

ZONING BOARD OF ADJUSTMENT – BOROUGH OF DEMAREST

MINUTES

REGULAR MEETING - October 18, 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. Mr. McLean		X
Mr. Park	X	
Mr. Press	X	
Ms. Hayden, Chair	X	
Alternate #1 Mr. Adelman	X	
Alternate # 2 TBC	X	
Present:		
Board Secretary, Teresa Ferrentino	X	
Mark Madaio, Board Attorney	X	
Nick Chelius, Colliers Board Engineer	X	

Variance Application #8xx-22

Application submitted:

Hearing Date(s): July 19, requested adjournment to and consented to extend statutory

Relief sought: N.J.S.A. §40:55D-70(C) and Chapter 175 §175-27 for Improved lot coverage, accessory structures (pool, pool equipment & Patio) in front yard, building coverage

2 Prospect Street
Block 59 Lot 18
The Vanessa Colon Trust
Zone B

GENERAL ZONING	REQUIRED	EXISTING	PROPOSED
Lot Area	22,500 sf.	26,245 sf	No Change
Frontage	150/175 sf.	150/175 sf.	No Change
Min. Front Yard (Knickerbocker)	50 ft.	38.9 ft.	No Change - ENC
Min. Side Yard (Prospect)	50 ft	14.3 ft.	No Change - ENC
Min. Side Yard (Lot)	20 ft	26 ft.	No Change
Min. Rear Yard			
Building Coverage**	15% /3,936 sf	16.5% /4,326 sf.	No Change - ENC
Height of Building	24/30 ft		No Change
Max Livable Area (FAR)			
Maximum % Improved Coverage: principal residence, vehicle access & parking	25%/6561 sf.	25%/6565 sf.	No Change
Max. Total Improved Lot Coverage	30%/7,864 sf.	30% /7,864 sf.	32.3% /8.489 sf.

***Variance Required**

Mr. Capizzi opened the meeting representing The Vanessa Colon Trust, seeking to construct a rear yard shallow pool to assist Vanessa Colon, a disabled young adult with aquatic physical therapy. The proposal includes a wheelchair lift and patio space for after therapy care for their daughter, and outdoor enjoyment for the family. Improved coverage is in excess of 2% of permitted allowance. Proposed Pool Equipment is according to plans, to sit 38 ft. front yard setback where 50ft is required.

Mr. Jeff Egarian, Civil Engineer – Licensed since 2012, Ms. Samantha Vega, the applicant’s mother and primary caretaker, and Mr. David Spatz, Licensed Professional Planner – were sworn in by Mr. Mark Madaio.

Mr. Egarian presented the plans: The application is to install a 15ft. x 31ft. inground pool, patio, storm water management system, filter system, 4-foot pool compliant fence, perimeter drain around pool, and 1,000-gallon seepage pit. It also proposes that the pool equipment will be located adjacent to A/C units and free-standing generator.

A discussion concerning hedge screening of said units or moving pool equipment closer to the home, and not near the windows or violating code requirements took place. Some landscaping will be added around the equipment.

Chair Hayden asked the depth of the pool and asked for clarification if the 5 ft. depth was a uniformed depth.

Mr. Woods stated that 2 Prospect Street needs two variances. One for improved lot coverage and another for encroachments to front/side yard. It was also noted that 2 Prospect has an existing picket fence, which is not being proposed for removal. The new pool surrounding fence will back up to the existing fence.

Mr. Capizzi reviewed the plan from the June filing noting improvements of 32.3%, stating the maximum allowed is 30%. The setback of 38 feet denotes a short fall of 12 feet, the existing walkway and patio equals 1,087 sq. ft., and after the removal only 460 sq. ft. will remain.

Ms. Vega – Mother of Vanessa Colon and primary caregiver – stated her family moved to Demarest in 2015, loves the town and the families. Her daughter's trust was established in NY, and it took time to plan the construction for the pool and renovations. She was advised by her daughter's physicians that a pool would benefit her as she suffers from spasticity/stiffness and the water therapy would help her spasms. She described that a side pool chair lift is necessary to raise her daughter in and out of the pool. Ms. Vega clarified that the pool depth grades from 3 to 4 to 5 feet. An area to rest after therapy would be needed, a barbecue area to eat, and a portable umbrella for weather coverage.

The plans entail removal of a portion of the existing patio, and the new patio will be placed closer to the home. Suggested is a 729 sq. ft. for the new pool patio to surround the pool.

Board Question: Is the pool intended for year-round use? Ms. Vega responded the pool would be used if weather permits.

Board attorney asked the actual diagnosis of Vanessa. Ms. Vega responded that Vanessa was diagnosed with Cerebral Palsy as an infant, and that her left side is affected. She expressed that she cannot move around on her own.

David Spatz provided a photo exhibit of 2 Prospect which included a photo of the existing patio and future pool location in the background. Mr. Spatz stated that the house was in the B Zone, a single-family home, which permits an accessory pool. The request is for 2 variances: improved coverage 2.3 % over what is permitted and location of the Pool Equipment in a "front" yard. Spatz also stated the dimensions of the pool filter and heating equipment that needs a hedge buffer is 4ft.x 8 ft. long.

The Board discussed that a decorative hedge that is aesthetically pleasing, should be installed in the front yard to buffer the view of the units.

Mr. Egarian stated that the pool is located in the best possible location, off of Knickerbocker Rd., for the purpose of inhibiting noise and for the least disturbance to neighboring properties.

Mr. Chelius compared a neighboring pool size to determine if the proposed pool was in line with the neighborhood, using 10 Prospect Street for the comparison.

At this time a motion was made to open to the public by Mr. Corrado and seconded by Second: Mr. Park

As there were no comments or questions from the public, a Motion was made by Mr. Corrado Seconded by Park and carried. The meeting was closed to the public.

Mr. Capizzi rested and submitted to the Board.

At this time a Motion to approve the variance was made by Mr. Corrado, Seconded by Mr. Press and a roll call vote was taken:

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

Variance Application #825-22
Application submitted: September 21, 2022
Hearing Date(s): N/A

Relief sought: N.J.S.A. §40:55D-70(C) and Chapter 175 §175-27 for Improved lot coverage, §175-19(3)(d) and (4) (C) accessory structure side/rear yard encroachment

177 Orchard Street
 Block 85.04, Lot # 2
 Zone A

GENERAL ZONING	REQUIRED	EXISTING	PROPOSED
Lot Area	40,000sf.	14,234.03 sf	No Change
Frontage	200 ft.	180.39 ft.	No Change -ENC
Min. Front Yard (Orchard)	50 ft.	29.30ft.	No Change - ENC
Min. Side Yard (Anderson)	50 ft	53.10 ft.	No Change - ENC
Min. Side Yard (Lot)	25 ft	15.30 ft.	No Change-
Min. Rear Yard	50 ft.	38.46 ft.	No Change - ENC
Building Coverage**	50 ft.15%	20.35%	No Change - ENC
Total Improved Lot Coverage**	30% / 4,270	35.33% /5,029 sf.	35.98% / 5121

Previous variance granted for improved lot coverage at 34.4%

**Variance Needed

ACCESSORY STRUCTURE (PATIO)**	REQUIRED/ALLOWED	EXISTING	PROPOSED

Min. Accessory Front Yard	50 ft.	46.36 ft. ENC	46.36 ENC
Min. Accessory side setback	10 ft.	6.35 ft. ENC	7.05 FT.
Min Accessory rear setback	10 ft.	4.97 FT. ENC	4.71 FT.

Mr. Capizzi opened the meeting representing an application for 177 Orchard Street. Mr. Capizzi described the property as a corner property with frontage along Orchard Street and Anderson Avenue. The property itself, and the undersized nature, doesn't lend itself to any appreciable recreational area. The property is an undersized lot having 14,000 sq. ft. of area where 40,000 sq. ft. is required. The property was previously before the board in 2018, and received several variances described as impervious coverage now called improved lot overage. The southwest corner of the property does not present the capacity to grow grass and has become dormant. The small existing patio is muddy and mostly shaded. The application seeks to enlarge the patio area by 133 sq. ft. which is over the variance granted in 2018. Mr. Capizzi expressed that a residual amount of coverage remains from the 2018 approval.

Mr. Hubschman, Licensed Engineer, and Ms. Vikki Gandhi, the owner of 177 Orchard Street - were sworn in by Mr. Mark Madaio.

Mr. Hubschman presented the plans. The application is to replace the existing patio that was approved in 2018. The proposal is for a new 530 sq. ft. patio. He described the history of the property in that a second story addition took place, which did not change the footprint – however, improved the roof line and aesthetic of the home. He described that currently, the dwelling has a kitchen door that leads onto a deck with steps to an unappreciable existing patio. The proposed patio plans represent a 4.71 sq. ft. setback which would be positioned very close to an existing six-foot fence that was installed by the current owners. On the other side of the fence, is a neighbor's garage. Pea gravel was added to the existing patio site adding to the improved coverage in 2021. He further described the hardships that are impacting the lot, the drainage and existing landscaping. Indicating that there would be minimal soil removal and no necessary grading of the property. The drainage currently runs off to the street, and no fill or walls are necessary. He concluded that there is not a visual impact on any of the neighbors.

Ms. Gandhi, the owner of 177 Orchard Street stated that her family moved to Demarest during the pandemic in 2020 and enjoys all that the town of Demarest has to offer. She has two sons in the Demarest school system. She described the nature of the patio area, as being muddy, inadequately sized and not conducive to her children having a spacious, dry area to play on. As the new homeowner's, the family installed a six-foot fence, and planted tall shrubs/tree's that did not survive the shade of neighboring overhanging trees.

Mr. Wood's referred to the minutes from 2018, stating that 34.4 sq. ft. was approved at the beginning of the project, and the site is currently at 35.33 sq. ft. He further stated that a 10 ft. setback is required for a patio, comparing the plans proposing of 5 ft. setback to the fence.

Mr. Park stated that the patio is too close to the property line. It's over 50% more than what's allowed. And, that it's not even 5ft. in distance from the fence. The plans are already over what is permissible and has many non-conforming conditions.

Mr. Press inquired about the possible inclusion of Caltech chambers and asked what portion of the roof is planned for collection and conveyance to the system. Mr. Hubschman responded 500 sq. ft. of the roof area, which consists of two Caltech chambers, will facilitate the runoff towards the street. He included that catch basins are not necessary. Items, 14, 15, 16, and 18 of the new proposal were reviewed at this time.

Mr. Park stated that the building coverage is 20% and should be 15%. The improved coverage allowed is 30% and the property is at 35%. This is a 14,000 sq. ft. area that is beyond capability on a property of this size. In addition to a list of nonconforming conditions.

Mr. Hubschman suggested reducing the size of the patio. And agreed to moderate the plans to hold to the 10 ft. setback requirement and revise the patio to 16 x 20 ft, which is net equal to the 34 sq. ft. impervious coverage approved in 2018.

Mr. Press made a motion to open to the meeting to the public, Seconded by: Mr. Corrado

Mr. David Singer residing at 172 Orchard Street proposed a question to the Board. “Is it possible that if you granted this, that some other future owner could put a structure there?” Or would this be limited to what is approved right now?” Chair Hayden stated that a structure would require a variance. This statement was confirmed by Mr. Mark Madaio.

As there were no further comments or questions from the public, a Motion was made by Mr. Press and Seconded by Mr. Corrado and carried. The meeting was closed to the public.

Mr. Capizzi rested and submitted to the Board.

At this time a Motion to approve the variance was made by Mr. Woods, Seconded by Mr. Corrado and a roll call vote was taken – variance is approved

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

A brief discussion followed regarding returning to in person meetings at some point in the near future. Mr. Madaio commented that at some point the executive order allowing virtual meetings may be rescinded and the Board would therefore need to return to in person meetings.

A motion to close the meeting was made and carried.

Respectfully submitted

Teresa Ferrentino
Administrative Assistant