

**RESOLUTION
TOWNSHIP OF PEQUANNOCK PLANNING BOARD
MOUNTSHORE CAPITAL, LLC
DECIDED ON JANUARY 6, 2020
MEMORIALIZED ON FEBRUARY 3, 2020
PRELIMINARY MAJOR SUBDIVISION APPROVAL WITH
ANCILLARY “c” OR BULK VARIANCE RELIEF TO CREATE FIVE (5) LOTS
FOR THE CONSTRUCTION OF FIVE (5) SINGLE-FAMILY DWELLINGS**

WHEREAS, Mountshore Capital, LLC (hereinafter “Mountshore” or “Applicant”) has made application to the Township of Pequannock Planning Board (hereinafter “Board” or “Planning Board”) for preliminary major subdivision approval with ancillary “c” or bulk variance relief for property known and designated as Block 604, Lots 4, 5.01 and 5.02 as shown on the Tax Assessment Map of the Township of Pequannock and located at 101, 101A and 103 Mountain Avenue, Pequannock, New Jersey 07444 which premises are located in the Residential R-22 Zone District (hereinafter “R-22 Zone”); and

WHEREAS, a public hearing was held on January 6, 2020 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Andrew M. Brewer, Esq. of the Law Firm Maraziti Falcon, LLP.

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The application before the Board is a request for preliminary major subdivision approval with ancillary “c” or bulk variance relief for premises known and designated as Block 604, Lots 4, 5.01 and 5.02 as shown on the tax map of the Township of Pequannock and located at 101, 101A and 103 Mountain Avenue, Pequannock, New Jersey 07444 which premises are located in the R-22 Zone.

Counsel for the Applicant provided an overview of the application. Counsel for the Applicant stated that the Applicant has not submitted an Environmental Impact Study (EIS) and the Applicant seeks a waiver for providing an EIS.

The first witness to testify on behalf of the Applicant was Stephen Holmes who is the President and Member of Mountshore Capital, LLC. Mr. Holmes testified that he resides at 18 Keech Briar Lane, Pompton Plains, New Jersey and he has been a resident of Pequannock Township since 1980. He further represented that it is his expectation that his daughter will move into one of the houses if the subdivision application is approved.

The next witness to testify on behalf of the Applicant Steven I. Smith, P.P., PLS, a licensed professional planner and land surveyor in the State of New Jersey. Mr. Smith testified that the site currently contains three (3) Lots. Existing Lot 4 contains a 1½ story single-family residence with a detached garage. Existing Lot 4 has a lot area of 80,551 square feet. Existing Lot 5.01 contains a two-story single-family residence and circular driveway. Existing Lot 5.01 has a lot area of 29,660 square feet. Existing Lot 5.02 contains a two story framed garage with fencing around the entire perimeter of the lot. Existing Lot 5.02 is a flag lot with a lot area of 44,066 square feet.

The Applicant proposes a five (5) lot subdivision with proposed development of five (5) single-family dwellings with frontage on Mountain Avenue and a new proposed cul-de-sac road along the westerly side of the property.

The Board Planner in a report dated November 30, 2019 and last revised on January 5, 2020 identified lot depth variances for proposed Lots 4.03 and 4.04 where the minimum lot depth is 200 feet and the proposed lot depth is 175.49 feet for both Lot 4.03 and 4.04. In addition, the Board Planner identified a lot depth variance for proposed Lot 4.05 where the minimum lot depth requirement is 200 feet and the Applicant's proposed lot depth is 199.92 feet.

Mr. Smith disagreed with the Board Planner and presented testimony in support of the Applicant's contention that this was a variance free application and that proposed Lots 4.03, 4.04 and 4.05 did, in fact, meet or exceed the lot depth requirements of the R-22 Zone. The Board after having heard the explanation from Mr. Smith determined that the Board Planner was correct and the Applicant did require lot depth variances in regard to proposed Lots 4.03, 4.04 and 4.05. The Applicant then represented that they would request ancillary "c" or bulk variance relief relative to lot depth for proposed Lots 4.03, 4.04 and 4.05.

Mr. Smith testified that the minimum lot area in the R-22 Zone is 22,000 square feet. Mr. Smith then testified in regard to the lot area of each of the five (5) proposed new dwelling lots. More specifically, he represented that proposed Lot 4.01 would have a lot area of 27,274 square feet; proposed Lot 4.02 would have a lot area of 24,075 square feet; proposed Lot 4.03 would have a lot area of 23,007 square feet; proposed Lot 4.04 would have a lot area of 33,684 square feet; and proposed Lot 4.05 would have a lot area of 22,207 square feet. In addition, Mr. Smith testified that all other bulk requirements in the R-22 Zone are complied with as part of this application with the exception of the aforementioned lot depth variances for proposed Lots 4.03, 4.04 and 4.05.

Mr. Smith also reviewed Sheet 3 titled Subdivision Geometry Plan and highlighted the fact that the Applicant is proposing a ten (10) foot wide drainage easement along the easterly side of the property as well as a proposed ten (10) foot wide utility easement along the easterly side of the proposed road.

The Applicant is also proposing an underground detention basin which will be located under the new cul-de-sac road. Thus, the proposed storm drainage system would be underground. Mr. Smith also testified that the Applicant intends to seek approval for an extension of the water main and the sanitary sewer main to service the lots.

Mr. Smith testified that all of the proposed lots will have frontage along the proposed road with a cul-de-sac at the end of the road. Mr. Smith also represented that each of the proposed dwellings would be serviced by underground utilities.

Mr. Smith reviewed with the Board Sheet 5 titled Utility Plan and stated that the Applicant is proposing a 2-foot wide gravel trench drain with 8 inch perforated PVC pipe which would be located along the easterly property line in order to catch and discharge storm water before it travels onto the neighboring properties.

The Board and the Applicant also engaged in a discussion regarding maintenance of a proposed twelve (12) foot wide grass area along the westerly side of the proposed paved road. The Applicant and the Board agreed that one lot would be responsible for maintenance of this area which would be determined at a future date. The Applicant will identify the lot that is responsible for the maintenance of this area no later than the time that the Applicant returns to the Planning Board seeking final major subdivision approval.

The Applicant also agreed to a condition of approval that the Applicant would infrared the road repairs on Mountain Avenue relative to any construction activities or improvements occurring thereon due to the approval of this subdivision application.

The Applicant also requested a de minimis exception from the Residential Site Improvement Standards (RSIS) so as not to install a sidewalk along the new road. The Applicant represented that the sidewalk would be located over the utilities and that any utility work would require the sidewalk to be disturbed and then replaced.

Mr. Smith reviewed the Soil Erosion and Sediment Control Plan identified in Sheet 6 of the Plan Set. The grading plan shows the site is to receive a significant amount of fill. Mr. Smith estimated that approximately 5,500 cubic yards of fill would be brought to the site. The Board and

the Applicant engaged in a discussion regarding the amount of fill to be brought to the site and the Applicant stipulated that all fill will be brought to the site during Phase I relative to the construction of the proposed road and the fill is also to be used on each of the proposed lots. The Applicant also stipulated that an appropriate bond would also be posted in regard to fill brought to the site, site grading and the construction of the proposed cul-de-sac road subsequent to the granting of final major subdivision approval.

The Applicant also agreed to locate a light pole at the bulb end of the cul-de-sac near proposed Lot 4.05. The height of the pole is anticipated to be approximately 14 feet and the exact location of the pole located along the westside of the cul-de-sac and the type of light to be installed will all be subject to the review and approval of the Board Engineer.

The Applicant also reviewed Sheet 4 of the Plan Set titled Grading Plan and confirmed that two (2) street trees will be located on each lot as indicated thereon.

The Board Engineer requested, and the Applicant agreed that the area above the underground detention basin would meet HS20 loading requirements.

Mr. Smith then provided testimony in regard to the request for lot depth variances for proposed Lots 4.03, 4.04 and 4.05. Mr. Smith testified that ancillary "c" or bulk variance relief may be granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and c(2). More specifically, under c(1), Mr. Smith testified that by reason of the shape of the property the Applicant is entitled to c(1) variance relief. Mr. Smith also testified that it is appropriate to grant "c" variance relief because the Applicant is proposing preliminary major subdivision approval for a five (5) lot subdivision where each proposed lot has a lot area larger than the minimum lot area in the R-22 Zone.

Next, Mr. Smith testified that the Applicant is entitled to variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). Mr. Smith testified that various purposes of the

Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 would be advanced by the approval of this application. He stated that the approval of this application would satisfy 2(a) which promotes public health, safety and general welfare; 2(c) would be advanced by providing adequate light, air and open space; 2(d) would be advanced by insuring that the proposed development would not conflict with the development and general welfare of neighboring municipalities; 2(e) would be advanced because the approval of this application would promote the establishment of appropriate population densities and concentrations that would contribute to the well being of persons, neighborhoods and communities; and 2(j) would be advanced which is to prevent degradation of the environment through improper use of land.

Mr. Smith also testified as to the negative criteria and stated that the requested variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. Further, he testified that the purposes of the act would be advanced by a deviation from the zoning ordinance requirements and the benefits and the deviation would substantially outweigh any detriment.

The meeting was opened up to members of the public and there were no members of the public present who expressed an interest in this application.

NOW, THEREFORE, the Planning Board makes the following conclusions of law based upon the foregoing findings of fact.

The application before the Board is a request for preliminary major subdivision approval with ancillary "c" or bulk variance relief for property known and designated as Block 604, Lots 4, 5.01 and 5.02 as designated on the Tax Assessment Map of the Township of Pequannock and located at 101, 101A and 103 Mountain Avenue, Pequannock, New Jersey in the R-22 Zone.

The application before the Board seeks preliminary major subdivision approval in order to subdivide and reconfigure Lots 4, 5.01 and 5.02 into five (5) individual lots proposed as Lots 4.01, 4.02, 4.03, 4.04 and 4.05 with frontage along Mountain Avenue and a new proposed cul-de-sac road. The individual lots are proposed for the construction of single-family dwellings. The total area of the tract to be subdivided is 3.5417 acres (154,277 square feet). The subject site is located in the R-22 Zone where the minimum lot area is 22,000 square feet.

The Board notes that existing Lot 4 presently contains a 1½ story single-family residence with a detached garage. Lot 5.01 presently contains a two-story single-family residence and circular driveway. Lot 5.02 presently contains a 2 car garage with fencing around the entire perimeter of the lot. Lots 5.01 and 5.02 were the subject of a flag lot subdivision several years ago. The proposed subdivision is located west of a series of single-family residences that front on West End Avenue and east of the Bible Christian Church. The Applicant proposes to demolish all site improvements and to subdivide the three (3) lots into a five (5) lot subdivision with five (5) single-family houses to be constructed. The Applicant also seeks to construct a new cul-de-sac municipal street that abuts Block 604, Lot 3, the Bible Christen Church. The proposed municipal street will be designed and developed to conform to municipal standards as well as the RSIS.

Proposed Lot 4.01 has a lot area of 27,274 square feet which exceeds the minimum lot area requirement of 22,000 square feet in the R-22 Zone. Proposed Lot 4.01 complies with all other bulk requirements of the R-22 Zone. Proposed Lot 4.02 has a lot area of 24,075 square feet which exceeds the minimum lot area requirement of 22,000 square feet in the R-22 Zone. Proposed Lot 4.02 complies with all bulk requirements of the R-22 Zone. Proposed Lot 4.03 has a lot area of 23,007 square feet which exceeds the minimum lot area requirement of 22,000 square feet in the R-22 Zone. Proposed Lot 4.03 complies with all other bulk standards in the R-22 Zone with the exception of lot

depth where a minimum lot depth of 200 feet is required and 175.49 feet is proposed. Proposed Lot 4.04 has a lot area of 33,684 square feet which exceeds the minimum lot area of 22,000 square feet in the R-22 Zone. Proposed Lot 4.04 complies with or exceeds all bulk standards in the R-22 Zone with the exception of lot depth where the minimum required lot depth is 200 feet and the Applicant proposes a lot depth of 175.49 feet. Proposed Lot 4.05 has a lot area of 22,207 square feet which exceeds the minimum lot area requirement of 22,000 square feet in the R-22 Zone. Proposed Lot 4.05 complies with or exceeds all bulk standards in the R-22 Zone with the exception of lot depth where the minimum lot depth is 200 feet and Applicant proposes a lot depth of 199.92 feet.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the Applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the Applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the Applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board has examined the request for variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1). The Board accepts the representations of the Applicant’s Planner that a hardship exists under c(1)(a) by reason of the shape of the specific piece of property which thus enables the Board to grant hardship variance relief. The Board notes that the minimum lot area in the R-22 Zone is 22,000 square feet. Here, since the Applicant is the owner of three (3) individual lots, the combined lot area is 3.5417 acres or 154,275.5 square feet. Therefore, the total area of the site greatly exceeds the minimum lot area in the R-22 Zone and each of the proposed Lots has a lot area that exceeds the minimum lot area in the R-22 Zone.

The Board has also examined the request for variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). In Kaufman v. Planning Board for Warren Township, 110 N.J. 551, 563 (1988), the New Jersey Supreme Court held:

“By definition then no c(2) variance should be granted when merely the purposes of the owner will be advanced. The grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of a c(2) case, then, will be not on the characteristics of the land that, in light of current zoning requirements, create a hardship on the owner warranting a relaxation of standards, but on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”

The Board, in its review of the application under the c(2) criteria, analyzed the proofs provided by the Applicant relative to the positive criteria under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 and its subparts. The Board also determines that the Applicant has satisfied both the positive and negative criteria in regard to the granting of ancillary “c” or bulk variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). The Board finds that several purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 would be advanced by the approval of this application. More specifically, 2(a) is satisfied because the approval of this application encourages municipal action to guide the appropriate use or development of all lands in the State of New Jersey in a manner which will promote the public health, safety, morals and general welfare. In addition, 2(e) would be advanced which is to promote the establishment of appropriate population densities that will contribute to the well-being of persons and neighborhoods; 2(g) would be satisfied by providing sufficient space in appropriate locations for a variety of residential uses; and 2(m) would be satisfied in that the approval of this application would result in more efficient use of land.

The Board further notes that the approval of this application will result in improved drainage. The Applicant will install stormwater management measures, the nature and sufficiency of which shall be subject to the review and approval of the Board Engineer. Improved stormwater management measures is a benefit to the public. The Applicant also agreed as a condition of granting preliminary major subdivision approval that the Applicant will meet with the Board Engineer and undertake a good faith effort to consider designing a split detention system to improve stormwater management.

The approval of this application will also enable the Applicant to create lots more in conformance with the minimum lot area requirements in the R-22 Zone. The proposed development is also in keeping with the existing pattern of development in this area.

The Board also acknowledges that the Court previously approved a flag lot configuration on a portion of the site. However, the development was never constructed. The Board also notes that the Planning Board recently conducted a public hearing to adopt the 2019 Township of Pequannock Master Plan. The Board adopted the Master Plan on December 9, 2019 and memorialized its decision in a Resolution adopted on January 6, 2020. The Master Plan calls for the removal of flag lot provisions from the zoning code, thereby prohibiting flag lots completely within the Township. Thus, the approval of this application results in the elimination of potential flag lot development of the subject property and is thus consistent with the 2019 Master Plan.

The Board finds that it is appropriate to grant ancillary “c” or bulk variance relief with respect to the request for a lot depth variance for proposed Lots 4.03 and 4.04 where the minimum required lot depth is 200 feet and the Applicant proposes a lot depth of 175.49 feet and in regard to proposed Lot 4.05 where the minimum required lot depth is 200 feet and the Applicant proposes a lot depth of 199.92 feet. The Board notes that the proposed lot depth for Lots 4.03 and 4.04 at 175.49 feet is approximately 87% in compliance with the ordinance requirements. The Board also finds that the deficiency with respect to the lot depth for proposed Lot 4.05 at 199.92 feet results in a deficiency of less than 1%. The Board finds that this deficiency would be imperceptible to the public. The Board therefore finds that each of the lots will function appropriately notwithstanding the deficiency in lot depth. The Board also determines that with the exception of lot depth, each lot meets or exceeds all other bulk standards in the R-22 Zone.

The Board also finds that ancillary “c” or bulk variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. The Board also finds that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning Ordinance requirements and the benefits

of the deviation would substantially outweigh any detriment. Thus, the Board finds that it is appropriate to grant “c” variance relief under both c(1) and c(2) for lot depth variance relief for proposed Lots 4.03, 4.04 and 4.05.

The Board also finds that it is appropriate to grant a waiver from the requirement to provide an EIS as the continued use of the properties would remain as single-family dwellings. The Board also grants a de minimis exception regarding the installation of sidewalks along the new road. The Board accepts the representations of the Applicant that the sidewalk would go over the utility easement area which could be problematic relative to future repairs and maintenance for the utilities.

Upon consideration of the plans, testimony and application, the Board determines that the proposed preliminary major subdivision application and request for ancillary “c” or bulk variance relief meets the minimum requirements of the Municipal Land Use Law, Case Law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of Mountshore Capital, LLC for Block 604, Lots 4, 5.01 and 5.02 on the Tax Assessment of the Township of Pequannock which premises are located at 101, 101A and 103 Mountain Avenue, Pequannock, New Jersey in the R-22 Zone, requesting land use relief is determined as follows:

1. Preliminary major subdivision approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-48;
2. Ancillary “c” or bulk variance relief is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and (2) for the following:
 - a) Minimum lot depth for proposed Lots 4.03, 4.04 and 4.05;
3. Waiver relief is granted in regard to the submission of an Environmental Impact Study;
4. A de minimis exception is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-51 and from N.J.A.C. 5:21-3.1 for not requiring the Applicant to install sidewalks along the new road.

IT IS FURTHER RESOLVED that the granting of this application is subject to and conditioned upon the following conditions:

1. The development of the site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this Application.
2. The Applicant shall submit revised plans acknowledging the revisions noted in testimony for review by the Board Engineer.
3. The Applicant represents that all of its representations and stipulations made either by or on behalf of the Applicant to the Township of Pequannock Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon the Applicant's stipulations in the Board's granting of this approval. If any representation or stipulation is false, this approval is subject to revocation.
4. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on January 6, 2020.
5. The Applicant shall comply with all terms and conditions set forth in the Board Engineer's review report dated January 3, 2020 and prepared by Andrew R. Hipolit, P.E., P.P., C.M.E.
6. The Applicant shall comply with all terms and conditions set forth in the Board Planner's review report dated November 30, 2019 and revised January 5, 2020 and prepared by Jill A. Hartmann, P.P., AICP.
7. The Applicant shall infrared all pavement patches caused by the construction activities for the proposed development on Mountain Avenue for the installation of any improvements for this subdivision application, which shall be subject to review and approval of the Township Engineer.
8. The Applicant shall provide underground utilities to service each of the proposed dwellings.

9. The Applicant intends to bring approximately 5,500 cubic yards of fill to the site. All fill shall be brought to the site during Phase I relative to the construction of the proposed road and the fill to be used on each of the proposed lots. The Applicant shall post a bond in regard to site grading, stabilization and the construction of the proposed road subsequent to the granting of final major subdivision approval which shall be subject to the review and approval of the Board Engineer.

10. The Applicant shall provide a light pole at the bulb end of the cul-de-sac in the vicinity of proposed Lot 4.05. The height of the pole is anticipated to be approximately 14 feet and the exact location of the pole located along the westside of the cul-de-sac and the height of the light pole and type of light to be installed will all be subject to the review and approval of the Board Engineer.

11. The Applicant shall comply with the HS20 loading requirements for the underground detention basin.

12. The Applicant shall submit to the Planning Board a Soil Erosion and Sediment Control plan certification (SESC) from Morris County Soil Conservation District prior to the start of construction.

13. The Applicant shall submit drainage easement and utility easement instruments with appropriate descriptions which shall be subject to the review and approval of the Township and/or Board Attorney and Board Engineer.

14. The Applicant shall provide for testing of soils for all soil brought to the site in accordance with NJDEP Residential Standards. All soil to be imported to the site shall meet NJDEP Residential Standards. The Applicant shall provide associated compliance documentation in connection with the approval.

15. The Applicant shall meet with the Board Engineer and shall make a good faith effort to consider the design of a split detention system to improve stormwater management.

16. The Applicant shall provide NJDEP certification of the stormwater system in satisfaction of items 22, 23 and 24 of the Board Engineer's review report dated January 3, 2020. This condition may also be satisfied by a determination by the Board Engineer that certification by the NJDEP is not necessary.

17. The Applicant shall also provide the pipe capacity for the 100-year storm in satisfaction of item 25 of the Board Engineer's Report dated January 3, 2020.

18. The Applicant shall televise the stormwater system on Mountain Avenue for 200 feet in the direction of flow and provide the results to the Board Engineer for review and approval in satisfaction of item 26 of the Board Engineer's Review Report dated January 3, 2020.

19. The Applicant shall certify downstream sanitary sewer system capacity to accommodate the proposed development in satisfaction of item 28 of the Board Engineer's review report dated January 3, 2020. The Applicant shall also be required to obtain approval from Pequannock Township regarding the extension of the sewer service to accommodate the proposed development.

20. Occupancy permits shall not be provided until the conditions outlined in Section 163.02.050.C. of the Township Ordinance have been satisfied.

21. The Applicant shall remove from site and properly dispose of all excess soil resulting from the construction of the proposed improvements and remediation efforts in satisfaction of item 39 of the Board Engineer's Review Report dated January 3, 2020.

22. Silt fence shall be installed at all locations lower in elevation than the areas of disturbance. The Applicant shall maintain the silt fence and tracking pad throughout the construction period in satisfaction of item 40 of the Board Engineer's Review Report dated January 3, 2020.

23. The Applicant shall be aware that any proposed roof leaders cannot direct stormwater to any neighboring properties in satisfaction of item 41 of the Board Engineer's Review Report dated January 3, 2020.

24. The Applicant shall be aware that if stormwater runoff drainage problems occur on their property and/or neighboring properties as a result of the construction of the proposed improvements, it is the Applicant's responsibility to remedy the drainage issue in satisfaction of item 42 of the Board Engineer's Review Report dated January 3, 2020.

25. The Applicant shall be aware that any work performed on the site cannot alter any existing drainage patterns or drainage patterns proposed on the above-referenced plan in satisfaction of item 43 of the Board Engineer's Review Report dated January 3, 2020.

26. The Applicant shall be aware of their responsibility to repair any damage to improvements within the Township Right-of-Way including, but not limited to, sidewalk, curb and asphalt caused by construction activities associated with the installation of the improvements on the subject lot. Any damage to the municipal right-of-way (sidewalk, curb, etc.), due to the proposed alterations and improvements, will be required to be repaired by the Applicant to the satisfaction of the Township in satisfaction of item 44 of the Board Engineer's Review Report dated January 3, 2020.

27. The Applicant shall address the concerns detailed in the Board Engineer's report, and any concerns of the Board and the Board Professionals that may arise during testimony in satisfaction of item 45 of the Board Engineer's Review Report dated January 3, 2020.

28. The Applicant shall be responsible for coordinating with the Pequannock Township Police Department regarding public safety and operations requirements in satisfaction of item 46 of the Board Engineer's Review Report dated January 3, 2020.

29. The Applicant shall be responsible for coordinating with the Pequannock Township Fire Department regarding fire protection requirements in satisfaction of item 47 of the Board Engineer's Review Report dated January 3, 2020.

30. The granting of this application is subject to and conditioned upon NJDEP approval, if required.

31. The granting of this application is subject to and conditioned upon the NJDOT approval, if required.

32. The granting of this application is subject to and conditioned upon the Morris County Planning Board approval, if required.

33. The granting of this application is subject to and conditioned upon the Morris County Soil Conservation District approval, if required.

34. The granting of this application is subject to and conditioned upon the Pequannock Building Department approval, if required.

35. The Applicant shall not be permitted to perfect the granting of preliminary major subdivision approval until such time as the Applicant returns to the Planning Board and receives final major subdivision approval.

36. The Applicant shall perfect the granting of final major subdivision approval in accordance with the Municipal Land Use Law and in accordance with the Map Filing Law, P.L. 1960, c.141.

37. The Applicant shall identify the lot that is responsible for the maintenance of the proposed grass area along the westerly side of the road pavement. The Applicant shall identify the lot no later than the time that the Applicant returns to the Planning Board to seek final major subdivision approval.

38. The Applicant shall apply for a Soil Removal Permit pursuant to the requirements of Chapter 158 of the Township Ordinance.

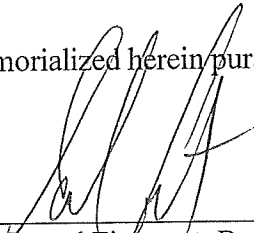
39. The granting of this application is subject to and conditioned upon the Township of Pequannock Tax Assessor assigning the appropriate Lot numbers in connection with this approval.

40. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid by the Applicant within twenty (20) days of said request by the Board Secretary.

41. Certification that taxes are paid current to date of approval.

42. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other agency or entity having jurisdiction hereunder.

The undersigned secretary certifies the within Resolution was adopted by the Pequannock Township Planning Board on January 6, 2020 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 3, 2020.



Gerard Fitamant, Board Secretary

In favor: *CAScone, Fitamant, Floranee-Lynch, Driesse*

Against: *Mulhall*

Abstained:

Board Members Eligible to Vote:

1736679_2 PEQ-421E Mountshore Capital, LLC Resolution for Preliminary Major Subdivision Approval 2.3.2020