

**RESOLUTION NO. 2015-002 OF THE  
BOROUGH OF MANTOLOKING JOINT PLANNING BOARD – BOARD OF  
ADJUSTMENT**

**WHEREAS, *CAROL FALCONE***, whose mailing address is 1002 East Avenue, Mantoloking, New Jersey 08738, has applied to the Borough of Mantoloking Joint Planning Board – Board of Adjustment for variance relief affecting premises located at 1002 East Avenue, Mantoloking, New Jersey 08738, also known as Lot 2, Block 6, 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 March 3, 2016 and April 7, 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 7,985 square feet.
2. The tract in question is located in the R-6B Zone.
3. The Applicant is seeking variance relief approval to renovate an existing single family residential dwelling. Variance relief is required for the following, to wit:

- A minimum required side yard setback for the proposed dwelling where 10 feet is required and 9.3 feet is provided (proposed) to the siding flare; and 9.6 feet is provided (proposed) to the exterior brick at foundation level.

- Maximum permitted lot coverage where 30% (2,395.5 square feet) is

permitted and 40.5% (3,235.3 square feet) is proposed.

- Maximum permitted total lot coverage where 45% (3,593.3 square feet) is permitted and 47.1% (3,758.8 square feet) is provided (proposed).

- A/C Platform side setback where 10 feet is required and 7.6 feet is proposed.

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

- An Application dated January 16, 2015.
- Tax Certification dated January 14, 2015 indicating that all taxes are current.
- Flood Elevation Certification prepared by Stanley Hans, Jr., PLS of R.C.

Burdick, PE, PP, PC, dated May 29, 2013 and containing no revisions.

- Certified List of Property Owners located within 200 feet of the property dated December 8, 2015.

- Plot Plan, prepared by R.S. Butryn, PE & LS; dated April 4, 2014, containing a final revision date of December 20, 2015.

- Architectural Plan, prepared by VJM Architecture; dated November 10, 2014.

- Exhibit A1 – VJM Architecture Plans Drawing A1 revised June 16, 2014.

- Exhibit A2 – Plot plan dated December 20, 2015 issued by Richard Butryn, P.E., L.S.

- Exhibit A3 – VJM Architecture Drawing A1 dated March 24, 2015.

- Exhibit A4 – Photo rendering of front of house.

- Exhibit A5 – Photo condition of house prior to construction showing South side and street side.

- Exhibit A6 – Photo condition of house prior to construction showing street side.
- Exhibit A7 – Photo condition of house post construction showing South side and street.
- Exhibit A8 – Photo condition of house post construction showing street side.
- Exhibit A9 – VJM Architecture Drawing #A-4 dated April 11, 2014 (redlined).
- Exhibit A10 – Color coded plot plan (Exhibit A2) with hand written calculations

prepared by Richard Butryn, P.E., L.S.

- Exhibit A11 – Lindstrom, Diessner & Carr, PC Plot Plan & Surface Water Management Plan dated March 23, 2016.
- Exhibit A12 – 2 page schedule of Coverage Calculations prepared by Lindstrom, Diessner & Carr, PC.
- Exhibit A13 – Color coded version of (Exhibit A11).

#### March 3, 2016 Hearing

5. John Falcone, testified on behalf of the Application as follows, to wit:

- A) His wife Carol Falcone is the title owner of the property.
- B) In or about January 2014, he and his wife bought the subject property and started with the intent for a renovation that turned into a complete rebuild of an existing single family home.

C) He showed photographs marked and entered as Exhibits A5 and A6, to show the pre-construction condition of the existing home which he commented was aesthetically out of character with the neighborhood. He and his wife had the intent to renovate and improve the overall aesthetics of the home to bring it more into character with the homes in coastal Mantoloking Borough.

D) During March and April 2014, they worked with their professionals on the renovation/rebuild design and permit applications. In or about August 2014, his contractor began construction. In or about fall of 2015, he received a temporary Certificate of Occupancy as the renovation/rebuild was close to completion, however he was still waiting on his mason contractor to complete certain items.

E) He pointed to Exhibits A7 and A8 which were photos of the post construction home in its current condition and opined that the home is an improvement to the aesthetics of the site and much more in character with the neighborhood.

4. Vincent James Matarazzo, R.A., testified on behalf of the Application, as follows, to wit:

A) He is a principal of VJM Architecture, and prepared the architectural plan for the subject property and submitted as part of the proposed Application.

B) He detailed the history of his efforts on the project and revisions made to the plans during the redesign including the jogging of the width of the front porch to avoid side setback encroachment as well as revisions to the habitable attic/dormer so as to comply with the ordinance requirements.



C) It was his intent to comply with the zoning ordinance and only upon completion of the renovation work, it was determined that the brick façade along the south side of the foundation encroached within the side setback as did the architectural flare of the cedar shake siding.

D) As to the detached accessory storage building, he testified that said structure is designed and proposed for storage only and, as a condition, agreed that it shall not be utilized as a garage, cabana, bar, bathroom or changing room.

5. Richard Butryn, P.E., P.P., testified on behalf of the Application; however, after the completion of Mr. Butryn's testimony, discussion with the Board and public, it was determined that Applicant wished to revise its plot plan submitted for approval.

6. Peter Kearns, Esquire appeared on behalf of adjacent property owner to the north of the subject property, William Oeste, who presented testimony of Timothy Michel, P.P. to inquire into several issues related to the Application to which clarification was requested. In conjunction with these requests for clarification and discussion with the Board, Applicant chose to carry the Hearing for one month to provide a revised plan.

7. Charles Catogge, testified that he is the property manager for Mrs. King, owner at 1005 East Avenue, and submitted on behalf of Mrs. King that she had no objection to this proposed Application and believes the renovation proposed is an aesthetic improvement to the subject property and surrounding neighborhood.

April 7, 2016 Hearing

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

A) Following the discussions at the March meeting, he prepared a revised plot plan proposed for approval by the Board and submitted as Exhibit A11 (Exhibit A13 is a color coded version of A11).

B) He noted that the revised plan submitted as Exhibit A11, provides for a front yard paver walk from the sidewalk to the front porch; provides for a crushed seashell driveway to accommodate the parking of three vehicles that is approximately 60 feet in length on the north side of the property; the proposed plan provides a revised rear paver patio design and identified the proposed inground pool; proposed plan modifies the proposed storage accessory building and provided for a roofed patio area adjoining said accessory structure; the proposed plan also relocated the existing raised air conditioning units from the side of the home to the side of the proposed storage structure to accommodate concerns raised by the adjoining property owner. It is noted that the relocation of the raised air conditioning units requires additional variance relief as said location is within the south side set back of the property. The proposed plan also provides for pool enclosure fencing as depicted on the plan.

C) He entered as Exhibit A12 a detailed delineation for the coverage on site concluding that the proposed lot coverage for the proposed plan is 40.5% (3,235.3 square feet) and total lot impervious coverage is 47.1% (3,758.8 square feet). In furtherance of the request for the coverage variances requested, he pointed out that while the redesigned home with accessory structures/site improvements requires variance relief for lot coverage and total lot coverage, the extent of the deviation from the requirement of the zoning ordinance has been reduced from that which previously existed on site. He testified that former lot coverage was 51.8% and has been reduced to 40.5%; while total lot impervious coverage previously was 55.1% and has been reduced

to 47.1%. Based upon same, it was his opinion that there is a net zoning benefit to the propose plan and that same constitutes a better zoning alternative to that which previously existed on site.

D) As to the side setback encroachment of less than one foot for the flared cedar shake siding and brick façade along the foundation on the home, he noted that same are custom features and significantly improve the aesthetics at the site and are the types of custom features that are common to Mantoloking Borough. He opined that the improved aesthetics of the design far outweigh any detriment created by the minimal intrusion (less than 1 foot) into the side yard setback along the southern property line.

E) As to the redesign of the rear yard improvements, the Applicant agreed as a condition that the accessory storage structure shall contain no habitable space and shall not provide for bathroom facilities and or be utilized as a cabana structure.

8. Peter Kearns, attorney for William Oeste, appeared on behalf of his client and noted that he had reviewed the revisions on the proposed plan (Exhibit A11) with his client and their planner and his client was pleased with the changes and registered no formal objection to approval of the plan.

9. No other persons appeared in objection to the Application.

10. 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:

- The need to renovate the home on site was precipitated by applicant's desire

to improve aesthetics at the site and bring the home more into character with the quality and design of the coastal homes in the neighborhood which is a benefit to the subject and surrounding property.

- The architectural design which includes the flared siding and brick façade on the foundation are custom features that improves the aesthetics at the site and the encroachment in the side yard (less than 1 foot) is outweighed by the overall aesthetic improvement of the site.

- 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.

- The revised accessory storage structure with pool/patio design together with revised crushed seashell driveway/walkway provides for a better zoning alternative in that it provides for efficient use of the site while reducing coverage on site.

- The relocation of the A/C platform/units adjacent to storage structure (while creating a new variance condition) was done to accommodate the request of the neighbor and is a better zoning alternative than keeping the platform/units in their current location which was more impactful to the adjoining neighbor.

- 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.

- 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 7<sup>th</sup>



day of April, 2016 that the Application for *CAROL FALCONE*, 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. Applicant agreed as a condition that the accessory storage structure shall contain no habitable space and not contain any bathroom facilities, nor be used as a cabana or recreation room.

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

7. An essential and non-severable condition of this approval is compliance with the Development Fee Ordinance of the Borough of Mantoloking, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.

## ROLL CALL VOTE

MOVED BY: Steve Gillingham

SECONDED BY: Courtney Bixby

THOSE IN FAVOR: Robert McIntyre, Courtney Bixby, Steve Gillingham, Stan Witkowski, Jane White, Susan Laymon

THOSE OPPOSED:

**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 Secretary.

**ADOPTED**, on this 5th day of May, 2016.

VOTE TO ADOPT: May 5, 2016

MOVED BY: Steve Gillingham

SECONDED BY: Courtney Bixby

THOSE IN FAVOR: Robert McIntyre, Courtney Bixby, Steve Gillingham, Stan Witkowski, Jane White, Susan Laymon

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 7<sup>th</sup> day of April, 2016 and memorialized at the meeting held on the 5th day of May, 2016.

  
Mantoloking Joint Planning Board Secretary  
Board of Adjustment