

January 22, 2026

PLANNING REPORT

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

RE: Barbara Sheleg

77 Pine Terrace
Block 84.08, Lot 10
Review Letter #1
Project No. DEP-0251

Dear Board Members,

Barbara Sheleg, the Applicant, seeks ex post facto variance relief to permit existing improvements on the subject property. Based on aerial imagery, a patio around the pool, outdoor kitchen, and deck in the rear yard, a patio with a pergola and fireplace in the eastern side yard, front walkways, a side walkway from the driveway to the pool patio, a covered front porch, columns adjacent to the driveway and front walkway, retaining walls in the rear yard, steps and landings in the rear yard, AC units in the side yards, pool equipment in the rear yard, and a fence were constructed or installed between July 24, 2021, and September 28, 2022. Additionally, a second-floor addition over the garage, which includes a carport under the front portion of the addition, was constructed between September 28, 2022, and March 21, 2023. The Application requires "C" variances, which are detailed in Section B.

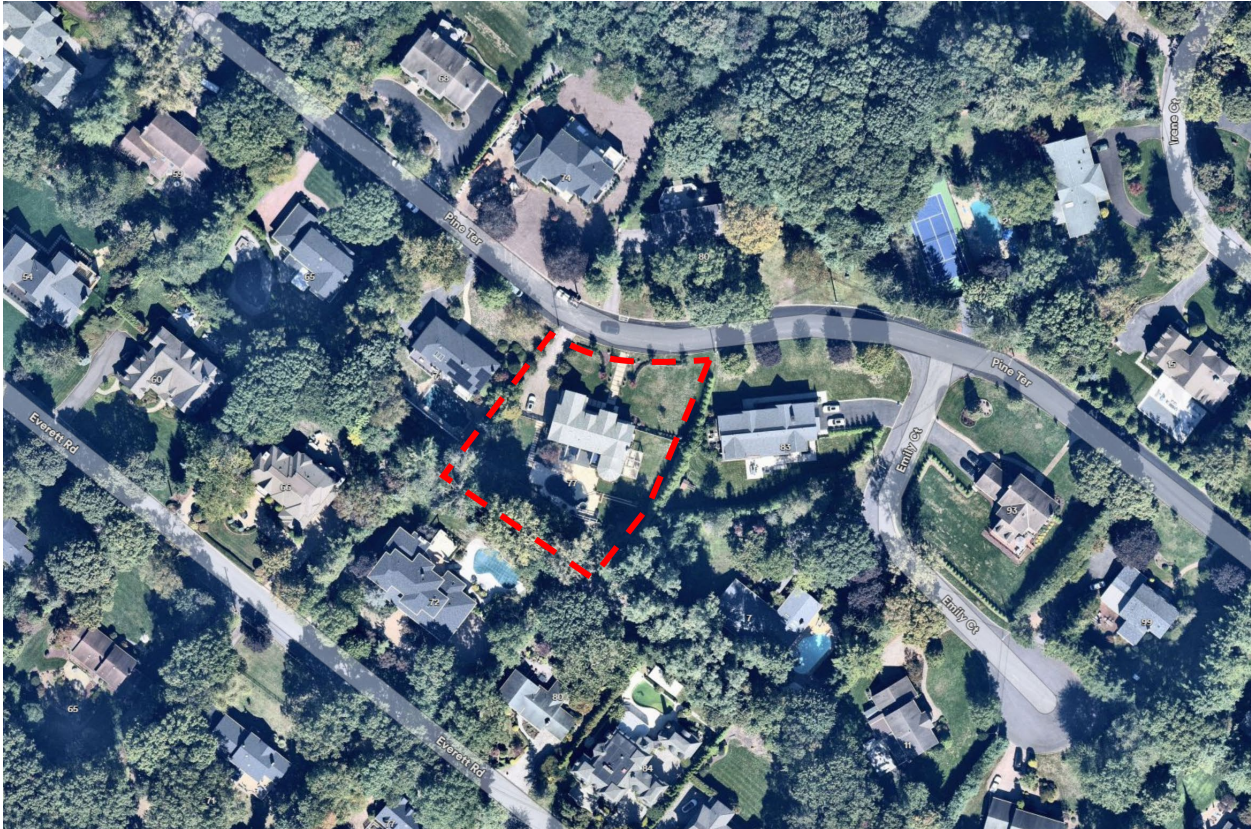
The following documents, which were submitted in support of the Application, have been reviewed:

1. Plans entitled "Second Level Addition to 77 Pine Terrace, Demarest, NJ 07627", prepared by Mario Navedo, dated October 1, 2025, revised through November 4, 2025, consisting of 3 sheets.
2. Survey entitled "Survey of Property," prepared by Andrew A. Schmidt, PLS of Schmidt Surveying, dated October 28, 2025, consisting of 1 sheet.
3. Variance Application, dated November 7, 2025.
4. Zoning Permit Denial, dated October 10, 2025, consisting of 2 pages.
5. Document entitled "Life Saver Pool Fence," prepared by Life Saver Pool Fence, dated Fall 2024, consisting of 29 pages.
6. Letter prepared by Eric H. Lupton, President of Life Saver Pool Fence, dated November 5, 2025, consisting of 1 page.

7. Letter entitled "Sheleg Residence," prepared by Joseph F. Vince, PE, PLS, PP, CME of Schwanewede Hals & Vince, dated November 6, 2025, consisting of 2 pages.
8. Letter entitled "Initial Submission for Completeness Review," prepared by Gloria Duby, Paralegal of Capizzi Law Offices, dated November 7, 2025, consisting of 1 page.
9. Letter entitled "JPB-25-012", prepared by Michael Greco, CMR, Land Use Secretary, dated December 15, 2025, consisting of 1 page.

A. Existing Zoning and Surrounding Land Use

The subject property is in the "R-BB" Residence BB District along the south side of Pine Terrace. The property is surrounded by single-family dwellings. See the image below for the approximate location of the subject property shown in red.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 175-16 – Variance for front yard setback. The Ordinance requires a 50-foot front yard setback.

The carport and its associated second floor were constructed with a front yard setback of 41.3 feet.

2. Section 175-19A.(d) – Variance for impervious surface encroachment. The Ordinance does not permit impervious surfaces within ten feet of the side or rear lot lines, except driveways and access walkways to the principal building entrance(s).

The existing stairs and landings in the rear yard are located on the eastern side lot line. In fact, a portion of the stairs and landings encroach onto adjacent Lot 8. Additionally, a concrete pad is located along the western side lot line. **The Applicant has not requested this variance.**

3. Section 175-19A.(2)(b) – Variance for accessory structure front yard encroachment. The Ordinance does not permit accessory uses, buildings, and structures to encroach into the front yard.

The covered front porch and decorative balcony were constructed with a front yard setback of 49.5 feet. There are four existing columns, one on each side of the driveway and front walkway, that are located on and/or over the Pine Terrace front lot line. **The Applicant has not requested the variance for the columns.**

4. Section 175-19A.(3)(b) – Variance for accessory structure side yard encroachment. The Ordinance does not permit accessory uses, buildings, and structures to encroach into the side yard.

The existing patio with a pergola and fireplace is within the eastern side yard.

5. Section 174-24I. – Variance for fence material. The Ordinance does not permit barbed-wire, short-pointed, canvas, cloth, electrically charged, poultry netting, temporary fences such as snow fences, expandable fences, or collapsible fences upon any residential lot.

According to the documents prepared by Life Save Pool Fence, the existing fence is a removable mesh fence. **The Applicant has not requested this variance.**

6. Section 175-24K. – Variance for fence location. The Ordinance requires all fences or walls to be erected within the property lines.

The existing fence encroaches onto adjacent Lots 8 and 9 to the east. **The Applicant has not requested this variance.**

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 does not require any waivers.

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. The Engineer’s November 6, 2025, letter indicates three variances are required. However, after reviewing the submitted documents, we have identified four variances that have not been requested or identified by the Applicant. The Applicant shall revise the Survey and/or Architectural Plans to list all required relief.
3. The Zoning Table on page 1 and calculations on page 2 of the Engineer’s November 2025 letter indicates the existing building coverage is 3,707 square feet, or 11.4% of the lot area, which includes the home (2,932 square feet), covered front porch (105 square feet), pergola on the rear deck (332 square feet), and pergola on the side patio (338 square feet). Based on this information, the Applicant complies with the Ordinance.

4. The Zoning Table and calculations indicate the existing improved lot coverage is 9,547 square feet, or 29.4% of the lot area, which includes the building coverage (3,707 square feet), deck (334 square feet), front porch and steps (177 square feet), driveway (1,918 square feet), AC units (53 square feet) walkways (669 square feet), patios, concrete pads, and outdoor kitchen (1,471 square feet), pool (853 square feet), pool equipment pad (39 square feet), rear yard steps and landing (188 square feet), and walls (138 square feet). Based on this information, the Applicant complies with the Ordinance. However, it is unclear if the deck and patio areas exclude the pergolas, which were already included in the building coverage. Additionally, it is unclear if the portion of the steps and landings located on Lot 9 is excluded. Finally, it is unclear if the window well on the east side of the home is included in the coverage calculation. The Applicant shall submit additional information to clarify these issues. It should be noted that the Ordinance defines "Improved Lot Coverage" as:

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.

5. The Zoning Table and calculations indicate the existing residential and parking coverage is 4,955 square feet, or 15.3% of the lot area, which includes the house (2,932 square feet), covered front porch (105 square feet), and driveway (1,918 square feet). Based on this information, the Applicant complies with the Ordinance.
6. The Zoning Table indicates the existing livable floor area is 13.7% and references the Architectural Plans. The Zoning Requirements table on Sheet A.01 of the Architectural Plans indicates the livable floor area is 4,447 square feet, which includes the 2,104 square foot first floor, the 1,432 square foot second floor, and the 912 square foot second-floor addition. Based on this information, the Applicant complies with the Ordinance.
7. The Zoning Table indicates the existing building height is 26 feet and references the Architectural Plans. The Elevations on Sheet A.02 of the Architectural Plans illustrates a height of 26 feet, one inch from the finished grade elevation to the main roof elevation. However, the Board adopted a height interpretation in 2025 that states height in the R-BB Zone is measured from average natural grade to the average height of the roof. "Average Natural Grade" is defined as "An average of a natural grade adjacent to the perimeter of a building measured at points 10 feet apart starting at the lowest elevation." The Applicant shall provide testimony to clarify the height of the dwelling.
8. Section 175-19B.(1) does not permit accessory uses, buildings, or structures to exceed a height of 12 feet to the mean roof height. There are two existing pergolas on the subject property. The Applicant shall provide the height of each pergola to determine compliance.

9. Section 175-24N. requires fences enclosing swimming pools to have a self-latching, self-closing gate. The Life Saver Pool Fence documents do not indicate if this type of gate was installed on the fence. Testimony shall be provided to clarify.
10. The Survey illustrates what appears to be a concrete pad along the western side lot line. However, this improvement is not labeled. The Applicant shall provide testimony regarding this site improvement.
11. The Survey illustrates several retaining walls on the site. Retaining wall details shall be provided, including height.

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)
Danielle Federico, Board Attorney (via email dfederico@csglaw.com)
Nick Chelius, Board Engineer (via email nick.chelius@collierseng.com)
Matthew Capizzi, Applicant's Attorney (via email matthew@capizzilaw.com)
Joseph Vince, Applicant's Engineer & Planner (via email jvince@shveng.com)
Mario Navedo, Applicant's Architect (via email marionavedo.design@gmail.com)

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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated October 1, 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%.