

October 12, 2026

PLANNING REPORT

Joint Planning Board
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

RE: Jonathan Gal & Stephanie Barnhart

15 Brook Way
Block 145, Lot 13
Review Letter #1
Project No. DEP-0274

Dear Board Members,

Jonathan Gal and Stephanie Barnhart, the Applicants, seek variance relief to construct a covered patio and a raised patio with a spa/hot tub at the rear of their home. Other site improvements include grading and stormwater management facilities. The Application requires "C" variances, which are detailed in Section B.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plans entitled "Proposed Covered Patio", prepared by Robert J. Mueller, PLS and Michael J. Hubschman, PE, PP of Hubschman Engineering, PA, dated June 1, 2026, revised through June 15, 2026, consisting of 2 sheets.
2. Plans entitled "Proposed Covered Porch for Gal Residence", prepared by Stephanie DeCarlo Pantale, RA, dated June 16, 2026, consisting of 2 sheets.
3. Variance Application, dated July 10, 2026.
4. New Construction Deed, dated April 6, 2016, recorded on June 6, 2016.
5. Letter entitled "Proposed Covered Porch", prepared by Michael J. Hubschman, PE, PP of Hubschman Engineering, PA, dated June 30, 2026, consisting of 3 pages.

A. Existing Zoning and Surrounding Land Use

The subject property is located on the northwest side of Brook Way in the Residence C (R-C) District. The property is surrounded by residential uses. See the image on the following page for the approximate location of the subject property shown in red.¹



Yard and bulk requirements in the R-C District are:

Minimum Lot Frontage – 100 feet

Minimum Lot Depth – 100 feet

Minimum Rear Yard Width² – 30 feet

Minimum Lot Area – 15,000 square feet

Minimum Yard Dimensions:^{3, 4}

Minimum Front Yard Setback – 35 feet

Minimum Side Yard Setback – 15 feet

Minimum Combined Side Yard Setback⁵ – 35 feet⁶ (which is reduced to 20 feet for this site)

Minimum Rear Yard Setback – 30 feet

Maximum Number of Families per Building – 1

Maximum Building Coverage – 20%

Maximum Height of the Principal Building⁷ – 30 feet

Maximum Floor Area Ratio ("FAR")⁸ – 30%

Maximum Improved Lot Coverage⁹ – 35%

Maximum Residential and Parking Coverage¹⁰ – 25%

B. Variances

The Application requires the following "C" variances:

1. Section 175-25D.(1)(a) – Variance for rear yard setback. The Ordinance requires a 30-foot rear yard setback.

The Applicant proposes a 28.74-foot rear yard setback to the proposed covered patio.

2. Section 175-25D.(2) – Variance for building coverage. The Ordinance limits building coverage to 20% of the lot area.

The Applicant proposes a building coverage of 3,146 square feet or 25.17% of the lot area. It should be noted that the existing building coverage is 2,570 square feet or 20.56% of the lot area.

3. Section 175-25D.(2) – Variance for residential and parking coverage. The Ordinance limits residential and parking coverage to 25% of the lot area.

The Applicant proposes a residential and parking coverage of 3,916 square feet or 31.33% of the lot area. **This variance is not listed on the Site Plans.** It should be noted that the existing residential and parking coverage is 3,340 square feet or 26.72% of the lot area.

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-25C.(2)(d) – The Ordinance permits projections such as window sills, belt courses, cornices, eaves, overhangs, and other architectural features of the principal building to encroach into the side yard setback up to three feet. According to the scale provided on the Site Plan, the existing window well has a side yard setback of 11 feet, which translates to a four-foot encroachment.
2. Section 175-25D.(1)(a) – The Ordinance requires a minimum lot area of 15,000 square feet. The subject property is only 12,500 square feet.
3. Section 175-25D.(1)(a) – The Ordinance requires a minimum side yard setback of 15 feet. The existing dwelling has a side yard setback of less than 15 feet on the west side of home according to the Plan on Sheet 1.
4. Section 175-25D.(1)(a) – The Ordinance requires a minimum combined side yard setback of 35 feet. The existing dwelling has a combined side yard setback of less than 30 feet according to the Plan on Sheet 1.

C. Variance Proofs

"C" Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional

topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Waivers/Exceptions

The Application does not require any waivers/exceptions based on the information provided.

E. Comments

Based on our review of the above-referenced materials, we offer the following comments:

General

1. The Applicant’s professionals must provide testimony to support the grant of the “C” variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. After reviewing the Application, we have determined that the variances for a 12.75-foot side yard setback to the fireplace and for improved lot coverage are not required. However, we have discovered that a variance for residential and parking coverage is required. The Applicant shall revise the Site Plans to list all required variances detailed in Section B above or revise the Plans to comply with the Ordinance.
3. General Note #11 of Sheet 1 of the Site Plans references an As-Built Survey, prepared by Lantelme, Kurens & Associates, dated February 18, 2016. A copy of the referenced survey should be submitted for review.

Site Plan

4. It should be noted that Section 175-25C.(2)(j)[1] (side yard standards) indicates patios are not permitted to encroach into the principal building’s required side yard setback. However, Section 175-25C.(3)(j)[1] (rear yard standards) indicates that patios must be set back a minimum of 10 feet from the side line. We think Section 175-25C.(3)(j)[1] guides the raised patio’s setbacks, but request the Board confirm. If Section 175-25C.(2)(j)[1] guides, then a variance will be required.
5. The Zoning Notes on Sheet 1 of the Site Plans indicates a variance is required for a 12.75-foot side yard setback to the proposed fireplace of the covered patio. However, Ordinance No. 1108-26, adopted on May 11, 2026, repealed and replaced Chapter 175 in its entirety, including the Limiting Schedule. The new Limiting Schedule includes Footnote 4, which states, “Any accessory building within ten feet of the principal building is considered part of the principal building and subject to the setback requirements of the same.” The proposed covered patio is adjacent to the dwelling and subject to the setback requirements of the

principal dwelling. Section 175-25C.(2)(d) permits projections such as windowsills, belt courses, cornices, eaves, overhangs, and other architectural features of the principal building, to encroach up to three feet into the side yard setback. The proposed fireplace has a 12.75-foot side yard setback, which is only a two-foot, three-inch encroachment. Therefore, variance relief is not required. The Zoning Notes shall be revised accordingly, which can be a **condition** of any potential Board approval.

6. No distance has been provided between the western lot line and the covered patio. It appears the covered patio may be less than 15 feet from the property line, which would trigger a side yard setback variance.
7. The Zoning Notes indicate the permitted improved lot coverage is 30%. However, Ordinance No. 1108-26 increased the permitted improved lot coverage of the R-C District to 35%. This discrepancy shall be eliminated, which can be a **condition** of any potential Board approval.
8. The Zoning Notes indicate the existing building coverage is 20.56%. According to the Existing Building Coverage Cal's on Sheet 1 of the Site Plans, this includes the dwelling (2,450 square feet) and covered porch (120 square feet), which totals 2,570 square feet. Therefore, a pre-existing non-conforming condition exists.
9. The Zoning Notes indicate the proposed building coverage is 25.17%. According to the Proposed Building Coverage Cal's on Sheet 1 of the Site Plans, this includes the existing coverage (2,570 square feet) and proposed covered patio (576 square feet), which totals 3,146 square feet. Therefore, variance relief is required to increase the pre-existing non-conforming building coverage.
10. The Zoning Notes indicate the existing improved lot coverage is 31.77%. According to the Existing Improved Lot Coverage Cal's on Sheet 1 of the Site Plans, this includes the building coverage (2,570 square feet), driveway (770 square feet), steps and walks (283 square feet), patio (340 square feet), and AC units (eight square feet), which totals 3,511 square feet. Based on this information, the existing improved lot coverage complies with the Ordinance. The Zoning Notes shall be revised to eliminate the pre-existing non-conforming condition notation for the existing improved lot coverage, which can be a **condition** of any potential Board approval.
11. The Zoning Notes indicate the proposed improved lot coverage is 34.86%. According to the Proposed Improved Lot Coverage Cal's on Sheet 1 of the Site Plans, this includes the existing building coverage (2,570 square feet), existing driveway (770 square feet), steps and walks (229 square feet), existing AC units (eight square feet), proposed covered patio (576 square feet), proposed patio and steps (99 square feet), and proposed spa/hot tub (105 square feet), which totals 4,357 square feet. Based on this information, the proposed improved lot coverage complies with the Ordinance with only 18 square feet to spare.
12. However, it does not appear that the existing window wells on the side and rear of the dwelling are included in the Existing or Proposed Improved Lot Coverage Cal's. The Site Plans shall be **revised** to include the area of the window wells in the existing and proposed

improved lot coverage calculations. The Applicant shall note that if the existing window wells are more than 18 square feet, then the proposed improved lot coverage would exceed 35% (4,375 square feet) and require variance relief.

13. The Zoning Notes indicate the existing residential and parking coverage is 25.76%. According to the Existing Residential & Parking Coverage Cal's on Sheet 1 of the Site Plans, this includes the dwelling footprint (2,450 square feet) and existing driveway (770 square feet), which totals 3,220 square feet. However, the calculation does not include the existing covered porch (120 square feet). Therefore, the existing residential and parking coverage is 3,340 square feet or 26.72%, which is a pre-existing non-conforming condition. The Zoning Notes and Existing Residential & Parking Coverage Cal's shall be revised to include the area of the existing covered porch, which can be a **condition** of any potential Board approval.
14. The Zoning Notes indicate there is no change to the existing residential and parking coverage. However, the proposed patio is attached to the principal dwelling and is included in the residential and parking coverage. Based on the information provided, the proposed residential and parking coverage is 3,916 square feet or 31.33% of the lot area, which includes the existing dwelling (2,450 square feet), existing covered porch (120 square feet), existing driveway (770 square feet), and proposed covered patio (576 square feet). The Zoning Notes shall be revised to provide the proposed residential and parking coverage and note the required variance. Additionally, a calculation of the proposed residential and parking coverage shall be added to the Site Plans. These revisions can be **conditions** of any potential Board approval.
15. The Site Plan illustrates an 18-inch maple tree near the proposed cultech chambers and proposed contour line. These proposed improvements are within the tree's root system and will likely kill the tree. **Testimony** shall be provided to clarify if the 18-inch maple will remain. The Applicant shall note that Section 163-20B.(2) contains the mitigation requirements, which would require two replacement trees.
16. The stabilized construction access depicted on Sheet 2 is proposed in the western side yard. The area conflicts with the existing window well. Additionally, it appears that access may be blocked or partially obstructed by multiple trees along the southern property line. **Testimony** shall be provided to clarify if the construction access will conflict with the existing window well or if any existing trees will be removed. If any trees are to be removed, tree mitigation may be required.

Architectural Plans

17. The First Floor Plan on Sheet A2 of the Architectural Plans indicates the proposed covered patio is 32 feet, three inches wide (32.25 feet). However, the Site Plans dimension the width of the covered patio as 31.3 feet. If the proposed covered patio is 32.25 feet wide, the size of the patio on the Site Plans is incorrect and consequently the proposed building, improved lot, and residential and parking coverages would increase. **Testimony** shall be provided to

clarify. Additionally, this discrepancy shall be eliminated, which can be a **condition** of any potential Board approval.

18. Similarly, the First Floor Plan indicates the depth of the proposed covered patio at the outdoor kitchen area is 15 feet, 10.75 inches (15.9 feet). However, the Site Plans dimension the depth of the covered patio in this area as 15.76 feet. If the proposed covered patio is 15.9 feet deep, the size of the patio would increase, which would enlarge the proposed building, improved lot, and residential and parking coverages. **Testimony** shall be provided to clarify. Additionally, this discrepancy shall be eliminated, which can be a **condition** of any potential Board approval.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP
Borough Planner

cc: Michael Greco, Board Secretary (via email mgreco@demarestnj.gov)
Tim Woods, Board Chair (via email timwoods12@gmail.com)
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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated July 12, 2026.

² **Footnote A:** For other than rectangular lots, a rear yard width is required that is equal to the frontage requirement in the district, such width to be measured between points on each side line which are distant from the frontage line the number of feet specified as the minimum lot depth requirement in the district, such side line points to be measured at right angles to the frontage line.

³ **Footnote F:** In all districts and in connection with all brooks and streams, a mandatory open space, unencumbered by any building or structure, shall be maintained as follows: bordering Tenakill Brook, no footing or foundation of any building or structure shall be closer than 50 feet to the top of the bank of the stream; bordering all other brooks and streams, no footing or foundation of any building or structure shall be closer than 25 feet to the top of the bank of the stream. These minimum open space setbacks may be expanded as a result of applications to the New Jersey Department of Environmental

Protection for Stream encroachment permits. Said permit applications shall be required when the tributary drainage area for the brook or stream exceeds 50 acres.

⁴ **Footnote 4:** Any accessory building located within 10 feet of the principal building is considered part of the principal building and subject to the setback requirements of the same.

⁵ **Footnote C:** The minimum distance of combined side yards shall be increased by a factor of 1/10 times the number of feet by which the lot width exceeds the minimum requirements.

⁶ **Footnote D:** The combined total side yard requirements may be reduced by six inches for each foot a lot is less than the required width prescribed for the zone in which such lot is located, provided that no principal building shall be placed nearer than ten feet to any property line.

⁷ **Footnote B:** Flat roofs are prohibited on the principal building in all zones.

⁸ **Footnote 6:** The net floor area of all buildings on a lot divided by the total lot area. Net Floor Area = The total area of the gross floor area of the building, after excluding stairwells, elevator shafts, equipment rooms, attics, and basements.

⁹ **Footnote 5:** The part of the site that is covered by buildings, accessory buildings, accessory uses, accessory structures, impervious or pervious parking areas, driveways, walls, walkways, pavers or similar improvements, and any other structures or impervious surfaces.

¹⁰ **Footnote E:** Residential and parking coverage shall include the principal building, garages and the driveway, and any other parking areas.