

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

**RESOLUTION JPB-014-25**

**VARIANCE APPROVAL**

In the Matter of the Application of  
Jason Lieberman  
93 Pine Terrace  
Block 84.08, Lot 1

**WHEREAS**, Jason Lieberman (the “Applicant”) is the applicant and owner of the property located at 93 Pine Terrace and designated as Lot 1 in Block 84.08 on the Tax Maps of the Borough of Demarest (the “Property”); and

**WHEREAS**, thereafter, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for “C” Variance approval to install a 6-foot high fence around the perimeter of the Property, with a portion of the proposed fence being located in the front yard area along Emily Court (the “Application”); and

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

- A. Variance Application (the “Application”);
- B. Fence Plan prepared by Schwanewede Hals & Vince dated November 19, 2024 and consisting of one (1) sheet;
- C. Affidavit of Service of personal service to all 200 foot property owners executed October 7, 2025; and
- D. Affidavit of Publication on October 2, 2025 prepared by The Record and Herald News; and

**WHEREAS**, a public hearing was held by the Board on October 15, 2025 in accordance with the Open Public Meetings Act and the Municipal Land Use Law (the “MLUL”), at which time the Applicant: (a) presented proof of notice and publication as required by law; and (b) submitted the following evidence to the Board in support of the Applicant’s Application including:

- A. Testimony from the Applicant, which can be summarized as follows: The Property is located at 93 Pine Terrace. The Property is uniquely situated with three (3) front yards (Pine Terrace and Emily Court), which creates a hardship that is not common in neighboring properties. The proposed 6-foot high fence is proposed along the perimeter of the Property, at the 10-foot line; a portion of the fence will be constructed within a portion of the front yard area (Emily Court). The proposed fence will eventually be screened from view by existing arborvitae, which were recently planted by the Applicant at the Property line. The proposed fence is needed for safety and security to contain the Applicant’s children and dogs and keep deer out of the Property. The proposed height and design of the fence is similar to fences on neighboring properties. Emily Court is a quiet street and the Applicant does not believe that there will be any sight visibility issues at the corner from the existing arborvitae or the proposed fence. Nevertheless, the Applicant agreed to work with the Board Engineer to revise the Fence Plan to improve visibility within the sight triangle at the corner of Pine Terrace and Emily Court, which may include modifying the proposed fence location and relocating existing trees and replacing them with low profile landscaping to preserve visibility at that corner, to the satisfaction of the Board Engineer. The Applicant

believes there is virtually no detriment to the proposed fence and that the benefits of granting the variance for the fence (providing safety and security) outweigh any detriment to his neighbors; and

**WHEREAS**, at the public hearing, the Board also considered the following:

- A. Completeness Letter from the Borough Zoning Officer, Michael Greco (the “Zoning Officer”), dated July 3, 2025, along with testimony from the Zoning Officer;
- B. Board Engineer Report prepared by Colliers Engineering and Design dated July 11, 2025 (the “Board Engineer Report”), along with testimony from Nick Chelius, PE of Colliers Engineering & Design (the “Board Engineer”); and

**WHEREAS**, the Board, during the course of the hearing, considered the following from Section 175-24C. of the Borough of Demarest Zoning Ordinance (the “Borough Zoning Ordinance”):

No fence shall be erected in a front yard of any lot in a residential district unless the fence is less than 50% solid and is not more than four feet in height; and

**WHEREAS**, the Board had extensive questions for the Applicant regarding the sight visibility at the corner of Pine Terrace and Emily Court;

**WHEREAS**, no neighboring property owners were present at the public hearing to ask questions of the Applicant or offer comment on the Application; 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.
2. All of the testimony, documents and exhibits produced by the Applicant, including those produced at the public hearing on October 15, 2025 are incorporated herein by reference.
3. The Property is located at 93 Pine Terrace and designated as Lot 1 in Block 84.08 on the Tax Maps of the Borough of Demarest and is an undersized, irregularly shaped parcel consisting of 25,958 square feet (whereas 30,000 square feet is required).
4. The Property is located on the corner of Pine Terrace and Emily Court and has three (3) front yards.
5. The Property is located in the Single Family Residence BB Zone (the “R-BB Zone”).
6. The Property is currently occupied by a 2-story single-family dwelling with associated driveway, walkways, deck and other related improvements, all to remain.
7. The existing 2-story dwelling faces Pine Terrace, with the existing driveway being located off of Emily Court.
8. By this Application, the Applicant is seeking to install a 6-foot high fence around the perimeter of the Property, with a portion of the proposed fence being located in the front yard area along Emily Court (corner lot), whereas 4 feet is permitted in the front yard.
9. The Application requires variance relief pursuant to N.J.S.A. 40:55D-70(c) and Section 175-24C of the Borough Zoning Ordinance.

10. The public was invited to speak and offer questions after testimony was given by the Applicant and no one appeared.

### Conclusions and Determinations

11. All findings of fact set forth above are made a part hereof as if set forth herein at length.

12. The Board finds that the Property suffers from challenges due to its nature as a corner lot with three (3) front yards (Pine Terrace and Emily Court), which results in a lack of privacy and security, and that these challenges have not been able to be effectively resolved with landscaping.

13. The Board finds that the proposed fence improvement has a uniform appearance and is visually attractive.

14. The Board finds that the proposed fence, which will be located behind existing arborvitae, will be well screened once the landscaping matures.

15. The Board finds that the proposed installation of a 6-foot fence on the Property complies with the requirements of the R-BB Zone except for the bulk variance required for the height of the fence, which exceeds the 4 foot maximum height allowance for fencing in the front yard along Emily Court (corner lot).

16. Despite its location in the front yard along Emily Court (corner lot), the proposed fence improvement does not unduly impinge upon any adjoining owner, who did not appear.

17. The Board finds that the Fence Plan, once revised as stipulated to the satisfaction of the Board Engineer to address any sight triangle concerns at Pine Terrace and Emily Court, will provide sufficient sight lines for drivers.

18. The Board finds that the variance for fence height can be granted without detriment to the public good or any neighboring properties and will have a minimal impact, if any, on the neighbors.

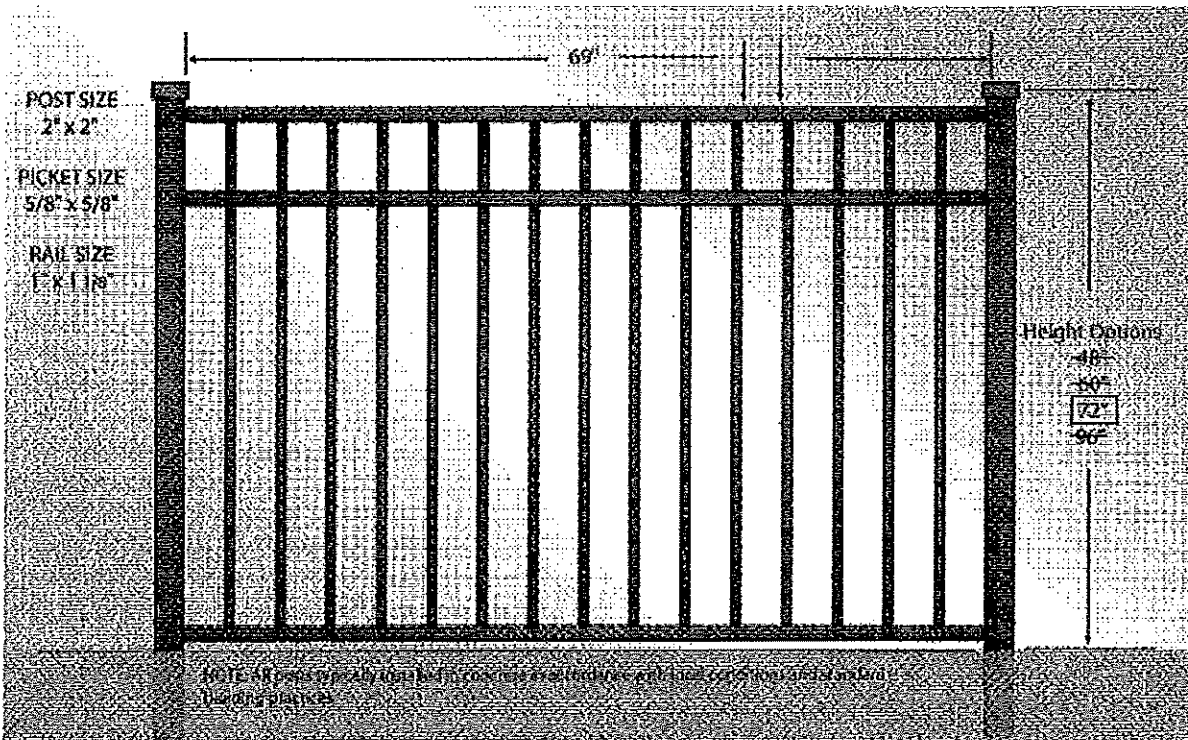
19. The Board further finds that this approval will not substantially impair the intent and purpose of the Borough of Demarest Master Plan or Borough Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2 inasmuch as it provides adequate light and air and open space and promotes the aesthetics of the neighborhood. Additionally, it has no impact on the appropriate population density and promotes the general welfare by encouraging outdoor activity in a private and secure area of the Property.

20. The Applicant has proven entitlement to approval under N.J.S.A. 40:55D-70(c)(1) and (2). There is no substantial impairment to the Borough of Demarest Master Plan or Borough Zoning Ordinance. The Property is unique because the property is an irregularly shaped corner lot with three (3) front yards. The benefits of deviation from the Borough Zoning Ordinance substantially outweighs any detriment.

**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) The Applicant shall revise the Fence Plan to the satisfaction of the Board Engineer in order to improve visibility within the sight triangle at the corner of Pine Terrace and Emily Court, which may include modifying the proposed fence location and relocating existing trees and replacing with low profile landscaping to preserve visibility at that corner.

- b) The Applicant shall not make any alterations to the existing grades on site which would result in an increase in the height of the existing grade.
- c) The fence shall not exceed 6 feet in height and must be at least 50% open and made of the same height, material, design and color as the fence described herein and as reproduced below:



**FENCE DETAIL**

- d) The 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.
- e) 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 Engineer Report, as well as any stipulations made during the hearing on the Application and all conditions enumerated herein.

- f) 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.
- g) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.
- h) 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.
- i) The Property shall be kept neat during all construction and all construction hours shall strictly adhere to the ordinances of the Borough of Demarest.
- j) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment of all outstanding taxes and the payment of all fees to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto. The Applicant shall pay any fees or additional escrow deposits which may be due and owing within ten (10) days of notification.
- k) All construction, use and development of the Property shall be in conformance with the plans approved by the Board. In the event the Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or replace the instant approval. The Applicant's failure to comply with this condition may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of any permits issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

- l) 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.
- m) 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.
- n) The Applicant shall submit a survey signed and sealed by a New Jersey Licensed Land Surveyor confirming that the installation of the fence as described herein and same shall be reviewed and approved by the Board Engineer following installation.
- o) The Applicant's failure to comply with any condition set forth with this Resolution shall constitute a failure of the conditions of this approval and may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of any permits 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 October 15, 2025.

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


ATTEST:

SO APPROVED:



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MICHAEL GRECO, Secretary



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TIMOTHY WOODS, Chair

**BOROUGH OF DEMAREST JOINT PLANNING BOARD**

**VOTE TO APPROVE THE APPLICATION**

<b>BOARD MEMBER</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>	<b>NOT ELIGIBLE</b>
Mr. Adelman	<input type="checkbox"/>	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input 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 type="checkbox"/>
Councilwoman Fox	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton ( <i>Alt</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✓
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input 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 type="checkbox"/>

Date of Approval: October 15, 2025

**VOTE TO APPROVE THE RESOLUTION**

<b>BOARD MEMBER</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>	<b>NOT ELIGIBLE</b>
Mr. Adelman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Chin	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Bernstein	<input type="checkbox"/>	<input type="checkbox"/>	✓	<input 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 type="checkbox"/>

Date of Adoption: November 5, 2025