

June 30, 2025

PLANNING REPORT

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

RE: BF Development, LLC

44 Pine Terrace
Block 84, Lot 3.07
Review Letter #2
Project No. DEP-0227

Dear Board Members,

BF Development, LLC, the Applicant, seeks minor subdivision approval to subdivide the subject property into two lots. Proposed Lot 3.08 totals 0.5750 acres, while Proposed Lot 3.09 totals 0.5686 acres. The Applicant also proposes to modify the existing attached garage and construct a new driveway and paver walkway on Proposed Lot 3.08. Additionally, the Applicant proposes a new dwelling and associated improvements including a driveway, paver walkway, rear patio, and pool on Proposed Lot 3.09. Other site improvements include grading and stormwater management facilities. The Applicant proposes to remove various existing improvements on Lot 3.07 including the existing driveways and walkway, various wood decks, pergola, tennis court, gravel areas, and walls. The Application requires "C" variances and a waiver, which are detailed in Sections B and D.

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

1. Plans entitled "Minor Subdivision; 44 Pine Terrace", prepared by Robert L. Costa, PE, PP of Costa Engineering Corporation, dated December 3, 2024, revised through June 20, 2025, consisting of 6 sheets. It should be noted that David Jamiolkowski, PLS has signed sheets 2 and 3 and Sheets 2A and 5 are new.
2. Plan entitled "Garage Repair", prepared by Piero F. Gabucci, AIA of Axis Architectural Group, dated February 24, 2025, consisting of 1 sheet.
3. Plans entitled "New Residence", prepared by Piero F. Gabucci, AIA of Axis Architectural Group, dated March 25, 2025, consisting of 2 sheets.
4. Survey entitled "Boundary and Topographic Survey", prepared by Robert L. Costa, PE, PP and David Jamiolkowski, PLS of Costa Engineering Corporation, dated December 3, 2024, consisting of 1 sheet. It should be noted that this Survey is noted as "Preliminary".
5. Subdivision Application, no date.

6. Document entitled "Rider to the Demarest JPB Subdivision Application; Subdivision Information", unknown author, no date, consisting of 1 page.
7. Drainage Calculation, prepared by Robert L. Costa, PE, PP of Costa Engineering Corporation, dated June 20, 2025.
8. Letter entitled "Initial Submittal for Completeness Review", prepared by Karissa Vittorio, Paralegal of Capizzi Law Offices, dated April 11, 2025, consisting of 2 pages.
9. Letter entitled "44 Pine Terrace", prepared by Lisa V. Mahle-Greco, PE of Johnson Soils Company, dated June 18, 2025, consisting of 3 pages.

A. Existing Zoning and Surrounding Land Use

The subject property is in the Residential R-BB District along the north side of Pine Terrace. The property is adjacent to vacant land to the north and single-family dwellings to the east, south, and west. See the image below for the approximate location of the subject property shown in red and the estimated location of the proposed lot line in yellow.¹



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

- Minimum Lot Frontage – 150 feet
- Minimum Lot Depth – 150 feet
- Minimum Lot Area – 30,000 square feet

Minimum Front Yard Setback – 50 feet²
Minimum Side Yard Setback (abutting a street) – 50 feet
Minimum Side Yard Setback (abutting a lot) – 25 feet
Minimum Rear Yard Setback – 50 feet³
Maximum Number of Families per Building – 1
Maximum Building Coverage – 15%
Maximum Building Height – 30 feet⁴
Maximum Livable Floor Area – 22.5%⁵
Maximum Improved Lot Coverage – 30%⁶
Maximum Residential and Parking Coverage – 25%

B. Variances

Based on the information provided, the Application requires the following variances:

1. Section 175-8 – Variance for lot size. The Ordinance does not permit any lot to be reduced so that it does not meet the area requirements. The subject property is in the R-BB District, which requires lots to be at least 30,000 square feet.

The Applicant proposes to subdivide Lot 3.07 containing 49,814.8 square feet (1.14 acres) into two lots, Proposed Lot 3.08 totaling 25,047.414 square feet (0.575 acres) and Proposed Lot 3.09 totaling 24,768.2328 square feet (0.5686 acres). Both proposed lots are less than the minimum lot size requirement of the R-BB District. **The Subdivision Plans do not list this variance.**

2. Section 175-16 – Variance for lot area. The Ordinance requires a minimum lot size of 30,000 square feet (0.6887 acres) in the R-BB District.

Proposed Lot 3.08 is only 25,047.414 square feet (0.575 acres) and Proposed Lot 3.09 is only 24,768.2328 square feet (0.5686 acres).

3. Section 175-16 – Variance for lot width. The Ordinance requires a minimum lot frontage of 150 feet.

Proposed Lot 3.08 only has 144.90 feet of frontage along Pine Terrace and Proposed Lot 3.09 only has 144.89 feet of frontage along Pine Terrace.

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

1. Section 175-16 – The Ordinance limits improved lot coverage to 30% of the lot area. The existing improvements on Lot 3.07 total 20,036 square feet or 40.22% of the existing lot area. It should be noted that the proposed subdivision includes the removal of existing improvements such as driveways, walkways, decks, tennis court, etc. which will reduce the improved lot coverage on Proposed Lot 3.08 and **eliminate** this pre-existing non-conforming condition.

2. Section 175-19A.(3)(b) – The Ordinance does not permit accessory uses, buildings, and structures to encroach into the side yard. The existing tennis court is partially located within the eastern side yard. It should be noted that the Applicant proposes to remove the tennis court, which would **eliminate** this pre-existing non-conforming condition.
3. Section 175-19A.(4)(c) – The Ordinance permits encroachments into the rear yard provided no encroachment is within ten feet of any rear lot line. The existing pergola is 4.67 feet from the rear lot line, the existing tennis court is approximately 4.25 feet from the rear lot line, the existing wood deck near the pool is 1.58 feet from the rear lot line, and the existing pool equipment extends beyond the rear lot line by approximately 1.33 feet. It should be noted that the Applicant proposes to eliminate the pergola, tennis court, and wood deck and proposes to relocate the pool equipment 10 feet from the rear lot line, which would **eliminate** these pre-existing non-conforming conditions.
4. Section 175-19B.(2) – The Ordinance requires all accessory buildings, uses, and structures or improvements to comply with the side yard setback requirement. The R-BB District requires a 25-foot side yard setback. The existing tennis court is approximately 14 feet from the eastern side lot line. It should be noted that the Applicant proposes to remove the tennis court, which would **eliminate** this pre-existing non-conforming condition.
5. Section 175-19B.(3) – The Ordinance requires all accessory buildings, uses, and structures or improvements to be setback at least ten feet from the rear property line. As noted above, the existing pergola, tennis court, wood deck and pool equipment are within ten feet of the rear lot line. It should be noted that the Applicant proposes to remove the existing pergola, tennis court, and wood deck and relocate the pool equipment, which would **eliminate** these pre-existing non-conforming conditions.

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

The Application requires the following waivers:

1. Section 153-18D.(1) – Waiver for lot size. The Ordinance does not permit lot dimensions and area to be less than required by Chapter 175. In this case, the R-BB District requires a minimum lot size of 30,000 square feet and lot frontage of 150 feet.

As detailed in Section B, Proposed Lots 3.08 and 3.09 do not comply with the minimum lot area and lot frontage of the R-BB District. **The Subdivision Plans do not request this waiver.**

E. Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that the current status of previously issued comments and new comments are provided in italics.

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. Based on our review of the submitted Plans and documents, we have identified one variance and design waiver that has not been requested or identified by the Applicant. The Subdivision Plans shall be revised to list all required relief or amended to comply with the Ordinance. This can be a **condition** of any potential Board approval.

*As of June 30, 2025, the Subdivision Plans have not been revised to note the variance from Section 175-8 and Waiver from Section 153-18D.(1). The Subdivision Plans shall be revised to list this relief, which can be a **condition** of any potential Board approval.*

3. The Boundary and Topographic Survey that was submitted is not signed or sealed and it is marked "preliminary". It is unclear what purpose this document serves when it is not a final, signed survey. Testimony shall be provided.

Sheet 3 of the Subdivision Plans contains a signed and sealed Boundary and Topographic Survey. This comment has been addressed.

Minor Subdivision

4. The Survey on Sheet 3 of the Subdivision Plans indicates existing Lot 3.07 is 49,814.8 square feet. However, Sheet 2 of the Subdivision Plan indicates Proposed Lot 3.08 is 25,047.414 square feet and Proposed Lot 3.09 is 24,768.2328 square feet, which totals 49,815.6468 square feet. This does not match the area noted on the Survey. This discrepancy shall be eliminated. Testimony shall be provided regarding the correct figure.

The Boundary and Topographic Survey on Sheet 3 indicates Lot 3.07 is 49,814.8 square feet. Robert Costa, the Applicant's Engineer, testified at the June 4, 2025 hearing that the subject property is 49,815 square feet and each proposed lot is approximately 25,000 square feet. However, the specific area of each lot was not given to verify the numbers provided on the Subdivision Plan. The revised Subdivision Plans still provide the lot areas noted above. The

*Subdivision Plan shall be revised to eliminate this discrepancy, which can be a **condition** of any potential Board approval.*

5. The Zoning Schedule on Sheet 2 of the Subdivision Plan indicates the required front yard setback of the R-BB District is 35 feet. However, the Limiting Schedule (Section 175-16) requires a 50-foot front yard setback in the R-BB District. There is a footnote in the Limiting Schedule that an alternative front yard setback is required, which conforms to the established average setback on the street on which the lot fronts. The Ordinance requires an analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets. No analysis or map of adjacent homes has been included on the plan. Additional information shall be submitted to verify 35 feet is the correct front yard setback.

*Mr. Costa presented Exhibit A-2 at the June 2025 hearing, which provided the average front yard setback calculation based on the setbacks of existing dwellings within 300 feet of the subject property. The average front yard setback was determined to be 51.33 feet. Mr. Costa testified that the dwelling on Proposed Lot 3.09 is shown with a 51.09-foot front yard setback and that the dwelling will be shifted to the north approximately four inches to comply with the average front yard setback requirement. However, the revised Subdivision Plan still illustrates the dwelling with a 51.09-foot front yard setback. Additionally, the 35-foot front yard setback line is still illustrated on the plan and noted in the Zoning Schedule instead of the 51.33-foot average front yard setback requirement. The Subdivision Plans shall be revised to relocate the dwelling to comply with the average front yard setback requirement, to correct the Zoning Schedule, and to illustrate the average front yard setback line. This can be a **condition** of any potential Board approval.*

6. The Zoning Schedule indicates the existing building coverage of Lot 3.07 is 11.63%, which is a pre-existing non-conforming condition. However, a building coverage of 11.63% is less than the maximum building coverage of 15% permitted in the R-BB District. Therefore, this coverage actually complies with the Ordinance. The Zoning Schedule shall be revised accordingly. This can be a **condition** of any potential Board approval.

*As of June 30, 2025, the Zoning Schedule has not been revised to eliminate the pre-existing non-conforming condition notation for existing building coverage. Amending the table can be a **condition** of any potential Board approval.*

7. The Zoning Schedule indicates the proposed livable floor area is 21.53% of Proposed Lot 3.08 and 22.5% of Proposed Lot 3.09. However, a calculation of the livable floor area for the existing dwelling and for the proposed dwelling have not been provided. Therefore, this office is not able to verify these numbers. It should be noted that the livable floor area on Proposed Lot 3.09 is the maximum permitted in the R-BB District. The Applicant shall submit a detailed calculation of the livable floor area to confirm compliance with the Ordinance.

Mr. Costa presented Exhibit A-1 at the June 2025 hearing, which provided a calculation of the proposed livable floor area of Proposed Lots 3.08 and 3.09. According to the Exhibit, the livable floor area on Proposed Lot 3.08 is 5,060 square feet or 20.2% of the proposed lot area and the

livable floor area on Proposed Lot 3.09 is 5,402 square feet or 21.81% of the lot area, both of which comply with the Ordinance. This information has been added to Sheet 2 of the Subdivision Plan. This comment has been addressed.

8. The Zoning Schedule indicates the building height of the dwelling on Proposed Lot 3.09 is “to conform”. Sheet A-1 of the New Residence Architectural Plans indicates the height of the proposed dwelling is 30 feet from the average grade (elevation 71 feet) to the high point of the roof. Based on this information, the height of the proposed dwelling on Proposed Lot 3.09 complies with the R-BB District building height limitation of 30 feet.

Exhibit A-1 also contained detailed building height calculations for the existing dwelling and proposed dwelling, measured from the average grade to the high point of the roof. Sheet 2 has been revised to provide the Building Height Calculations, which indicate the existing dwelling is 25.45 feet tall measured from an average grade of 76.65 feet to a roof peak of 102.19 feet and the proposed dwelling is 29.41 feet tall measured from an average grade of 71.59 feet to a roof peak of 101 feet. Based on the information provided, both dwellings comply with the maximum building height limitation. This comment has been addressed.

9. Section 175-24N requires swimming pools to be enclosed by a fence at least 48 inches tall with a self-latching, self-closing gate at the same height of the fence. The Applicant proposes fences to enclose the side and rear yards of Proposed Lots 3.08, which contains an existing pool, and 3.09, which is proposed to have a pool. According to the Solid PVC Fence detail on Sheet 4 of the Subdivision Plan, the proposed fence is five feet, ten inches tall plus a two-inch gap below the bottom rail for an overall height of six feet. However, it is unclear if the proposed fence will have the required self-latching and self-closing gates. Testimony shall be provided to clarify and determine compliance.

It remains unclear if the proposed fence gates will have self-latching, self-closing gates. Testimony shall be provided to clarify.

10. The Borough recently amended Chapter 163 in its entirety via Ordinance No. 1121-23 on June 26, 2023. Section 163-19C provides the tree mitigation requirements for removed trees. Based on the information provided, it is unclear if the proposed driveway on Proposed Lot 3.08 and proposed dwelling and associated site improvements on Proposed Lot 3.09 will require the removal of any existing trees. The Applicant shall submit additional information to clarify the number and size of existing trees to be removed. Additionally, the removed trees shall be identified on the Subdivision Plans. Until this information is provided, it is unclear how many trees are being removed and how many replacement trees are required.

The Applicant shall note that the removal of trees that are dead, dying, or pose a safety hazard do not require replacement trees.

Mr. Costa testified at the June 2025 hearing that three trees are proposed to be removed. However, the revised Subdivision Plan has not identified the trees to be removed. On Proposed Lot 3.09, there is an existing tree of unknown size at the front of the proposed driveway, a 36-inch

*tree within the proposed paver walkway, and an existing 72-inch cluster tree within the footprint of the proposed dwelling. The Applicant shall provide **testimony** to confirm the trees to be removed and shall **revise** the Subdivision Plan to illustrate the tree removal.*

*Additionally, Mr. Costa testified that the Applicant would comply with the tree replacement requirements. However, the location and size of each tree to be removed has not been provided and no proposed trees are illustrated on the Subdivision Plan. The Applicant shall revise the Plans to include this information to confirm compliance. If the Board is inclined, this can be a **condition** of approval.*

11. Bedroom 2 on the Second Floor Plan on Sheet A-2 of the new Residence Architectural Plans does not illustrate a door opening into the room. This drafting error shall be eliminated.

*As of June 30, 2025, the Applicant has not submitted revised Architectural Plans. Therefore, this comment remains **outstanding**.*

12. *Sheet 2 of the Subdivision Plans no longer notes the existing improvements proposed to be removed as shown on the Subdivision Plan last revised on April 10, 2025. This includes the existing driveway, portion of the existing dwelling, tennis court, pergola, wood decks, etc. However, the coverage information on Sheet 2 still indicates these existing improvements will be removed. The Applicant shall provide **testimony** to clarify and confirm what improvements will be removed. Additionally, if the Board is inclined to approve the Application a **condition** of any Board approval should be the submission of a revised Sheet 2 that clearly labels all features to be removed.*

13. *There appears to be a typographical error in the Zoning Schedule on Sheet 2. The frontage of Proposed Lot 3.09 is notated on the plan as 144.89 feet. However, the Zoning Table indicates the frontage is 144.90 feet. If the Board is inclined to approve the Application, correcting the table should be a **condition** of 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: Tim Woods, Board Chair (via email timwoods12@gmail.com)
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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated March 19, 2025.

² On all streets other than Knickerbocker Road, Hardenburgh Avenue, County Road, Anderson Avenue, Piermont Road, and Lenox Avenue, an alternate setback will be required, conforming to the established average setback on the street on which the lot fronts, within the same district and within 300 feet on each side of the lot along the same side of the street, but not beyond any intersecting streets, established by three or more houses.

³ 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. This requirement applies to all residence districts.

⁴ Measured from the average natural grade around the perimeter of the proposed structure. No more than 50% of the roof area shall exceed the specified average height. Flat roofs above 30 feet in height are expressly prohibited in all zones.

⁵ Maximum livable floor area (as defined in §175-27) is calculated as a square foot percentage of the total square footage of the lot to be developed.

⁶ The part of the site that is covered by buildings or accessory buildings; impervious or pervious tennis courts, basketball courts, decks, swimming pool decks, patios, firepits, hot tubs, or other recreational structures or improvements; impervious or pervious parking areas, driveways, walls, walkways, pavers, or similar improvements; and any other structures or impervious surfaces. Total improved lot coverage shall not exceed 30% of the lot area. The percentage of the lot to be used for the principal residential use and all vehicle access and parking areas shall not be greater than 25%.