

RESOLUTION

WHEREAS, pursuant to N.J.S. 40:55D-70.1:

The Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by Resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Board of Adjustment shall send copies of the report and Resolution to the governing body and Planning Board; and

WHEREAS, the purpose of the Statute is to bring to the attention of the Mayor and Mantoloking Council particular provisions of the zoning ordinance that were heard and considered on matters of zoning and planning before the Board over the past year.

WHEREAS, the Planning Board of the Borough of Mantoloking heard the following applications and appeals in the calendar year 2007.

2007

(a) Barrett (John C. and Anya) Resolution of November 1, 2007; Block 20, Lot 4, 939 South Lagoon Lane, R4A Zone.

Application. To permit the expansion of an existing nonconforming structure in a nonconforming manner in violation of Chap. XXX, Sect. 30-6.5.a.2 and Appendix B Bulk Standards.

To permit a 4.93' deviation from the 10 foot (10') principal structure side yard requirement of Chap. XXX, Sect. 30-6.10.a and Appendix B.

To permit a 9.16 foot (9.16') deviation from the twenty-five foot (25') rear yard requirement of Chap. XXX, Sect. 30-6.10.a and Appendix B.

Result. The above variances were approved in that the Board felt the proposal was a better alternative than a more extensive addition to the rear of the house which would include a larger footprint and a more intrusive and intense use of the property.

(b) Cunningham (John J. Jr.), Resolution April 5, 2007; Block 17, Lot 16, 225 Channel Lane, R4A Zone.

Application. To permit a deviation from Article VI, Section 6-12A and B and Appendix B Bulk Standards (now Chap. XXX, Sect. 30-6.12.a and 30-6.12.b) from the permitted maximum height of 32.5 feet. The Applicant desired to construct three (3) turrets two (2) of which would be 35.25' in height and one (1) which would be 34.0' in height.

Result. The variances were approved in that the height desired was only for the turrets, was consistent with the house directly northeast, would not obstruct light, air and open space and only one of the larger turrets faces the street the other two being on the front elevation. There was also consideration given to the fact that the Applicant when he previously subdivided the property could have obtained an additional two (2) lots but elected not to do so.

(c) Hartzband, (Mark and Lisa) Resolution of May 3, 2007; Block 26, Lot 5, 1217 Ocean Avenue, R1Zone.

Application. To permit a deviation from the front yard setback of any new or altered building to be less than the average front yard setback of existing buildings on lots of similar depth within 200 feet as provided by Article VI, Section 6.10C and Appendix B (now Chap. XXX, Sect. 30-6.10e and Appendix B). In this case the front yard (Ocean) setback is 60' and the Applicant had an existing 12' setback and the existing average front yard setback from the scarp line is approximately seven feet (7'). The Applicant did not propose any change in the 12' existing front yard setback.

To permit a second floor habitable area to first floor footprint area ratio of 2108 square feet based on 80% and proposing 128% or 3,377 square feet.

To permit a three story dwelling where Article VI, Section 6.12B (now Chap. XXX, Sect. 30.6.12.b) and Appendix B only permits a 2.5 story dwelling.

To permit a structure to be constructed within a setback area in violation of Article VI, Sections 6.10A and 6.10B (now Chap. XXX, Sect. 30-6.10.a and 30-6.10.b).

To permit a total lot coverage of 6,120 square feet where 5,260 square feet is permitted by Article VI, Section 6.8A and Appendix B (now Chap. XXX, Sect. 30-6.8.a and Appendix B).

Result. The Board granted the variances for several reasons including the fact that the removal of the existing detached garage and shed to be replaced by a new attached garage with an enclosed entry to the second floor living area was an aesthetic and beneficial replacement, that the expansion was all to the westward part of the property and would not increase the present nonconforming front east setback from the

scarp line of 12', that the increase in the volume and footprint of the proposed third floor living area was minimal, that the Applicant was permitted to have a height of 40' and proposed a lesser height of 38.47', that the Applicant will install improvements to enhance the safety and withstand severe hurricane events and to bring it into the wind and water velocity guidelines of FEMA and that the existing house is considered an "upside down" house in that the ground floor is considered the first floor, the second floor containing the main living space would normally be considered the first floor and the third floor would normally be considered a second floor.

The Board did, however, continue to express its concern for the permission to have third floor living space, but included that this Application had sufficient and proper reasons for granting same.

(d) Lattanzio/Watt (Dale and Bevan) Resolution of August 16, 2007; Block 5, Lots 7 and 7.01, 1013 East Avenue, R3C Zone.

Application. To permit a deviation to exceed the maximum height of a roof to be 37.33 feet where 35 feet (35') is permitted by Article VI, Section 6.12A and B and Appendix B (now Chap. XXX, Sect. 30-6.12.a and 30-6.12.b and Appendix B).

To permit a deviation to permit the construction of an entry porch in the front yard setback where Article VI, Section 6.9 (now Chap. XXX, Sect. 30-6.9) does not permit such construction of more than 100 square feet and to construct a deck above 8" in violation of Article IV, Section 4.9.E (now Chap. XXX, Sect. 30-4.9.e).

Result. The variances were granted by the Board in that the new house to be constructed reduces the height of the house that is to be razed thus reducing the previous nonconformity, that the new house to be constructed will fully meet the required 60' front yard setback from the scarp line thus eliminating the 10' existing nonconformity and that the inclusion of the entry porch and the deck are minimal deviations from the requirements.

(e) Monaco (Anthony and Maureen) Resolution of June 7, 2007; Block 24, Lot 54, 1125 Barnegat Lane, R4A Zone.

Application. To deviate from Article VI, Section 4.10A (now Chap. XXX, Sect. 30-4.10.a where the top of the side walls of a finished pool shall not be higher than 12" above the existing preconstruction grade or first floor elevation, whichever is lower and the Applicant proposes tops that are 3.75", 9.37" and 10.75" at various cross sections.

Result. Two public meetings (April 5, 2007 and May 3, 2007) were held for this Application. The relief requested by the Applicant was denied primarily based on the fact that despite the warnings of the Zoning Officer (Mr. Guldin) to not pour the concrete the contractor did so. Mr. Guldin warned the contractor that he felt the height of

forms for the sides of the pool would violate the Ordinance and the pool contractor ignored the warnings.

(f) **Murphy (George and Roberta).** Resolution dated July 12, 2007, Block 40, Lot 3, 1015 Ocean Avenue, R2A Zone.

Application. To permit a deviation from Article 6, Section 6.10C and Appendix B, Bulk Standards, Note 3 (now Chap. XXX, Sect. 30-6.10.c and Appendix B).

To permit the Applicant to build within a front yard setback which is less than the average front yard setback of the existing buildings of similar depth on the same frontage within 200 feet where said average is 106.37 feet and the Applicant proposed a front yard setback from Runyon Lane of 84.77 necessitating variance of 21.60 feet.

To permit vertical expansion in a front yard setback and a structure which is presently nonconforming which expansion would be for a proposed second floor deck addition on the south side of the property of 16.04 feet and the existing one story on slab is proposed to be expanded to a second story on the south side of the property to 4.04 feet of the property line, both of which would be in violation of Article 6, Section 6.10A and 6.10B and Appendix B (now Chap. XXX, Sect. 30-6.10.a and 6.10.b and Appendix B).

Results. The variances were granted on the basis that the additions proposed were to be on the south side while the north side preexisting side yard setback would not be expanded and that the lot depth of 216 feet greatly exceeded the required minimum depth of 150 feet and the house is well set back from Runyon Lane and Ocean Avenue, and additions and changes would not alter already existing setback distances and the additions and the renovations would be an aesthetic benefit.

g. General Comments

In the year 2007 two applications raised the issue of either the reconstruction or renovation of houses on the Ocean, which houses are generally called “upside down” houses. This essentially raises the issue of actual third floor living space which ordinarily would be second floor living space in a residential dwelling. The Board is concerned about such “third floor” living space, but the countervailing thoughts are that if a house is being renovated or constructed that more and better safety measures and equipment can be brought into play to avoid catastrophic damage during storms and that in matters of reconstruction the possibility of moving new homes further away from the scarp line could also ameliorate third floor living space. This is deemed to be a problem which is going to continue to come before the Board in that there will be more and more owners of homes on the ocean seeking to renovate or raze and reconstruct.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Mantoloking that on this 3rd day of April 2008 this Resolution is adopted and be forwarded to the Borough Council of Mantoloking pursuant to N.J.S. 40:55D-70.1.

Memorialization of Resolution

April 3, 2008

MOVED BY: McIntyre

SECONDED: Hawkings

THOSE IN FAVOR: 7

THOSE OPPOSED: 0

THOSE ABSENT OR RECUSED: Witkowski, Bradley, Wagner

THOSE NOT VOTING: Gillingham

	<u>YES</u>	<u>NO</u>
Nebel	_____	_____
Witkowski (designee)	_____	_____
Henshaw	<u> X </u>	_____
Brown	<u> X </u>	_____
Bradley	_____	_____
Gillingham	_____	_____
McIntyre	<u> X </u>	_____
Hawkings	<u> X </u>	_____
Richardson	<u> X </u>	_____
Potter	<u> X </u>	_____
Wagner (Alt.)	_____	_____
White (Alt.)	<u> X </u>	_____

CERTIFICATION

I, JAMES BROWN, Secretary of the Planning Board of the Borough of Mantoloking do hereby certify that the foregoing is a true copy of the Resolution duly adopted by the Planning Board on the 3rd day of April, 2008, and memorializes and confirms the actions taken by the Planning Board at the regular meeting held on April 3, 2008.



JAMES BROWN, Secretary