

**RESOLUTION NO. 2016-003 OF THE
BOROUGH OF MANTOLOKING JOINT PLANNING BOARD – BOARD OF
ADJUSTMENT**

WHEREAS, *JOHN AND JANET PEARCE*, whose mailing address is 18 Red Gate Road, Morristown, New Jersey 07960, has applied to the Borough of Mantoloking Joint Planning Board – Board of Adjustment for variance relief affecting premises located at 908 East Avenue, Mantoloking, New Jersey 08738, also known as Lot 5, Block 11, as designated on the Tax Map of said Municipality; and

WHEREAS, such proof of service as may be required by New Jersey Statutory and Municipal Ordinance requirements upon appropriate property owners and Governmental bodies has been furnished; and

WHEREAS, public hearings were held on the said application on May 5, 2016, June 2, 2016 and August 4, 2016 in the Municipal Building (Fire House – temporarily) of said Municipality and testimony and exhibits were presented on behalf of the Applicant and all interested parties having been heard; and

WHEREAS, the said Board, having considered said application, testimony, exhibits submitted, and from its inspection of the site, it makes the following determinations:

1. The tract in question has an area of 6,567 square feet.
2. The tract in question is located in the R6B Zone.
3. The Applicant is seeking variance relief approval to rebuild/renovate a single family residential dwelling and detached accessory structure/carriage house. Variance relief is required for the following, to wit:

- 1) § 30-6.11 b (1) Use of Accessory Structure for habitation.
- 2) § 30-6.11 b (1) Sanitary facilities (toilet/urinal) in accessory structure.
- 3) § 30-6.2 b & § 30-6.10 c Minimum required front yard setback for principal building.

- 4) § 30-6.2 b & § 30-6.9 Minimum required side yard setback for principal building.
- 5) § 30-6.2 b & § 30-6.9 Minimum required rear yard setback for principal building.
- 6) § 30-6.9 Minimum required setback for stairs.
- 7) § 30.4.9 e At-grade deck in the minimum required side yard setback.
- 8) § 30-4.7 b Balcony above the second habitable floor.
- 9) § 30-6.2 b Maximum permitted lot coverage.
- 10) § 30-6.2 b & § 30-6.9 Minimum required side yard setback for accessory structure.
- 11) § 30-6.2 b & § 30-6.9 Minimum required rear yard setback for accessory structure
- 12) § 30-6.11 a (1) & § 30-6.11 b (4) Maximum permitted height for an accessory structure.
- 13) §30-6.2 b Maximum permitted ratio for the Second Habitable Floor to the First Habitable Floor.
- 14) § 30-6.2 b Maximum permitted size of the half-story.
- 15) § 30-6.2 b Maximum permitted number of habitable floors/stories.

4. The Applicant submitted the following in support of the Application:

- An Application dated March 11, 2016.
- Tax Certification dated March 29, 2016 indicating that all taxes are current.
- Certified List of Property Owners located within 200 feet of the property dated March 31, 2016.
- Survey, prepared by Lindstrom, Diessner & Carr, PC; dated April 9, 2015 and revised May 6, 2016.
- Plans prepared by Lindstrom, Diessner & Carr, PC, dated May 13, 2015 and revised June 2016.
- Legal Notice to Property Owners prepared by William Gage, Esquire dated April 21, 2016.
- Architectural Plans prepared by Arturo Palombo Architecture dated March 6, 2016 and revised July 27, 2016.

- Floor Area Calculations prepared by Arturo Palombo Architecture dated June 13, 2016
- Exhibit A1 – Pre-construction photograph of southern elevation/proposed southern elevation.
- Exhibit A2 – “Pearce Residence Comparison: June versus August – Presentation Spreadsheet”.
- Exhibit A3 – Revised Architectural dated August 2, 2016 clarifying existing slab and proposed crawlspace.
- Exhibit A4 - Photograph – 906 East Avenue
- Exhibit A5 – Photograph - 912 East Avenue
- Exhibit B1 – Chronology document
- Exhibit B2 – 6/1/16 Certificate of Completeness – Third Letter.
- Exhibit B3 – 6/1/16 Review Letter.
- Exhibit B4 – 8/3/16 Review Letter.

May 5, 2016 Hearing

5. Arturo Palombo, R.A. testified on behalf of the application as follows, to wit:
- A) He reviewed with the Board the detail on the construction architectural showing a three-inch, non-structural flare on the siding.
 - B) He confirmed same is aesthetic in nature and is non-structural as it relates to the construction of the home.
 - C) Based upon the testimony and plan submitted, the Board determined that the proposed architectural flare (three-inch) was ornamental in nature and not a structural

element of the home; Therefore, the encroachment of the flare into the minimum side yard setback created no additional variance relief required as relates to the flare.

D) In reference to the plot plan submitted, he testified regarding the grade level walkway/patio at the rear of the dwelling. The Board determined based upon the testimony and plan submitted that the proposed at grade walkway/patio at the rear of the single family dwelling did in fact meet the definition of an at grade deck as set forth in the Mantoloking Zoning Ordinance and as such variance relief is required.

E) Making reference to the architectural plan submitted, he testified as to the proposed renovated/repared detached accessory structure/carriage house. He noted that the height of the structure and roof line are identical to that which previously existed.

F) He testified that the footprint of the detached accessory structure/carriage house remains identical to that which has always existed on site. He testified that the renovation provides for a reorganization of the layout of the structure, specifically noting that the mechanicals which were originally on the first floor garage level are now elevated to meet FEMA requirements.

G) He noted that the design also has been modified to improve aesthetics which include a bi-fold – garage style door at the front of the structure, French door on the side of the structure and the addition of a knee wall and flooring under the overhang of the existing second floor.

H) Applicant volunteered as a condition of any approval that the first floor of the detached accessory structure/carriage house shall remain for storage only and any

habitation/residential use of the first floor beyond storage only purpose shall be prohibited and deemed an expansion of a non-conforming use.

I) Applicant proposed to continue the prior non-conforming use of the second floor for residential purposes with bathroom facilities as set forth in the architectural plan submitted.

J) The Board determined based upon the testimony and plan submitted that the proposed repair/renovation of the detached accessory structure did not constitute an expansion of a non-conforming use/structure requiring relief per N.J.S.A. 40:55D-70(d).

June 2, 2016 Hearing

6. Barbara Wooley-Dillon, P.P., testified as follows, to wit:

A) She is the Borough Zoning Official/Land Use Administrator and as such is fully familiar with the subject property and pending application.

B) She entered as Exhibit B1 a document that she prepared entitled “Chronology of Events – 908 East Avenue (Block 11, Lot 5) since Superstorm Sandy”.

C) She described with specificity the contents set forth in Exhibit B1 as related to the activities on the subject property from May 28, 2015 through May 10, 2016. These activities included the issuance and revocation by the Borough of prior zoning permits; stop work orders issued relating to the amount of demolition to the existing home that exceeded partial destruction; the filing of the subject zoning application and construction activities/notices of violation associated with same.

D) She entered as Exhibit B2 correspondence that she authored dated 6/1/16 entitled “Certificate of Completeness – Third Letter” which in pertinent part details variance

relief required as well as existing non-conforming conditions that will not be modified by the proposed development. She also pointed out as set forth in Exhibit B2 certain areas of clarification and recalculation that are required prior to the Board's ultimate decision making on the application.

E) She entered as Exhibit B3 her Memorandum dated 6/1/16 entitled "Second Review Letter". The overall content identified in said report includes background for the subject property and application, zoning table for the subject application, a completeness review determination, variances required and comments regarding same.

7. Arturo Palombo, R.A., testified on behalf of the application as follows, to wit:

A) He was retained by the applicants as their professional registered architect to prepare plans to restore and renovate the existing structures on site that were damaged by Superstorm Sandy. He testified that both structures sustained damage but were not destroyed by the storm.

B) Applicant chose to elevate the main house on the subject property to improve safety and prevent damage from any future storms.

C) He testified that the proposed renovations to the main single family residential home on site is within the same footprint of the existing structure. He testified that the front staircase was modified to accommodate the ingress/egress to the elevated home and the rear stairs were modified to meet current building code.

D) He submitted as Exhibit A1 a series of two (2) photos, the first of which shows the exterior southern elevation of the main house on site pre-construction; while the second photo shows the same exterior southern elevation of the proposed home to be constructed.

The comparison of the two photos shows the changes in the second and third levels as well as overall height of the structure of the main house as previously existing and as proposed.

E) He testified that the roof pitch proposed for the subject property is 6/12 and this is identified on Page VA-3.0 of the architectural plans submitted. He confirmed that no variance is required as said construction shall comply with the required 6/12 roof pitch for the subject property.

He testified as to the change in the second floor plan proposed which significantly increases the enclosed livable space on the second floor by enclosing what was previously an open air deck/porch at the front of the structure and squaring off what were two cutouts at the rear of the structure.

F) He testified that the enclosed livable space on the first floor of the prior structure and that proposed are identical. He testified that the prior structure contained approximately 932 s.f. of enclosed livable space on the second floor whereas the proposed structure provides for approximately 1,446 s.f.

G) He also testified as to the proposed third level livable space as set forth on the architectural plans submitted which he indicated provided for approximately 542 s.f. whereas the prior structure contained no third level livable space.

H) Because many of these calculations requested by the Board were approximations, it was ultimately agreed that the architect would review/revise the architectural plans to provide specific calculations as to the previously existing main house as compared to the proposed main house.

8. Charles Lindstrom, P.E., P.P., testified on behalf of the application as follows, to wit:

A) He was engaged by the applicant to perform the required engineering/surveying work in creation of the plot plan that was submitted to the Board on behalf of the application. As such he is fully familiar with the subject application and the property and surrounding neighborhood.

B) He testified that the proposed main house as well as renovations to the carriage house are significant improvements to the aesthetics at the site from that which previously existed.

C) He testified that the proposed application provides for a safer condition on site as the main house has been elevated to make it fully flood compliant which is a benefit not only to the subject property but to the surrounding properties.

D) He opined that there is no negative impact to the surrounding properties and the existing development consisting of the front main house and rear garage/carriage house has existed at this subject property without problem for decades. The proposed renovations/improvements will only improve the overall aesthetics and design of the site. He noted that by eliminating some paver areas and concrete walks, the proposed application has actually reduced coverage on site. He acknowledged that while the applicant could build a fully conforming home on the subject property, he opined that the proposed development plan is a better zoning alternative due to the unusual shape of the subject lot. The historical design/use of the subject lot for a front main house and rear detached accessory garage/carriage house is a better alternative than

designing a large narrow home to avoid variances when said home is out of character with the neighborhood.

9. Following the close of the hearing and Board discussion/deliberation, applicant requested a re-opening and continuance of the hearing to allow the applicant to revise their plans and provide the Board with additional information/calculations for the Board's consideration prior to a vote on the application. The Board granted that request.

August 4, 2016 Hearing

10. Arturo Palombo, R.A., testified on behalf of the application as follows, to wit:

A) He entered as Exhibit A2 a document that he authored entitled "Pearce Residence Comparison: June versus August". The exhibit details the specific changes he made to the plans following the June meeting and in preparation for the August meeting before the Board. Those changes included the following:

- Elimination of the roof overhang on the carriage house.
- Reduction in the size/width of the rear stair to match the size of the original staircase.
- Reduction of the size of the shower to match the size of the original outdoor shower.
- Reduction of the size of the livable space on the second floor by a total of 96 s.f.
- Reduction of the size of the third level/habitable attic floor by 32 s.f.

B) He testified as depicted on Exhibit A2 that the revised architectural plan submitted for the August hearing reflects that the proposed first floor of the main house has been increased from 1,146 to 1,467 s.f. by the enclosure of the open air porch. The proposed second floor of the main house has been reduced in size from 1,446 s.f. to 1,350 s.f. And the third floor/habitable attic has been reduced from 476 s.f. to 444 s.f.

C) He volunteered as a condition to modify the architectural plans to eliminate the overhang on the carriage house above the first floor French doors.

He entered as Exhibit A3 a revised architectural sheet dated 6/20/16 (last revision date 8/2/16 – Crawlspace) which depicts the accurate condition on site as relates to the slab and crawlspace. He volunteered as a condition that this revision shall be included in the final architectural plans submitted making it clear that there shall be no basement/cellar in the subject property; solely the crawlspace as depicted on Exhibit A3.

D) He entered as Exhibit A4 a photograph of 906 East Avenue, the home to the north of the subject property, which depicts a first level open air front porch with enclosed second level habitable space. The second floor is in excess of the first floor enclosed habitable space.

E) He entered as Exhibit A5 a photo of the home at 912 East Avenue, to the south of the subject property, which depicts a first level screened porch and an enclosed second level of habitable space in excess of that on the first level.

F) In response to questioning, he clarified that the previously existing main house on site provided for a first floor enclosed square footage of 1,078 s.f. (without laundry room) and 981 s.f. on the second floor for a 91% ratio. He noted that the existing structure had no third level, habitable attic livable space.

11. Charles Lindstrom, P.E., P.P., testified on behalf of the application as follows, to wit:

A) He testified as to the changes made to the plans in advance of the August hearing pointing out their location on the plot plan submitted.

B) He reiterated the volunteered condition that the plans would be revised to remove from the plan the proposed overhang on the carriage house above the first floor French doors.

C) He acknowledged that while applicant could build a home fully compliant with the Zoning Ordinance on the subject property, the proposed plan is a better zoning alternative. He noted that the proposed layout is consistent with the historical use and design of the site.

D) He testified that the proposed plan provides for increased safety and improved aesthetics at the site through a good architectural design.

E) He testified that the revisions made to the plan that were originally proposed at the June hearing and revised for the August hearing further reduce and mitigate the extent of the variance relief required at the site.

F) He testified that the proposed design provides no detriment to the surrounding properties and to the contrary are an improvement as to safety and aesthetics. He further noted that the architectural design of the structures as proposed are in keeping with the nature of single family residential development in the Borough.

G) He noted that the third floor/habitable attic balcony is primarily inset, extending only one foot beyond the front façade of the structure.

12. Barbara Wooley-Dillon, P.P., testified on behalf of the Board as follows, to wit:

A) She entered as Exhibit B4, a document authored by her entitled "Third Review Letter dated August 3, 2016" which sets forth her updated comments regarding the application as revised by the applicant in advance of the August hearing.

B) The report and her testimony detailed the variance relief required including that which were existing conditions by the previous structures on site as well as those variances that were reduced/eliminated, and those that have been exacerbated by the proposed plan submitted.

13. John Pearce, applicant, testified before the Board, addressing the Board as to the applicant's sincere efforts to rebuild/renovate after Superstorm Sandy and to ultimately improve the appearance, safety and functionality of the site for his family.

14. Persons appeared in favor of the application while no members of the public testified in opposition to the application.

15. The Board makes the following findings/conclusions of law:

A) The Board determines that the Applicant has met the requirements of N.J.S.A. 40:55D-70(c)(2) for the variance relief requested based on the following findings:

1) The need to renovate the main home and detached accessory carriage house on site was precipitated by damage incurred in Super Storm Sandy.

2) The Storm inflicted partial destruction; however through the error of applicant's contractor, demolition constituting greater than partial destruction occurred, thereby requiring variance relief to reconstruct within the footprint of the main home previously on site.

3) The proposed Application advances purposes of zoning as defined in N.J.S.A. 40:55D-2(a)(b)(c) and (i). Those benefits outweigh any detriment by deviation from the strict Application of the zoning ordinance.

- 4) The architectural design of the main house and carriage house includes custom features that improve the aesthetics at the site.
- 5) The proposed development as designed in the plot plan submitted provides for adequate light, air and open space on the site and for the surrounding properties.
- 6) The proposed development plan has slightly reduced overall coverage on site.
- 7) Applicant has made certain plan revisions designed to mitigate the extensive number of variances required for the lot (the majority of which existed prior to the storm).
- 8) The elevation of the main house improves overall safety from flood and is a benefit not only to the subject property but to the surrounding properties as well.
- 9) The historical design/use of the subject property included a front main house and detached accessory garage/carriage house and the redevelopment in similar fashion is in character with neighborhood; redeveloping the irregular shaped lot to achieve full ordinance compliance could lead to a design that is less in character with type and size of homes in the area.
- 10) The Board takes note that no persons appeared in opposition to the application at any of the three hearings on the application.
- 11) The variance relief requested creates no significant detrimental impact to the public good, nor does it impair the intent or purpose of the zone plan.

NOW THEREFORE, BE IT RESOLVED, by the Borough of Mantoloking Joint Planning Board – Board of Adjustment, in the County of Ocean and State of New Jersey, on the 1st day of September, 2016 that the Application for *JOHN AND JANET PEARCE*, be granted, subject to the following terms and conditions:

1. The applicant shall comply with all representations made before the Planning Board, by the applicant and/or its attorney and its expert(s). In the event that the resolution does not embody any stipulations that were made by the applicant or its witnesses and/or experts during the hearing or by the board in approving the motion, those stipulations shall nevertheless be applicable. It shall be the responsibility of the applicant to comply with all stipulations and conditions made at the hearing.

2. Applicant shall obtain all approvals required by any federal, state, county or municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Borough of Mantoloking for approval of that change. Applicant shall obtain any and all other approvals required by this proposal including but not limited to, appropriate building permits.

3. All materials, methods of construction and details shall be in conformance with the current engineering and building requirements of the Borough of Mantoloking, which are on file in the office of the borough engineer.

4. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant

5. The applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in accordance with the Ordinance.

6. The first floor of the detached accessory structure/carriage house shall be used solely for storage purposes only. Any use of the first floor for habitation or residential use beyond storage shall be prohibited and deemed an illegal expansion of a non-conforming use.

7. The architectural plans shall be revised to eliminate any overhang above the first floor French doors on the detached accessory structure/carriage house.

8. There shall be no basement/cellar allowed. The crawlspace for the main house shall be as identified on Exhibit A3.

ROLL CALL VOTE (8/4/16)

MOVED BY: Stan Witkowski

SECONDED BY: Susan Laymon

THOSE IN FAVOR: Robert McIntyre, Courtney Bixby, Jane White, Betsy Nelson

THOSE OPPOSED: Steve Gillingham, Stan Witkowski, Michael Duggan

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded by the Zoning Board Secretary, to the Applicant's Attorney, the Mantoloking Joint Planning Board – Board of Adjustment and the Affidavit of Publication be provided to the Planning Board Clerk.

ADOPTED, on this 1st day of September, 2016.

VOTE TO ADOPT: September 1, 2016

MOVED BY: Robert McIntyre

SECONDED BY: Courtney Bixby

THOSE IN FAVOR: Robert McIntyre, Courtney Bixby, Jane White, Betsy Nelson

THOSE OPPOSED:

CERTIFICATION

I hereby certify that I, the undersigned, am the secretary of the Joint Planning Board – Board of Adjustment of the Borough of Mantoloking, County of Ocean, State of New Jersey and I hereby certify that the foregoing Resolution was adopted by the Planning Board of Mantoloking at a regular meeting held on 1st day of September, 2016.

Secretary
Mantoloking Joint Planning Board
Board of Adjustment