



H2M Associates, Inc.

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May 19, 2023

Via Email

Ms. Beth Foley
Planning Board
Township of Mendham
2 West Main Street
Brookside, New Jersey 07926

**Re: Optimum Development Group Corp.
Minor Subdivision with Bulk Variance
Block 114, Lot 47
239 Mountainside Road
Planning Board
H2M Project No.: MENT2002**

Dear Chairman and Board Members:

In preparation of this review letter, I have reviewed all application materials, reviewed the Township's Land Use Ordinance and Master Plan and visited the site. H2M reserves the right to continue to review and provide additional technical comments as the application progresses through the process.

I am in receipt of the following items submitted in connection with this application:

- The fully complete Application Package, including:
 - Project Proposal
 - Checklist
 - Fee Calculation Worksheet
 - Tax certificate from the Township of Mendham Tax Collector
 - Certified Property owner list from the Township of Mendham Tax Assessor
- Preliminary Minor Subdivision Plan prepared by Certified Engineering of New Jersey, dated March 14, 2023
- Environmental Impact Statement for Preliminary Minor Subdivision prepared by Certified Engineering of New Jersey, dated April 1, 2023
- Exemption Notice prepared by Morris County Planning Board, dated July 29, 2022
- Stormwater Management Report prepared by Certified Engineering of New Jersey, dated April 2023
- Natural Heritage Data Request Letter prepared by the New Jersey Department of Environmental Protection, dated January 11, 2023
- Letter to the Mendham Township Planning Board, titled "Re: Application # PB 22-XX", prepared by Certified Engineering, dated April 24, 2023



PROJECT OVERVIEW

The applicant is submitting an application for a minor subdivision to subdivide the existing property located at 239 Mountainside Road designated as Block 116, Lot 47 on the tax map of the Township of Mendham, New Jersey. The property is located in the Township’s R-3 Zoning District, which principally permits detached single-family residential homes with a minimum lot size of three acres. The applicant is proposing to subdivide an existing 7.4-acre lot into two lots of over three acres in size. Proposed Lot 1.01 is considered a corner lot as it has frontage on and is located at the intersection of Mountainside Road and Homan Lane, and proposed Lot 1.02 is considered a through lot as it runs through from Mountainside Road to Homan Lane and an additional private road on Lot 49. Proposed Lot 1.02 has frontage on each street.

Below are the definitions of “corner lot”, “through lot”, and “street”.

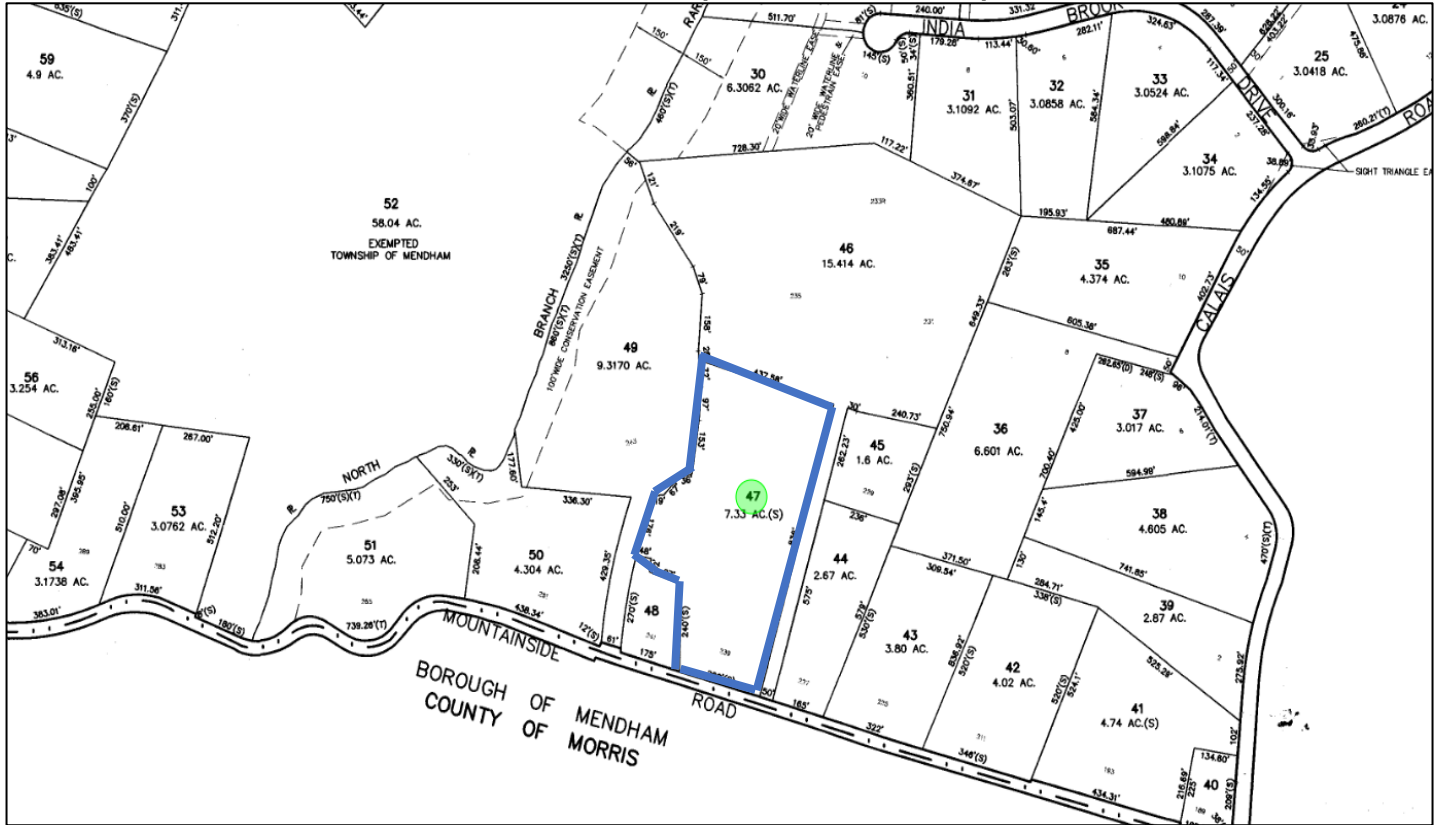
CORNER LOT. A lot at the junction of and having frontage on two or more intersecting streets. A corner lot is also a lot bounded on two or more sides by the same street. The greater frontage of a corner lot is the depth, and the lesser frontage is its width.

THROUGH LOT. In the case of a lot running through from one street to another, the frontage of such lot shall be considered that frontage upon which the majority of the buildings in the same block front; but in the case there has been no clearly defined frontage established, the owner may when applying for a construction permit specify on his permit application which lot line shall be considered the front lot line.

STREET. “Street” means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore

approved pursuant to law, or (3) which is approved by official action as provided by law, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

Block 116, Lot 47 on Township of Mendham Tax Map



APPLICATION VARIANCES AND WAIVERS

Ordinance Requirement	Required	Existing	Proposed Lot 1.01	Proposed Lot 1.02	Status
Minimum Lot Area	3 acres	7.496 acres	3.607 acres	3.741 acres	<i>Compliant</i>
Minimum Net Bldg. Envelope Area	40,000 sqft	N/A	54,702 sqft	51,208 sqft	<i>Compliant</i>
Minimum Lot Frontage	100 feet	N/A	263.6 feet	100 feet	<i>Compliant</i>
Minimum Diameter L.G.C.*	312.5 feet (250 feet in R-3 Zone)	N/A	250 feet	250 feet	Requires "c" variance
Minimum Diameter B.E.C**	150 feet	N/A	150 feet	150 feet	Requires "c" variance for Lot 1.01
Minimum Front Yard Setback***	60 feet	N/A	60 feet	60 feet	<i>Compliant</i>
Minimum Side Yard Setback	50 feet	N/A	50 feet	50 feet	<i>Compliant</i>
Minimum Rear Yard Setback	50 feet	N/A	50 feet	50 feet	<i>Compliant</i>
Maximum Height Principal Structure	35 feet	N/A	35 feet	35 feet	<i>Compliant</i>
Maximum Floor Area Ratio****	Proposed Lot 1.01: 8,732 sqft Proposed Lot 1.02: 8,960 sqft	N/A	6,000 sqft	6,000 sqft	<i>Compliant</i>

*Per the Township of Mendham Schedule of Requirements, the diameter of lot geometry circles (LGC) must increase by 25% when a lot faces more than one street, public or private. The required LGC was calculated based on the following: 250 feet (R-3 Zone Required LGC) + 62.5 feet (25% * R-3 Zone Required LGC) = 312.5 feet. See **Additional Comments #1** for greater detail.

**Building envelope circle (B.E.C)

*** Per Item 14 of the Township's Schedule of Requirements, Proposed Lot 1.01 has two (2) front yards (Mountainside Road and Homan Lane)

****Maximum Floor Area (SF) = 2,600 + (1,700 * Lot Area in Acreage)

VARIANCE COMMENTS

“c” Variance- As shown in the **Application Variances and Waivers** table, the applicant requires relief for three (3) bulk variances. Two bulk variances are due to the required increase in LGC. As noted above, the larger required LGC is a result of both lots facing more than one street. The minimum LGC in the R-3 Zone is 250 feet. The 25% increase adjusts the minimum LGC to 312.5 feet and causes the LGCs to exceed the lot lines, therefore requiring “c” variances for both lots. The third bulk variance is due to the increased setback for the yard fronting Homan Lane in Proposed Lot 1.01 which causes the BEC to not fit within the lot’s setback requirements.

While this office defers to the Board attorney in advising the Board on the application of relevant variance criteria; this report identifies the variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variance.

1. Positive Criteria. The applicant bears the burden of proof (which is divided into two parts – positive criteria and negative criteria) in the justification of the “c” variance. To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- A. By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- B. By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- C. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

The applicant should provide testimony regarding any peculiar and exceptional practical difficulties or exceptional and undue hardship if seeking c(1) variance relief for the proposed variances.

2. Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- A. Where in an application or appeal relating to a specific piece of property the purposes of the Act (N.J.A.C. 40:55D-2) would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
- B. The applicant should provide testimony regarding any public benefits of the project if seeking c(2) variance relief for the impervious coverage and steep slope disturbance variances.

3. Negative Criteria. Should the applicant satisfy the positive criteria, it must also be demonstrated that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan.

A. Negative Criteria: Impact to the public good. Impact to the public good typically relates to any substantial detriment to the adjoining neighbors or within the surrounding neighborhood. The applicant should provide testimony regarding any potential negative impacts to the character of the neighborhood resulting from the proposed variance relief and any proposed mitigation measures to reduce potential negative impacts to the public good.

B. Negative Criteria: Impact to the zone plan. In considering the potential negative impacts to the zoning ordinance and zone plan, the Board should consider potential impact of the variances on the zoning standards of the R-3 zone.

ADDITIONAL COMMENTS

1. The site plan that the applicant submitted for the proposed minor subdivision shows lot grading circles that have a diameter of 250 feet for Proposed Lot 1.01 and Proposed Lot 1.02. As stated in the **Variations and Waivers** table, the lot grading circle is required to be increased by 25% from the required diameter of the R-3 zone. This increase would result in a required diameter of 312.5 feet. Because the lot grading circles with a diameter of 250 feet for Proposed Lots 1.01 and 1.02 are either touching or nearly touching the lot lines for both lots, it is safe to assume that the 25% increase in diameter would cause the LGC to not fit within the lot boundaries of either lot, thus requiring a “bulk” variance for both lots.
2. The applicant shall demonstrate through testimony that the site will accommodate the proposed subdivision despite the lots not complying with the required 25% increase in the Lot Grading Circle.
3. Item 14 of the Township’s Schedule of Requirements states that when a lot faces more than one street all yards facing a street shall be construed as front yards. Consequently, it should be recognized that Proposed Lot 1.01 has two (2) front yards due to the lot fronting Mountainside Road and Homan Lane. Setbacks on these yards should reflect the larger 60-foot setback for front yards compared to the 50-foot setback for side yards in the R-3 zone.
4. Due to the increased setback from 50 feet to 60 feet for the yard fronting Homan Lane in Proposed Lot 1.01, the Building Envelope Circle (BEC) will not be able to fit within the setback requirements. As a result, the applicant must seek “bulk” variance relief.
5. The front lot line for Lot 1.02 should be on Mountainside Road per the Township’s ordinance of the definition of a through lot: “the frontage of a through lot shall be considered that frontage upon which the majority of the building in the same block front.” Based upon review of the surrounding area, the majority of nearby houses front Mountainside Road. Note, no change is necessary to the proposed frontage calculation as the lot fronts more than one street and therefore the measured horizontal distance along each street the lot fronts should be combined, as calculated in the site plan.
6. The applicant shall demonstrate through testimony that the proposed conditions are consistent with the overall fabric of the existing neighboring properties.

H2M reserves the right to provide additional comments as we continue through the review of this application. If you have any further questions regarding the above letter, please contact the undersigned at (862) 207-5900 extension 2232.

Very truly yours,

H2M Associates, Inc.



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Optimum Development Corp

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