

## Memorandum

To: Sea Isle City Zoning Board of Adjustment

From: Andrew A. Previti, P.E.

Date: September 5, 2023

Subject: Patrick & Marie Pendergast – Variance Application  
138 87<sup>th</sup> Street, West Unit  
Block 88.02, Lots 26, 27 & 28.01  
R-2 Two Family Residential Zoning District  
City of Sea Isle City, Cape May County, New Jersey

Project No.: SIZ0237

### **I. Background**

The applicant has submitted an application for Hardship and Flexible "C" variance relief. The property in question is known at Block 88.02, Lots 26, 27 & 28.01 and is located at 138 87<sup>th</sup> Street. The property is located in the R-2 Two Family Residential Zoning District.

The property in question has fifty-six point five (56.5) foot of frontage on 87<sup>th</sup> Street and a lot depth of one hundred (100) feet. Therefore, the lot area is five thousand six hundred fifty (5,650) square feet and is a conforming lot in the R-2 Zoning District. The property supports a two-family duplex structure and the applicants are the owners of the westerly unit.

The application is proposing to construct a twelve (12) foot wide by twenty (20) foot long pool in a portion of the rear yard. The rear yard of the overall property would be divided by a proposed six (6) foot high vinyl fence and the rear yard of the west unit would thus measure twenty (20) foot in depth and twenty-five (25) foot in length. Therefore, the rear yard area would have an area of five hundred (500) square feet and the proposed pool would have an area of two hundred forty (240) square feet and would occupy forty eight percent of the bisected rear yard. The proposed pool would be an inground pool.

In addition to the code requirements of the R-2 Zoning District at Code Section 26-46, The proposed pool use is also subject to the requirements of Code Section 26-26.7, Swimming Pools and Code Section 26-27.7, Building Setbacks from Accessory Structures.

The application has been accompanied by the following document which has been submitted for review:

<u>Drwg.</u>	<u>Title</u>	<u>Prepared By</u>	<u>Date</u>	<u>Revision</u>
Sheet 1	Variance Plan 138 -87 <sup>th</sup> Street Blk: 88.02 Lots: 26, 27 & 28.01	Gregory K. Schneider, PE, PLS	6/15/2023	---

Variances are required as noted in the Variance Chart below:

**VARIANCE CHART**

<b><u>Parameter</u></b>	<b><u>Required or Permitted</u></b>	<b><u>Proposed</u></b>	<b><u>Variance</u></b>	<b><u>Code Section</u></b>
1. Setback from Main Building To Accessory Structure, (Pool)	10 ft	2.9 ft.	7.1 ft.	26-27.7a
2. Green Space in Rear Yard	Four (4') Ft. Wide along rear & side Property lines in Rear Yard	Partially Proposed. Proposed Recharge Trench Occupies portion of required Green space	Variance from providing Complete Green Space.	26-38.2.C.6

**II. Determination for Completeness**

This application is technically complete. The plans will require revisions to satisfy the comments contained in this report. However, the application could proceed to hearing.

**III. Comments**

1. Variances are necessary for this project as noted in the variance chart. The variances required are necessary due to what is being proposed and do not reflect existing non-conforming conditions.

I have listed the need for a variance from the Green Space in Rear Yard since a portion of the side yard area of the rear yard is not being used as green space but is being utilized as proposed recharge area.

One of the variances necessary will be the requirement that the swimming pool as an accessory structure be located ten (10) feet from the main building. The proposed pool would be setback from the main building by a distance of two point nine (2.9) feet as shown on the plan submitted and this will require variance relief. The proposed pool is also being proposed to abut a new six (6) foot high vinyl fence which would bisect the rear yard area. This presents an unsafe condition and the City is developing standards which would require at least a two (2) foot solid surface around the perimeter of the pool. Therefore, I would recommend that the pool be moved away from the proposed bisecting fence and that a two foot area be established between the fence and the edge of the pool and that the area be a hard surface. This would not impact the five (5) foot setback requirement from the side yard since the pool is originally proposed to be seven point nine (7.9) feet from the westerly property line.

2. Code Section 26-26.7 addresses the requirements for swimming pools and this section requires a seventy-two (72) inch high fence around swimming pools. The submitted plans indicate that this fence is being proposed and also indicates that a Belgian Block Landscape Boarder would be utilized to prevent runoff from adjacent properties. This is all acceptable however it's difficult to determine the exact locations of the proposed fence and proposed Belgian Block and this is complicated by the fact that there is an existing fence on the property to the south which is located near the rear yard property line of the property in question. Therefore, I would suggest that a separate detail at an enlarged scale be provided to show the relationship between the existing fence, the new proposed six (6) foot high fence to enclose the pool, and the proposed Belgian Block landscape boarder.
3. Details of the proposed six (6) foot high fence as well as the self-latching gate should be added to the plans.
4. The note concerning the Belgian Block should be modified to reflect that the Belgian Block would be placed at the direction of the municipal engineer.
5. The Zoning Chart on the plan should be revised as follows:
  - a. The minimum lot area required is five thousand (5,000) square feet not three thousand five hundred (3,500) square feet.
  - b. The minimum rear yard is listed as an existing non-conforming condition. However, a twenty (20) foot rear yard is required and a twenty (20) foot rear yard is existing at the site. The applicant's professionals should explain why this is considered an existing non-conformity.
6. We have reviewed the stormwater management plan which is part of the plans submitted and I have the following comments:
  - a. The area of the proposed improvements appears to be incorrect and is indicated as two hundred forty-one point five (241.5) square feet. Scaling of the plan indicates that approximately three hundred sixteen point two five (316.25) square feet of new impervious area is being developed. The calculations should be revised accordingly.
  - b. The CN value is shown as ninety (90) and the plans indicate that TR-55 Methodology is utilized for the calculations. CN for impervious areas per TR-55 Manual is ninety-eight (98) and the calculations should be revised accordingly.
  - c. Documentation concerning the value of  $P=6.34$  inches should be provided.

The remainder of the calculations will be reviewed once the calculations have been revised as noted above. A stone void ratio of 0.35 is acceptable, not the 0.40 noted in the calculations.

Relative to the plan the following should be provided:

1. A detail of the proposed recharge trench should be provided which indicates the size and type of pipe to be utilized, stone classification relative to the size of the



stone, the use of a geotextile material, Marafi 140N has been used in similar systems.

The plans should also indicate how storm water will enter the recharge system.

2. The grading of the lot is generally acceptable and the proposal is to use Belgian Block to channel stormwater runoff from adjacent properties. This would be accomplished by installation where necessary and this will be determined by the Municipal Engineer. I would also ask if it would be necessary to place Belgian Block between the two rear yards bisected by the fence. It is not possible to determine if the elevation in the rear yard of the proposed pool area will be higher than the adjacent portion of the property which will not be developed. The design engineer should address this.
7. A landscape schedule should be provided indicating the vegetation to be established in the Green Space.
8. I have the following comments concerning the proposed pool area:
  - a. The plans should clearly indicate what the surface around the pool area will be outside of the Green Space and the recharge area.
  - b. The pool should be relocated to provide a two (2) foot wide hard surface between the proposed fence which would bisect the rear yard area and the edge of the pool as noted previously.
  - c. The pool is being proposed to have only a two point nine (2.9) offset from the main building where ten (10) foot is required. The City is developing standards to require a minimum five (5) foot setback from the main building or the deck for pools. There is no deck at this property at the present time. However, I would recommend that the setback from the main building be increased to at least five (5) feet and this can be accomplished by reducing the width of the pool. The pool as proposed would occupy forty-eight (48) percent of the rear yard area which is relatively large given the proposed development is on one half of a five thousand six hundred fifty (5,650) square foot lot.
9. Any action taken by the Board should be conditioned on the improvements being constructed in accordance with the requirements of Chapter 14 – Flood Damage Prevention Ordinance and all FEMA regulations required by the City.
10. **If this application is approved and following memorialization of the Board's action in a resolution the professionals should revise the plan and provide me with an electronic copy for review. If the plans have been revised to satisfy the comments in this memorandum as well as any conditions imposed by the Board then seven (7) signed and sealed sets should be sent to my office for signature along with a cost estimate for site improvements. Since site improvements only would be on-site a performance guarantee will not be necessary however, inspection fees will be necessary and these will be based on the cost estimate. Construction permits will not be issued until plans**

**signed by the Board Chairperson, Secretary and Engineer are on file with the Construction Official and the necessary inspection fees are posted. It will be the responsibility of the owner to contact the Municipal Engineer when inspections are necessary and these inspections should take place during the actual construction of the improvements.**

#### **IV. Recommendations**

1. The applicants and their professional should provide testimony as to why the Board should grant the variance relief applied for.
2. The plans submitted should be revised to reflect the comments contained in this report as well as any additional comments that the Board may have.
3. The Board has the discretion to grant or deny any of the variances as requested or could decide to grant some of the variance while denying others. The Board Solicitor will advise you relative to this issue.



Andrew A. Previti, P.E.  
Municipal & Board Engineer

AAP/dpm

cc: Genell Ferrilli, Board Secretary (via email)  
Chris Gillen-Schwartz, Planning Board Solicitor (via email)  
Cornelius Byrne, Construction Official(via email)  
Mariah Rodia, Construction Office (via email)  
Patrick & Marie Pendergast, 1123 Ponds Lane Malvern PA 19355  
Donald A. Wilkinson, Esquire (via email)  
Gregory K. Schneider, PE, PLS, 215 South Shore Rd. Marmora, NJ 08223