

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

**RESOLUTION JPB-012-25**

**MINOR SUBDIVISION WITH VARIANCE APPROVAL**

In the Matter of the Application of  
M&M Developers LLC  
30 Hardenburgh Avenue  
Block 27, Lot 269

**WHEREAS**, M&M Developers LLC (the “Applicant”) is the contract purchaser of the property located at 30 Hardenburgh Avenue and designated as Lot 269 in Block 27 on the Tax Maps of the Borough of Demarest (the “Property”); and

**WHEREAS**, Biagioni Family Limited Partnership is the owner of the Property and authorized the Applicant to submit the proposed application; and

**WHEREAS**, the Applicant filed an Application with the Joint Planning Board of the Borough of Demarest (the “Board”) for Minor Subdivision and “C” Variance approval to subdivide the Property into three (3) lots (Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03), remove all of the existing improvements on the Property and construct three (3) single-family dwellings (one on each proposed lot) and other related improvements (the “Application”); and

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

- A. Subdivision Application and Application Rider with Subdivision Information (the “Application”);
- B. Affidavit of Representation executed June 20, 2025;

- C. Certification of Ownership and Authorization to Make Application executed June 20, 2025;
- D. Certification of Payment of Taxes from the Borough of Demarest Tax Collector dated June 12, 2025;
- E. Minor Subdivision Plat prepared by Mark Martins Engineering dated June 16, 2025 and consisting of one (1) sheet;
- F. Memorandum regarding Existing and Proposed Coverages from Mark Martins Engineering LLC dated June 17, 2025 and consisting of one (1) sheet;
- G. Survey prepared by Mark Martins Engineering LLC dated March 21, 2025 and consisting of one (1) sheet;
- H. Affidavit of Service prepared by Capizzi Law Offices; and
- I. Affidavit of Publication prepared by The Record and Herald News; and

**WHEREAS**, a special public hearing was held by the Board on July 29, 2025 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 Offices: (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. Aerial side yard setback exhibit titled “SK-1” and “SK-1” dated July 25, 2025, marked as Exhibit A-1;
- B. Testimony of the Applicant’s civil engineer, Mark Martins of Mark Martins Engineering LLC, whose testimony can be summarized as follows:

- a. The Property is located in the Single-Family Residence D District (the “R-D Zone”) with frontage on the north side of Hardenburgh Avenue, the west side of Prescott Street and the east side of Woodland Road;
- b. The Property is oversized in lot area (10,000 square feet required; 29,000 square feet existing) and has 200 feet of frontage on Hardenburgh Avenue;
- c. The Property contains a three-story, mixed-use structure containing commercial and multi-family residential uses, which are pre-existing non-conforming uses in the R-D Zone;
- d. The Property has two (2) non-conforming driveways accessed from Hardenburgh Avenue, a two-car garage and five, irregular parking spaces, which will all be removed;
- e. The existing building meets all setback requirements, but has pre-existing non-conformities with respect to improved lot coverage and residential and parking coverage;
- f. Applicant is proposing to remove all existing improvements on the Property and subdivide the Property into three (3) lots in order to construct three (3) single-family residential dwellings;
- g. The two (2) corner lots (Proposed Lot 269.01 and Proposed Lot 269.03) will each measure 70 feet wide by 145 feet in depth; the interior lot will be slightly smaller than the corner lots and measure 60 feet wide by 145 feet in depth;
- h. As corner lots, Proposed Lot 269.01 and Proposed Lot 269.03 have each have two (2) front yards;

- i. The proposed single-family dwellings will comply with all side yard setback, rear yard setback, floor area ratio and height requirements;
- j. The proposed single-family dwellings will also comply with all front yard setback requirements on Hardenburgh Avenue;
- k. Removal of the existing improvements will result in a net decrease of 51.7 square feet in improved coverage;
- l. Proposed Lot 269.01 will have an access driveway on Prescott Street, which is a front yard since Proposed Lot 269.01 is a corner lot;
- m. Proposed Lot 269.03 will have an access driveway on Woodland Road, which is a front yard since Proposed Lot 269.03 is a corner lot;
- n. Proposed Lot 269.02 will have an access driveway on Hardenburgh Avenue, which will contain a turn-around area for safety;
- o. Applicant is requesting "C" variances for improved lot coverage and residential and parking coverage with respect to the interior lot (Proposed Lot 269.02) due to the driveway turnaround and proposed improvements, which will also include a patio, sidewalks and a pad for an A/C unit and/or generator;
- p. There are no existing stormwater management facilities on the Property, but Applicant is proposing to, at a minimum, provide seepage pits on all three (3) lots to capture all roof areas;
- q. Applicant is proposing to match the existing grade with the proposed development; and

r. There is an existing three (3) lot subdivision across the street from the Property; and

C. Testimony of Applicant's professional planner, David Spatz of Community Housing & Planning Associates, Inc., who testified that the neighborhood is primarily comprised of single-family residential dwellings and that the Property is the largest lot in a 200 foot radius. Mr. Spatz testified that the Applicant's three (3) lot subdivision will create three (3) lots that are more consistent with existing lots in the neighborhood. He testified that the design of the subdivision, with the two (2) proposed outside lots being conforming with respect to lot area and the proposed interior lot being slightly undersized with respect to lot area, mitigates any impact on adjacent properties. Mr. Spatz also testified that the proposed three (3) lot subdivision is consistent with the three (3) lot subdivision on the opposite side of Hardenburgh Avenue and that the proposed single-family residential dwellings, which will comply with the height, floor area ratio and front yard setback requirements from Hardenburgh Road, are consistent in size and massing with the surrounding single-family residential dwellings. He stated that the proposed single-family residential uses are less intense from a unit perspective than the pre-existing, non-conforming multi-family use. Mr. Spatz also stated that the setback variances requested are similar to other existing setbacks in the neighborhood. He also testified as to the justification for the "C" variances for lot size and lot area for Proposed Lot 269.02, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, front yard setback (Prescott Street) for Proposed Lot 269.01, front yard setback (Woodland Road) for

Proposed Lot 269.03, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, improved lot coverage for Proposed Lot 269.02 and residential and parking coverage Proposed Lot 269.02. He stated that the benefits of granting the Application and requested variances outweigh any detriment. Further, he stated that the removal of the pre-existing, non-conforming mixed-use building containing commercial and multi-family apartment uses brings the Property into greater conformity with the neighborhood, Zoning Ordinance and Master Plan. He testified that the Application meets the required criteria and the application warrants approval from the Board; and

**WHEREAS**, at the public hearings, the Board also took testimony from the Board Engineer, Nick Chelius, and Board Planner, Darlene Green, and the Borough Zoning Officer, Michael Greco, and considered the following items submitted by the Board’s professionals:

- A. Completeness Letter from Michael Greco dated July 3, 2025;
- B. Board Planner Report prepared by Colliers Engineering and Design dated July 7, 2025 (the “Board Planner Report”); and
- C. Board Engineer Report prepared by Colliers Engineering and Design dated July 11, 2025 (the “Board Engineer Report”); and

**WHEREAS**, no members of the public were present to ask questions of the Applicant or express any concern regarding 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 special public hearing on July 29, 2025 are incorporated herein by reference.

2. The Property is located at 30 Hardenburgh Avenue and designated as Lot 269 in Block 27 on the Tax Maps of the Borough of Demarest.

3. The Property is an oversized, corner lot located in the R-D Zone with frontage on the north side of Hardenburgh Avenue, the west side of Prescott Street and the east side of Woodland Road.

4. The Property consists of 0.67 acres (29,000 square feet existing; 10,000 square feet required).

5. The Property is currently improved with a three (3) story, mixed-use building containing a dentist office and multi-family residential uses. The multi-family residential use consists of four, one-bedroom apartments.

6. The Property has pre-existing non-conformities with respect to the existing commercial and multi-family residential uses, improved lot coverage (30% permitted; 31.37% existing) and residential and parking coverage (25% permitted; 29.56% existing).

7. By this Application, the Applicant is seeking to remove the existing improvements on the Property and subdivide the Property into three (3) lots. Proposed Lot 269.01 will consist of 10,150 square feet (10,000 square feet required) and will contain a new single-family dwelling. Proposed Lot 269.02 will consist of 8,700 square feet (10,000 square feet

required) and will contain a new single-family dwelling. Proposed Lot 269.03 will consist of 10,150 square feet (10,000 square feet required) and will contain a new single-family dwelling.

8. The proposed subdivision is classified as a Minor Subdivision under the Borough Code and the MLUL.

9. The Application proposes the front yard for each lot to be along Hardenburgh Avenue and the rear yard for each lot adjacent along the northern property line.

10. Proposed Lot 269.01 and Proposed Lot 269.03 are corner lots and, as such, have two (2) front yards.

11. The Applicant is seeking variance relief from the Board pursuant to N.J.S.A. 40:55D-70(c)(2) for lot size (the Ordinance does not permit any lot to be reduced so that it does not meet the area requirements and 10,000 square feet is required in the R-D Zone; Proposed Lot 269.02 does not meet the lot size requirements), minimum lot width for Proposed Lot 269.01 (100 feet required; 70 feet proposed), minimum front yard setback (Prescott Street) for Proposed Lot 269.01 (25 feet required, 20 feet proposed), minimum lot area for Proposed Lot 269.02 (100 feet required, 60 feet proposed), improved lot coverage for Proposed Lot 269.02 (30% permitted, 33.97% proposed), maximum residential and parking coverage for Proposed Lot 269.02 (25% permitted, 28.97% proposed), minimum lot width for Proposed Lot 269.03 (100 feet required, 70 feet proposed) and minimum front yard setback (Woodland Road) for Proposed Lot 269.03 (25 feet required, 20 feet proposed).

12. The Applicant is also seeking a waiver for lot size and dimensions, as the R-D Zone requires a minimum lot size of 10,000 square feet and lot frontage of 100 feet and as Proposed Lot 260.02 does not comply with the minimum lot area and as Proposed Lot 269.01,

Proposed Lot 269.02 and Proposed Lot 269.03 do not comply with the minimum frontage along Hardenburgh Avenue.

13. The proposed single-family residential dwellings are permitted uses in the R-D Zone.

14. The Board finds that the proposed subdivision complies with the purposes set forth in the MLUL by promoting appropriate uses in proper locations with appropriate density, promoting the general welfare by continuing the existing single-family nature of the existing neighborhood, promoting appropriate population densities, promoting open space and preventing urban sprawl and degradation of natural resources.

15. The Board finds that adequate light air and open space are provided, as all three (3) lots will comply with the front yard setback requirements on Hardenburgh Avenue and all side yard setback rear yard setback, floor area ratio and height requirements.

16. The Board finds that the Application improves the existing conditions of the Property by removing 51.7 square feet of impervious coverage, eliminating the pre-existing, non-conforming mixed-uses and eliminating the two (2) existing non-conforming driveways on Hardenburgh Avenue.

17. The Board finds that the proposed single-family residential uses, which are permitted uses in the R-D Zone, are consistent with the surrounding neighborhood in size and scale and provides an aesthetic improvement to the Property, as opposed to the existing non-conforming uses.

18. The Board finds that the Property is oversized and that the proposed three (3) lot subdivision brings the lot sizes more into conformance with other lots in the surrounding neighborhood.

19. The Board finds that the “C” variances requested by the Applicant for improved lot coverage and residential and parking coverage on Proposed Lot 269.02 are de minimis in nature and off-set by the net reduction in impervious coverage on the Property.

20. Further, the Board finds that the benefits of granting the improved lot coverage and residential and parking coverage variances on Proposed Lot 269.02, which are partially triggered by the proposed driveway turn-around area, outweigh any detriment as the turn-around area will enhance the safety of the access driveway on Hardenburgh Avenue.

21. The Board finds that the “C” variances requested by the Applicant for lot size and lot area for Proposed Lot 269.02, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03, front yard setback (Prescott Street) for Proposed Lot 269.01, front yard setback (Woodland Road) for Proposed Lot 269.03, lot width for Proposed Lot 269.01, Proposed Lot 269.02 and Proposed Lot 269.03 are also de minimis.

22. The Board finds that removal of the pre-existing, non-conforming mixed-use reduces the density of Property and brings it into greater conformity with the neighborhood, Zoning Ordinance and Master Plan.

23. The Board finds that the Application also provides significant benefits by providing stormwater management systems to collect stormwater, where none currently exist on the Property.

24. The Board finds that removal of the two (2) existing non-conforming driveways reduces any traffic impacts on Hardenburgh Avenue.

25. The Board finds that the proposed variances are justified given that the proposed single-family dwellings comply with the floor area ratio and height requirements and fact that the lot sizes and proposed setbacks are similar to those in the surrounding neighborhood.

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

27. 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.

28. The Board finds that the Applicant has proven its entitlement to variance approval under N.J.S.A. 40:55D-70(c)(2).

**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) Applicant shall work with the Board Engineer regarding the proposed stormwater management systems on the lots and, at minimum, provide seepage pits to capture all roof area for the proposed dwellings. All stormwater management plans and calculations submitted by the Applicant shall be revised to the satisfaction of the Board Engineer.
- b) 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.
- c) 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, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.

- d) 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. The Property shall be kept neat during all construction.
- e) The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development.
- f) 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.
- g) The Applicant shall post all fees and deposits as required by applicable ordinances of the Borough of Demarest which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.
- h) 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.
- i) 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.


- j) The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for 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 August 6, 2025.

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

ATTEST:

SO APPROVED:

  
 MICHAEL GRECO, Secretary

  
 JODI BRENNER, Vice Chair

**BOROUGH OF DEMAREST JOINT PLANNING BOARD**

**VOTING**

BOARD MEMBER	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mr. Adelman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Alevrontas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair Brenner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>
Councilwoman Fox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ms. Mamdani	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chair Woods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>