

**RESOLUTION NO. 2018-002 OF THE
BOROUGH OF MANTOLOKING JOINT PLANNING BOARD –
ZONING BOARD OF ADJUSTMENT**

WHEREAS, Hildegard H. Zimmer Personal Residence Trust, whose mailing address is 22 Highland Avenue, Long Valley, New Jersey 07853, has applied to the Borough of Mantoloking Joint Planning Board – Board of Adjustment for variance relief affecting premises located at 1099 Ocean Avenue, Mantoloking, New Jersey 08738, also known as Lots 40 and 40.01, Block 23 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, a public hearing was held on the said application on June 7, 2018 in the Municipal Building 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 18,056 square feet.
2. The tract in question is located in the R-3B Zone.
3. The Applicant is seeking to construct a new single family residential dwelling on the site to replace a home that was previously damaged in Super Storm Sandy (since demolished/removed). The plans submitted require variance relief as follows:

- Minimum required front yard setback (dwelling/deck) where 86.5 feet is required to the dwelling and 70 feet is required to the deck and the proposed application provides for 73.7 feet to the dwelling and 60 feet to the deck.
4. The Applicant submitted the following in support of the application:
- Application dated December 28, 2017.
 - Portion of Deed listing covenants and restrictions (pages 212-214); portion of Deed relating to the “Declaration of Reaffirmation of Neighborhood Scheme and Additional Restriction” dated December 3, 1981 Ocean County Deed Book 4034, Pages 220 and 226; Deed of Easement for Construction of Protective Revetment, dated April 17, 2013, Deed Book 15777, Pages 6-8; and a Deed of Dedication and Perpetual Storm Damage Reduction Easement dated April 29, 2013, Deed Book 15849, Pages 425-429.
 - Tax Certification dated January 12, 2018 indicating that all property taxes for this property are current as of that date.
 - Certified List of Property Owners located within 200 feet of the property dated January 22, 2018.
 - Boundary and Topographic Survey prepared by Lindstrom, Diessner & Carr, P.C., dated February 24, 2017 last revised through September 14, 2017. (1Sheet)
 - Plot Plan prepared by Lindstrom, Diessner & Carr, P.C., dated September 18, 2017, last revised through March 27, 2018. (2 Sheets)
 - Architectural Plans prepared by Melillo Architecture, dated December 19, 2017, and last revised through April 5, 2018. (8 Sheets)
 - Exhibit A1 – Color-coded Plot Plan, entitled “Proposed Plan.”

- Exhibit A2 – Color-coded Plot Plan, entitled “Alternate Plan.”
- Exhibit A3 – Photograph of single family home on the property to the immediate north of the subject property (Kirsch property – Lot 39).
- Exhibit A4 – Photograph of single family residential home on property immediate to the south of the subject property (Connelly property – Lot 41).

5. Frank Zimmer, testified on behalf of the application as follows, to wit:

- A. He is the trustee of the Hildegard H. Zimmer Personal Residence Trust and as such is fully familiar with the subject property and surrounding neighborhood.
- B. The trust is the owner of the subject property.
- C. He and his family purchased the property in 1983 for use as a summer vacation home, then he and his wife moved there in 1992 as full time residents.
- D. The home was substantially destroyed during Super Storm Sandy and eventually razed and removed from the site. The site is currently a vacant lot.
- E. He testified that prior to the storm, the existing single family home was further eastward (closer to the ocean) than the application proposal by 14 feet.
- F. The intent of the application is to rebuild an attractive single family home that locationally is in line with the adjacent properties so as to maintain the subject property’s view of the ocean while not impeding anyone else’s view.
- G. The proposal also provides for adequate off-street parking.

6. Michael Melillo, R.A., testified on behalf of the application as follows, to wit:

- A. He is a registered architect licensed to practice in the State of New Jersey and prepared the architectural plans submitted in support of the application.

- B. As depicted on the plans submitted, the home designed is approximately 4,900 square feet, contains 6 bedrooms and 6 and ½ baths.
- C. Other than the minimum front set-back variance required as set forth above, the proposed home designed meets all other bulk requirements of the zoning ordinance.
- D. The design as depicted on the plans submitted is a luxury coastal oceanfront home with the types of upscale architectural features and open-air porches common to the Mantoloking oceanfront.
- E. He opined that the proposed home as designed is an aesthetic improvement to the area and will be a benefit to the neighboring properties.
- F. He testified that the home is adequately elevated so as to meet FEMA guidelines and he noted that the proposed plan has been submitted and approved by the NJ DEP who has issued a CAFRA permit for the project.

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

- A. He testified that he is the project engineer and planner, and as such is fully familiar with the subject property, the proposed plans, and the surrounding neighborhood.
- B. He noted that the subject property is located in the R-3B Zone in which single family residential homes are a permitted use.
- C. He testified that the lot size of the subject property is 18,056 square feet which complies with the zone requirement (15,000 square feet).
- D. He testified that the home that was damaged in Super Storm Sandy and subsequently demolished and removed was significantly further eastward than the

proposal. The former home provided for a 58.6 foot front set-back whereas the proposed application provides for 73.7 feet to the dwelling and 60 feet to the open deck.

- E. He presented as Exhibit A1, a color-coded plot plan, which identifies the location of the proposed home and decks with same being directly in line with the two adjoining oceanfront properties. He opined that maintaining that consistency of house/deck line on the oceanfront is important not only for aesthetics, but to maintain oceanfront views for all while minimizing any negative impact from shade cast by homes that would not be constructed in line with the adjoining properties.
- F. He entered as Exhibit A2, a color-coded plot plan that showed where the proposed home would be located if the applicant fully complied with the minimum front set-back requirement to the dwelling. Said exhibit depicted how out of line the home would be with its two adjoining oceanfront neighbors which would significantly and detrimentally impact the applicant in terms of enjoyment of the ocean view. It would also cause a detrimental impact to all three properties, depending on the time of day, as relates to shade cast on the homes by their adjoining neighbors.
- G. He also noted that the "Compliant Alternate Plan" would shorten the driveway and parking area which would reduce overall off-street parking available to the site which would be a detriment to not only the applicant, but to the surrounding properties to the extent additional on-street parking was utilized.

- H. He testified that applicant has submitted and received approval by NJ DEP for its CAFRA permit for the project.
 - I. He testified that the width of the driveway proposed is approximately 20 feet wide and 120 feet long. It is proposed to be a gravel driveway so as to achieve/maintain full compliance with coverage requirements. He noted that the width of the parking area between the front staircase and retaining wall is approximately 28 feet wide, providing for adequate area for additional off-street parking.
 - J. He testified that it was his opinion that the proposed application meets the criteria for the variance relief required under both a (c1) and (c2) criteria and that the proposed application provides for adequate light, air, and open space; is an aesthetic improvement to the site and the surrounding properties; provides for adequate off-street parking through good civic design; provides for safety on the site through new construction in compliance with all FEMA guidelines; and is architecturally consistent with the types of oceanfront homes in the neighborhood, both as to design and size.
8. Persons appeared in favor of the application; while no persons appeared in opposition to the application.
 9. 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)(1) and (c)(2) for the variance relief requested based upon the following:
 - The existing single family home on the site was previously damaged during Superstorm Sandy and subsequently demolished/removed; the applicant

seeks to construct a new single family home on this oceanfront lot fully compliant to current FEMA standards.

- The plans submitted meets all bulk requirements of the zone with the exception of minimum front set-back (dwelling and deck).
- The home that was demolished/removed previously provided a 58.6 foot front set-back, whereas, the proposed home provides for a 73.7 foot front set-back to the dwelling and a 60 foot set-back to the deck. As such, despite non-compliance with the requirement (86.5 to dwelling/70 to deck), the home has been materially moved westward from its previously existing condition.
- The home, as designed and located, is in line with its two adjoining oceanfront homes, which maintains continuity along the oceanfront, while maximizing oceanfront views and minimizing any negative impact of home locations through shading on the adjoining properties. This is a benefit to all three owners.
- The Board notes that no neighbors appeared in opposition to the proposed application.
- The architectural design of the proposed home has incorporated numerous architectural features to provide not only an aesthetic design, but to minimize the visual mass of this home. The architectural design presented is in keeping with the character of the upscale coastal design of the oceanfront properties in the immediate neighborhood.

- The proposed development as designed in the plot plan and architectural plan submitted provides for adequate light, air, and open space on the site and for the surrounding properties.
- The proposed development as designed provides for adequate off-street parking.
- 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 the deviation from the strict application of the zoning ordinance for minimum front set-back (dwelling/deck).
- The variance relief requested creates no significant detrimental impact to the public good.
- The variance relief requested creates no significant impairment to 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 7th day of June 2018, that the application be granted, subject to the following terms and conditions:

1. Applicant should obtain any other approvals with respect to the submission from any other Federal, County, State or Municipal Agency having jurisdiction over same.

2. Applicant should re-submit this entire proposal should there be any deviation from this Resolution or the submitted documents which are hereby made a part hereof and shall be binding on the applicant.
3. Applicant shall construct at applicant's sole cost and expense all improvements reflected on the submitted documents or required by this Resolution.
4. The Applicant shall comply with all representations and agreements made by the applicant or the applicant's representative during the consideration of this Application.
5. The Applicant shall comply with all of representations and agreements made by the Applicant or Applicant's representative(s) during the consideration of this Application.
6. The Applicant shall comply with all conditions specified in this Resolution.
7. The Applicant shall provide a statement from the Borough Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
8. A statement must be furnished by the Borough Engineer indicating that all required improvements on the site have been approved, or in the alternative, a cash bond and performance guarantee have been posted with the Borough Clerk in an amount sufficient to insure the completion of all required improvements. The amount of cash bond and performance guarantee is to be determined by the Borough Engineer. The performance guarantee is to be updated at six-month intervals at the discretion of the Borough Engineer.

9. The depositing of a cash bond and performance guarantee shall not operate to discharge or release the Applicant from the obligation and responsibility to cause required improvements to be installed and maintained as required by an applicable ordinance or other law. In the event that Applicant desires to be released or otherwise transfer obligations and responsibilities to another party under the terms of the guarantee posted with the Borough, the Applicant shall make Application to the Borough Council seeking this permission.
10. An essential and non-severable condition of approval is compliance with the Borough's Affordable Housing and Growth Share Ordinance as applicable.

Moved by: Steve Gillingham

Seconded by: Susan Laymon

ROLL CALL VOTE

Those in Favor: Robert McIntyre, Steve Gillingham, Susan Laymon, Denise Boughton, Jane White, Joseph Daly, Beth Nelson, Christine Beck, John Wesson

Those Opposed: NA

Those Absent: Mayor George Nebel, Betsy Nelson

Those Not Voting:

The foregoing is a true copy of a Resolution adopted by said Board at its meeting on July 19, 2018, as copied from the Minutes of said Meeting.


SECRETARY OF THE BOARD

DATED: July 19, 2018