

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
BOROUGH OF DEMAREST**

FILE NO. 784-18

IN THE MATTER OF THE APPLICATION OF:

ANDREW AND LISA GINSBURG FOR VARIANCES
RELATING TO BLOCK 69; LOT 1, ALSO KNOWN AS
123 ORCHARD ROAD, DEMAREST, NEW JERSEY

BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Demarest that the following Procedural History, Findings of Fact, Conclusions of Law and Conclusion/Determination be and are hereby adopted:

PROCEDURAL HISTORY

The Property has an existing maximum Building Coverage (20% permitted and 21.9% provided) and Improved Lot Coverage (30% permitted and 31.2 provided). The within application was commenced by the filing of an application for the following, additional, variance:

Variance	Permitted	Existing	Sought
Improved Lot Coverage	30%	31.2%	36.88%

FINDINGS OF FACT

Public hearing was held on November 20, 2018 in the Council Chambers of the Demarest Municipal Building. The Application was presented by the Applicants, through counsel, David Watkins, Esq.

The following documents were considered by the Zoning Board in review of this matter:

1. Application for Variances, as amended;
2. Exhibit A-1, Engineering Plans, prepared by Michael Hubschman, PE, dated 5/30/18

- and revised through 11/1/18;
3. Exhibit A-2, Colorized Site Plan;
 4. Exhibit B-1, Maser Engineering Report, dated November 16, 2018.

The following witnesses appeared and offered sworn testimony on behalf of the Applicants:

1. Michael Hubschman, PE, a licensed Engineer in the State of New Jersey (“Hubschman”).

The subject property is located in the Residence Zone D within the municipality. The address of the Property is 123 Orchard Road and is also designated as Block 69; Lot 1 on the Borough’s Tax Assessment Map of the Borough (hereinafter, “the Property”).

The Applicants presented their case through counsel. Counsel set forth the background and summary of the Application and introduced Hubschman. Hubschman testified as to the oversize nature of the Lot and the present, full development of the Property. Despite the oversized nature of the Lot, the Applicant has 2 existing variances as set forth above. The Applicant now seeks to expand Maximum Improved Lot Coverage from 31.22% to 36.88% (where 30% is permitted).

Hubschman testified that the Property is fully developed with a single family home. The existing home and related driveway, walks, steps, etc., provide an Improved Lot Coverage of 31.22% despite the oversize nature of the Lot. The Applicant now seeks the addition of a swimming pool and ancillary additional coverage items for a total coverage of 36.88%. The principal addition is the new swimming pool on the already fully developed Property

CONCLUSIONS OF LAW; RESOLUTION

The application before the Board is for Improved Lot Coverage variance for the addition of a swimming pool to the Property. The board finds that this variance provides for the enhanced use of the Property in a manner that is consistent with residential properties in the area. The addition of a swimming pool is a common recreational component of a single family home. The Applicant has demonstrated that drainage is not compromised by the additional Improved Lot Coverage.

The Applicant seeks the variance pursuant to NJSA 40:55d-70(c)(2). The Board found in its review that the variances were justified and should be granted for the reasons set forth herein. The Board found that the variance could be granted without any detrimental impact to the adjoining property owners or the zone plan and that the grant would not compromise the intent and purpose of the zoning ordinance. The Board found that the size and shape of the property, location of existing house, and nature of the improvements served to eliminate any negative impact of the variances. The Board determined that the variances were justified as benefitting the purposes of zoning and providing for the full use of the residential property.

Motion was made by: D. Morrison
 Motion was seconded by: R. Corrado

Roll Call to Approve:

	YES	NO	ABSTAIN
Mr. Woods, Vice-Chair			absent for this application
Mr. Davis	X		
Mr. Corrado	X		
Mr. Morrison	X		
Mr. Park	X		
Mr. Press			absent
Ms. Hayden, Chairwoman	X		
Alternate #1, Mr. Schiellm			abstain
Alternate #2, Mr. McLain			absent

Accordingly, a majority of the Board voted to approve the application as presented.

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment at its meeting held on January 15, 2019.

Diane Frohlich
 Diane Frohlich, Board Secretary