

Prepared by: Matthew G. Capizzi, Esq.

SUBDIVISION DEED

This Deed is made on October , 2025

BETWEEN **44 Pine Terrace LLC**
 44 Pine Terrace
 Demarest, New Jersey 07627
 (the "Grantor")

AND **44 Pine Terrace LLC**
 44 Pine Terrace
 Demarest, New Jersey 07627
 (the "Grantee")

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Less Than One Hundred and 00/100ths (\$100.00) Dollars. The Grantor acknowledges receipt of this money.

Tax Map Reference. Lot 3.07 in Block 84 in the Borough of Demarest.

Property. The property consists of land and all buildings and structures on the land in the Borough of Demarest, County of Bergen and State of New Jersey commonly known as Lot 3.07 in Block 84 on the current tax assessment map of the Borough of Demarest. The legal description is:

TRACT I. AS SET FORTH ON SCHEDULE A ANNEXED HERETO AND MADE A PART HEREOF (LOT 3.08)

TRACT II. AS SET FORTH ON SCHEDULE B ANNEXED HERETO AND MADE A PART HEREOF (LOT 3.09)

All as set forth on a certain Subdivision Plan titled "Minor Subdivision" prepared by Costa Engineering Corporation dated December 3, 2024 and last revised as of June 20, 2025, which map is incorporated herein by reference and is on file in the office of the Secretary of the Demarest Joint Planning Board.

The purpose of this deed is to perfect, in accordance with N.J.S. 40:55D-47, a minor subdivision, which will divide Lot 3.07 in Block 84 into two (2) building lots as described in Schedules A & B.

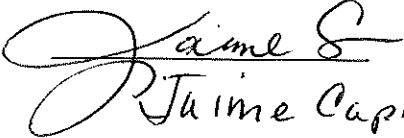
The within minor subdivision was approved by the Borough of Demarest Joint Planning Board on July 2, 2025 and memorialized by a certain Resolution adopted on August 6, 2025, a copy of which is on file in the Borough of Demarest Municipal Building located at 118 Serpentine Road, Demarest, New Jersey 07627, and a copy of which is attached hereto as SCHEDULE C.

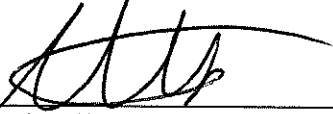
Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

IN WITNESS WHEREOF, the Grantor has set its hand and seal the day and year first above written.

Witness/Attest:

44 Pine Terrace LLC, Grantor/Grantee

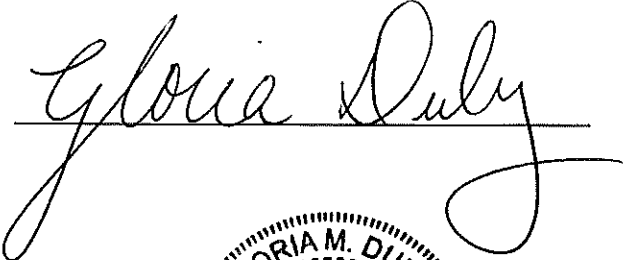

Jaime Capizzi

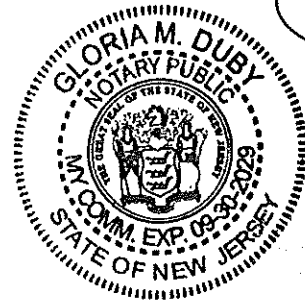

By: Austin Siboni
Title: Member

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

I CERTIFY that on October 22, 2025, personally came before me Austin Siboni as Member of 44 Pine Terrace LLC (Grantor/Grantee), and stated to my satisfaction that this person(s):

- (a) Was the maker of the attached deed;
- (b) He was authorized to and did execute this instrument as Member of 44 Pine Terrace LLC;
- (b) Executed this deed as his own act; and,
- (c) Made this Deed for less than \$100.00 as the full and actual consideration paid or to be paid for the transfer of title, as such consideration is defined in N.J.S.A. 46:15-5.





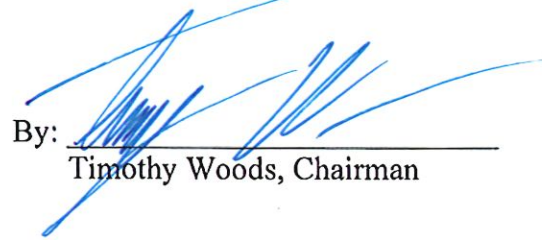
APPROVED:

ATTEST

JOINT PLANNING BOARD OF THE BOROUGH
OF DEMAREST



Michael Greco, Secretary



By: _____
Timothy Woods, Chairman

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

I hereby certify that on ~~October~~ ^{November} 5, 2025, personally came Timothy Woods before me and stated to my satisfaction that this person(s):

- a. Signed and delivered this deed on behalf of the Joint Planning Board of the Borough of Demarest in his official capacity as Chairman; and
- b. This deed was made for less than \$100.00 as the full and actual consideration paid or to be paid as such consideration is defined in N.J.S.A. 46:15-5.



Name: Julie Falkenstern
Title: Demarest Borough Clerk

Record and Return to:

Capizzi Law Offices
Matthew G. Capizzi, Esq.
205 Fairview Avenue
Westwood, NJ 07675

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER
(P.L. 1968, c. 49, as amended through P.L. 2006, c. 33) (N.J.S.A. 46:15-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

FOR RECORDER'S USE ONLY	
Consideration	\$ _____
RTF paid by seller	\$ _____
Date	By _____

COUNTY Bergen } SS. County Municipal Code 0209
MUNICIPALITY OF PROPERTY LOCATION Demarest

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) **PARTY OR LEGAL REPRESENTATIVE** (See Instructions #3 and #4 on reverse side)
Deponent, Austin Siboni, Member of 44 Pine Terrace LLC, being duly sworn according to law upon his/her oath, deposes and says that he/she is the Grantor in a deed dated _____ transferring (Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.) real property identified as Block number 84 Lot number 3.07 located at 44 Pine Terrace, Demarest NJ 07627 and annexed thereto.
(Street Address, Town)

(2) **CONSIDERATION** \$ Less than \$100.00 (Instructions #1 and #5 on reverse side) no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) **REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:**
(See Instructions #5A and #7 on reverse side)
Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

\$ _____ + _____ % = \$ _____
If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) **FULL EXEMPTION FROM FEE** (See Instruction #8 on reverse side)
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by P.L. 1968, c. 49 as amended through P.L. 2004, c. 66 for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.
Consideration for less than \$100.00.

(5) **PARTIAL EXEMPTION FROM FEE** (Instruction #9 on reverse side)
NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by P.L. 1975, c. 176, P.L. 2004, c. 113 and P.L. 2004, c. 66 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) 62 years of age or over. * (Instruction #9 on reverse side for A or B)
 - B. { BLIND PERSON Grantor(s) legally blind or; *
 - DISABLED PERSON Grantor(s) permanently and totally disabled receiving disability payments not gainfully employed*
- Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:
 Owned and occupied by grantor(s) at time of sale. Resident of State of New Jersey.
 One or two-family residential premises. Owners as joint tenants must all qualify.

*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. **LOW AND MODERATE INCOME HOUSING** (Instruction #9 on reverse side)
 Affordable according to H.U.D. standards. Reserved for occupancy.
 Meets income requirements of region. Subject to resale controls.

(6) **NEW CONSTRUCTION** (Instructions #2, #10 and #12 on reverse side)
 Entirely new improvement. Not previously occupied.
 Not previously used for any purpose. "NEW CONSTRUCTION" printed clearly at top of first page of the deed.

(7) **RELATED LEGAL ENTITIES TO LEGAL ENTITIES** (Instructions #5, #12, #14 on reverse side)
 No prior mortgage assumed or to which property is subject at time of sale.
 No contributions to capital by either grantor or grantee legal entity.
 No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of P.L. 1968, c. 49 as amended through P.L. 2006, c. 33.

Subscribed and sworn to before me this 22nd day of October, 2025

Gloria Duly
Notary Public

Austin Siboni
Signature of Deponent Grantor Name
44 Pine Terrace 44 Pine Terrace
Demarest, NJ 07627 Demarest, NJ 07627

Deponent Address Grantor Address at Time of Sale
XXX-XX-XXXX
Last three digits in Grantor's Social Security Number Name/Company of Settlement Officer

FOR OFFICIAL USE ONLY	
Instrument Number	County _____
Deed Number	Book _____ Page _____
Deed Dated	Date Recorded _____



**State of New Jersey
Seller's Residency Certification/Exemption**

Seller's Information

Name(s) 44 Pine Terrace LLC		
Current Street Address 44 Pine Terrace		
City, Town, Post Office Demarest	State NJ	ZIP Code 07627

Property Information

Block(s) 84	Lot(s) 3.07	Qualifier
Street Address 44 Pine Terrace		
City, Town, Post Office Demarest	State NJ	ZIP Code 07627

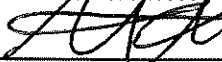
Seller's Percentage of Ownership 100	Total Consideration Less than \$100.00	Owner's Share of Consideration Less than \$100.00	Closing Date
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Seller's Assurances (Check the Appropriate Box) (Boxes 2 through 16 apply to Residents and Nonresidents)

1. Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident Gross Income Tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not an individual, estate, or trust and is not required to make an estimated Gross Income Tax payment.
6. The total consideration for the property is \$1,000 or less so the seller is not required to make an estimated Income Tax payment.
7. The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey Income Tax return for the year of the sale and report the recognized gain.
8. Seller did not receive non-like kind property.
9. The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
10. The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
11. The deed is dated prior to August 1, 2004, and was not previously recorded.
12. The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
13. The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
14. The property transferred is a cemetery plot.
15. The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.
16. The seller is a retirement trust that received an acknowledgment letter from the Internal Revenue Service that the seller is a retirement trust, and is therefore not required to make the estimated Gross Income Tax payment.
17. The seller (and/or spouse/civil union partner) originally purchased the property while a resident of New Jersey as a member of the U.S. Armed Forces and is now selling the property as a result of being deployed on active duty outside of New Jersey. (Only check this box if applicable and neither boxes 1 nor 2 apply.)

Seller's Declaration

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

<u>10/22/2025</u> Date	 Signature (Seller)	<input type="checkbox"/> Austin Siboni, Member of 44 Pine Terrace LLC Indicate if Power of Attorney or Attorney in Fact
_____ Date	_____ Signature (Seller)	_____ Indicate if Power of Attorney or Attorney in Fact

SCHEDULE "A"



COSTA ENGINEERING CORPORATION

Professional Engineers • Surveyors • Planners
325 So. River Street, Suite 302, Hackensack, NJ 07601

Tel (201) 487-0015
Fax (201) 487-5122

Please Reply To:
325 So. River Street
Hackensack, NJ 07601

State of NJ Certificate of Authorization No. 276726

DESCRIPTION OF PROPERTY

September 9, 2025

Proposed Block 901, Lot 3.08
(Bearing System, NAD 83)
Borough of Demarest
Bergen County, New Jersey

All that certain tract or parcel or land and the premises situated, lying and being in the Borough of Demarest in the County of Bergen and State of New Jersey:

Beginning at a point on the northeasterly side line of Pine Terrace distant 954.05 feet southeasterly from the intersection formed by the northeasterly line of Pine Terrace and the southerly sideline of Piermont Road, running thence:

- 1) North 38° 10' 25" East, a distance of 172.86 feet to a point, thence;
- 2) South 51° 49' 35" East, a distance of 144.90 feet to a point, thence;
- 3) South 38° 10' 25" West, a distance of 172.86 feet to a point in the northeasterly side line of Pine Terrace, thence;
- 4) Along the same North 51° 49' 35" West, a distance of 144.90 feet to the point or place of BEGINNING,

The above-described parcel contains 25,047.58 S.F, 0.5750 Ac.

David Jamiolkowski, Lic. No. 43296
NJ Professional Land Surveyor

SCHEDULE "B"



COSTA ENGINEERING CORPORATION

Professional Engineers • Surveyors • Planners
325 So. River Street, Suite 302, Hackensack, NJ 07601

Tel (201) 487-0015
Fax (201) 487-5122

Please Reply To:
325 So. River Street
Hackensack, NJ 07601

State of NJ Certificate of Authorization No. 276726

DESCRIPTION OF PROPERTY

September 9, 2025

Proposed Block 901, Lot 3.09
(Bearing System, NAD 83)
Borough of Demarest
Bergen County, New Jersey

All that certain tract or parcel or land and the premises situated, lying and being in the Borough of Demarest in the County of Bergen and State of New Jersey:

Beginning at a point on the northeasterly side line of Pine Terrace distant 1098.95 feet southeasterly from the intersection formed by the northeasterly line of Pine Terrace and the southerly sideline of Piermont Road, running thence:

- 1) North $38^{\circ} 10' 25''$ East, a distance of 172.86 feet to a point, thence;
- 2) South $51^{\circ} 49' 35''$ East, a distance of 141.67 feet to a point, thence;
- 3) South $37^{\circ} 06' 23''$ West, a distance of 172.89 feet to a point in the northeasterly side line of Pine Terrace, thence;
- 4) Along the same North $51^{\circ} 49' 35''$ West, a distance of 144.89 feet to the point or place of BEGINNING;

The above-described parcel contains 24768.23 S.F, 0.5686 Ac.

David Jamiolkowski, Lic. No. 43296
NJ Professional Land Surveyor

SCHEDULE "C"

**JOINT PLANNING BOARD OF THE
BOROUGH OF DEMAREST**

RESOLUTION JPB-011-25

MINOR SUBDIVISION WITH VARIANCE APPROVAL

In the Matter of the Application of
BF Development LLC
44 Pine Terrace
Block 84, Lot 3.07

WHEREAS, BF Development LLC (the "Applicant") is the contract purchaser of the property located at 44 Pine Terrace and designated as Lot 3.07 in Block 84 on the Tax Maps of the Borough of Demarest (the "Property"); and

WHEREAS, Susan R. Rokeach is the owner of the Property and authorized the Applicant to submit the proposed application; and

WHEREAS, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the "Board") for Minor Subdivision and "C" Variance approval to subdivide the Property into two (2) lots (Proposed Lot 3.08 and Proposed Lot 3.09), modify the existing attached garage and construct a new driveway and paver walkway on Proposed Lot 3.08 and remove all of the existing improvements, including the existing tennis court and pergola, and construct a new single-family dwelling, driveway, patio, and in-ground pool on Proposed Lot 3.09 (the "Application"); and

WHEREAS, the following plans, reports and correspondence were submitted by the Applicant and considered by the Board:

- A. Variance Application and Variance Application Rider with Subdivision Information (the "Application");
- B. Affidavit of Representation executed April 11, 2025;

- C. Certification of Ownership and Authorization to Make Application executed April 4, 2025;
- D. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated February 18, 2025;
- E. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised April 10, 2025, and consisting of four (4) sheets;
- F. Architectural Plans prepared by Axis Architectural Group dated February 24, 2025 and consisting of three (3) sheets;
- G. Boundary and Topographic Survey prepared by Costa Engineering Corporation dated December 3, 2024 and consisting of one (1) sheet;
- H. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised May 14, 2025, and consisting of five (5) sheets;
- I. Minor Subdivision Plans prepared by Costa Engineering Corporation dated December 3, 2024, last revised June 20, 2025, and consisting of six (6) sheets;
- J. Soil Permeability Test Results prepared by Johnson Soils Company dated June 18, 2025;
- K. Drainage Calculations prepared by Costa Engineering Corporation dated June 20, 2025;
- L. Affidavit of Service prepared by Capizzi Law Offices; and
- M. Affidavit of Publication prepared by The Record and Herald News; and

WHEREAS, public hearings were held by the Board on June 4, 2025 and July 2, 2025 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the "MLUL"), at which time the Applicant, represented by Matthew Capizzi, Esq. of Capizzi Law Offices:

(a) presented proof of notice and publication as required by law; and (b) submitted the following evidence to the Board in support of Applicant's Application including:

- A. Colorized Minor Subdivision Plan Sheet 2 prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, and consisting of one (1) sheet, marked as Exhibit A-1;
- B. Average Front Yard Setback Study, marked as Exhibit A-2;
- C. Planning Exhibit prepared by MJP Land Use Planning LLC and consisting of six (6) sheets, marked as Exhibit A-3;
- D. Drainage Calculation Results, last revised June 27, 2025, marked as Exhibit A-4;
- E. Minor Subdivision Plan Sheet 5 of 7 titled "Soil Testing Location and Result Plan" prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, marked as Exhibit A-5;
- F. Minor Subdivision Plan (full set) prepared by Costa Engineering Corporation dated December 3, 2024, last revised July 1, 2025, and consisting of seven (7) sheets, marked as Exhibit A-6;
- G. Testimony of the Applicant's civil engineer, Robert Costa of Costa Engineering Corporation, whose testimony can be summarized as follows:
 - a. The Property is located in the Single-Family Residence BB District (the "R-BB Zone");
 - b. The Property is oversized in lot area (30,000 square feet required; 49,815 square feet existing) and lot width (150 feet required; 289.79 feet is existing) and contains a single-family residential dwelling;
 - c. Wetlands exist in the rear of the Property, where water collects;

- d. The Property has a pre-existing non-conforming pergola, tennis court and pool deck, which will all be removed by the proposed Application;
- e. Applicant is also proposing to remove the existing circular driveway on the Property, eliminating a curb cut on Pine Terrace;
- f. Applicant is proposing to reduce the width of the garage on the existing single-family dwelling to comply with the side yard setback requirements;
- g. Removal of these existing improvements will result in a net decrease of 6,083 square feet of impervious coverage and eliminates the pre-existing non-conformity with respect to improved lot coverage (30% permitted; 40.22% existing);
- h. Applicant is proposing to subdivide the Property into two (2) lots (Proposed Lot 3.08 and Proposed Lot 3.09);
- i. Both lots will be slightly undersized in lot area and lot frontage;
- j. Proposed Lot 3.08 will contain a new single-family residential dwelling, in-ground pool and patio;
- k. Proposed Lot 3.09 will contain the existing single-family residential dwelling, existing in-ground pool and related improvements;
- l. Both lots comply with all building coverage, impervious coverage, floor area ratio, height and all setback requirements;
- m. Proposed Lot 3.08 and Proposed Lot 3.09 both need "C" variances with respect to minimum lot area and minimum lot frontage;
- n. The existing dwelling does not have any on-site stormwater improvements;
- o. Three (3) trees are proposed to be removed;

- p. Applicant will maintain the existing grade of the Property;
 - q. Applicant is proposing pervious pavers;
 - r. Applicant will not be raising the existing groundwater;
 - s. The proposed drainage system is oversized (3 – 1,000 gallon seepage pits were originally proposed on each lot and were further increased by revised plans);
 - t. In response to the Board's and the public's concerns, the Applicant performed soil testing and revised the locations of the proposed seepage pits;
 - u. Applicant revised their plans to show one (1) seepage pit in the front yard area of Proposed Lot 3.08 and two (2) seepage pits in the rear yard area of Proposed Lot 3.08 and three (3) seepage pits in the front yard area of Proposed Lot 3.09;
 - v. Applicant also revised their plans to install a trench drain to collect water from the driveway on Proposed Lot 3.08 before it enters the street (Pine Terrace);
and
 - w. Applicant will work with the Board Engineer regarding adding an additional seepage pit(s) and/or trench drain(s) in the back corner near the pool and patio of Proposed Lot 3.09; and
- H. Testimony of the Applicant's architect, Piero Gabucci of Axis Architectural Group, whose testimony can be summarized as follows:
- a. Applicant is proposing to maintain the existing Dutch colonial style, single-family dwelling on Proposed Lot 3.08, except that the garage will be modified and the existing wood deck will be removed;

- b. Both dwellings comply with the floor area ratio requirements;
 - c. The new single-family dwelling on Proposed Lot 3.09 will have an estate-style design, consisting of approximately 5,400 square feet and contain 5 bedrooms, 5 bathrooms, a guest room, an office and a three-car garage;
 - d. The proposed dwelling is in-scale with surrounding dwellings in the neighborhood; and
 - e. The proposed dwelling will use traditional materials (stone, clapboard siding and shingles) and blend with other homes in the neighborhood; and
- I. Testimony of Applicant's professional planner, Michael Pessolano of MJP Land Use Planning LLC, who testified as to the justification for the "C" variances for lot frontage and lot area. Mr. Pessolano testified that the Application is an improvement in the use of the land and that the proposed dwelling on Proposed Lot 3.09 will not be inconsistent with other homes on the street. Mr. Pessolano spoke regarding the lot area variance and testified that the properties surrounding the Property are mostly undersized in the same way that the Applicant is requesting for Proposed Lot 3.08 and Proposed Lot 3.09. Mr. Pessolano presented the required positive and negative statutory criteria. He testified that the Application meets the required criteria and the application warrants approval from the Board; and

WHEREAS, at the public hearings, the Board also took testimony from the Board Engineer, Nick Chelius, and Board Planners, Darlene Green and Austin Bejin, and the Borough Zoning Officer, Michael Greco, and considered the following items submitted by the Board's professionals:

- A. Completeness Review Board Report prepared by Colliers Engineering and Design dated May 8, 2025;
- B. Completeness Letter from Michael Greco dated May 9, 2025;
- C. Board Planner Report prepared by Colliers Engineering and Design dated May 26, 2025 and Revised Board Planner Report dated June 30, 2025 (collectively, the "Board Planner Reports"); and
- D. Board Engineer Report prepared by Colliers Engineering and Design dated May 21, 2025 and Revised Board Engineer Report prepared by Colliers Engineering and Design dated June 27, 2025 (collectively, the "Board Engineer Reports"); and

WHEREAS, two (2) adjacent property owners were present at the public hearing on June 4, 2025 and asked questions of the Applicant's professionals regarding the proposed impervious coverage and expressed concerns regarding stormwater runoff and flooding near the Property; and

WHEREAS, the Board having heard and considered the testimony, arguments and documents referenced above.

NOW, THEREFORE, BE IT RESOLVED that the Joint Planning Board of the Borough of Demarest makes the following findings of fact and conclusions of law with respect to the within Application:

1. All of the "WHEREAS" clauses set forth above are incorporated by reference. All of the testimony, documents and exhibits produced by the Applicant, including those produced at the public hearings on June 4, 2025 and July 2, 2025 are incorporated herein by reference.

2. The Property is located at 44 Pine Terrace and designated as Lot 3.07 in Block 84 on the Tax Maps of the Borough of Demarest and is a rectangularly shaped, oversized, interior lot.

3. The Property is located along the north side of Pine Terrace in the R-BB Zone and consists of 1.14 acres (49,814.8 square feet).

4. The Property is currently occupied by a single-family dwelling with associated gravel driveway, wooden rear deck, pergola, in-ground pool, wooden pool deck, tennis court and related improvements.

5. The Property has pre-existing non-conformities with respect to improved lot coverage (30% permitted; 40.22% existing), accessory uses in the side yard (prohibited; existing tennis court is partially located in the eastern side yard) and rear yard setback - accessory structures (10 feet required; the existing pergola is 4.67 feet from the rear lot line, the existing tennis court is 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 1.33 feet). The Application eliminates all of these pre-existing non-conformities by removing the existing pergola, tennis court and wood deck from the Property and relocating the existing pool equipment 10 feet from the rear lot line.

6. The Property is oversized with respect to lot area (30,000 square feet required; 49,814.8 square feet existing).

7. By this Application, the Applicant is seeking to subdivide the Property into two (2) lots. Proposed Lot 3.08 will consist of 25,047 square feet (30,000 square feet required) and will contain the existing single-family dwelling, modified driveway, new paver walkway and the existing in-ground pool and associated paver patio. The garage of the existing dwelling will be

modified to convert the existing garage from side-loading to front loading. Proposed Lot 3.09 will consist of 24,768 square feet (30,000 square feet required) and will contain a new single-family dwelling, driveway, in-ground pool and associated patio and related improvements. As noted above, the Applicant is also proposing to remove the existing pergola, wood deck and tennis court from the Property and relocate the existing pool equipment to a compliant 10 feet from the rear lot line of Proposed Lot 3.08.

8. The proposed subdivision is classified as a Minor Subdivision under the Borough Code and the MLUL.

9. The Applicant is seeking variance relief from the Board pursuant to N.J.S.A. 40:55D-70(c)(2) for lot size (the Ordinance does not permit any lot to be reduced so that it does not meet the area requirements and 30,000 square feet is required in the R-BB Zone; Proposed Lot 3.08 and Proposed Lot 3.09 do not meet the lot size requirements), minimum lot area for Proposed Lot 3.08 (30,000 square feet required; 25,047 square feet proposed), minimum lot frontage for Proposed Lot 3.08 (150 feet required; 144.90 feet proposed), minimum lot area for Proposed Lot 3.09 (30,000 square feet required; 24,768 square feet proposed) and minimum lot frontage for Proposed Lot 3.09 (150 feet required; 144.89 feet proposed).

10. Single-family residential dwellings are permitted uses in the R-BB Zone.

11. The Board finds that the proposed subdivision complies with the purposes set forth in the MLUL by promoting appropriate uses in proper locations with appropriate density, promoting the general welfare by continuing the existing single-family nature of the existing neighborhood, promoting appropriate population densities, promoting open space and prevents urban sprawl and degradation of natural resources.

12. The Board finds that adequate light air and open space are provided, as both lots comply with all setback, impervious coverage, building coverage, floor area ratio and height requirements.

13. The Board finds that the Application improves the existing conditions of the Property by removing 6,083 square feet of impervious coverage and eliminating the pre-existing non-conformity with respect to improved lot coverage.

14. The Board further finds that the Application improves the existing conditions of the Property by removing pre-existing non-conformities with respect to the rear yard - accessory structures and by moving existing encroaching accessory structures (the pool equipment) into compliance.

15. The Board finds that the single-family dwelling on Proposed Lot 3.09, which is a permitted use in the R-BB Zone and consistent with the surrounding neighborhood, provides an aesthetic improvement to the Property, as opposed to the existing non-conforming tennis court.

16. The Board finds that the "C" variances requested by the Applicant for lot frontage are de minimis in nature and off-set by the deeper side yards proposed on both lots.

17. The Board finds that the "C" variances requested by the Applicant for lot area are also de minimis in nature and consistent with other lot areas in the immediate neighborhood.

18. The Board finds that the Application also provides significant benefits by providing an oversized stormwater management system to collect stormwater not only from the proposed dwelling and improvements on Proposed Lot 3.09, but from existing improvements on Proposed Lot 3.08, where none exist today.

19. The Board finds that the benefits of granting the Application outweigh any detriments.

20. The Board further finds that the granting of the variances will not substantially impair the intent and purpose of the Borough's Zoning Ordinance or Master Plan and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2, e.g. adequate light, air and open space is provided.

21. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(c)(2).

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of the Borough of Demarest, based upon the above findings of fact and conclusions of law, that the within application for Variance Approval is hereby granted, subject to the following conditions:

- a) Applicant shall work with the Board Engineer and add an additional seepage pit and/or trench drain in the back corner near the pool and patio on Proposed Lot 3.09 and revise their plans accordingly to the satisfaction of the Board Engineer;
- b) Applicant shall work with the Board Engineer regarding soil permeability testing and regarding the number, sizing and location of the proposed stormwater management facilities on both lots. Applicant shall relocate, increase the number and/or enlarge the proposed stormwater management facilities proposed on either lot in the sole discretion of the Board Engineer.
- c) Applicant shall file Deed Restrictions requiring the owners of Proposed Lot 3.08 and Proposed Lot 3.09 to maintain the proposed stormwater management systems for the life of the improvements, which Deed Restrictions shall be subject to the review and approval of the Board Attorney and the Board Engineer prior to being recorded.

- d) Applicant shall relocate the proposed seepage pit on Proposed Lot 3.08 so that it is 10-15 feet from the property line.
- e) Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property.
- f) Unless otherwise addressed herein or at the public hearing before the Board, the Applicant shall comply with the recommendations of the Board, including but not limited to the Board Planner Reports and the Board Engineer Reports, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.
- g) Notwithstanding the approval granted herein, the Applicant shall comply with all of the ordinances of the Borough of Demarest and all applicable county, state, and federal statutes, ordinances, rules and regulations. The Property shall be kept neat during all construction.
- h) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.
- i) The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.
- j) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.

- k) The Applicant shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for it, affecting public safety or general welfare, if any such condition develops.
- l) The Applicant shall be and remain liable for any and all damages or money loss occasioned by the Borough of Demarest or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or its agents arising from the making of improvements and shall save, indemnify, hold harmless the Borough of Demarest or Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising from such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.
- m) The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on August 6, 2025.

A copy of this Resolution shall be given to the Tax Assessor, Applicants, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

SO APPROVED:


 MICHAEL GRECO, Secretary


 JODI BRENNER, Vice Chair

BOROUGH OF DEMAREST JOINT PLANNING BOARD

VOTING

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiSclafani	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Date of Adoption: August 6, 2025