
BOROUGH OF DEMAREST
JOINT PLANNING BOARD / ZONING BOARD OF ADJUSTMENT
In re: Appeal of Scott A. Lavin — 3 Central Avenue (Block 65, Lot 140)

EXHIBIT J

Hearing Date: August 5, 2026

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November 13, 2025

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**OUTLINE OF ISSUES IN
PENDING LAVIN APPEAL**

**Re: 3 Central Ave LLC
Premises: 3 Central Avenue
Block 65, Lot 140
Demarest, New Jersey**

Dear Ms. Federico:

As you know, this office represents Mr. and Mrs. Lavin in the above matter.

On November 4, 2025, we filed a Notice of Appeal of (i) the "decision" of the Zoning Officer (for the lack of a reply to our inquiry letter of October 16, 2025¹), that assumed by lack of a response that there were no zoning violations or no reply to our allegations of an illegal height and the measurement of same, (ii) an appeal of the Zoning Officer's letter to the Owner dated October 31, 2025, indicating there appeared to be an issue with height – which issue was not however specified – and which therefore needed to be identified, and (iii) an interpretation of the Zoning Ordinances as to the proper calculation and determination of height and grade level for calculating height using the applicable legal Zoning Ordinances. This is hereinafter referred to collectively as the "Appeal." This Appeal was served upon the Borough Planning Board and Owner.

¹ No comment or criticism is intended against Mr. Greco. The lack of any reply requires that we file the Appeal by virtue of the silence or incomplete reply.

You requested a more detailed outline as to the particular issues to be appealed. The following is a list of issues to supplement the Notice of Appeal. (We reserve the right to amend as additional information becomes available.)

1. The applicability of the 30-foot maximum height allowed in the subject R-D zone: The Borough has already noted that the building “appears” to exceed the code height limitations. However, it has not specified the relevant code provisions or how the height limitation is exceeded. (We understand there is still an investigation on the issue with height and the applicability of the Zoning Ordinances, but we filed the Appeal based upon the lack of a response to our prior letter of October 16, 2025, so as not to jeopardize the timeliness of asserting our rights.) The relevant code sections should be specified and other ordinances that we have stated in our Appeal are accurate.

2. Maximum height: The maximum height of 30 feet is the applicable requirement, and any determination to the contrary is not correct.

3. The plans have the wrong calculation of height: The submitted plans used the wrong calculations for the height of a home in the R-D zone. (Prior to 2015, in all zones - R-A, R-B, R-BB, R-C and R-D, there was no “average height,” but only “height” that was later changed, but not for the R-D Zone.) There did not appear to be any proper calculation of actual “peak height” under the legal ordinances.

4. “Average height” and applicability to use same to determine “height”: The 2015 ordinance revised *only* zones R-A, R-BB and R-B to permit an “average height” of 35 feet, allowing half the roof surface area to be above and half the roof surface area to be below 35 feet. The ordinance did not change the R-C and R-D zones, and therefore there is no concept of “average height” being applicable in those zones and on this project. The “average height” is not correct, and any permits or approvals based upon same are invalid.

5. Limiting schedule is not legally applicable: As of the last Planning Board meeting on November 5, 2025, Mr. Greco confirmed that it did not appear that the limiting schedule had been legally adopted by the Borough. As such, any permits or approvals using same are invalid.

6. The proper measurement of height; original grade of the old house: It is still unclear how height is measured using “average grades.” The site plans call out “average grade” to be 99.3 feet and provide measurements to produce that “average.” However, it is unclear if those readings were properly taken from the “existing grade” of the original home. There was clearly a large depression on the Lincoln side of the property before construction, which should place the existing grade much lower than indicated for calculation of height. (See photos previously supplied.)

7. "Average grade" from original elevation grades: Even if the concept of "average grade" is incorrectly applied, despite the clear fact it was not legal, the original "average grades" were not properly calculated and/or need to be determined, and any approvals based on same are incorrect.

8. Interpretation: The Zoning Ordinances as applied to the project do not warrant any permits or approvals using the heights and average grades. The permits and approvals are invalid.

9. Application of Planning Board decision: As the Planning Board just interpreted the calculation of height in a separate application, that determination is binding on this application and project to the extent it addresses some of the issues raised.

* * *

We trust this further delineates the issues before the Planning Board raised in our Appeal. As we note that the Planning Board, independently of our Appeal, had already raised some of these issues and decided same at its November 5, 2025 Planning Board hearing, that decision likely affects much of our Appeal. We continue to request a stay of our Appeal while further investigation is made by submissions of the information the Zoning Officer has requested. We note that the Owner has an adequate remedy of law. It can apply for the necessary variances.

Thank you for considering our comments. Please do not hesitate to contact me if you have any questions with regard to the above.

Very truly yours,

/s/ John J. Lamb

John J. Lamb

JJL:abp/l

cc: Mr. Michael Greco, Zoning Officer
and Secretary of Joint Planning Board
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Mr. Richard Bolan, Construction Code Official
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