

**STEENLAND**  
**RESOLUTION 2013-004**

**WHEREAS, PAMELA STEENLAND** (Applicant or Steenland) 950 South Lagoon Lane, Mantoloking, New Jersey 08738 has made an Application to the Borough of Mantoloking Planning Board (2013-004); and

**WHEREAS,** the Applicant is the owner of the property for which variance relief is requested which property is known as 950 South Lagoon Lane, Mantoloking, Ocean County, New Jersey 08738 and is also known as Block 19, Lots 11 & 11.01 on the Borough of Mantoloking Tax Map (Property); and

**WHEREAS,** the Property is in the R-5B Zoning District; and

**WHEREAS,** on July 29, 2013, Barbara Allen Woolley-Dillon, P.P., A.I.C.P., the Borough of Mantoloking Land Use Administrator forwarded correspondence to Peter D. Kearns, Esq., the attorney for Steenland in which she amended a previous letter dated May 30, 2013 and called out the following bulk and area requirements for the R-5B Zone as contained in Chapter XXX Land Use Regulations of the Borough of Mantoloking (Ordinance) and which would require variance relief:

- Minimum required lot frontage – *fifty feet (50') is required where forty-nine (49') exists. This is an existing non-conforming condition.*
- Minimum required front yard (Bay) setback for an above ground deck – thirty feet (30') is required where approximately twenty feet (20.05') exists / is proposed from the landward side of the bulkhead. (Please note that the minimum standard setback of twenty-five feet (25') is required and that the average minimum setback of structures located on properties situated within 200 feet of the site must be determined as well. The greater or stricter of these two (2) setbacks shall be utilized. In this case, the average setback for dwellings located within 200 feet on the site has been determined to be thirty feet (30') by the applicant's professional.)
- Minimum required side yard setback(s) for the dwelling – ten feet (10') is required where 7.29 / 6.10 feet exist and 6.44 feet / 6.14 feet is proposed.
- Minimum required side yard setback for a planter – ten feet (10') is required where slightly less than eight feet (7.89') exists and just over five feet (5.10') is proposed along the northern property line. Just over three feet (3.08') exists / is proposed along the southern property line.
- Maximum permitted second floor habitable area to the first floor footprint area – *eighty percent (80%) is permitted where roughly eighty-two percent (82.6%) exists. This is an existing non-conforming condition.*
- Maximum permitted lot coverage - thirty percent (30%) is permitted where approximately forty-three percent (43.13%) exists and just over fifty-two percent (52.29%) is proposed.
- Maximum permitted lot coverage – forty-five percent (45%) is permitted where just under fifty percent (49.61%) exists and slightly over sixty-six percent (66.16%) is proposed.
- Maximum permitted encroachment into the front yard setback – 200 square feet is permitted where 284 square feet is proposed along the bay side of the dwelling.

- Minimum required setback for stairs – five feet (5') is required from any property line where approximately three feet (3') is proposed; and

**WHEREAS**, that letter further stated:

"Lot 11.01 is zoned as "OS" or Open Space. In accordance with the provisions contained in § 30-6.4, "*(n)o buildings or structures may be constructed in the Open Space Zone.*" (emphasis added) Aerial Photographs depicting the "Pre-Super Storm Sandy" conditions feature what appears to be an at grade level wooden deck extending from the edge of the existing planter to the existing bulkhead. These improvements appear to currently extend into Lot 11.01 or the OS zone. The proposed plans show an expansion of this existing at grade wooden deck along the Bay side (front) property line. This expansion could be considered an expansion of an existing non-conforming use / structure which would require d-2 use type variance relief."; and

**WHEREAS**, John J. DeVincens, Esq. the Board Attorney opined that since the structure is not a principal structure in a district restricted against such use that N.J.S. 40:55D-70d(1) would not be applicable but that N.J.S. 40:55D-7c(2) which incorporates an expansion of a nonconforming use is the relevant statutory provisions under which the Applicant's request for the deck in the Open Space Zone falls; and

**WHEREAS**, as it relates to the other variances requested and detailed above, in order to prove her case, the Applicant under N.J.S. 40:55D-70c must, if Applicant chooses to proceed under the c(1) test, show whether there is (1) peculiar and exceptional practical difficulties to, or (2) 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 existing structure thereon; and

The Applicant can also choose to prove her case by N.J.S. 40:55D-70c(2) known as the flexible "c". The Applicant must show that: 1. the Applicant applies to a specific piece of property; 2. that the purpose of the MLUL would be advanced by a deviation from the requirement of the zoning ordinance; 3. that the variances can be granted without substantial detriment to the public good; 4. that the benefits of the deviation would substantially outweigh any detriment; 5. that the variance would not substantially impair the intent and purpose of the zone plan and zoning ordinance; and

In addition to the above proof, the Applicant must demonstrate that such variance can be granted without substantial detriment to the public good and will not substantially impair the intent of the Master Plan or the Land Use Ordinance of the Borough of Mantoloking (the "negative criteria") and the Applicant must show that the grant of the variance would promote the purposes of zoning as state in N.J.S. 40:55D-2 and the undue hardship (the "positive criteria"); and

**WHEREAS**, Mr. DeVincens advised the Board that as it relates to the expansion of the deck in the OS Zone, it being a special reasons variance, and pursuant to N.J.S. 40:55D-2(c)(2) that Robert McIntyre, the Class I Member and Steve Gillingham, the Class III Member could not participate in the consideration of the variance as such participation is prohibited where any relief pursuant to N.J.S. 40:55D-70d is the subject of an Application; and

**WHEREAS**, Mr. McIntyre and Mr. Gillingham would be permitted to sit, participate and consider the requests for N.J.S. 40:55-70c(1) and c(2) variances; and

**WHEREAS**, Mr. DeVincens also indicated to the Board and to all in attendance that he received a telephone call from Stanley Witkowski, a Board Member saying, that in 1996 he sold his home located on Barnegat Lane (not the Property which is the subject of the Application) to Ms. Steenland and subsequent to that had minimal social contact with her; and

**WHEREAS**, Mr. DeVincens indicated that the Local Government Ethics Law (N.J.S. 40A:9-22.5d) and the Municipal Land Use Law (N.J.S. 40:55D-1 et. seq.) and more specifically at N.J.S. 40:55D-23d (Planning Board) and 40:55D-69 (Zoning Board) bars any official to act where he or she has a direct or indirect personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment; and

**WHEREAS**, Mr. DeVincens felt that the relationship of Mr. Witkowski was a long past prior dealing and any subsequent contact with Ms. Steenland was, likewise, remote, distant and nebulous; and

**WHEREAS**, when questioned by Mr. DeVincens, Mr. Witkowski indicated he could consider this Application and make a decision in a full, fair and impartial manner; and

**WHEREAS**, Mr. DeVincens then ruled that Mr. Witkowski need not disqualify or recuse himself unless there was an objection from the Applicant, the Applicants Attorney or any interested party in attendance. There being none Mr. Witkowski will sit on this matter; and

**WHEREAS**, the structure suffered damage as a result of Superstorm Sandy which damage is less than partial; and

**WHEREAS**, the structure has been made nonconforming by the adoption of Chapter XXX; and

**WHEREAS**, proof of publication and mailing to owners within 200 feet of the Property was completed, as is required by the Municipal Land Use Law of New Jersey (MLUL (N.J.S. 40:55D-1 et. seq.) and more specifically at N.J.S. 40:55D-12) and the Land Use Ordinance of the Borough of Mantoloking (Chapter XXX, Sections 30-3n.2 and 3n.3) has been furnished; and

**WHEREAS**, the following Board Members were present at the August 1, 2013 hearing on the matter: Mr. Thomas McIntyre, Chair, Ms. Boughton, Ms. White, Ms. Nelson, Ms. Laymon, Messrs. Gillingham, R. McIntyre, Witkowski, Hawkings, Bixby and Daly. Those same Members were present at the hearing held on September 19, 2013. All Members then present indicated they made a site visit; and

**WHEREAS**, the Applicant submitted the following Exhibits to support the Application for the relief request and which were marked at the hearing on August 1, 2013:

1. A-1, five (5) aerial photographs which shows, inter alia, the neighborhood, the house to the north that has been torn down, typical setbacks from the Barnegat Bay and South Lagoon Lane
2. A-2, sixteen pictures showing various elevations of the existing house

3. A-3, drawings and plans dated July 29, 2013 as revised
4. A-4 and A-5, Artists renderings of proposed dwelling
5. A-6, Survey prepared by George W. Henn and dated July 20, 2009 as File No. 09-125; and

**WHEREAS**, the Applicant submitted the additional following Exhibits at the September 19, 2013 meeting:

1. A-7, revised drawing and plans dated August 20, 2013 which revised A-3 marked above.
2. A-8, (A-19-1) plans indicating storm water flow and drainage

**WHEREAS**, the letter of Ms. Dillon previously referred to dated July 29, 2013 was marked as B-1; and

**WHEREAS**, Peter D. Kearns, Esq. 1100 Arnold Avenue, Point Pleasant, New Jersey, represented the Applicant at both the August 1, 2013 and September 19, 2013 meeting; and

**WHEREAS**, Mr. Kearns, after brief introductory remarks, called Ms. Steenland as his first witness who having been sworn, testified at the August 1, 2013 hearing that:

- a. She was the sole owner of Property having owned it for the past four (4) years
- b. It was her principal residence prior to Sandy (10/29/12) and after the house is repaired and renovated she intends to occupy it as her principal residence.
- c. The house suffered damage as a result of Sandy and she has done some interim repairs, i.e., replaced floors, walls, hot water heater, etc.
- d. She desires to remove the free standing garage on the southeast corner of Property and to provide parking space underneath the house which she also desires to raise to a finished first floor elevation of fifteen feet (15')
- e. She wants to elevate it higher than the minimum ABFE height in order to insure that the proposed dwelling would escape any future catastrophic events.
- f. The garage will contain an elevator to the first floor of the dwelling.
- g. She is pulling back the existing deck which now is 20.05' from the inward bulkhead line on Barnegat Bay (the lot front), and the existing house is now 24.41' from the inward bulkhead line. The proposed dwelling would now be back 36.8' from that line.
- h. She believes moving back the house, in addition to added protection, will promote a better view for her neighbors and she also believes the renovated house will be more aesthetically pleasing; and

**WHEREAS**, Mr. Kearns called as his second witness, Michael J. Burke, AIA (#22564) of M3 Architecture LLC, P.O. Box 121, Farmingdale, NJ 07727 (email: [m3architecture@hotmail.com](mailto:m3architecture@hotmail.com)) who being duly sworn testified as follows:

- a. He is a licensed Architect in the State of New Jersey and has been since 1993.
- b. He received a Bachelor of Design Arts from the University of Florida, in 1983, and a Master of Architecture from the University of Florida, in 1998.
- c. He has testified before numerous Planning Boards and Zoning Boards in the State of New Jersey
- d. His credentials being accepted by the Board he continued

- e. The house has certain storm damage that the Applicant desired to repair in a larger context.
- f. The house to the north of the Property has been torn down
- g. The Applicant desired to remove the existing nonconforming detached garage presently located 19.51 feet from the rear yard (South Lagoon Lane) property line.
- h. The Applicant proposes to move the house back from the bulkhead the distance of 12.39 feet. This would increase the front yard (Barnegat Bay) setback of the house from 24.41' to 36.8'. However, the actual front yard setback will remain at 20.05' feet due to the fact that the above ground deck and a support wall cannot be moved with the house since their construction is very substantial and not movable. The Applicant would desire to keep those in place.
- i. The outside envelope of the building will not be changed except that the covered porch to the west front of building will be raised one (1') foot.
- j. The northern property line narrows toward South Lagoon Lane and by moving of the house as proposed will increase the northern side yard setback deficiency by .86' (7.29' to 6.43')
- k. The increase in total impervious lot coverage and lot coverage is a result of on the ground pavers, concrete entry steps, planters, concrete landings and steps. This was planned to promote the aesthetics of the Property.
- l. The intrusion of the proposed wood deck into the OS Zone was incorporated to make access to the existing wood deck in that area easier since the northerly proposed deck on the house connects with same
- m. The raising of the house fully meets the zone requirements
- n. He believes that the plans show a more desirable aesthetic condition than the pre-Sandy site. The removal of the attached garage and the installation of under the house parking is an example. He further believes that moving the house west on the site will promote better air, light and open space and provide better sight lines for the neighbors.

**WHEREAS**, after the testimony of both the Applicant and Mr. Burke, Thomas McIntyre the Chair, opened the Meeting for questions and then statements from interested persons and the public. All were sworn. The following ensued:

- a. Ms. Terry Albatore residing at 202 Channel Drive stated that she respected the Applicant, but felt that the Plans were not in character with the neighborhood or Mantoloking. She felt the proposed Plan was excessive and the doubling of the coverage would be detrimental. She was very concerned with drainage.
- b. Ms. Christine Wilder (Christine C. Wilder C Trust) residing at 958 South Lagoon Lane (Blk 15, Lot 15.01, 16.01) said she has lived in Mantoloking all her life and did not believe the proposed Plans were good for the neighborhood.
- c. Mr. Thomas Frazier residing at 956 South Lagoon Lane (Blk 15, Lot 14.01) stated that he felt the Plan presented an excessive increase in certain existing nonconformities.
- d. Mr. Kenneth MacPherson residing at 952 South Lagoon Lane (Blk 15, Lot 12.01) said the great increase in the pavers would exacerbate the drainage in the area and would reduce the charm of the traditional Mantoloking look. He also objected to the location of the air conditioning units so close to the southern Property line which he shares with the Applicant.



- e. Mr. Gary Fiore residing at 965 South Lagoon Lane said that the intrusion closer to the Property lines with stairs, decks and the air conditioner units presented a detriment and did not represent a benefit.
- f. Ms. Eileen Fiore residing at 965 South Lagoon Lane felt that the Plan as proposed was not consistent with the character of the neighborhood.
- g. Mr. Charles Reynolds residing at 206 Channel Drive felt that the Borough should attempt to bring conforming structures into conformity as opposed to increasing the nonconformities.
- h. Mr. David Kovacs residing at 909 South Lagoon Lane objected to the height and the increase in the existing coverage nonconformities.

**WHEREAS**, Mr. McIntyre then requested a motion to go into a closed session and opened the meeting to questions and comments from the Board. The following stated:

- a. Ms. White felt that the Plans as proposed were "just too much".
- b. Mr. Thomas McIntyre indicated that the raising of the house as proposed was within the requirements of the Ordinance and thought that moving the house as proposed was good but felt that the increase in both lot coverage and maximum lot coverage was excessive and that the Board is concerned with those issues of lot coverage especially when related to drainage.
- c. Ms. Witkowski felt that the Plan demonstrated the overuse of a small lot which should be avoided.
- d. Mr. Robert McIntyre was concerned that the calculations by Cathy Marcelli, P.E. of Hatch Mott McDonald, the Borough Engineer, concerning storm water runoff presented a problem associated with excessive lot coverage. She was further concerned that no Storm Water Management Plan was submitted.
- e. Mr. Mark Hawkings believed that the impact on the neighbors was negative
- f. Ms. Elizabeth Nelson believed the Plans constituted a departure from the character of the neighborhood and Mantoloking in general.
- g. Mr. Joseph Daly believed that to approve this would signal the Board "was going the wrong way".

**WHEREAS**, the Board went back into public session at which time there was an open discussion between and among the Members of the Board and Mr. Kearns after which Mr. Kearns requested a brief recess in order to have a discussion with his client and Architect; and

**WHEREAS**, after the meeting was continued, Mr. Kearns requested that this Application be adjourned to the following meeting of September 3. He was advised that the Agenda on that date was filled. He then requested a Special Meeting for which his client agreed to pay and the Board voted to conduct one on September 19, 2012; and

**WHEREAS**, the Board agreed that it would not be necessary for Mr. Kearns, on behalf of the Applicant, to re-advertise and to re-notice and Mr. Kearns agreed to waive any statutory time limits on which the Board would be required to act on this matter; and

**WHEREAS**, on or about August 21, 2013 revised plans (marked at A-7) were submitted to the Borough Planning Office showing that there is only one variance being sought which implicates the required minimum side yard setback where 10' is required and the Applicant is proposing a

setback which would require a 3.57' foot variance (letter of Lisa Tilton marked B-2). This is an increase in .86' over the existing nonconformity; and

**WHEREAS**, the Applicant's revised Plan eliminates the special reasons variance relating to the previous planned expansion of the deck in the OS Zone and, therefore, Mr. Gillingham and Mr. McIntyre can sit and hear and decide this Application; and

**WHEREAS**, the hearing on the Application of Ms. Steenland reconvened on September 19, 2013 at which Peter D. Kerns, Esq. the attorney for the Applicant indicated to the Board that the Applicant and her professionals heard the comments of the Board and neighbors and interested parties at the August 1, 2013 meeting and took dramatic steps to redesign the Plans and as consequence to reduce all the previous existing requests for variance relief to a single variance; and

**WHEREAS**, Mr. Kearns called Michael J. Burke, AIA who was sworn at the August 1 meeting and whose credentials were accepted at that time who testified:

1. The sole requested variance as shown on the revised (A-7) Plans dated August 20, 2013 relates to the northerly side yard setback where 10' is required and 7.29' is existing and is being increased to 6.43' or .86'. This increase is due to the northerly lot line skewing east (Barnegat Bay) to west (South Lagoon Lane) and the house being moved forward 12.39'.
2. That the existing lot coverage where 30% is the maximum permitted of 43.12% and, at the August 3 meeting, as proposed to be 52.29% is now proposed to be 38.53% which represents a reduction of 4.59% of what presently exists and 13.76% of what was previously proposed.
3. The existing maximum (impervious) lot coverage where 45% is the maximum permitted and where 49.61% presently exists and where 66.16% was proposed at the August 1 meeting (16.55 % over existing) is now proposed to be 48.19% which represents a reduction of 1.42% of what presently exists and the 16.55% previously proposed.
4. That the use of special reasons variance previously requested for the extension of the deck in the OS Zone has been withdrawn and no extension is being requested.
5. That the 2<sup>nd</sup> floor to first floor footprint area ratio of 80% where 64.89% is existing has been reduced to 50.62%; and
6. The southerly side yard equipment platform has been moved further north; and

**WHEREAS**, Mr. Kearns called Ray Carpenter who being duly sworn testified that:

1. He has a Bachelor of Science in Civil Engineering from Penn State University, that he has been licensed as a Professional Engineer in the State of New Jersey since 1976 and as a Professional Planner since 1978 and that he has testified in many municipalities in New Jersey in his professional capacities.
2. His credentials having been accepted by the Board he continued his testimony.
3. The nature of the soil on this site is sandy and drains well but the water level is shallow (3') and does not permit deep percolation.
4. All grades around the proposed new location of the house will remain as they presently exist.
5. He has designed drainage recharge pipes parallel with the north and south Property lines which run to the bulkhead where they will "pop" out and discharge.

6. The recharge pipes are 12" in diameter and will be surrounded by sand and stone. It will be approximately 26" to the bottom of stone which is only 10" above the water level.
7. The roof runoff during a rain will recharge into the ground.
8. In a normal two year storm this system would handle the roof runoff and ground discharge but would not handle and "Irene" type storm but that would be the case in most Mantoloking properties.
9. He believes this would be the best system available for this site; and

**WHEREAS**, Mr. Kearns called Ms. Allison Colfin, P.P. of 823 West Park Avenue, Ocean Township, New Jersey as his final witness who being sworn testified that:

1. She graduated from Boston College with a Bachelor of Science in Planning, that she has been licensed in the State of New Jersey as a Professional Planner since \_\_\_\_\_ and is a member of AICP for the last ten years and that she has testified as a Professional Planner mostly in the Monmouth County area.
2. Her credentials being accepted by the Board she continued as follows:
3. She has reviewed the site and the revised A-7 Plans.
4. It is better to raise the house 12.39' further back from the bulkhead than where it presently exists. This will reduce the impact on light, air and open space and provide the neighbors with clearer site lines of the Bay
5. The Applicant is not increasing any of the previous pre-existing nonconforming conditions except for the fact that by moving the house 12.39' further toward the west (South Lagoon Lane) it would increase the northerly side yard setback by .86' (7.29' to 6.43'). She believes this increase is de minimis.
6. That the open deck to the front (Barnegat Bay) of the house is open and not the full height of the structure and that for it to remain in its present location at its existing 20.05' from the front yard does not create any detriment to the neighbors.
7. That the efforts to reduce the variance requests as proposed at the August 1, 2013 meeting have been significant and meaningful.
8. As it relates to the proof as required by N.J.S.A. 40:55D-70c(1) and c(2) she stated that under the c(1) (the hardship) that the lot is irregular due to the northerly lot line reducing the width of the lot as it moves east to west is what creates the increase in that side yard existing variance by .86' which she repeats, in her opinion, is de minimis. She also feels that moving the house structure the proposed 12.39' away from the bulkhead which creates the increase in the previously existing north side yard variance is better than the alternative of leaving and raising the house in its present location.

It is her opinion that pursuant to c(2) the proposed Plan advances the purposes of zoning by providing better light, air and open space and promoting a more desirable visual environment by the removal of the detached garage.

In addition and again relating to the c(2) proof requirements that the purposes of the Municipal Land Use Law would be advanced by deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment she cites the actual increase in the setback of the house from its existing position as being more compliant with the Ordinance and that this Plan does not increase any of the pre-existing nonconformities (except for the .86 north side increase) and that the pre-existing lot coverage is being reduced from 43.12% to 38.53% (4.59% reduction) and that the maximum (impervious) lot coverage is being



reduced by 1.42% from the 49.61% pre-existing coverage. In addition the originally proposed front stair/platform encroachment into the front yard of 284 square feet is reduced to 188 square feet which fully complies with the Ordinance.

9. That the proposed revised plan does not increase the intensity of the development or the use.
10. That based upon the above it is her opinion that relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the zoning ordinance.

**WHEREAS**, Mr. McIntyre opened the meeting to the public and interested parties and, unlike the meeting of August 1, 2013, no one came forward to either object to or advance the approval of the Applicant's request for relief; and

**WHEREAS**, the Planning Board of the Borough of Mantoloking finds that:

1. The testimony of the Applicant's Planner, Ms. Coffin was fully credible, comprehensive and persuasive especially as it related to the necessary proofs of N.J.S.A. 40:55D-70c(1) and c(2) and that the testimony supported that the negative and positive criteria were fully met.
2. That the movement of the house the 12.39' toward South Lagoon Lane provides a better alternative than to raise it in its present location.
3. That the Applicant addressed the concerns of both the Board and interested parties at the August 1 meeting and she and her professionals were to be commended. This was demonstrated, in part, by the lack of any comments from the public at the September 19 meeting opposed to the many negative comments by the public at the August 1 meeting.
4. That the Board found that the storm water issue was adequately addressed and that the system as proposed is in wide use in the Borough
5. That the reduction in pre-existing nonconforming conditions and the reduction to only the one variance requested demonstrated willingness and cooperation of the Applicant to work with the Board in refining the Plan proposed at the August 1 meeting in a positive way
6. That the removal of the detached garage provides an aesthetic improvement.
7. That the grant of the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the zoning ordinance.

**NOW THEREFORE BE IT RESOLVED**, that the above findings the Planning Board grants approval to the Applicant, Pamela Steenland, as follows:

1. The northerly side yard setback of 3.57 feet is granted.
2. While not granted the Board recognized the existing and present non-conformities of both the lot and structure.

**NOW BE IT FURTHER RESOLVED** that the approval as above stated is granted on the following conditions:

1. That the Plan marked as A-7 is the Plan of which this variance was approved.

2. A building permit must be obtained within two (2) years from the date of this Resolution of this Resolution will be deemed null and void and of no effect.
3. That the Applicant obtain a building permit prior to commencing any construction on the Property.
4. The Applicant furnish a copy of Ocean County Soil Conservation District Certification, if applicable.
5. The Applicant must submit proof of payment of all real estate taxes due to the Borough of Mantoloking.
6. Applicant will provide Proof of Publication of a Notice of Decision of the Board to the Secretary of the Board within 30 days from receipt of Resolution.
7. The Applicant shall obtain any and all necessary Federal, New Jersey (including any Coastal Area Facility Review Act (CAFR/A) permits, County of Ocean or local permits and/or Approvals for each agency or board having regulatory jurisdiction over this development and fulfill all conditions of said permits and/or approvals, and will submit a copy of any permits to the Board. In the event other agencies require a change in the plans approved by the Board, the Applicant must reapply to the Board for the approval of that change.
8. The Applicant shall pay any all costs required by the Applicant to be made pursuant to N.J.S. 40:44D-35 et. seq. and all fees incurred by the Board in reviewing this Application. The failure of the Applicant to deposit or provide such fees, after being directed to do so, shall render any approval granted hereunder null and void.
9. The testimony, deliberations and stipulations made at the hearing are hereby incorporated by reference and to the extent same impose additional or more detailed conditions of approval, same are hereby adopted as if each were set forth herein at length.
10. The terms and conditions contained herein shall be binding upon all successors, assigns, personal representative, heirs and each and every other person or entity taking possession or title with respect to the Property in question.
11. The terms, conditions and stipulations imposed upon that Applicant in this approval are an integral and material part of the actions of this Board in that the Board would not or may not have voted affirmatively for said approval without the imposition of the terms, conditions and stipulations contained in this Resolution and on the record.
12. All the representations and statements made by the Applicant at the hearing on August 1, 2013 and September 19, 2013 shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of the Board's actions in approving the variances as above granted.

## CERTIFICATION

I, Elizabeth Nelson, Secretary of the Planning Board of the Borough of Mantoloking do hereby certify that the foregoing is a true copy of the Resolution duly adopted by the Planning Board on the 3<sup>rd</sup> day of October, 2013, and memorializes and confirms the actions taken by the Planning Board in now approving the request by Applicant for relief at the regular meetings held on August 1, 2013 and September 19, 2013.

  
\_\_\_\_\_  
ELIZABETH NELSON, Secretary  
DENISE BOUGHTON ASST SECY

**MEETING OF SEPTEMBER 19, 2013  
TO PREPARE A RESOLUTION TO APPROVE**

	<b>Moved</b>	<b>Seconded</b>	<b>Yes</b>	<b>No</b>
<b>Thomas McIntyre</b>	X		X	
<b>Robert S. McIntyre</b>			X	
<b>D. Mark Hawkings</b>			X	
<b>Stanley Witkowski</b>			X	
<b>Evan S. Gillingham</b>			X	
<b>Jane G. White</b>			X	
<b>Elizabeth Nelson</b>			X	
<b>Denise Boughtson</b>		X	X	
<b>Courtney Bixby</b>			X	
<b>Susan Laymon, (Alt)</b>			X	
<b>Joseph Daly, (Alt)</b>			X	

Absent : NONE

Not Voting or Rescued:

**MEETING OF OCTOBER 3, 2013  
VOTE TO APPROVE RESOLUTION**

	Moved	Seconded	Yes	No
Thomas McIntyre			✓	
Robert S. McIntyre	✓		✓	
D. Mark Hawkings				
Stanley Witkowski			✓	
Evan S. Gillingham			✓	
Jane G. White			✓	
Elizabeth Nelson				
Denise Boughtson			✓	
Courtney Bixby		✓	✓	
Susan Laymon, (Alt)			✓	
Joseph Daly, (Alt)			✓	

Absent :

Not Voting or Rescued: