

ZONING BOARD OF ADJUSTMENT – BOROUGH OF DEMAREST

MINUTES

REGULAR MEETING - February 15, 2022

Chairwoman Hayden called the meeting to order at 7:30 pm and read the notice requirements as follows: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time, and place of this regular meeting in the annual schedule and notice of regular meetings of this Board. Such annual schedule and notice of regular meetings are posted at Borough Hall, were mailed to the Star Ledger and The Record, and have been filed with the Borough Clerk of Demarest on January 28, 2021.

Meeting held via Zoom Meeting

<https://us02web.zoom.us/j/7318183076?pwd=cGY3R3JOQnlmSGE1V0pQMkp1NG9RZz09>

Meeting ID: 731 818 3076

Passcode: 271918

1. Roll Call
2. Flag Salute
3. Matters to Address
4. Administrative Matters

BOARD ROLL CALL:	PRESENT	ABSENT
Mr. Woods, Vice-Chair	X	
Mr. Davis	X	
Mr. Corrado	X	
Mr. Morrison	X	
Mr. Park	X	
Mr. Press	X	
Ms. Hayden, Chair	X	
Alternate #1 Mr. McLain	X	
Alternate # 2 Mr. Adelman	X	
Present:		
Board Secretary		
Mark Madaio, Board Attorney	X	
Craig Zimmerman, Board Engineer	X	

The Chair, Ms. Hayden made the following announcements:

40 Lincoln -has requested its application be carried to the May meeting. This application has been carried for several months therefore the applicant has been informed that he will be required to do a full public notice for the May meeting. It will be heard as try or dismiss – he either presents his case or the Board will vote to dismiss.

83 Pine Terrace – application has been withdrawn. Plans have been revised to the extent that no variances are needed.

52 Woodland – application has also been withdrawn.

Variance Application #818.21.20

Application submitted:

Hearing Date(s): Carried from November 16, 2021, January 2022 meetings, applicant agreed to extend statutory deadlines

Relief sought: N.J.S.A. §40:55D-70(C) - §175-27 for Improved lot coverage
 108 Serpentine Road
 Block 23 Lot 22.01
 Mr. and Mrs. Yuk
 Zone D

GENERAL ZONING	REQUIRED	EXISTING	PROPOSED
Lot Area	10,000 sf	12,086 sf	No Change
Frontage	100 ft	84.21 ft ENC	No Change
Lot Depth	100 ft	142 ft	No Change
Min. Front Yard	25 ft	40.21 ft	No Change
Min. Side Yard Width Abutting Street	25 ft	25 ft	No Change
Min. Side Yard Width Abutting Lot	10 ft	10ft	No Change
Min. Rear Yard Depth	30 ft	59.5 ft	No Change
Min. Rear Yard Width	100 ft	75 ft ENC	No Change
Building Coverage	20%	17.63%	No Change
Height of Building	24/30 ft		No Change
Max Livable Area (FAR)	30%	30.05%	No Change
Maximum % Improved Coverage: principal residence, vehicle access & parking	25%	3,193 sf (26.4%)	No Change
Max. Total Improved Lot Coverage	30%	3706 sq ft (30.7%)	3901 sq ft (32.3) %*

***Variance Required**

108 Serpentine

Mr. Yuk was sworn in – the applicant appeared pro se, he does not have any professional witnesses and will provide the only testimony on the application. The application is for increase in improved lot coverage – current coverage stands at 30.7%, slightly over allowed. The applicant is proposing to increase coverage to 32.3% - 2.3% over allowed. Ms. Hayden reminded Mr. Yuk that as previously informed, he needs to address the statutory proofs required

for a variance. Mr. Yuk stated he is asking for an increase of 195 sq. ft. to the current paver patio for a patio of 15x13 sq. ft. to add a hot tub, pool, and various pieces of furniture. Mr. Yuk said he needs to prove a hardship and he cannot use his land to do what he wants to do, his plans will not affect the surrounding areas, he is adding value to his house and also wants his family to enjoy the yard.

Mr. Zimmerman, Board engineer, mentioned removing pervious pavement to get coverage down. Ms. Hayden said that will not work – it is coverage that is the issue, regardless of being pervious or impervious.

Mr. Woods mentioned shrinking the driveway. Ms. Hayden said they cannot really take that coverage away because they have a 2-car garage and need a driveway to accommodate that – also it is used for vehicle access and therefore considered coverage.

Mr. Madaio, Board attorney, said the applicant could ask for a C1 or C2 variance. He explained a C1 is a hardship variance created by the characteristics of a piece of property such as exceptional narrowness. He also said the applicant would still need to prove the negative criteria i.e., the plans create no detriment. For a C2 or flexible variance the applicant would need to demonstrate the deviation from the zoning code substantially advances the statutory purposes of zoning.

Mr. Yuk said the problem is that his paver driveway is 1000 sq. ft. but he cannot do anything about that.

Mr. Press said he does not see a hardship – this is something Mr. Yuk wants. It may not negatively impact anyone, but it does exceed what is allowed.

Mr. McLean said the town has twice made it clear they want properties at a maximum of 30% total coverage. The ordinance now allows 25% for residence plus 5% for accessories. He sees potential harm in granting this variance for 32.3% as it would be detrimental to the goal of the town, additionally he commented the Board can only grant variances if it advances the purposes of zoning. This property is already over what is allowed. Other applicants have pared down their wish lists. He questions why so much stuff was needed on the patio- what do you really want?

Mr. Yuk said he wants to put the pool on the paver patio, so they do not kill the grass. He also wants to share the patio, hot tub etc., with friends.

Mr. Morrison said he was sympathetic to the situation, applicant bought a house that is non-conforming and may not have understood that, but the Board does not want to go against what the town wants – he sees this as a choice between the hot tub or the pool. Ms. Hayden said it is not a choice between those two but an issue of reducing the coverage. Mr. Madaio said it will be difficult to prove a hardship or that this advances the purposes of zoning.

Mr. Zimmerman asked Mr. Yuk if there was a seepage pit on the property – Mr. Yuk said no, it was not on the survey. Mr. McLean asked about a fence around the pool and if one was needed for the hot tub. Mr. Yuk said he has a permit for a fence and now has one around the property.

Mr. Woods asked if this could be considered a hardship since the house is so far set back it required a large driveway. Mr. Madaio said if the Board relied on that it would be extraordinary. Ms. Hayden said the town wants properties at 30% maximum coverage, this is already over

that, and they already have a patio of 300 sq. ft., so a hardship is difficult to see despite the large driveway.

Mr. Corrado motioned to open to the public, Mr. McLean seconded.

No one from the public came forward.

Mr. Corrado motioned to close to the public, Mr. McLean seconded.

Mr. Yuk summarized his case by stating he is asking for 2.3% variance – they are currently at 30.7% coverage and are asking for 32.3% so an additional increase of 1.6% to extend the paver patio. He moved here for the schools and now wants his family to be able to enjoy their home.

Ms. Hayden asked if there was an amount they could cut off to reduce the coverage. Mr. McLean said if they put the pool in the yard, they could get most of what they want and be able to reduce coverage. Mr. Zimmerman said reducing by half what they are asking could bring coverage to 30.9% - under 1% over what is allowed. Ms. Hayden asked if they wanted to take another shot at the plans or have a vote now. Mr. Zimmerman told the applicant he should be aware that if the Board voted to approve the application there would be more work to be done on Mr. Yuk's part when they reach the Building Department phase in order to address drainage issues. Mr. Yuk asked to confer with his wife – after conferring with his wife he said they would like a vote.

Mr. Press made a motion to deny the application saying the applicant has not demonstrated hardship. He also stated the application exceeds the limits set by the town council, therefore it does not promote the purposes of zoning. Mr. Morrison seconded the motion. All the Board members voted in the affirmative with the motion, consequently the application was denied.

*** must have been present at previous hearing(s) or submitted certification Board member has listened to recording of the previous hearing to be eligible to vote**

Roll Call to Approve the Motion:	Eligible to Vote*	YES	NO	ABSTAIN
Mr. Woods, Vice-Chair	Yes	Yes		
Mr. Davis**	Yes	Yes		
Mr. Corrado	Yes	Yes		
Mr. Morrison	Yes	Yes		
Mr. Park	Yes	Yes		
Mr. Press	Yes	Yes		
Ms. Hayden, Chair	Yes	Yes		
Alternate #1 Mr. McLain**				
Alternate #2 Mr. Adelman				

** certified listened to recording of first hearing

Approval of Minutes of January 18, 2022, Meeting

Motion: Mr. Morrison

Second: Mr. Corrado

****only those present at prior months' meeting are eligible to vote***

Roll Call to Approve:	Eligible to Vote*	YES	NO	ABSTAIN
Mr. Woods, Vice-Chair	Yes			
Mr. Davis	Yes			
Mr. Corrado	Yes			
Mr. Morrison	Yes			
Mr. Park	Yes			
Mr. Press	Yes			
Ms. Hayden, Chair	Yes			
Alternate #1 Mr. McLain	Yes			
Alternate #2 Mr. Adelman	Yes			

Motion to Close the Meeting:

Motion: Mr. Corrado

Second: Mr. Morrison

All voted to close the meeting

Meeting adjourned at 9:45 pm.

Next Meeting April 19, 2022 at 7:30 p.m. via Zoom conference