

**LAND USE BOARD OF THE TOWNSHIP OF MANSFIELD**

**RESOLUTION NO. 2021-7-15**

**RESOLUTION OF THE TOWNSHIP OF MANSFIELD LAND USE BOARD  
CONCERNING THE APPLICATION OF  
MARTIN AND LAURA MANNION  
VARIANCE AND MINOR SUBDIVISION APPROVAL**

**WHEREAS**, Martin and Laura Mannion (the “Applicant”) have applied to the Land Use Board of the Township of Mansfield (the “Board”) for Minor Subdivision Approval for property located at 250 Petticoat Road, known as Block 41, Lot 7.01 on the Official Tax Map of the Township (the “Property”), for the purpose of subdividing the Property into three (3) lots, proposed Lots 7.03, 7.04 and 7.05; and

**WHEREAS**, the Applicant submitted a Minor Subdivision Plan, prepared by MidAtlantic Engineering Partners, LLC, last revised 06/18/21; and

**WHEREAS**, variances are required in connection with minor subdivision approval as the proposed subdivision of the Property does not comply with the Lot Frontage and Lot Width Requirements in the R-1 Zoning District; and

**WHEREAS**, the Application for Variance and Minor Subdivision Approval was deemed complete by the Board on June 28, 2021; and

**WHEREAS**, a public hearing to consider the Application was held by the Board on July 26, 2021, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

**WHEREAS**, the Applicant presented evidence to the Board through testimony, plans and other evidence, introducing the following Exhibits during the July 26, 2021 Public Hearing;

- A-1 Minor Subdivision Plan referenced above;
- A-2 Plan, dated 07/26/21, with proposed lots superimposed on the Township Tax Map; and
- A-3 Plan, dated 07/26/21, showing a subdivision plan conforming with the Ordinance; and

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**WHEREAS**, the Board after carefully considering the evidence presented by the Applicant in support of the Application for Variances and Minor Subdivision Approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is the owner of the Property located at 250 Petticoat Bridge Road in the Township's R-1 Zoning District. The Property is approximately 11.34 acres and is currently farmed.

2. The Applicant applied for Minor Subdivision and Variance Approval, providing the Board with the required Land Development Application, Checklist and Minor Subdivision Plan prepared by a professional land surveyor.

3. The Applicant is proposing to subdivide the Property into proposed Lot 7.03 (3.05 acres), proposed Lot 7.04 (3.06 acres) and proposed Lot 7.05 (5.22 acres). Proposed Lot 7.05 is designed as a flag lot.

4. The taxes on the subject property are current or exempt.

5. The Applicant has paid and/or posted all required fees and agreed to keep the review escrow current.

6. Proper notice of the application for Minor Subdivision and Variance Approval has been given, as based upon the certified list of property owners, provided to the Applicant by the Township Tax Assessor.

7. The following variances are required for the minor subdivision, as proposed.

- a. Proposed Lot 7.03 – Lot Frontage – 200 feet required; 175 feet proposed.
- b. Proposed Lot 7.03 – Lot Width – 200 feet required; 164.01 feet proposed.
- c. Proposed Lot 7.04 – Lot Frontage – 200 feet required; 177.45 feet proposed.
- d. Proposed Lot 7.04 – Lot Width – 200 feet required; 167.37 feet proposed.
- e. Proposed Lot 7.05 – Lot Frontage – 200 feet required; 50 feet proposed.

8. The Applicant was represented at the July 26, 2021 Public Hearing by Kit Applegate, Esquire. The Applicant and William Parkhill, PE, testified during the Public Hearing.

9. Mr. Parkhill provided the following sworn testimony during the July 26, 2021 Public Hearing:

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- a. He is a Professional Engineer and Professional Planner, licensed in the State of New Jersey<sup>1</sup>.
- b. He describes the proposed subdivision of the Property into 3 lots and identifies the variances required.
- c. The current use of the Property is farming.
- d. Test pits have been witnessed by the Burlington County Board of Health and the soils were deemed acceptable for septic systems to service the proposed residential uses of the three new lots.
- e. The three (3) proposed lots each comply with the Lot Area and Lot Depth requirements of the Mansfield Zoning Ordinance and the respective building envelopes will comply with all setback requirements.
- f. The Property is large enough to create three (3) lots, each complying with the minimum lot area requirement of the R-1 Zone and the proposed residential uses are permitted.
- g. The design of the minor subdivision provides an efficient use of the Property, with each lot fronting on an existing Township road.
- h. There will not be a substantial detriment to the public or substantial impairment of the zone plan if the requested variances are granted.
- i. There are other flag lots in the area so the proposed three (3) lot layout is not out of character for the area.
- j. Sight triangles will be provided.
- k. The Applicant will comply with all review letters submitted by the Board Professionals and revised plans will be submitted.
- l. The wetlands on the Property have been delineated but an LOI has not yet been issued by the New Jersey Department of Environmental Protection.
- m. The existing wetlands will not impact the development of the Property as proposed as there will be sufficient uplands area on each lot for the construction of residential dwellings.

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<sup>1</sup> Based on his education, experience and state licenses, Mr. Parkhill was qualified to offer expert testimony in site engineering and land planning.

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- n. There is approximately 1 acre of wetlands on each of the smaller lots and 0.50 acres of wetlands on the larger lot.
- o. The plan currently shows a 50 foot wetlands buffer on each lot, but there is sufficient room to provide a 150 foot wetlands buffer without affecting the building layout.
- p. The shape of the Property impacts the ability to design a three (3) lot subdivision without variances required.
- q. Utilizing Exhibit A-3, a subdivision plan conforming with the Ordinance can be drawn but would result in a new street, a 400 foot long cul de sac, that would serve three (3) lots. The cul de sac would be located along the property line of the closest residential use.
- r. It is more efficient to use the existing Township streets as lot frontages, rather than create a new street, especially with flag lots existing in the immediate area of the Property.
- s. With only one of the residential uses utilizing the flag lot's driveway, rather than three uses utilizing a new street, there will be less impact to the closest neighbor.

10. Mr. Mannion provided the following sworn testimony during the July 26, 2021 Public Hearing:

- a. He does not know what the residential dwellings will look like as he is not sure if he will build the dwellings himself or sell the lots.
- b. If he builds, he thinks the dwellings will resemble Country Walk homes.
- c. There is interest in the Lots.

11. During the public portion of the July 26, 2021 hearing, the Board heard from the following interested members of the public:

- a. Donald Mangus, owner of the closest residential use to the Property, who testified that the Applicant has not demonstrated a hardship or a good reason for the granting of the variances required to subdivide the Property; that the wetlands existing on the site are of significant value and that preservation of wetlands outweighs variances.

- b. Todd Kokotajo who questioned whether the Township’s Environmental Commission has reviewed the Application.

12. Board members expressed concerns regarding the impact if the LOI, once issued, differs from the subdivision plan.

13. The Board Engineer and Planner reviewed their respective review letters with the Board and the Applicant’s representative testified that the Applicant will comply with each letter.

14. The Board lacks jurisdiction with respect to the wetlands impact on the Property’s development as proposed by the Applicant.

**AND WHEREAS**, based upon the above factual findings, the Board has come to the following conclusions:

1. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and the Township of Mansfield would be advanced by the deviation from the ordinance requirements for lot frontage and lot width, as specified herein, as requested by the Applicant.

2. The benefits of the deviation from the ordinance requirements specified herein would substantially outweigh any detriment to the public good by this deviation from such requirements, as variance approval would allow for the development of the Property as proposed by the Applicant, and otherwise promote the safety, health and general welfare of the Community.

3. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

4. The Applicant has complied with the requirements of the Municipal Land Use Law of the State of New Jersey and the Land Use Code of the Township of Mansfield for minor subdivision approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Township of Mansfield, on the 26<sup>th</sup> day of July 2021, that this Board hereby grants to the Applicant:

- 1. Waivers for the checklist items identified in the Review Letters of the Board’s Professionals;

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2. Variances to permit (i) lot frontages of 175.00 feet, 177.45 feet and 50 feet for proposed Lots 7.03, 7.04 and 7.05, respectively and (ii) lot widths of 164.01 feet and 167.37 feet for proposed Lots 7.03 and 7.04, respectively; and

3. Minor Subdivision Approval to subdivide the Property into Lots 7.03 (3.05 acres), Lot 7.04 (3.06 acres) and Lot 7.05 (5.22 acres) as shown on the Plan of Minor Subdivision, in accordance with the Application, Plans and Testimony provided by the Applicant, subject to the following conditions:

a. Proof that the Applicant has applied for the necessary approval(s) from all other agencies, including the Burlington County Planning Board, the Burlington County Board of Health and the New Jersey Department of Environmental Protection, having jurisdiction over the Applicant's use of the Property shall be filed with the Township's Land Use Coordinator.

b. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Township, which may cause such reports to be verified in an appropriate manner. Only upon the fulfillment of all the conditions shall the minor subdivision plan or deed be signed or any required building permit, certificate of occupancy or zoning permit be issued.

c. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicant obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicant obtaining those approvals.

d. Subject to Minor Subdivision Approval expiring 190 days from the date on which this Resolution of Approval is adopted by the Planning Board, unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed with the Burlington County Recording Office, the Township Engineer and the Township Tax Assessor. The Minor Subdivision Deed or Plat shall be submitted for the review and approval of the Board Solicitor and Board Engineer prior to the Planning Board Chairperson and Secretary signing same, as required, prior to recording. The Lot Numbering for Lots 7.03, 7.04 and 7.05 shall be confirmed with and approved by the Township Tax Assessor.

e. Subject to the comments of the Board Engineer as contained in the July 21, 2021 Review Letter of Stout and Caldwell Engineers, LLC, by Mark E. Malinowski, PE, except as may be modified herein.

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f. Subject to the comments of the Board Planner as contained in the June 25, 2021 Review Letter of Environmental Resolutions, Inc., by Edward Fox, AICP, PP, except as may be modified herein.

g. Subject to the sworn testimony of the Applicant and the Applicant's agents and representatives presented during the July 26, 2021 Public Hearing, whether formalized in this Resolution or not.

h. Subject to the submission of revised plans complying with this Resolution and the review letters of the Board Professionals, if required.

i. Subject to the Applicant's escrow account for the review of its Application being current. Failure of the escrow account to be current may result in the Board not executing the required Minor Subdivision Deed/Plat.

j. Subject to the Applicant obtaining all permits required prior to the commencement of construction activity on the Property, including site clearing. Variance and minor subdivision approval does not guarantee the issuance of construction permits, as the Applicant is required to comply with all rules, regulations, codes and statutes governing the issuance of such permits.

k. Subject to the Applicant submitting the Letter of Interpretation issued by the New Jersey Department of Environmental Protection, confirming the wetlands delineation and wetlands buffer, as shown on the Minot Subdivision Plan. The required Letter of Interpretation is to be submitted prior to the subdivision deed/plat being executed by the Board.

l. Subject to the Applicant making any affordable housing development fee payment required by the Township's Housing Element and Fair Share Plan and New Jersey State requirements Any affordable housing fee

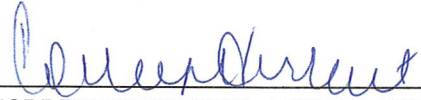
**ROLL CALL VOTE**

Those in Favor: 6  
Those Opposed: 2  
Those Abstaining: 0


**CERTIFICATION**

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Land Use Board of the Township of Mansfield in accordance with its decision at its regular meeting on July 26, 2021.

**THE LAND USE BOARD OF THE  
TOWNSHIP OF MANSFIELD**

  
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COLLEEN HERBERT, ACTING CHAIR

Attested:

  
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LINDA SEMUS, SECRETARY

Dated: 8-23-21

Date of Approval: July 26, 2021

Date of Memorialization: August 23, 2021