

**RESOLUTION# 2022-05 RESOLUTION OF
APPROVAL APPLICATION OF
KENNETH & MEGHAN FULLERTON
APPLICATION #PB-2022-05**

IN THE MATTER OF KENNETH &
MEGHAN FULLERTON

: PLANNING BOARD OF THE BOROUGH
: OF MANTOLOKING
: APP NUMBER 2022-05
: BLOCK 24; LOT 40
: 1095 BARNEGAT LANE

WHEREAS, an application has been made to the Borough of Mantoloking Planning Board (the "Board") by Kenneth and Meghan Fullerton (the "applicant"), for bulk variance approval. The Applicant proposes to construct a grade level deck around an existing pool. The subject parcel is shown as Lot 40 in Block 24 on the Borough Tax Map and commonly known as 1095 Barnegat Lane in the Borough of Mantoloking, Ocean County, New Jersey, and said premises being located in the R-5A Zone; and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Mantoloking Planning Board; and

WHEREAS, the Applicant was represented by William T. Gage, Esquire; and

WHEREAS, the Mantoloking Planning Board reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS, the Board heard the testimony and the evidence presented by the applicant and received comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board of the Borough of Mantoloking, County of Ocean, and State of New Jersey, on May 5, 2022, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting to construct an at-grade deck around an existing in-ground swimming pool in the rear yard which require the expansion of the below bulk variances:
 - A. There are bulk variances being requested:

1. A minimum front yard setback of 37.5 feet is required where 37.2 feet is existing for the principal structure.
 2. A minimum south side yard setback of 10 feet is required where 9 feet is existing for the A/C platform.
 3. The minimum street rear yard setback required is 25 feet whereas the proposed at level deck is 5.8 feet.
 - B. The Applicant has not requested any design waivers, and none have been identified.
3. In support of the application, the Applicant submitted the following documents:
- A. A revised application dated March 29, 2022;
 - B. Tax certification dated March 29, 2022 indicating all taxes are paid;
 - C. Certified List of Property Owners located within 200 feet of the properties dated March 31, 2022;
 - D. A Plot Plan, prepared by Lindstrom, Diessner, & Carr, P.C. dated March 8, 2022;
 - E. Map of Boundary and Topographic Survey, prepared by Lindstrom, Diessner, & Carr; dated November 17, 2021.
4. During the public hearing held on May 5, 2022; the Planning Board discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and incorporated in full:
- A. Zoning denial letter dated April 20, 2022, by the Planning Board Deputy Land Use Official, Larry Plevier.
 - B. Completeness letter dated April 20, 2022, by the Planning Board Engineer and Deputy Land Use Official, Larry Plevier.
5. The Planning Board has received no other review letters/memos from the Mantoloking Officials.
6. During the public hearing, the following exhibits were marked into evidence:
- A. A-1 Color Photo of yard area of the existing pool
 - B. Color photo of the opposite side of the yard on the Route 35 side looking towards the yard.

MEETING OF May 5, 2022:

7. Based upon the comments of the Applicant's Attorney, William T. Gage, Esquire, the Board heard the following:
 - A. The Applicant is seeking to erect a grade level deck around the existing swimming pool which triggers bulk variances.

8. Based upon the sworn and qualified testimony of Charles Lindstrom, P.E., PP, the Board made the following findings of fact:
 - A. Mr. Lindstrom prepared the plans presented to the board.
 - B. Applicant is proposing a grade level deck around the existing swimming pool for the Applicant's summer home.
 - C. Mr. Lindstrom stated the pool is conforming.
 - D. Deck is required to be 25 feet from rear setback.
 - E. Pool will be surrounded by a six-foot fence.
 - F. Deck is being place on stone and will not be noticeable.
 - G. The fence will buffer the pool.
 - H. Deck will have no impact on drainage.
 - I. There is no detriment to the public good, the positive criteria outweigh the negative.

9. Based upon the comments of the Applicant, Kenneth Fullerton, the Board heard the following:
 - A. Applicant utilizes the house as a summer home and sometimes during the off season.
 - B. Deck will be surrounding the pool and conforming to the pool.

10. Based on testimony from the Board Engineer, Larry Plevier, the required setback for the at-grade deck surrounding the pool was clarified as only fifteen (15) feet for a minimum street rear yard setback for an accessory structure, as an at-grade deck surrounding a pool in accordance with Section 30-4.9.g the Mantoloking Code is considered one (1) single accessory structure.

CONCLUSIONS OF LAW

WHEREAS, the Board determined that the Applicant's variance application pursuant to *N.J.S.A. 40:55D-46* and *N.J.S.A. 40:55D-50* were

found to be sufficient as to style and design, and the Board approved the Applicant's request; and

WHEREAS, the need for the pre-existing minimum front yard setback of 37.5 feet is required for the principal structure where 37.2 feet is existing is due to conditions of the property which constituted a hardship in accordance with *N.J.S.A. 40:55D-70(c)(1) and (c)(2)*; and

WHEREAS, the need for the pre-existing minimum south side yard setback of 10 feet is required where 9 feet is existing for the A/C platform is due to conditions of the property which constituted a hardship in accordance with *N.J.S.A. 40:55D-70(c)(1) and (c)(2)*; and

WHEREAS, the need for minimum street rear yard setback for an accessory structure is 15 feet whereas the proposed at-grade level deck is 5.8 feet is due to conditions of the property which constituted a hardship in accordance with *N.J.S.A. 40:55D-70(c)(1) and (c)(2)*; and

WHEREAS, there will be no substantial negative impact on the surrounding property owners; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Mantoloking.

NOW, THEREFORE, BE IT RESOLVED, by the Mantoloking Planning Board, in the County of Ocean and State of New Jersey, on the 5th day of May 2022, upon a motion made by Susan Laymon and seconded by John Conti, that the application of Kenneth and Meghan Fullerton be granted, subject to the following terms and conditions:

1. The Applicant shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of May 5, 2022.
2. The Applicant shall conform the deck parallel to the south side of the home maintaining the minimum side yard setback of 10 feet. The Applicant was not requesting variance relief for this portion of the property.
3. The Applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if required.
4. The Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the Applicant shall comply with any requirements or conditions of such approvals or permits.

5. The Applicant must comply 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.
6. The Applicant is required to provide for any and all of the regulatory approvals required by law including, but not limited to the Ocean County Planning Board, if required.
7. The Applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in accordance with the Ordinance.
8. Publication of a notice of this decision will be published in the official newspaper of the Mantoloking Planning Board at the cost of the Applicant.
9. The Applicant shall comply with all the review comments and requirements in the Deputy Land Use Official, Larry Plevier's completeness review letter dated April 20, 2022.

ADOPTED this 7th day of July 2022.

VOTE ON ROLL CALL:


IN FAVOR: Betsy Nelson, Christine Beck, Beth Nelson, Denise Boughton, Garret Vreeland, Joan Mattia, John Conti

OPPOSED: None

NOT- PRESENT: Robert McIntyre, Brett Radi, Susan Laymon, John Wesson

CERTIFICATION

It is hereby certified that the attached is a true copy of the Resolution for Application #2022-005, approved on May 5, 2022 and duly adopted as to form by the Mantoloking Land Use Board and memorialized at its regular meeting held on the July 7, 2022.


Beth Nelson
Chairwoman
Borough of Mantoloking
Land Use Board


Kaitlyn Ippolito
Secretary
Borough of Mantoloking
Land Use Board