lot Area	30,000 sf	28,000 sf	28,000 sf
Retaining Wall Height	< 2'	N/A	3'

- The Applicant seeks to construct a new home on the Property.
- The requested deviation for Retaining Wall Height was withdrawn and the Board did not consider, or grant, this variance.
- Ordinance 175-18(A) does not serve to “grandfather” the subject lot and provides: “Any lot existing heretofore as a legal, separate parcel and not complying with the minimum frontage width at the time of passage of this chapter may, notwithstanding such fact, be improved with a building, provided that the other regulations of its zone are adhered to and provided that the owner owns no other adjacent land which may be included as part of the lot in question.” Said Ordinance does not serve to “grandfather” the Property in question.

**APPLICABLE LAW**

An Applicant upon an “isolated undersized lot” (that is not “grandfathered”) must seek a variance

based upon *NJSA 40:55D-70(c)(1)* and must meet both the positive and negative criteria required for the grant of any such variance. *Nash v. Board of Adjustment of Morris Tp.*, 96 N.J. 97, 101, 107, 109 (1984). During review, the Board must be aware that if the underlying request for a hardship variance is not granted, the property will be zoned into inutility. See, *Davis Enterprises v. Karpf*, 105 N.J. 476, 481 (1987) and *Commons v. Westwood Zoning Board of Adjustment*, 81 N.J. 597, 607 (1980).

In *Dallmeyer v. Lacey Tp. Bd. of Adj.*, 219 N.J. Super. 134, 146 (Law Div. 1987), specified the obligations of both the Applicant and the Board:

As to the Applicant:

1. Carry their burden of proof as to positive and negative criteria.
2. Demonstrate that efforts were made to bring the Property into compliance with lot area requirements.
3. Submit detailed plans.
4. Attempt to demonstrate compliance with setback requirements.
5. Demonstrate that the proposal does not violate the purposes of zoning

As to the Board:

1. Evaluate testimony and seek more as necessary.
2. Make specific findings in the resolution.
3. Consider whether in lieu of denial, reasonable conditions are appropriate.
4. Remember that an outright denial may amount to confiscation thus requiring condemnation and payment by the municipality.

This above represents the legal framework for the within Application.

### **DOCUMENTARY EVIDENCE PRESENTED**

A Public Hearing was held on January 21, 2025, in the Council Chambers, Borough Hall, Serpentine Road, Demarest. The Application was presented by the Applicant, Pro Se. The Applicant presented the matter and provided an overview and background of the Application and marked all relevant Exhibits into evidence. The Board considered the following Exhibits in their review of the matter:

- A-1** Site Plans, prepared by McClellan Engineering, dated April 11, 2024.
- A-2** Architectural Plans, prepared by Uri Rappaport, AIA, of Rapaport & Associates Architects, dated May 19, 2024.
- A-3** Tax Map Sheet of Area of the Property.

**B-1** Report of Colliers Engineering and Design, prepared by Nick Chelius, PE, dated December 5, 2024.

### **TESTIMONY PRESENTED**

The following witnesses appeared and offered, or were available to offer, sworn testimony on behalf of the Applicant:

1. Uri Rapaport, AIA (“Rapaport”)
2. Mia Rapaport (“Applicant”)

1. The Applicant provided the Board with an overview of the Application and Board Counsel provided the Board with the legal issues and underlying law as it relates to the subject isolated, undersized lot. Rapaport advised, as was confirmed by **B-1**, that the subject property is in the Residence BB Zone within the municipality. The address of the Property is as first set forth above and is also designated as Block 84.07; Lot 12 on the Borough’s Tax Assessment Map of the Borough (hereinafter, “the Property”).
2. Rapaport testified as to **A-1** and **A-2**. He testified as to his understanding of the Site Plan and the drainage system as well as the placement of the home on the Property. He also testified as to the design of the home and the fact that the home did not result in any yard or setback variances. He testified that the design of the home takes into account the undersized nature of the Property and was sensitive and designed to assure there were no variances required to build the home on the Property. In other words, the home was “scaled” to fit the Property.
3. Ditto did not testify – but was available for questions from the Board. **A-2** was submitted with the Application documents and reviewed by Board members.
4. Rapaport provided **A-3** and testified that the majority of the lots in the area were undersized and there was no opportunity to acquire additional property to enhance the Lot Area.

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

The Application before the Board is for a Lot Area deficiency on an existing, isolated and undersized lot. The Applicant has attempted to remedy this condition to no avail. The Applicant has submitted detailed plans (See, **A-1** and **A-2**) and has submitted extensive testimony with regard to the matter. The Applicant has provided proofs and satisfied both the “positive” and “negative” criteria of NJSA 40:55D-70(c)(1). The Applicant has demonstrated complete compliance with municipal setback and coverage requirements, despite the undersized lot.

Based upon the foregoing, the Board has evaluated the testimony and made specific findings of fact and law. The Board finds that the Applicant has satisfied the requirements of NJSA 40:55D-70(c)(1). The Board finds in its review that the variance requested is justified and should be granted for the reasons set forth herein. The Board found that the requested variance can 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. This is amply demonstrated by the

Applicant sizing the house in a manner that it was appropriate for the lot and could be constructed without coverage or setback variances.

The granting of the within approval is subject to the following:

1. Applicant shall obtain any necessary approvals from all municipal, county and state agencies.
2. Applicant shall comply with all comments contained in **B-1** and other directives from the Board Engineer.
3. The Applicant shall coordinate all drainage proposals with the Board Engineer and shall amend and revise same to his satisfaction.

Motion was made by:

Motion was seconded by:

Roll Call to Approve:

<b>BOARD MEMBER</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>	<b>N/E</b>
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

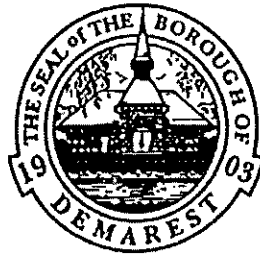
Accordingly, a majority of the Board voted to approve the application as presented.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Timothy Woods, Zoning Board of Adjustment Chair

\_\_\_\_\_  
 Attest: Michael Greco, Board Secretary



**Borough of Demarest  
Zoning Board of Adjustment  
MINUTES**

---

**January 21, 2025** **7:30 PM** **DEMAREST BOROUGH HALL**

---

The Borough of Demarest Zoning Board of Adjustment held its regular meeting on TUESDAY, JANUARY 21, 2025, 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 Mr. Greco.

**FLAG SALUTE**

The Board was led in a salute to the flag by Mr. Greco.

**SWEARING IN NEW MEMBERS**

Michael Feinstein was sworn in by Mr. Madaio to the Zoning Board of Adjustment for a term beginning January 1, 2025 and expiring on December 31, 2028.

**ROLL CALL**

**MEMBERS PRESENT:** Todd Adelman, Robert Corrado, Michael Feinstein, David McLain, Steve Park

**MEMBER(S) ABSENT:** Timothy Woods, Diana Pavlova

**ALSO PRESENT:** Mark Madaio – Attorney, Nick Chelius – Engineer, Michael Greco – Secretary, Daryl Fox – Council Liaison

**ELECTION OF OFFICERS**

Mr. Greco called for nominations for the officers for the year of 2025.

Mr. Corrado nominated Tim Woods to be the Chair of the board for the year of 2025 and was seconded by Mr. Adelman. Hearing no other nominations, the nominations were closed by Mr. Greco.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Mr. Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Mr. McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

Mr. Corrado nominated David McLain to be the Vice Chair of the board for the year of 2025 and was seconded by Mr. Adelman.

Hearing no other nominations, the nominations were closed by Mr. Greco.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Mr. McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

Vice Chair McLain took his seat on the dais and continued the meeting.

**PROFESSIONAL APPOINTMENTS**

A motion was made to appoint Mark Madaio as the 2025 Board Attorney, by Mr. Corrado and seconded by Mr. Feinstein.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

Mr. Madaio thanked the board.

Vice Chair McLain stated that Mr. Madaio brings stability to the board.

A motion was made to appoint Nick Chelius as the 2025 Board Engineer, by Mr. Corrado and seconded by Mr. Adelman.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

Mr. Chelius thanked the board.

A motion was made to appoint Darlene Green as the 2025 Board Planner, by Mr. Corrado and seconded by Mr. Adelman.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

A motion was made to appoint Michael Greco as the 2025 Board Secretary, by Mr. Corrado and seconded by Mr. Feinstein.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

**APPROVAL OF MEETING DATES**

A motion was made to approve 2025 meeting dates, by Mr. Corrado and seconded by Mr. Adelman.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

## **NEW/CONTINUING APPLICATIONS**

Vice Chair McLain stated that he would be moving the administrative matters to the end of the meeting so that the application could take priority.

### **ZB-24-007 – 109 Lake Road**

Mr. Greco stated that the applicant requested that their application be carried to the February 18, 2025, hearing. He also stated that the applicant has extended the board's time to act in writing.

Vice Chair McLain stated that the application would be carried to that date with no further notice.

Vice Chair McLain stated that the application has a "D" Variance and that this required 5 affirmative votes, and he urged the board members to let Mr. Greco know as soon as possible if they are unable to attend.

### **ZB-24-005 – 17 Duck Pond Road**

Mr. Greco stated that the applicant requested that their application be carried to the February 18, 2025, hearing. He also stated that the applicant has extended the board's time to act in writing.

Vice Chair McLain stated that the application would be carried to that date with no further notice.

### **ZB-24-009 – 20 Pine Hill Road**

Mr. Madaio confirmed that the notice for this application was done properly.

Mr. Madaio explained to the board that the application is an undersized lot and explained the grandfather clause and how it the Borough does not have it, and so all undersized lots need to come to the board. He also noted that the application has no other variances. He then confirmed that with Mia Rappaport.

Mr. Chelius explained that there is a variance for the retaining wall in the front of the home.

Mr. Madaio marked the Engineering Plans as A1 – 01/21/2025.

Uri Rappaport, the architect for the project, was sworn in by Mr. Madaio.

Mr. Madaio marked the Architectural Plans as A2

Mr. Madaio marked the board's engineer report as B1.

Mr. Madaio asked Mr. Rappaport if he is willing to make the wall under two feet so that it does not need a variance.

Mr. Rappaport stated that he would lower the wall to conform and not require a variance.

Vice Chair McLain clarified that the keystone wall would be less than two feet. Mr. McLain also stated that there would need to be a soil moving permit as well as shade tree approval for the trees to be removed.

Mr. McLain asked about the dry well locations, and Mr. Chelius explained that he has no problem working this out with the applicant's engineer.

Mr. Rappaport presented the application and showed the board a study of the neighboring lot sizes. Mr. Madaio marked Neighboring Lot study as A3.

Mr. McLain stated that this is the third case of the undersized lots, and they are all in this part of town.

Mr. Rappaport explained that all the neighboring lots are undersized as well, and so there is not ability to be able to buy land from the neighbors.

A motion was made to open the hearing to the public by Mr. Corrado and seconded by Mr. Adelman. All in favor – motion carries.

A motion was made to close the hearing to the public by Mr. Corrado and seconded by Mr. Adelman. All in favor – motion carries.

A motion was made to approve the application ZB-24-009, 20 Pine Hill Road with the conditions in the engineering letter, all the normal conditions of the board and subject to the retaining wall height, by Mr. Adelman and seconded by Mr. Corrado.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	Yes
Vice Chair McLain:	Yes	Mr. Park:	Yes	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

**NEW/OLD BUSINESS**

Mr. McLain asked Mr. Madaio about a piece of evidence from 17 Duck Pond, specifically the turf, and requested more information on the turf field.

Mr. Madaio suggested that Mr. Greco send an email requesting this and send it to Mr. Chelius for review.

Mr. McLain discussed with the board permeable pavers and the need to understand the materials being used.

Mr. McLain reminded the board about the financial disclosure statements upcoming. He also told the new board member about the educational requirement.

Mr. McLain asked Councilwoman Fox to let the board know the status of the potential ordinance.

Councilwoman Fox explained that the ordinance is in review by the Ordinance Committee and that after that a letter will be supplied to the council prior to introduction of the ordinance.

Mr. McLain explained that he spoke with the Mayor and the Ordinance Committee and asked that both watch where the board is with the applications, and that they be given time to finish current matters.

Councilwoman Fox stated that she is going to recommend that any current applications be finished by the current board.

Mr. Madaio recommended that the ordinance can have a clear effective date so that matters can be finalized.

Mr. McLain brought up some zoning ordinance concerns that have been identified. First, he talked about the definition of retaining walls and how far back a wall can be before it is a new wall.

Mr. Madaio summed up the questions before the board. He stated there are two questions, what is the difference between a garden wall and a retaining wall and second how do tiered walls function.

The board discussed with Councilwoman Fox how the board believes walls should work in the ordinance.

Councilwoman Fox and the board discussed the rule of grandfathering undersized lots.

Councilwoman Fox discussed with the board coverage limitations and the possibility of allowing more coverage on smaller lots.

Mr. Park left the meeting at 8:14pm.

Councilwoman Fox asked the board about Livable Floor Area and Floor Area Ration (F.A.R.) and if they are the same or if we do not want F.A.R.

Mr. Madaio stated that the professionals stated they are functionally the same.

The board suggested that we change the name and make it F.A.R.

Mr. McLain brought up with the board through lots and corner lots and whether they have a front yard, rear yard or two front yards.

The board suggested that the address with the post office be the front yard.

Mr. Madaio raised concern over designating the rear yard.

Mr. Chelius explained that the corner lot definition addresses this.

Mr. McLain stated that he has seen an increase in contractors knowingly working without permits. He asked if there is something that the town can do to address this.

Councilwoman Fox and Mr. Madaio stated that all construction should require an as-built survey, and Mr. Chelius confirmed that he is always requiring as-built surveys when they come through his office.

**2024 YEAR END REPORT**

Mr. McLain stated that the year-end report is up for discussion, but that there are some comments that he has but he would like the Chair to be present for the discussion, and that the discussion can take place at the February meeting.

**MINUTES**

A motion was made to approve the November 19, 2024, minutes, by Mr. Adelman and seconded by Mr. Corrado.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	n/e
Vice Chair McLain:	n/e	Mr. Park:	Absent	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

A motion was made to approve the December 17, 2024, minutes, by Mr. Corrado and seconded by Mr. Adelman.

On roll call, the vote was recorded as follows: *(n/e = not eligible)*

Chair Woods:	Absent	Mr. Corrado:	Yes	Mr. Feinstein:	n/e
Vice Chair McLain:	Yes	Mr. Park:	Absent	Mr. Adelman:	Yes
Ms. Pavlova:	Absent				

*Motion Carries.*

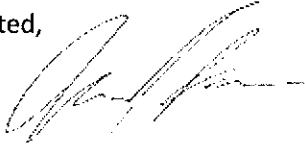
**ADJOURNMENT**

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

All in Favor – Motion Carries

The meeting was adjourned at 8:38 PM.

Respectfully Submitted,  
Michael Greco  
Land Use Secretary



DRAFT

**RESOLUTION OF THE DEMAREST ZONING BOARD OF  
ADJUSTMENT  
RESOLUTION NO. ZB-005-25  
JANUARY 21, 2025**

<b>BOARD MEMBER</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Vice Chair McLain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Corrado	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Feinstein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Pavlova	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RESOLUTION ADOPTING THE 2024 YEAR END REPORT**

**WHEREAS**, pursuant to N.J.S.A 40:55D-70.1 et seq., the Borough of Demarest Board of Adjustment (hereinafter the “Board”) is obligated to send a brief report to the Governing Body at the end of each year regarding the Applications considered during the year and if there are any recommended amendments to the Zoning Ordinance; and

**WHEREAS**, the report shall inform the Governing Body of all Applications that were approved by the Board pursuant to N.J.S.A. 40:55D-70(c)(1), N.J.S.A. 40:55D-70(c)(2), and N.J.S.A. 40:55D-70(d); and

**WHEREAS**, the aforesaid report by the Board Attorney has been prepared and circulated and reviewed by all members of the Board; and

**WHEREAS**, after review by all Members of the Board, it is their desire to adopt this report as their statement to the Governing Body regarding Applications considered by the Board in 2024.

**NOW, THEREFORE, BE IT RESOLVED** by the Demarest Board of Adjustment hereby adopts the enclosed report as their statement to the Governing Body of the Borough of Demarest regarding all Applications that were considered before the Board in 2024.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Timothy Woods, Zoning Board of Adjustment Chair

\_\_\_\_\_  
Attest: Michael Greco, Board Secretary



Law Office of  
**Mark D. Madaio**  
29 Legion Drive  
Bergenfield, New Jersey 07621  
Phone (201) 385-3788  
Fax (201) 385-3191  
Mark.Madaio@madaiolaw.com

**DRAFT AND BOARD WORK PRODUCT UNTIL ADOPTED BY  
THE BOARD BY AND FORMAL RESOLUTION.**

January 15, 2025

Hon. Brian Bernstein, and Members of the Borough Council  
The Borough of Demarest  
118 Serpentine Road  
Demarest, New Jersey 07627-2199

Re: Board of Adjustment's  
2024 Year End Report to the Governing Body

Dear Mayor Bernstein and Members of the Borough Council:

As you may be aware, pursuant to NJSA 40:55D-70.1, the Board of Adjustment (“BOA”) is obligated to send a brief report to the Governing Body regarding the Applications considered during the year and if there are any recommended amendments to the Zoning Ordinance:

The board of adjustment shall, *at least once a year*, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The board of adjustment shall send copies of the report and resolution to the governing body and planning board.<sup>1</sup>

---

<sup>1</sup> It should be noted that there is no requirement as to the date of this report and no requirement that it be submitted “by December 31”. In fact, a Report and Resolution adopted in December could not, by definition, include action taken at the December meeting. You may note, that the 2023 Report was dated January 15, 2024, discussed at the Reorganization Meeting on January 16, 2024, where the Board discussed the Report and the provided the statutorily required recommendations. Subsequent to this discussion, this office prepared the required Resolution (incorporating the Board’s required recommendations) which Resolution was then adopted at the February 20, 2024, meeting. Thereafter, the Report, with the required Resolution, was distributed in accordance with the statute. This is the “format” used in all prior years and which I use at all Board’s of Adjustment I represent.

As I have in the past, I have taken the liberty of preparing this Report in letter format. The Board vast majority of Board applications were for variances pursuant to NJSA 40:55D-70(c). There were a minimal number of variances pursuant to NJSA 40:55D-70(d) and they are also specified herein.

During 2024, the Board concluded the following 7 Applications:

<b>Docket Number</b>	<b>Address</b>	<b>Applicant</b>	<b>Variance(s) Requested</b>	<b>Notes</b>
23-006	Block 53; Lot 4.01 38 Sunset Road	Spencer Spielberg	Originally Requested: 1. Max Building Coverage 2. Total Improved Lot Coverage 3. Min. Side Yard to Wall. Revised Requests: 1. Building Coverage 2. Total Improved Lot Coverage 3. Retaining Wall Location	During the course of construction, it appeared that work on the property was undertaken which may have exceeded the scope of the Building Permit(s) or which was mislocated in a manner, or of a dimension, that violated the Borough Code. A "Stop Work Order" was issued and during the course of the public hearing, the Applicant agreed to revise their Plans and reduce their requests. The Application was ultimately granted.
23-007	Block 68; Lot 119 38 Rodney Place	Joshua Jagid	Reduction of the Following Variances 1. Maximum Residential and Parking Coverage. 2. Total Improved Lot Coverage.	Applicant had previously obtained approval for all existing property construction by Resolution 817-21. This Prior Resolution and approval was obtained subsequent to construction of the home and all existing improvements were rendered lawful by Board action. In the 2023 Application, this Application, proposed a swimming pool, patio,

				grill, and pool equipment pad. Applicant also proposed removing the existing, lengthy, angled driveway providing ingress and egress from Rodney Place and replacing it with a far shorter, straight, and direct driveway providing access to Demarest Avenue. The Application was approved.
24-001	Block 84.05; Lot 7 74 Pine Terrace	Chad and Rebecca Cutler	1. Lot Area 2. Rear Yard Width	Subject property is an isolated, and undersized lot. Application was for a “no variance build”. The Application was considered in light of the applicable case law on undersized lots and was granted.
24-002	Block 74; Lot 8 63 Central Avenue	Austin & Doreen Siboni	1. Side Yard Setback 2. Total % Improved Lot Coverage 3. Maximum % Improved Coverage 4. Accessory Side Setback – East 5. Accessory Side Setback-West 6. Accessory Rear Setback	The Applicant – without permit or prior approval – constructed various improvements, retaining walls, and imported soil at the Property. A “Stop Work” Order was issued and the requirement for the Applicant to appear before the Board. When reviewing the Application, the Board found it difficult to establish with certainty the conditions which existed prior to the work which resulted in the issuance of the Stop Work Order. The most egregious constriction done without a Permit was the construction of

				<p>approximately 135' of "Keystone" retaining wall along the length of the southern property line for the purpose of permitting the Applicant to import soil and "level" the rear yard. In addition to not obtaining a Permit, the retaining wall was not conforming as to location and height as required by Zoning Code, it was also constructed outside the boundary of the Property and onto the property of adjoining property owners. Subsequent to the Borough's issuance of a "Stop Work Order" the Applicant's contractor continued to deposit soil on the Property significantly altering the grades. This resulted in water onto the neighbor's property. Applicants' construction also resulted in litter and construction debris on adjoining properties. After significant efforts to ascertain the conditions prior to construction – and therefore determine the quantum of the required variances – the Application was granted.</p>
24-003	Block 84.04; Lot 2 12 Irene Court	RRF Properties LLC	<ol style="list-style-type: none"> <li>1. Lot Area</li> <li>2. Front Yard Setback</li> </ol>	<p>Applicant sought to construct a new home. Subject property is an isolated, and undersized lot. Application was a "no variance build". The</p>

				Application was considered in light of the applicable case law on undersized lots and was granted.
24-004	Block 70; Lot 81 62 Central Avenue	Raymond & Nicole Greiche	<ol style="list-style-type: none"> <li>1. Lot Area</li> <li>2. Frontage</li> <li>3. Building Coverage</li> <li>4. Max. Livable Floor Area (LFA)</li> <li>5. Improved Coverage</li> <li>6. Max Building and Driveway</li> </ol>	The Property is an existing, rectangular, and undersized lot containing an existing frame dwelling. The entire Application concerned the conversion of a porch into habitable space which increased "livable area" and required a variance for Livable Floor Area (LFA) - the Borough's functional equivalent of a Floor Area Ratio (FAR). This variance required approval pursuant to NJSA 40:55D-70(d).
24-006	Block 10; Lot 648 22 Drury Lane	Carly Williams	<ol style="list-style-type: none"> <li>1. Building Coverage</li> <li>2. Max. Livable Floor Area (LFA)</li> <li>3. Improved Coverage</li> <li>4. Max Building and Driveway Coverage</li> <li>5. Front Yard Setback</li> </ol>	The Property is an existing, approximately rectangular, undersized lot containing an existing one-story, frame dwelling. The Property is the "smallest lot in the Block and in the area." All witnesses testified that the Property includes pre-existing and non-conformities as to Lot Frontage, Lot Area, and Lot Width. The Applicant proposed to renovate the existing dwelling, construct a limited addition to the first floor of the existing home and add a second-floor addition over the newly configured first

				<p>floor with limited “overhangs”. This expansion, increased the “livable area” and required a variance for Livable Floor Area (LFA) - the Borough’s functional equivalent of a Floor Area Ratio (FAR). This variance required approval pursuant to NJSA 40:55D-70(d).</p>
--	--	--	--	--

In light of the within Applications, the Board has the following comments for the Governing Body and the Planning Board:

1. The 2023 Report suggested that all new homes – prior to the issuance of a Certificate of Occupancy for the sale of the property or to “close out” construction permits – be required to submit an “as-built” survey. This will assure that the Borough has confirmation of compliance with Building Plans and have a baseline to assure that non-permitted, future alterations are readily discoverable. This suggestion remains.
2. Two of the 2024 Applications were the result of “Isolated Undersized Lots”. While many towns “grandfather” lawfully-created, isolated, undersized lots. Demarest does not. Borough Ordinance 175-18(A) provides: “Any lot existing heretofore as a legal, separate parcel and not complying with the *minimum frontage width* at the time of passage of this chapter may, notwithstanding such fact, be improved with a building, provided that the other regulations of its zone are adhered to and provided that the owner owns no other adjacent land which may be included as part of the lot in question.” In other words, the Borough Ordinance “grandfathers” lots with an *undersized frontage*, but does not “grandfather” lots that are undersized as to *lot area*. It is suggested that the Governing Body consider expanding the “grandfathering” clause to include both Frontage and Lot Area. Of course, if the Application requires other dimensional variances, they would be required to come to the Board.

Please do not hesitate to contact me with any questions or comments.

Very truly yours,

Mark D. Madaio, Esq.

CC: Michael Greco, Board Clerk  
 Planning Board