

**RESOLUTION NO. 2019-001 OF THE
BOROUGH OF MANTOLOKING JOINT PLANNING BOARD –
ZONING BOARD OF ADJUSTMENT**

WHEREAS, Moira Dolan, whose mailing address is 1039 Barnegat Lane, Mantoloking, New Jersey 08738, has applied to the Borough of Mantoloking Joint Planning Board – Board of Adjustment for variance relief affecting premises located at 1039 Barnegat Lane, Mantoloking, New Jersey 08738, also known as Lot 11, Block 24 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 March 21, 2019 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 6,312 square feet.
2. The tract in question is located in the R-6 A Zone.
3. The Applicant is seeking variance relief to construct a new 10.5 ft. x 32 ft. in-ground swimming pool with spa, pool fencing, and at-grade deck. Variance relief is required as follows:
 - Minimum required rear-yard setback from a street for an in-ground pool/spa where 25 ft. is required and 10 ft. is proposed.

- Minimum required rear-yard setback from a street for an at-grade deck where 25 ft. is required and 10 ft. is proposed.
- Maximum permitted lot coverage where 30% maximum is allowed and 30.75% is proposed.
- Minimum required side-yard setback for principal structure where 10 ft. is required and 9.7 ft. to house/6.3 ft. to landing is proposed (existing).
- Rear-yard setback to an unroofed wood deck where 25 ft. is required and 23.5 ft. is proposed (existing).
- Side-yard setback to electrical meter platform where 10 ft. is required and 8.2 ft. is proposed.

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

- Application dated February 8, 2019.
- A Zoning denial dated January 18, 2019.
- Letter dated February 8, 2019 from William Gage, Esq.
- Tax Certification dated January 9, 2019 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 February 8, 2019.
- Plot Plan and Surface Water Management Plan prepared by Lindstrom, Diessner & Carr, P.C., dated December 10, 2018, revised February 20, 2019.
- Exhibit A1 – Photo of subject property – rear yard.
- Exhibit A2 – Photo of subject property – rear yard.

5. Moira Dolan, testified on behalf of the application as follows, to wit:

- A. She has owned the subject property since 2005 and has been systematically renovating and updating the home.
 - B. After Superstorm Sandy, she elevated the home to bring the single family residence into FEMA compliance while continuing her renovations.
 - C. It is her intent to retire within the next few years and live full-time at the subject property.
 - D. The intent of her application is to re-do the landscaping on the subject property and to add the pool/spa as depicted on the plan. The intent is to better equip the home for her full-time use.
6. Charles Lindstrom, P.E., P.P., testified on behalf of the application as follows, to wit:
- A. He prepared the Plot Plan and Surface Water Management Plan for the variance relief requested and submitted in support of the application and as such is fully familiar with the subject property and the surrounding neighborhood.
 - B. He described the subject property noting that the existing lot is 6,312 sq. ft. in a 5,000 sq. ft. zone.
 - C. The single family residential proposed use with a swimming pool as an accessory is a permitted use in the R-6A Zone in which the property is located.
 - D. He testified that the dimensions of the lot meet or exceed all requirements for the zone.
 - E. Referring to the plot plan submitted, he noted that the subject property is bordered by two roadways with the property's front-yard on Barnegat Lane and its rear-yard on Ocean Avenue (Rt. 35).

- F. As depicted on the plot plan, the proposed in-ground pool is located appropriately in the rear-yard and coordinated with the existing single family home and decking.
- G. The proposed plan provides for code compliant pool surround fencing and a landscape plan (to be provided) both for the rear-yard pool area and sideyards, as well as front-yard as depicted on the plan which will enhance the overall aesthetics at the site.
- H. Noting the unique situation of the rear-yard abutting Ocean Avenue (Rt. 35), he pointed to Exhibits A and B in showing the location and distance to the nearest single family homes. He noted that the photos show there would be no detriment to any surrounding properties as a result of the location of the in-ground pool and its non-compliance with the ordinance requirement for rear-yard setback.
- I. He further noted that while the pool is 10 ft. from the rear property line, there is an additional 15 ft. (owned by the State of New Jersey) from the property line to the concrete curb line of Ocean Avenue (Rt. 35). As such, the pool is a total distance of 25 ft. from the curb line at Ocean Avenue.
- J. As to lot coverage, he noted that the existing development on the lot is already non-compliant and provides for 31.04% of coverage. Through the modifications to the plan as proposed, Applicant was able to slightly reduce same to 30.75%. As such, while a variance is still required for the proposal, Applicant has improved an existing non-conforming condition.
- K. Similarly, Applicant has proposed a modification to the existing JCP&L platform which is an improvement to an existing non-conformity onsite. Currently, the

existing platform is 1.8 ft. from the side property line whereas 10 ft. is required.

Through the modified plan, said platform will be 8.2 ft. from the side property line. As such, while a variance is still required, Applicant has improved said condition.

7. No persons appeared in opposition to the application.

8. The Board makes the following findings, and 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 upon the following:

- 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.
- The proposed development as set forth in the plot plan submitted provides for adequate light, air and open space on the site and for the surrounding properties.
- The proposed in-ground pool/spa and grade-level deck is appropriately located for this particular lot based upon its existing home location, the landscape improvements to be made, in conjunction with the appropriate pool fencing and the rear-yard location to the state right of way (Ocean Avenue – Rt. 35) which provides an additional 15 ft. between the rear property line and the concrete curb of the roadway.
- The variance relief requested creates no significant detriment to the public good and the Board notes that no persons appeared in opposition to the application.

- 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 4th day of April, 2019, that the application for Moira Dolan 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 conditions specified in this Resolution.
6. 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.

7. An essential and non-severable condition of approval is compliance with the Borough's Affordable Housing and Growth Share Ordinance as applicable.

Moved by: Robert McIntyre

Seconded by: John Wesson

ROLL CALL VOTE

Those in Favor: Christine Beck, Robert McIntyre, Steve Gillingham, Susan Laymon, Jane White, John Wesson,
John Conti

Those Opposed:

Those Absent: Denise Boughton, Beth Nelson

Those Not Voting: Betsy Nelson, Joan Mattia

The foregoing is a true copy of a Resolution adopted by said Board at its meeting on April 4, 2019,
as copied from the Minutes of said Meeting.

DATED: 4/9/19

Colleen Malvasio
SECRETARY OF THE BOARD