

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

**RESOLUTION JPB-008-26**

**VARIANCE APPROVAL**

In the Matter of the Application of  
Barbara Sheleg  
77 Pine Terrace  
Block 84.08, Lot 10

**WHEREAS**, Barbara Sheleg (the “Applicant”) is the applicant and owner of the property located at 77 Pine Terrace and designated as Lot 10 in Block 84.08 on the Tax Maps of the Borough of Demarest (the “Property”); and

**WHEREAS**, the Applicant’s request for a Zoning Permit for a constructed two-story addition along the right side of the existing single-family home, including a car port and living space above, a constructed side-yard patio and pergola with fire place and a constructed front yard porch with steps and walkway was denied by the Zoning Officer of the Borough of Demarest on October 14, 2025 (the “Denial Letter”), stating:

Your request is hereby denied based on the following requirements:

CARPORT AND SECOND FLOOR LIVING SPACE  
ENCROACHES INTO THE REQUIRED FRONT YARD  
SETBACK.

MINIMUM FRONT YARD SETBACK= 50 FEET.

PROPOSED AND CONSTRUCTED PRINCIPAL  
BUILDING FRONT YARD SETBACK= 41.3 FEET.

PATIO AND PERGOLA LOCATED IN THE SIDE  
YARD NOT PERMITTED.

FRONT YARD PORCH NOT PERMITTED, AND  
ENCROACHING INTO THE FRONT YARD SETBACK.  
SWIMMING POOL IN REAR YARD DOES NOT HAVE  
THE REQUIRED UCC POOL FENCING, PLAN SHOWS

A FENCE LEAVING THE PROPERTY AND ENCROACHING ONTO A NEIGHBOR'S PROPERTY.

POOL FENCE MUST BE ENTIRELY WITHIN THE PROPERTY LINES.

REAR YARD SHOWS STAIRWAY WHICH APPEARS TO ENCROACH ONTO A NEIGHBORING PROPERTY, NEED DISCUSSION ON WHY THIS IS HERE.

OWNER NEEDS FOUR VARIANCES:

- 1) FRONT YARD SETBACK
- 2) SIDE YARD ACCESSORY STRUCTURE
- 3) REQUIRED POOL FENCING
- 4) FRONT YARD PORCH...; and

**WHEREAS**, thereafter, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the "Board") for "C" Variance approval relative to existing improvements, including (1) a two-story addition along the front-right elevation; and (2) a patio and pergola in the left-side yard of the Property (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. Correspondence from Capizzi Law Offices regarding the Initial Application Submission dated November 7, 2025;
- C. Denial Letter dated October 14, 2025;
- D. Architectural Plans prepared by Mario Navedo dated October 1, 2025, last revised November 4, 2025, and consisting of three (3) sheets;
- E. Survey prepared by Schmidt Surveying dated October 28, 2025 and consisting of one (1) sheet;

- F. Zoning Information Letter prepared by Schwanewede Hals & Vince dated November 6, 2025;
- G. Document entitled “Life Saver Pool Fence,” prepared by Life Saver Pool Fence, dated Fall 2024, consisting of 29 pages;
- H. Letter prepared by Eric H. Lupton, President of Life Saver Pool Fence dated November 5, 2025 and consisting of 1 page;
- I. Affidavit of Service for notices mailed on January 21, 2026 prepared by Capizzi Law Offices; and
- J. Affidavit of Publication on January 23, 2026 prepared by The Record and Herald News; and

**WHEREAS**, a public hearing was held by the Board on February 4, 2026 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 Office: (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 Architectural Plans prepared by Mario Navedo last revised November 4, 2025 and consisting of three (3) sheets, marked as Exhibit A-1;
- B. Photographs of pergola/patio, marked as Exhibit A-2;
- C. Testimony of the Applicant’s architect, Mario Navedo, whose testimony can be summarized as follows:
  - a. The existing home is a single family, two-story residence, built in 1970.

- b. Prior to the improvements that are the subject of the Application, the dwelling consisted of approximately 3,500 square feet and contained 4 bedrooms and an attached two-car garage.
- c. The renovated dwelling as it exists today contains 5 bedrooms.
- d. Recent alterations constructed a second-floor addition above the existing first floor, which consists of 912 square feet and provided an office and upgraded primary suite consisting of a new master bedroom, bathroom and walk-in closet.
- e. The second-floor addition was located in the front of the existing dwelling instead of rear due to the alignment of the new bathroom in the rear of the second-floor addition with the location of existing plumbing in rear.
- f. The second-floor addition added a first-floor garage carport/breezeway, which provides screening for a third covered parking space and breaks up the front façade, improving the home's aesthetic and modernizing its character.
- g. The improvements include balconies to soften the building's appearance.
- h. The second-floor addition encroaches 14 feet into the front yard setback and consists of a total encroachment of 133 square feet into the front yard setback (198 square feet including the balconies).
- i. The shape of the lot, which curves in the front yard along Pine Terrace, is a hardship and creates need for a front yard variance; if front yard line of the Property was straight, the second-floor addition would only encroach a di minimis 23 square feet into the front yard setback.

- j. The addition aligns with the existing roof height and breaks up the front façade, which improves the home's aesthetic by modernizing its character.
  - k. The side yard patio contains a pergola and wood-burning fireplace; the Applicant agreed to amend the Application to eliminate these improvements.
  - l. There are existing planters/columns and paver stepping stones located in the right-of-way of the Borough of Demarest; the Applicant agreed to relocate the planters/columns out of the right-of-way and, if necessary, seek a license from the Mayor and Council for the paver stepping stones located in the right-of-way.
  - m. There are existing stairs at the left rear quadrant of the Property which encroach on the neighbor's property located at 68 Pine Terrace; the Applicant agreed to remove or modify these stairs so that they will no longer encroach onto the neighbor's property.
  - n. The height of the second-floor addition does not exceed 30 feet; and
- A. Testimony of the Applicant's civil engineer and professional planner, Joseph Vince , whose testimony can be summarized as follows:
- a. The planters/columns are approximately 4 feet wide by 2 feet long and 2 feet high and will be shifted inward, out of the Borough right-of-way.
  - b. The Property is located in the R-BB Zone and complies with the lot area, frontage, lot depth, side yard, rear yard, building height, building coverage, improved lot coverage, livable floor area and residential and parking coverage requirements.
  - c. The Property has a positive pitch and does not have any ponding of water.

- d. There is a significant slope in the rear of the Property.
- e. Roof leaders connect underground to on-site detention basins.
- f. The Applicant installed 6, 300-gallon drywell systems to capture stormwater from the improvements that are the subject of this Application.
- g. If necessary, the Applicant can dig up or expose each seepage pit so that the Board Engineer can confirm the size and dimensions are adequate for the proposed improvements.
- h. The columns on the existing dwelling, which are setback 49.5 feet (whereas a 50-foot front yard setback is required) are existing and were just re-wrapped with new materials and is di minimis.
- i. The front yard setback variance needed for the second-floor addition over the garage, which includes a carport under the front portion of the addition, is due to the hardship of the front of the lot being curved along Pine Terrace and the steep slope in the back of the Property.
- j. The steep slope and curve in the road create practical difficulties to modernize the old house with a master suite, which is consistent with newer homes of today.
- k. Existing plumbing in the rear of the dwelling does not lend to the addition being placed in the rear of the Property.
- l. The carport provides a visual benefit to the surrounding neighborhood, as it allows a third parking space and keeps the garage out of the public view.
- m. The second-floor addition provides a visual enhancement, as it breaks up the façade of the dwelling, which is a better alternative than placing the

addition in the rear of the dwelling, which would visually create a large, solid mass in the front of the dwelling.

- n. There is no substantial detriment to the surrounding homes by granting the requested variances.
- o. Visually, the second-floor addition aligns with or is setback further than surrounding houses to the east and west and, therefore, the front yard setback variance is not perceivable to the public.
- p. Landscaping can be provided/enhanced along the Property line facing 71 Pine Terrace; 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 December 15, 2025;
- B. Board Planner Report prepared by Colliers Engineering and Design dated January 22, 2026 (the “Board Planner Report”), along with testimony from Darlene A. Green, PP, AICP of Colliers Engineering & Design (the “Board Planner”);
- C. Board Engineer Report prepared by Colliers Engineering and Design dated January 16, 2026 (the “Board Engineer Report”), along with testimony from Nick Chelius, PE of Colliers Engineering & Design (the “Board Engineer”); and
- D. Google Earth photograph of the second-floor addition, marked as B-1; and

**WHEREAS**, the Board and the Board Engineer had extensive questions for the Applicant and the Applicant’s professionals regarding the proposed addition; and

**WHEREAS**, an adjoining property owner appeared at the public hearing to ask questions of the Applicant, expressed concerns and offered comments 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. All of the testimony, documents and exhibits produced by the Applicant, including those produced at the public hearing on February 4, 2026 are incorporated herein by reference.

2. The Property is located at 77 Pine Terrace and designated as Lot 10 in Block 84.08 on the Tax Maps of the Borough of Demarest and is an irregular shaped parcel consisting of 32,491 square feet.

3. The Property is located along the south side of Pine Terrace in the Single-Family Residence BB Zone (the “R-BB Zone”).

4. The Property is currently occupied by a single-family dwelling, paver driveway, walkways, pool, patio, and other related improvements.

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

6. By this Application, the Applicant is seeking variance relief to permit existing improvements on the Property consisting of 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, a fence, and a second-floor addition over the garage, which includes a carport under the front portion of the addition.

7. During the course of the public hearing on the Application, the Applicant amended their Application to: (i) remove the patio, pergola and fireplace; (ii) remove or modify the stairs at the left rear quadrant of the Property so they no longer encroach on the neighbor's property located at 68 Pine Terrace (Block 84.08, Lot 8); (iii) remove the concrete pad located along the western side lot line of the Property; (iv) relocate the 4 planters/columns in the front yard of the Property out of the right of way; and (v) remove the existing fence encroachment, which encroaches onto Lots 8 and 9 (Block 84.08) to the east of the Property.

8. The Applicant is seeking variance relief from the requirements of the R-BB Zone pursuant to N.J.S.A. 40:55D-70(c) with respect to: (i) minimum front yard setback (carport and second-floor addition), as 50 feet is required and 41.3 feet is proposed; (ii) minimum front yard setback – accessory structure (front porch and decorative balcony), as 50 feet is required and 49.5 feet is proposed; and (iii) accessory structure location) (planters/columns), as accessory structures are only permitted in the rear yard and as 4 accessory structure planters/columns are proposed in the front yard (out of the right-of-way).

9. The Board finds that the proposed second-floor addition to the existing single-family dwelling, which is a permitted use in the R-BB Zone and consistent with the surrounding neighborhood, provides an aesthetic improvement to the Property.

10. The Board finds that the Applicant suffers a hardship as a result of the curve in road along Pine Terrace and that the proposed development would not require a front yard setback variance if the front Property line was straight.

11. The Board finds that expanding the addition above the existing first floor is a better alternative than expanding building coverage elsewhere on the Property and breaks up the front façade, which improves the home's aesthetic.

12. The Board finds that the carport created by the second-floor addition provides a visual benefit to the surrounding neighborhood, as it allows a third parking space and keeps the garage out of the public view.

13. The Board finds that the proposed variance with respect to minimum front yard setback for the accessory structure (front porch and decorative balcony) is de minimis and enhances the aesthetics of the existing dwelling.

14. The Board finds that the proposed variance with respect to accessory structure location for the 4 planters/columns in the front yard is de minimis and enhances the aesthetics of the existing dwelling.

15. The Board finds that the proposed improvements, as modified at the public hearing to remove the patio, pergola and fireplace, remove the encroachment of the stairs at the left rear quadrant of the Property from the neighbor's property, remove the concrete pad along the western side lot line of the Property, relocate the 4 planters/columns out of the Borough right of way and remove the existing fence encroachment to the east of the Property, are architecturally appealing.

16. The Board further finds that there are no realistic alternatives to the proposed front yard setback variance with respect to the second-floor addition and carport, due to the curve in the road along Pine Terrace, which triggers the front yard setback variance.

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

18. 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, as the Property complies with the lot area, frontage, lot depth, side yard, rear yard, building height, building coverage, improved lot coverage, livable floor area and residential and parking coverage requirements.

19. The Board finds that, in light of the curve in the road along Pine Terrace, the attractive design of the improvements and the dwelling’s maintenance of the height restriction coverage requirements and most setbacks, the requested variances are reasonable and appropriate.

20. The Board finds that the Application and the proposed improvements, as modified at the public hearing, are consistent with other homes in the neighborhood and that the variances can be granted without any detriment to the public good or any neighboring properties.

21. The Board finds that the Applicant has proven her entitlement to variance approval under N.J.S.A. 40:55D-70(c) and hereby grants the following variances:

Zoning Code Section	Required	Proposed & Granted
Section 175-16 (minimum front yard setback) (carport and second-floor addition)	50 feet	41.3 feet
Section 175-19A.(2)(b) (minimum front yard setback – accessory structure) (front porch and decorative balcony)	50 feet	49.5 feet
Section 175-19A.(2)(b) (accessory structure location) (planters/columns)	Only permitted in the rear yard	4 accessory structure planters/columns in front yard (out of ROW)

**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, as modified on the record at the public hearing, is hereby granted, subject to the following conditions:

a) The Applicant shall work with the Board Engineer to his satisfaction to provide enhanced landscaping along the property line with 71 Pine Terrace (Block 84.08, Lot 11).

b) The Applicant shall demonstrate to the satisfaction of the Board Engineer that the Property has appropriate drainage to accommodate the second-floor addition and improvements on the Property, including allowing inspection of any existing seepage pits by the Board Engineer, providing any drainage improvements plans, seepage pit designs and calculations to the Board Engineer, and installing any additional seepage pits as may be necessary in the sole and absolute discretion of the Board Engineer to accommodate the improvements proposed by the Application.

c) The Applicant shall remove the patio, pergola and fireplace.

d) The Applicant shall remove or modify the stairs at the left rear quadrant of the Property so they no longer encroach on the neighbor's property located at 68 Pine Terrace (Block 84.08, Lot 8).

e) The Applicant shall remove the concrete pad located along the western side lot line of the Property.

f) The Applicant shall remove the existing fence encroachment, which encroaches onto Lots 8 and 9 (Block 84.08) to the east of the Property.

g) The Applicant shall relocate the 4 planters/columns in the front yard of the Property out of the right-of-way and shall provide the Board Engineer with the actual dimensions of said planters/columns.

h) The Applicant shall provide the Board Engineer with the necessary proofs to substantiate, to the satisfaction of the Board Engineer, the height of the roof, which shall not exceed 30 feet.

i) The Applicant shall obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary for all existing improvements on the Property, including any tree permits, along with all necessary future permits needed for the Application, as amended on the record at the public hearing.

j) No bedrooms shall be permitted in the basement of the existing dwelling.

k) The Applicant shall obtain all licenses, approvals or agreements necessary from the Mayor and Council for the existing paver stepping stones in the right-of-way of the Borough of Demarest.

l) The Applicant shall install a fence around the pool that complies with the International Swimming Pool and Spa Code and Section 175-24(N) of the Borough Code.

m) The Applicant shall provide an as-built survey to the Board Engineer prior to the issuance of a final certificate of occupancy.

n) 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 Report and the Board Engineer Report, as well as any stipulations made during the hearing on the Application and all conditions enumerated herein.

o) 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.

p) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.

q) The Property shall be kept neat during all construction and all construction hours shall strictly adhere to the ordinances of the Borough of Demarest.

r) 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.

s) 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 her 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 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.

t) 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.

u) 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 her agents arising from the making of

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.

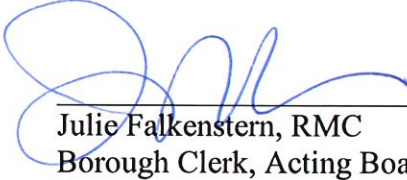
v) The Applicant’s failure to comply with any condition set forth with this Resolution shall constitute a failure of the conditions of this approval and may be the cause for the issuance of a Stop Work Order, penalties and/or the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

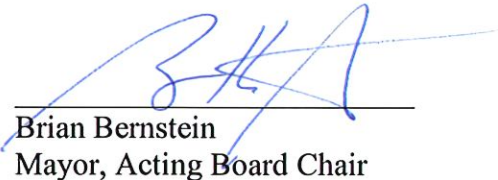
**IT IS HEREBY CERTIFIED** that this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Demarest upon a roll call vote at a meeting held on March 4, 2026.

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

ATTEST:

SO APPROVED:

  
\_\_\_\_\_  
Julie Falkenstern, RMC  
Borough Clerk, Acting Board Secretary

  
\_\_\_\_\_  
Brian Bernstein  
Mayor, Acting Board Chair

**BOROUGH OF DEMAREST JOINT PLANNING BOARD**

**VOTE TO APPROVE APPLICATION JPB-25-012**

<b>BOARD MEMBER</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>	<b>N/E</b>
Mr. Adelman	✓		✓				
Ms. Brenner		✓	✓				
Vice Chair Chin			✓				
Ms. DiSclafani				✓			
Councilwoman Fox						✓	
Mr. Lerner				✓			
Dr. Mamdani						✓	
Mr. Jiang ( <i>Alt #1</i> )						✓	
Ms. Hamilton ( <i>Alt #2</i> )			✓				
Mr. Alevrontas ( <i>Alt #3</i> )				✓			
Mayor Bernstein			✓				
Mr. Woods			✓				

Date of Approval: February 4, 2026

**VOTE TO APPROVE RESOLUTION JPB-008-26**

<b>BOARD MEMBER</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>	<b>N/E</b>
Mr. Adelman						✓	
Ms. Brenner						✓	
Vice Chair Chin						✓	
Ms. Hamilton ( <i>Alt #2</i> )		✓	✓				
Mayor Bernstein	✓		✓				
Mr. Woods						✓	

Date of Adoption: March 4, 2026