

**RESOLUTION# 2020-1
RESOLUTION OF APPROVAL
APPLICATION OF
EMILY HOLDINGS, LLC & FRANK
E. WALSH III,
APPLICATION #PB-2020-01**

IN THE MATTER OF EMILY : PLANNING BOARD OF THE BOROUGH
HOLDINGS, LLC. & FRANK WALSH, : OF MANTOLOKING
III : NUMBER 2020-2
: BLOCK 19; LOT 4 & 6
: 938 LAGOON LANE & 209 CHANNEL LANE

WHEREAS, an application has been made to the Borough of Mantoloking Planning Board (the "Board") by Frank E. Walsh, III and Emily Holdings, LLC (the "applicant"), for a Minor Subdivision approval. The Applicant proposes an adjustment of an existing common lot line between adjoining lots 4, 4.01, 6, and 6.01. The subject parcels are commonly known as Lot 6 (identified as 938 Lagoon Lane on the Mantoloking Tax Map Sheet 1) and Lot 4 (identified as 209 Channel Lane on the Mantoloking Tax Map Sheet 1) in Block 19 in the Borough of Mantoloking, Ocean County, New Jersey, and said premises being located in the R-4A Zone; and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Mantoloking Planning Board; and

WHEREAS, the Applicant was represented by William T. Gage, Esquire; and

WHEREAS, the Mantoloking Planning Board reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS, the Board heard the testimony and the evidence presented by the applicant and received no comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board of the Borough of Mantoloking, County of Ocean, and State of New Jersey, on March 5, 2020, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting a Minor Subdivision approval. The Applicant proposes an adjustment of an existing common lot line between adjoining lots 4, 4.01, 6, and 6.01. Lots 4.01 and 6.01 are riparian lots containing docks with mooring piles. Additionally, the application requires memorialization of three (3) pre-existing non-conforming bulk variances on lot 4 for

front yard setback encroachment, deviation from the minimum first floor elevation for the existing single-family dwelling, and minimum distance for an accessory structure. These bulk variances are the result of a change in the bulk requirements after the dwelling was constructed. No dwellings are proposed at this time:

- A. There are bulk variances being requested:
 1. On Lot 4, the minimum front yard setback of 36.5 feet where 33.9 feet is existing.
 2. On Lot 4, the minimum first floor elevation the dwelling is 10 feet whereas the existing has a first-floor elevation of 6.15 feet.
 3. On Lot 4, the minimum setback distance from the bulkhead to the outside of pool coping is 18 feet whereas the existing inground pool has a setback distance of 17.6 feet.
 - B. The Applicant has not requested any design waivers, and none have been identified.
3. In support of the application, the Applicant submitted the following documents:
- A. An application dated February 12, 2020;
 - B. Tax certification dated February 12, 2020 indicating all taxes are paid;
 - C. Certified list of Property Owners located within 200 feet of the properties dated February 13, 2020;
 - D. Elevation Certificate for lot 4, prepared by Lindstrom, Diessner, & Carr, PC; dated June 28, 2011;
 - E. Minor Sub-Division Plat, prepared by Lindstrom, Diessner, & Carr, PC; dated January 27, 2020;
 - F. Topographic Survey, prepared by Lindstrom, Diessner, & Carr, PC; dated December 12, 2029.
4. During the public hearing held on March 5, 2020; the Planning Board discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and incorporated in full:
- A. Review letter dated February 20, 2020, by the Planning Board Secretary and Land Use Official, Colleen Malvasio.
 - B. Review letter dated February 28, 2020 by the Planning Board Engineer, Larry Plevier, PE, CME.
5. The Planning Board has received no review letters/memos from the Mantoloking Officials.
6. During the public hearing, no exhibits were marked into evidence.

MEETING OF MARCH 5, 2020:

7. Based upon the comments of the Applicant's Attorney, William T. Gage, Esquire, the Board heard the following:
 - A. The Applicant requested a Minor Subdivision approval.
 - B. The Applicant will adjust the lot line dividing two lots, both conforming lots.
 - C. However, the line adjustment requires approval of three (3) pre-existing bulk variances that were once conforming, but the Borough has since changed the bulk requirements.

8. Based upon the sworn testimony of Charles Lindstrom, the Board made the following findings of fact:
 - A. Mr. Lindstrom adjusted the lot line between lots 4 and 6 so that the line is straighter out.
 - B. Both lots were and will remain conforming.
 - C. As the result of the lot line adjustment bulk variances were triggered.
 - D. In 2009, when the home was constructed on lot 4, the lot and structure were conforming.
 - E. The measurement of the distanced between the bulkhead and pool was original measured from the outside of the bulkhead but now is measured from the inside, thus triggering a different non-conforming measurement.
 - F. When the dwelling was constructed, the elevation requirement was 5 feet; however, after Hurricane Sandy, the home now requires 10 feet.

9. Based upon the sworn and qualified testimony of the Applicant, Frank E. Walsh, who is also the managing partner of Emily Holding, LLC, the Board made the following findings of fact:
 - A. The Applicant wanted to make the lot line adjustment sooner and is making improvements to the existing lot 4.
 - B. The Applicant desires more space on Lot 4.
 - C. The Applicant will comply with all zoning requirements on lot 4.
 - D. Lot 6 will remain vacant at this time.
 - E. The Applicant stated the wood deck on Lot 6 shown on the plans

was removed.

CONCLUSIONS OF LAW

WHEREAS, the Board determined that the Applicant's Minor Subdivision pursuant to *N.J.S.A.* 40:55D-46 and *N.J.S.A.* 40:55D-50 were found to be sufficient as to style and design, and the Board approved the Applicant's request; and

WHEREAS, the need for the front yard setback variance is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A.* 40:55D-70 (c)(1); and

WHEREAS, the need for the Accessory structure setback is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A.* 40:55D-70 (c)(1); and

WHEREAS, the need for the first-floor elevation variance is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A.* 40:55D-70 (c)(1); and

WHEREAS, there will be no substantial negative impact on the surrounding property owners; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Mantoloking.

NOW, THEREFORE, BE IT RESOLVED, by the Mantoloking Planning Board, in the County of Ocean and State of New Jersey, on the 5th day of March 2020, upon a motion made by Steve Gillingham and seconded by Susan Laymon, that the application of Frank E. Walsh and Emily Holdings, LLC be granted, subject to the following terms and conditions:

1. The Applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of March 5, 2020.
2. The Applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if required.
3. The Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the Applicant shall comply with any requirements or conditions of such approvals or permits.
4. The Applicant must comply with the Development Fee Ordinance of the Borough of Mantoloking, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable

housing.

5. The Applicant is required to provide for any and all of the regulatory approvals required by law including, but not limited to the Ocean County Planning Board, if required.
6. The Applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in accordance with the Ordinance.
7. Publication of a notice of this decision will be published in the official newspaper of the Mantoloking Planning Board at the cost of the Applicant.
8. Prior to filing the Subdivision Plat, the Applicant shall comply with all the review comments and requirements in the Board Engineer's, Mott MacDonald, Subdivision Review Report, dated 2-28-20.
9. The Applicant shall comply with all the review comments and requirements in the Land Use Official, Colleen Malvasio's review letter dated February 20, 2020.

ADOPTED this 2nd day of April 2020.

VOTE ON ROLL CALL:

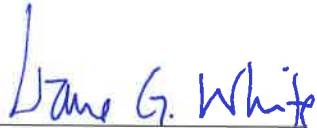
IN FAVOR: Robert McIntyre, John Wesson, Steve E. Gillingham,
Denise Boughton, Jane White, Betsy Nelson, Christine
Beck, Susan Laymon, Beth Nelson

OPPOSED: None

NOT- PRESENT:

CERTIFICATION

It is hereby certified that the attached is a true copy of the Resolution for Application #2020-1, approved on March 5, 2020 and duly adopted as to form by the Mantoloking Planning Board and memorialized at its regular meeting held on the April 2, 2020.



Jane White
Chairwoman
Borough of Mantoloking
Planning Board



Colleen Malvasio
Secretary
Borough of Mantoloking
Planning Board