

MANSFIELD TOWNSHIP LAND USE BOARD

**RESOLUTION MEMORIALIZING GRANT OF
FINAL MAJOR SUBDIVISION APPROVAL**

**AIRPORT ROAD ESTATES (BRINKERHOFF ENTERPRISES, INC.)
FORMERLY ABRAM SIMOFF/MTAK ASSOCIATES, L.P.
BLOCK 1201, LOT 22
APPLICATION NUMBER 16-02**

RESOLUTION

WHEREAS, Application has been made by Brinkerhoff Enterprises, Inc. dba Airport Road Estates, having an address of 8 Windsor Way, Flemington, New Jersey, a successor in interest to the Application of Abram Simoff/MTAK Associates, L.P., for Final Subdivision approval pursuant to a N.J.S.A. 40:55D-50 for a nine single-family lot subdivision located within the R-1 Zone District; and

WHEREAS, the matter was heard and considered by the Board at its regular meetings held on April 18 and May 16, 2016; and

WHEREAS, the matter was deemed complete at the April 18, 2016 meeting after the grant of several waivers from four checklist items; and

WHEREAS, the Applicant was represented at both hearings by Alan Lowcher, Esq. was accompanied by the Applicant's engineer, Peter Olieman, P.E., of the firm of Cherry, Weber & Associates, PC with a principal of the Applicant, Ron Brinkerhoff, also appearing at the May 16, 2016 hearing; and

WHEREAS, in support of the Application, the Applicant submitted a plan entitled, "Final Plat, Airport Road Estates, Block 1201, Lot 22", prepared by Cherry, Weber & Associates, consisting of one sheet dated May 3, 2016; and

WHEREAS, the Applicant also submitted an Engineer's Estimate of Quantities and Cost, Airport Road Estates, Improvements Remaining as of March 2016, also prepared by Cherry, Weber & Associates dated March 15, 2016; and

WHEREAS, Board Engineer, Drew DiSessa, P.E., of the firm of Pennoni Associates, Inc. prepared a review report of the Application dated May 13, 2016 consisting of three pages;

NOW, THEREFORE, BE IT RESOLVED as a result of the Application submitted and the testimony of the Applicant and Applicant's Engineer, the following may be summarized:

1. On October 16, 2006, this Board adopted a Memorializing Resolution reflecting the grant of Preliminary Major Subdivision approval in connection with the creation of nine single-family lots on an existing 30.236 acre tract located in the R-1 Zone District on the westerly side of Airport Road opposite Section One of Kensington Estates.

2. On December 17, 2007, this Board adopted an additional Memorializing Resolution reflecting the grant of the Applicant's Improvement and Utility Plans, an intermediate step between Preliminary and Final Major Subdivision approval.

3. Subsequently, the Permit Extension Act of 2008, which became effective on September 6, 2008, provided, in pertinent part, that any governmental approval in existence during the extension period, which was originally defined as beginning January 1, 2007 and continuing through January 1, 2010, was automatically tolled for the extension period provided that the tolling would not in any event extend governmental approval more than six months beyond the conclusion of the extension

period, or July 1, 2010. The Permit Extension Act of 2008 was amended several times thereafter wherein the extension period was extended through June 30, 2016, thereby extending the protection period of Preliminary Major Subdivision approval accordingly.

4. The Permit Extension Act is not intended to be further extended beyond June 30, 2016, and the Applicant now applies before this Board for Final Major Subdivision approval accordingly.

5. A substantial portion of the site improvements have been installed, including curbing, sidewalk, two storm water detention basins, street trees, driveway aprons, fire protection, water storage tank, and graded right-of-way for the extension of Brantwood Terrace. The pavement of the roadway servicing the subdivision has not as yet been installed. The Applicant noted that there are several dead trees that have already been planted which will need to be replaced. In accordance with a discussion with the Board, the Applicant noted that any new trees to be planted would be setback a minimum of ten feet from the street right-of-way. The Applicant further requested a waiver from the requirement of posting a restoration guarantee in lieu of the fact that most site improvements have already been completed.

6. Regarding the issue of maintenance of the storm water management facility, the Applicant's engineer noted that the record owners of proposed lots 22.06 and 22.08 would be required as a condition of their deed of conveyance to be responsible for the maintenance of same.

7. No one appeared from the public nor was anyone represented by an attorney to comment upon the Application.

NOW, THEREFORE, BE IT RESOLVED that the Applicant is granted Final Major Subdivision approval in accordance with N.J.S.A. 40:55D-50, subject to the applicant's full and complete compliance with the following conditions, the failure to comply with same resulting in the modification of the approval hereby granted:

1. The Applicant shall fully satisfy all professional fees incurred by the Township of Mansfield in the review of this Application, including the cost of the preparation of this Memorializing Resolution.
2. Until deeds are conveyed to the individual property owners responsible for the detention basin maintenance, the Applicant shall be required to maintain the existing on-site storm water management facilities and the surrounding areas of the development, including debris removal and regular mowing of the lawn areas.
3. The Applicant shall supply the required water testing certifications required in Section 361-54 of the Mansfield Township Code and the Declaration of Covenants and Restrictions shall be filed concurrently with the Final Plat to contain the language set forth in Section 362-19 of the code. That language shall appear as follows:
"Potable water supply for this subdivision may be provided by individual on-lot wells."
Approval of this subdivision is not based on any determination of the adequacy of yield, recovery, rate, or water quality of any well to be placed on any lot. No construction permit shall be issued for the construction of a new residential structure on this property unless the Mansfield Board of Health, acting through its agent, the Warren County Health Department, has certified that either: (a) the structure will be connected to an approved public water system; or (b) a well or wells are located and operating on the lot

which have been tested and provide sufficient yield and recovery rates to satisfy the requirements of Sections 413-5 and 413-6 of the Code of the Township of Mansfield.

4. No Certificate of Occupancy shall be issued for any new residence on this property unless the Mansfield Township Board of Health, acting through its agent, the Warren County Health Department, has certified that the water supplied by the water system servicing the residence has been tested and meets the water quality requirements of Section 413-7 of the Code of the Township of Mansfield. The Applicant shall post a performance guarantee with the Township of Mansfield covering total cost of the remaining improvements which the Board Engineer has determined to be \$313,244.00; in accordance with the Municipal Land Use Law, 120% of the cost of those improvements totaling \$375,892.80. The performance guarantee shall be allocated as the cash portion of 10% or \$37,589.28, and the performance guarantee or surety bond portion for the remaining 90% portion or \$338,303.52. Alternatively, the Applicant may deposit the entire Performance Guarantee with the Township in cash.

5. In the event yield or recovery rates to not meet established standards, multiple wells may be required on a single lot, or the developer may be required to reconfigure the lots as shown on the preliminary plat so that each lot shall have a water system that meets established standards.

6. In the event the water system to be installed on any lot does not provide water which meets established quality standards, the developer or owner may be required to install and maintain water treatment devices in order to assure continued compliance with water quality standards.

7. The form of the performance guarantee shall be reviewed by the Mansfield Township Attorney as to form and sufficiency prior to acceptance by the Mansfield Township Committee.

8. The Applicant shall comply with the comment in the Board Engineer's report of May 13, 2016 by correcting the point and place of beginning of the description for course number 17.

9. Pursuant to Section 360-26C of the Mansfield Township Code, the term of the performance guarantee to be posted with the Township shall be determined by the Township Committee which may, in its discretion, extend the period allotted for completion of all required improvements, which determination shall be done by resolution adopted by the Township Committee.

10. The Applicant shall perfect the final approval hereby granted by the filing of a final map in accordance with the Map Filing Law with the Clerk of the County of Warren within 190 days from the date of the adoption of this Memorializing Resolution. Pursuant to Section 360-26D(2), if the performance guarantee is posted prior to the final map being filed, the Applicant shall execute a Developer's Agreement with the Township of Mansfield as herein referred to. Alternatively, if the Applicant completed all remaining site improvements prior to posting a Performance Guarantee with the Township, no Performance Guarantee shall be required if all improvements have been completed, inspected and approved prior to the filing of the map.

11. Prior to the commencement of construction of the outstanding improvements, the Applicant shall post with the Township of Mansfield the required engineering inspection fees.

12. The existing outlet control structure for the detention basin shall be reinforced or repaired by the Applicant under the auspices of the Mansfield Township Engineer for his concurrence and approval; this undertaking shall be accomplished prior to the issuance of any building permit.

13. As a condition of applying for the building permits, the Applicant shall be under the continuing duty to provide suitable proof of the current payment of all real estate taxes due to the date the application for those permits is filed.

14. The Applicant shall comply with any future report recommendations of either the Board Engineer or the Township Engineer with the understanding that in the event the Applicant determines that it cannot comply with those recommendations, it reserves the right to make further application to this Board for relief or modification therefrom.

15. The Applicant shall continue to comply with all conditions attending the grant of Preliminary Major Subdivision approval for this project which have not as yet been addressed, which conditions are incorporated herein by reference.

16. The Applicant shall enter into a Developer's Agreement with the Township of Mansfield acknowledging its obligation to comply with the terms and conditions of the approval hereby granted, which shall identify its requirement to install all improvements in accordance with the plans hereby approved, to construct each of the homes to be comprised of four to five bedrooms each, each lot to contain two or three car garages, each lot to be served by an on-site well and septic system, and each lot to contain a minimum of three acres with two of the lots, Lots 22.06 and 22.08, containing a portion of the detention basin facility.

17. The Developer's Agreement shall further be executed prior to the issuance of any building permit and the form and content of same shall be subject to the review and approval by both the Land Use Board Attorney and Township Attorney.

18. Prior to conveyance of title to Lots 22.06 and 22.08, the Applicant shall submit a copy of those deeds of conveyance to the Board Attorney for confirmation that the deed restriction for maintenance of the detention basin has been incorporated as a condition of transfer of title for each of those lots.

19. In the event the property owner of either Lot 22.06 or 22.08 fails to maintain the detention basin, the Township of Mansfield may, but shall not be obligated to, enter upon either of those lots and perform any required maintenance thereto; the cost of providing that Township maintenance shall be assessed against that property owner and may be enforced as a lien in the same manner as delinquent real estate taxes.

20. No restoration guarantee shall be required as many of the site improvements have been completed and the site is stabilized.

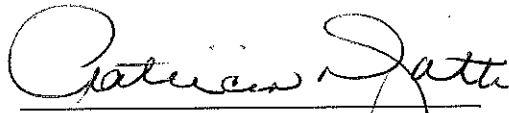
BE IT FURTHER RESOLVED that this approval shall confer upon the Applicant a period of protection for two years pursuant to N.J.S.A.40:55D-52 with the Applicant reserving the right to apply for a further extension of the period of protection for one year but not in total to exceed three one-year extensions.

CERTIFICATION

I HEREBY CERTIFY the foregoing to be a true copy of the Memorializing Resolution duly adopted by the Mansfield Township Land Use Board at its regular meeting held on June 20, 2016, confirming action taken by the Board at its regular meeting held on May 16, 2016, in granting Final Major Subdivision approval for a nine-lot subdivision by a motion and vote as follows:

IN FAVOR: Vaezi, Kocher, Korczukowski, Spender, Farino, Keggan, Cruts, Drazek, Hayes

ABSTAINED: Minter



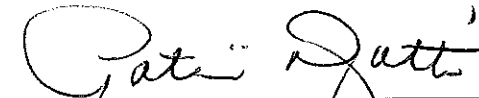
Patricia D. Zotti, Secretary
Mansfield Township Land Use Board

Those voting to adopt form of Memorializing Resolution at June 20, 2016 meeting:

IN FAVOR: Spender, Drazek, Keggan, Cruts, Hayes.

OPPOSED: None.

ABSTAINED: Minter.



Patricia D. Zotti, Secretary
Mansfield Township Land Use Board