

July 7, 2025

PLANNING REPORT

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

RE: M&M Developers, LLC

30 Hardenburgh Avenue
Block 27, Lot 269
Review Letter #1
Project No. DEP-0230

Dear Board Members,

M&M Developers, LLC, the Applicant, seeks Minor Subdivision approval with variance relief to subdivide the subject property into three lots, Proposed Lots 269.01, 269.02, and 269.03. The Applicant proposes to demolish the existing dwelling and existing site improvements in order to construct three single-family dwellings. The Application requires "C" variances and a waiver, which are detailed in Sections B and D.

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

1. Plan entitled "Minor Subdivision Plat", prepared by Mark S. Martins, PE, PLS of Mark Martins Engineering, LLC, dated June 16, 2025, consisting of 1 sheet.
2. Survey entitled "Survey of Property", prepared by Mark S. Martins, PE, PLS of Mark Martins Engineering, LLC, dated March 21, 2025, consisting of 1 sheet.
3. Subdivision Application, no date.
4. Document entitled "Rider to the Borough of Demarest Joint Planning Board Subdivision Application", no date, consisting of 1 page.
5. Letter entitled "30 Hardenburgh Avenue", prepared by Mark Martins Engineering, LLC, dated June 17, 2025, consisting of 1 page.

A. Existing Zoning and Surrounding Land Use

The subject property is a corner lot in the Single-Family Residence D ("R-D") District with frontage on the north side of Hardenburgh Avenue, west side of Prescott Street, and east side of Woodland Road. The building contains a dentist office and four one-bedroom apartments. The property is surrounded by dwellings. See the image on the following page for the approximate location of the subject property shown in red and the estimated location of the proposed lot lines in yellow.¹



Yard and bulk requirements in the R-D District are:

- Minimum Lot Frontage – 100 feet
- Minimum Lot Depth – 100 feet
- Minimum Lot Area – 10,000 square feet
- Minimum Front Yard Setback – 25 feet²
- Minimum Side Yard Setback (abutting a street) – 25 feet
- Minimum Side Yard Setback (abutting a lot) – 10 feet
- Minimum Rear Yard Setback – 30 feet³
- Maximum Number of Families per Building – 1
- Maximum Building Coverage – 20%
- Maximum Building Height – 30 feet⁴
- Maximum Livable Floor Area – 30%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 175-8 – Variance for lot size. The Ordinance does not permit any lot to be reduced so that it does not meet the area requirements. The subject property is in the R-D District, which requires lots to be at least 10,000 square feet.

The Applicant proposes to subdivide Lot 269 containing 29,000 square feet (0.67 acres) into three lots. Proposed Lot 269.02 is only 8,700 square feet (0.20 acres). **The Subdivision Plans do not list this variance.**

2. Section 175-16 – Variance for lot area. The Ordinance requires a minimum lot size of 10,000 square feet in the R-D District.

Proposed Lot 269.02 is only 8,700 square feet.

3. Section 175-16 – Variance for lot frontage. The Ordinance requires a minimum lot frontage of 100 feet.

Proposed Lot 269.01 has only 70 feet of frontage along Hardenburgh Avenue, Proposed Lot 269.02 has only 60 feet of frontage along Hardenburgh Avenue, and Proposed Lot 269.03 has only 70 feet of frontage along Hardenburgh Avenue.

4. Section 175-16 – Variance for minimum side yard setback abutting a street. The Ordinance requires a minimum side yard setback abutting a street of 25 feet. The side yard of Proposed Lot 296.01 abuts Prescott Street, and the side yard of Proposed Lot 269.03 abuts Woodland Road.

The Applicant proposes a side yard setback of 20 feet to Prescott Street on Proposed Lot 269.01 and a side yard setback of 20 feet to Woodland Road on Proposed Lot 269.03.

5. Section 175-16 – Variance for maximum improved lot coverage. The Ordinance limits improved lot coverage to 30% of the lot area.

The Applicant proposes a lot coverage of 33.97% (2,955 square feet) on Proposed Lot 269.02.

6. Section 175-16 – Variance for maximum residential and parking coverage. The Ordinance limits residential and parking coverage to 25% of the lot area.

The Applicant proposes a residential and parking coverage of 28.97% on Proposed Lot 269.02 (2,520 square feet).

Additionally, the following pre-existing non-conforming conditions exist:

1. Section 175-16 – The Ordinance limits improved lot coverage to 30% of the lot area. In this case, improved lot coverage is limited to 8,700 square feet for the existing lot. According to the Engineer's June 17, 2025 Letter, the existing improved lot coverage is 31.37% (9,096.7 square feet).
2. Section 175-16 – The Ordinance limits residential and parking coverage to 25% of the lot area. In this case, residential and parking coverage is limited to 7,250 square feet. The existing residential and parking coverage is 29.56% (8,573.5 square feet) according to the Engineer's June 17, 2025 Letter.

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 requires the following waiver:

1. Section 153-18D.(1) – Waiver for lot size and dimensions. The Ordinance does not permit lot dimensions and area to be less than required by Chapter 175. In this case, the R-D District requires a minimum lot size of 10,000 square feet and lot frontage of 100 feet.

As detailed in Section B, Proposed Lot 269.02 does not comply with the minimum lot area and Proposed Lots 269.01, 269.02, and 269.03 do not comply with the minimum lot frontage along Hardenburgh Avenue. **The Applicant has not requested this waiver.**

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 and design waiver required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. Based on our review of the submitted Plans and documents, we have identified one variance and one waiver that have not been requested or identified by the Applicant. The Subdivision Plan shall be revised to list all required relief or amended to comply with the Ordinance. This can be a **condition** of any potential Board approval.

Minor Subdivision

3. The Ordinance defines "Lot, Corner" as:

A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street, forming an interior angle of less than 135°. The minimum frontage is to be maintained on all streets. The approving authority is to designate the

front of the building, and then the yard opposite the designated front of the building shall meet rear yard minimum requirements.

The Applicant proposes to create two corner lots, Proposed Lots 269.01 and 269.03. The Subdivision Plan illustrates the front yard for each lot along Hardenburgh Avenue and the rear yard for each lot adjacent along the northern property line. The remaining yards are side yards. We take no issue with these yard designations. However, the Board should discuss the yard designations for the proposed corner lots as required by the definition.

4. The Subdivision Plan does not include a zoning schedule for existing Lot 269 to compare the existing and proposed conditions. This information should be added to the Subdivision Plan. This can be a **condition** of any potential Board approval.
5. The R-D District requires a side yard setback abutting a street of 25 feet. The Zoning Schedule for Proposed Lot 269.01 indicates the minimum front yard setback to Prescott Street is 34.9 feet average. It appears the Applicant has calculated this setback based on Footnote B of the Limiting Schedule, which requires an alternative setback on all streets, except for some specified streets, that conforms to the established average setback on the street on which the lot fronts. An analysis of lots within the same district, within 300 feet on each side of the lot, but not beyond any intersecting streets is required to determine the alternate setback. However, Footnote B is applicable to the "Front Yard Setback" column of the Limiting Schedule, not the "Side Yard Width; Abutting a Street" column. Therefore, the required setback along Prescott Street is 25 feet, not 34.9 feet as the alternative setback requirement is not applicable. The Zoning Schedule for Proposed Lot 269.01 shall be revised accordingly. This can be a **condition** of any potential Board approval.
6. Similarly, the Zoning Schedule for Proposed Lot 269.03 indicates the alternative front yard setback on Woodland Road is 26.2 feet. As noted above, this requirement is only applicable to the front yard setback requirement, not to the side yard setback abutting a street requirement. The Zoning Schedule Proposed Lot 269.03 shall be revised accordingly. This can be a **condition** of any potential Board approval.
7. The Zoning Schedules for Proposed Lots 269.01 and 269.03 indicate the proposed rear yard setback, building coverage, building height, livable floor area, improved lot coverage, and residential and parking coverage are "to conform". The Applicant's Engineer prepared a Letter dated June 17, 2025, which provides the proposed building coverage, livable floor area, improved lot coverage, and residential and parking coverage on each proposed lot. The proposed rear yard setback and building height for these lots is not provided in the Letter. It is unclear why the information presented in the Letter is not included in the Zoning Schedules. Testimony shall be provided to clarify.
8. Similarly, the Zoning Schedule for Proposed Lot 269.02 indicates the proposed rear yard setback, building coverage, building height, and livable floor area are "to conform". The Engineer's June 17, 2025 Letter provides the proposed building coverage and livable floor area for Proposed Lot 269.02. It is unclear why the building coverage and livable floor area

information in the Letter is not provided in the Zoning Schedule. Testimony shall be provided to clarify.

9. The Zoning Schedule for Proposed Lot 269.02 indicates the proposed improved lot coverage is 33.97% and the proposed residential and parking coverage is 28.97%. The Engineer's June 17, 2025 Letter indicates the improved lot coverage totals 2,955 square feet and the residential and parking coverage totals 2,520 square feet. However, the Subdivision Plan only illustrates a conceptual dwelling and a driveway on Proposed Lot 269.02. Therefore, it appears the proposed improved lot coverage and proposed residential and parking coverage should match. It is unclear where the 435 square feet of coverage, which is the difference between the two coverages, is proposed. Testimony shall be provided to clarify.
10. The Borough recently amended Chapter 163 in its entirety via Ordinance No. 1121-23 on June 26, 2023. Section 163-19C provides the tree mitigation requirements for removed trees. The Subdivision Plan illustrates 15 existing trees on and around the subject property. It appears one 12-inch tree conflicts with the dwelling on Proposed Lot 269.01 and one 40-inch tree conflicts with the dwelling on Proposed Lot 269.03. However, the Applicant shall submit additional information to clarify the number and size of existing trees to be removed. Additionally, the removed trees shall be identified on the Subdivision Plan. Until this information is provided, it is unclear how many trees are being removed and how many replacement trees are required.

The Applicant shall note that the removal of trees that are dead, dying, or pose a safety hazard do not require replacement trees.

11. Section 153-17D. requires shade trees to be located, at least one tree for every 40 feet, within a shade tree easement, which shall be five feet in width and abut the right-of-way line of the street. The Subdivision Plat does illustrate existing trees along all three frontages. However, it is unclear if all of these existing trees will remain or the distance between said trees. Testimony shall be provided to clarify and determine if the Applicant requires design waiver relief.

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)
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¹ Image courtesy of <https://www.nearmap.com/us/en>, dated March 19, 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%.