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November 8, 2024  
22200 65

Re: Mulhearn – Clearing Limit  
Bulk Variance  
21 Aberdeen  
Block 68.01, Lot 9  
Application # Z24-20

Ms. Jennifer Newton, Board Secretary  
Township of Evesham  
984 Tuckerton Road  
Marlton, NJ 08053

Dear Ms. Newton:

Our office has received a Bulk Variance application for exceeding the clearing limits within the zoning district. The applicants will exceed the clearing limits as a result of proposed construction of a in-ground swimming pool. The pool does not require any relief from the Township Ordinance.

The property is a single-family dwelling. It is currently improved with a driveway, landscaping and deck. The zoning district is Rural Development-2 (RD-2), Pinelands Area. The single-family detached dwelling is a permitted use within the zoning district. The dwelling is located within the Arbor Walk subdivision.

The parcel is served by a private septic system. It is also encumbered with a 250 FT construction buffer and a 75 FT fuel break.

### **Submitted Application Materials**

We have received the following documents which were submitted in support of the application:

1. Township of Evesham Land Development Application.
2. Swimming Pool Grading Plan, prepared by MSG Associates, dated September 9, 2024, 3 sheets.
3. Application Addendum, prepared by the homeowner.

### **General Information**

Owner: Christina Mulhearn  
21 Aberdeen Court  
Marlton, NJ 08053

### **Zoning Review**

The property is located in the Rural Development-2 (RD-2), Pinelands Area, zoning district. The requirements for this district are found in §160-58 and Attachment 5.

1. Per §160-58B(2), a single family detached dwellings are a permitted use in this zoning district.
2. Per §160-58D(1), a private swimming pool is a permitted accessory use in this zoning district.
3. Per §160-58D(2), a shed is a permitted accessory use in this zoning district.
4. The following area and bulk requirements apply to this application:

Area and Bulk Requirements – RD-2 Zoning District:  
§160-58, §160-19D and Attachment 5

Requirements	Required	Existing	Proposed	Status
<b>Principle Structure</b>				
Min. Lot Area	1 acre	1 acre	N/C	C
Min. Lot Width at Setback	150 FT	~160 FT	N/C	C
Min. Front Yard Setback	50 FT	52.8 FT	N/C	C
Min. Rear Yard Setback	25 FT	~132 FT	N/C	C
Min. Side Yard Setback	25 FT	35.9 FT	N/C	C
Max. Impervious Cover (Percent)	20 %	13.8%	19.8%	C
Maximum clearing Limit Ratio	40%	Unknown	40.4%	V

C = Conforming; N/C = No Change; V = Variance required; Unknown

### Variations

1. The applicant will require a variance from §160-58E and Attachment 18, which states that the maximum clearing limit ratio in the zoning district is 40%. While the existing clearing limit is unknown, the proposed improvements will bring the clearing limit to 44.4%, exceeding the maximum permitted by 4.4%. *A variance is required.*

The Applicant has the burden of proof to justify the variance, by testimony or other means, by using either the c(1) or c(2) proofs.

For c(1) variations the Applicant must demonstrate that strict application of the zoning requirement would have “peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant arising out of:

- a. The exceptional narrowness, shallowness, or shape of a specific piece of property, or
- b. By reason of exceptional topographic conditions or physical features uniquely affecting a 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.”

For c(2) variations the Applicant must demonstrate that:

- a. The purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from strict application of the zoning requirement;
- b. The variance can be granted without substantial detriment to the public good;
- c. The benefits of the deviation would substantially outweigh the detriment; and
- d. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

### General Comments

2. The Applicant is before the Board for relief from exceeding the permitted clearing limits permitted in this zoning district. The applicant should provide testimony to explain that all alternatives have been explored for the location of the proposed improvements to minimize the clearing. It is noted that the property is encumbered by both a construction buffer and fuel break.
3. The limit of disturbance should be depicted and quantified.
4. The applicant should discuss current drainage patterns and any impact the removal of trees will have on the existing drainage patterns. The tree removal should not cause adverse drainage impacts to the neighboring properties. It is noted however that the parcel to the west is deed restricted open space and a stormwater management basin.

5. In April of 2024, the Township adopted Ordinance #6-4-2024, Chapter 144, Tree Removal and Replacement. The applicant should meet the requirements of this section of the Township Ordinance. It is recommended that the following be provided:
  - a. Provide a table that would include the number of trees being removed. Indicate the DBH, type of tree and if the tree is dead (and considered a hazard), include proposed trees. It is noted that the applicant is proposing 16 trees.
6. Tree protection of the remaining trees is critical. §62-56E details the requirements of a tree protection management plan. This should be provided prior to the start of construction.
7. Tree compensation should be provided in accordance with §62-56G.

**Administrative**

8. We reserve the right to make further comments in our review of plans should additional information become available to address this initial review.

Should you or the applicant have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Rakesh R. Darji, PE, PP, CME, CFM  
Zoning Board Engineer

RRD/mbs

cc: Matthew Wieliczko, Esq., Board Solicitor, via email [mwieliczko@zwattorneys.com](mailto:mwieliczko@zwattorneys.com)  
Christina Mulhearn, Applicant, via email [REDACTED]