

**RESOLUTION OF THE CLAYTON PLANNING BOARD  
GRANTING MINOR SUBDIVISION APPROVAL TO M&M REAL PROPERTY, LLC  
Block 1814, Lot 15  
(110 Earl Ave.)**

**WHEREAS**, Matthew A. Pirollo submitted an application to the Planning Board for minor subdivision approval in his capacity as the sole member of M&M Real Property, LLC (hereinafter referred to as “Applicant”), which is the entity that owns the subject property located at 110 Earl Ave., and also known as Block 1814, Lot 15 on the Borough of Clayton Tax Maps; and

**WHEREAS**, the Planning Board considered the minor subdivision application at the meeting conducted on November 18, 2019; and

**WHEREAS**, the Applicant was represented at the November 18, 2019 meeting by Dale Keith, Esquire; and

**WHEREAS**, the subject property is located at 110 Earl Avenue and known as Block 1814, Lot 15 which is within the R-B Medium High Density Residential District codified within Section 11.C of the Unified Development Ordinance; and

**WHEREAS**, the Applicant is solely seeking minor subdivision approval at the present time to create two (2) additional building lots, wherein applicant proposes to construct two (2) single family residential dwellings, which requires certain bulk variances from the Board.

## SUBJECT APPLICATION

1. Matthew A. Pirollo was sworn in and appeared on behalf of the Applicant/Owner, M&M Real Property, LLC, which is the entity that owns the subject property wherein the testimony provided indicated that the lot was acquired in July 2019.
2. The applicant was represented by Dale Keith, Esq., who provided the Board with an overview of the minor subdivision application submitted by applicant.
3. The following Exhibits were included as part of the record: Application for Minor Subdivision Approval; escrow agreement; tax payment certification; public notice; affidavit of service; completion checklist; Plan of Survey prepared by Mervin H. Chew, P.L.S. dated August 22, 2019; Proposed Minor Subdivision Plan dated September 9, 2019 and revised October 21, 2019; Legal Descriptions prepared by Mervin H. Chew dated September 10, 2019; Review letters from Board Planner, Douglas Akin, P.P. dated October 2, 2019 and November 6, 2019; Review letters from Board Engineer, Stan M. Bitgood, P.E. dated October 8, 2019 and November 8, 2019;
4. The Planning Board determined that the Application was complete and that the Board has jurisdiction to hear the matter after having determined that the Application; Notice to Property Owners; Notice of Publication; and Affidavits were in proper form for applicant to move forward with testimony;
5. The Planning Board has jurisdiction to hear and determine that the application for minor subdivision approval, with the requested bulk variances, was filed in accordance with the provisions of the Borough of Clayton Zoning Ordinance and is appropriate to be heard and that notice of the application to the public and surrounding property owners has been certified by affidavit in accordance with the New Jersey Municipal Land Use Law;

6. The property is located within the R-B Medium High Density Residential District and applicant proposes to subdivide an existing lot with two (2) additional lots, which requires minor subdivision approval from the Board. The property is located at the corner of Earl Avenue and Filbert Street;
7. Testimony by applicant's attorney confirmed that applicant is solely seeking minor subdivision approval at the present time and that any approval granted by the Board would be specifically conditioned upon site plan approval from the Planning Board including the submission of a revised site plan to address, at a minimum, curbing, sidewalk; drainage; building elevations and floor plans; landscaping; any and all design waivers; limits of woodland clearing; buffer areas; soils information; proposed driveways; right of way improvements; drainage easement to neighboring property to preserve current drainage flows; off street parking; and grading;
8. Applicant testified that he attempted to acquire additional property from the adjacent property owner of Block 1814, Lot 14 to make his lot conforming, however, the offer to purchase was denied by such owner, Lee Roy Simpson, as memorialized by Exhibit 1A introduced into the record;
9. Applicant testified that the lot is approximately 42,785.10 s.f. and that the proposed lots on the Subdivision Plan are as follows: Lot 15- 24,339.30 s.f.; Lot 15.01- 9,222.10 s.f.; and Lot 15.02- 9,222.10 s.f.
10. Applicant's attorney testified in support of the requested bulk variances for lot depth and minimum side yard, including the necessity of such variance relief due to the adjacent right of way improvements affecting the subject property specifically with respect to the bulk variances for minimum side yard setback for Lot 15 to permit 3.8' and lot depth to permit 92.48' for both proposed Lots 15.01 and 15.02, respectively, under Section 88-11.C(1)(a)[4];



11. In accordance with the recommendations of the Board Engineer and Board Planner, the Board deemed the application complete;
12. The applicant requires minor subdivision approval and bulk variance relief for side yard setback to permit 3.8' for Lot 15 and lot depth to permit 92.48' for proposed Lots 15.01 and 15.02, respectively;
13. The Board finds that based upon the representations of the applicant and counsel, including the consent of applicant to defer certain areas of concern for the Board upon site plan approval to a later date, the minor subdivision application before the Board, with the requested bulk variances for side yard setback for Lot 15 to permit 3.8' and lot depth to permit 92.48' for Lot 15.01 and 15.02, respectively, is warranted under N.J.S.A. 40:55D-47 and 70(c)(1).
14. The Board concludes that minor subdivision approval, with bulk variances for side yard setback and lot depth is warranted and granted for this application, subject to site plan approval and the satisfaction of the conditions and the recommendations of the Board Planner, Douglas Akin, P.P. within the review letters dated October 2, 2019 and November 6, 2019; and the Review letters from the Board Engineer, Stan M. Bitgood, P.E. dated October 8, 2019 and November 8, 2019, respectively;
15. The Board Professionals shall review and approve the proposed legal descriptions prior to the subdivision deeds being recorded;
16. The Board approval granted herein is further subject to site plan approval granted by the Board, and the completion of the right of way improvements prior to any further transfer of title of the subject property. The right of way improvements shall be dedicated to the Borough and the approval is also conditioned upon the recording of the Subdivision Deeds perfecting the Board's approval for the proposed lots;

17. The approval shall be subject to any legally enforceable affordable housing obligation and/or development fees in accordance with the Borough code;
18. Subject to any and all outside agency approval having jurisdiction of this application.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough of Clayton Planning Board that it does hereby minor subdivision and bulk variance relief for side yard setback and lot depth to applicant as hereinbefore detailed with all prior terms, conditions and requirements remaining in full force and effect; and

**BE IT FURTHER RESOLVED**, that this approval is specifically contingent upon site plan approval from the Board; and

**BE IT FURTHER RESOLVED**, this Resolution was approved by the Borough of Clayton Planning Board by a 7 Yes vote to 0 No vote.

**THIS RESOLUTION DULY ADOPTED** at a regular meeting of the Clayton Planning Board held on Monday, December 16, 2019.

**Borough of Clayton Planning Board**

  
**By: Joseph Abate, Chairman**

**Attest:**

  
**Debbie Schlosser, Secretary**