

**ZONING BOARD
TOWNSHIP OF BORDENTOWN**

**Application No.: ZB 2014-0019
Resolution No.: Z-2014-08**

ON THE APPLICATION OF MARK PALUMBO FOR APPROVAL OF AN APPLICATION FOR A VARIANCE FOR THE HEIGHT OF A FENCE TO BE INSTALLED ON THE PROPERTY IDENTIFIED ON THE TAX MAPS OF THE TOWNSHIP OF BORDENTOWN AS BLOCK 93.05, LOT 1, COMMONLY KNOWN AS 30 WATERFORD DRIVE.

WHEREAS, the Applicant, Mark Palumbo, owns the property located in the Township of Bordentown identified on the Tax Map as being located at Block 93.05, Lot 1, which is more commonly known as 30 Waterford Drive, submitted an Application to be permitted to install a 6' high white vinyl fence with setback relief on the front and side yards; and

WHEREAS, the Application was made for the variance relief as to the maximum height of a fence under Section 503 (E)(2) of the Township Code which provides for a maximum height of six feet (6') in rear yards and a maximum of three feet (3') high fence is permitted by code in front and side yards; and

WHEREAS, the Application filed sought a variance from the Township Code Section 25:503E (2) with respect to the required height of a fence as permitted by the Code along the side yard and a front yard, namely that the Application was made to construct and install a 6' fence along the side yard adjacent to Bentwood Drive; and

WHEREAS, following testimony presented, questions and discussion by the Board and comments made by the public, the Applicant sought to amend the Application to revise the relief sought for the height of the fence to be a four foot (4') fence for one front yard and four feet (4') for the side yard adjacent to Bentwood Drive; and

WHEREAS, the Board found that all jurisdictional requirements have been satisfied and that all procedural requirements of the Bordentown Township Code have either been satisfied or waived by the Board; and

WHEREAS, through sworn testimony, the Applicant described the fence he would like to install which was initially presented with a non-conforming height requiring bulk variance relief; and

WHEREAS, through sworn testimony, the Applicant agreed to certain conditions and requirements for the proposed fence which are conditions to approval as described by Board members and as set forth herein; and

WHEREAS, the Bordentown Township Zoning Board has considered the Application as amended and the evidence and testimony submitted by the Applicant in support thereof and the public comments and/or evidence in opposition to the Application; and

WHEREAS, it appears that the Applicant has met his burden of proof for the Board to grant approval of a variance for the proposed set-back for the fence, subject to the findings of fact, conclusions and conditions outlined below; and

WHEREAS, the Bordentown Township Zoning Board has made the following findings of fact and conclusions:

1. The Applicant sought approval for bulk variance relief for the subject premises located at Block 93.05, Lot 1, more commonly known as 30 Waterford Drive. Specifically, the Application seeks relief from Section 25:503(E) (2) of the Township Code which provides for a maximum fence height of six feet (6') in rear yards and a maximum fence height of three feet (3') is permitted by code in front and side yards.

2. The amended Application seeks modified relief as to the height of the proposed fence to four feet (4') instead of six feet (6') for the front and side yards. Notwithstanding the fact that the revision to the application, the Board did propose a condition for a revised angle to the lot line of the side yard for the fence which would be adjacent to 32 Waterford Drive, which will be constructed at an angle perpendicular to the lot line. The Applicant agreed to this condition and/or revision to the design.

3. The Application was heard over the course of one session on September 25, 2014.

4. The subject property is zoned R-30, Residential.

5. The Applicant, Mr. Palumbo, testified in support of the application. The Applicant was represented by Steven M. Gleeson, Esq. who summarized the Application and the proposed proofs and findings for the Board. The Applicant submitted that the benefits to granting the variance would outweigh the detriments, that granting the variance will not be detrimental to the character of the property and properties in the neighborhood, and that granting the variance(s) sought will not substantially impair the purposes of the Zoning Ordinance.

6. The Board marked and accepted into evidence the following Exhibits:

- A-1: Letter from Clifton Mill Community HOA dated July 23, 2014
- A-2: Photographs of the property (6)
- A-3: Survey of property with highlighting of proposed fence location
- A-4: Contractor brochure of fence specifications, features and design
- A-5: Photos (3)

7. The Applicant provided testimony as to the reasons for the requested relief as to the height of the proposed fence and set-back relief on the front and side yards. Mr. Palumbo initially testified that the he would like to install a 6' white vinyl fence for privacy, safety, to secure his dog, and provide an area for play for his six-year old son. He also indicated he would like to put in a swimming pool in the future such that fencing would be required. At the hearing, the Applicant presented the Board with photos which depict the property and where the fence

would be located. There was discussion between the Board, the Applicant and his counsel, the Board members and the Township's professionals as to which areas of the property constitute the front and side yards and the depth to which the set-backs are required to exist based upon the language of the Zoning Ordinance, specifically as it pertains to corner lots.

8. The Applicant testified that if he is not allowed to install a fence greater than four feet (4') then he will not be allowed to install a pool as 4' is the lowest height allowed for a pool. Additionally, he indicated this new fence would not obscure sight triangle. Further, he is willing to install gates on the side of the property facing Bentwood Drive.

9. The Applicant provided testimony as to the reasons for the requested relief and responded to the Board's inquiry as to the proposed placement of the fence in the rear and side yards. There was discussion and questions from the Board as to the placement of the fence, its relation to several existing trees on the property, a suggestion was made to enhance the landscaping next to the proposed fence and also with respect to the placement of or set-backs for the fence. The Applicant testified that his property line along Bentwood Drive was at an approximate distance of 7'2" from the edge of the sidewalk closest to his property. The Board suggested the Applicant construct the fence 12 feet from the edge of the sidewalk closest to the Applicant's property. It was also suggested that the fence will be constructed/installed so that the existing trees would be located outside the fence.

10. There was comment from the public on the application by the following residents:

- (A) Bill Briggs of 32 Waterford Drive, lives next door and asked about the angle of the fence to his property line; He requested the height of the fence be reduced from 6' to 4' and suggested alternate materials for the fence;
- (B) Madeline Briggs of 32 Waterford Drive who stated that a white vinyl fence is not aesthetically pleasing and will contrast significantly from their property with its landscaping. She requested an alternate design of wood or other style of fencing;
- (C) Mark Roselli of 16 Bentwood Drive made comments concerning the general character of the neighborhood and other fencing and alternatives. He presented photographs 1-8 depicting fencing throughout the neighborhood; and
- (D) Maureen Roselli of 16 Bentwood Drive who expressed her concern that water will pool and kill the trees; her opinion is that fence will not necessarily promote privacy.

11. Following the public comment, there was a brief break in the proceedings. Following the break, the Applicant provided copies of photos (A-5) and provided testimony as to a proposed revision to the Application and a modification of the relief requested and testified that the Applicant sought to amend the Application to revise the design for the fence to be a four foot (4') fence for one front yard and the side yard adjacent to Bentwood Drive.

12. The Applicant further indicated that he agreed to placement of the fence so that the existing trees would be located outside the fence; that mid-height evergreen shrubs or an equivalent type of planting would be installed which would grow to a height of six feet or higher along the fence; that the fence on the Bentwood Drive side of the yard would be constructed at a distance of at least 7' 2" from the closest edge of the existing sidewalk and 12 feet from the edge

of the sidewalk measured from the edge closest to the house on Bentwood Drive and the fence will be constructed/installed so that the existing trees would be located outside the fence; there will be a two-inch (2") gap at the bottom of the fence for maintenance; and that for the fence which would be adjacent to 32 Waterford Drive, will be constructed at a revised angle, running perpendicular to the lot line.

13. The Board found based upon the totality of the testimony and evidence presented and the amendment to the Application and the agreement of the Applicant to the conditions cited herein, and in consideration of the Public Comments made and the revisions to the design, that the Applicant met the burden of proof required for granting the Application for the amended height of the fence and the set-back relief in that the Applicant demonstrated that the benefits to granting the variance would substantially outweigh the detriments, that granting the variance will not be detrimental to the character of the property and properties in the neighborhood, and that granting the variance(s) sought will not substantially impair the purposes of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT THE ZONING BOARD OF THE TOWNSHIP OF BORDENTOWN does hereby APPROVE the application of Mark Palumbo, for certain bulk variances on the property as to the height of a proposed fence on the rear and side yards subject to the conditions as to the placement of the fence to maintain certain rear and side yard set-backs, consistent with the survey and the amendments made to the application submitted to the Zoning Board and consistent with the specific requirements as set forth herein for the property located at 30 Waterford Drive (Block 93.05, Lot 1) in the Township of Bordentown and subject to the condition that the fence shall be constructed in a manner consistent with the Application as amended, with the sworn testimony and agreements as presented and as described herein and as was submitted to the Board, including the photos and survey submitted by the Applicant.

BE IT FURTHER RESOLVED, that the Applicant's request to amend the Application for the variance relief as to the height of the fence was granted and the Application was modified as to the relief requested for the height of the proposed fence along Bentwood Drive which is proposed to be a four foot (4') fence for the side yard facing Bentwood Drive; and

BE IT FURTHER RESOLVED, that the Application for the variance relief as to the maximum height for a fence under Section 503 (E)(2) of the Township Code for front and side yards and the set-backs for the fencing is hereby GRANTED with respect to the front and side yard fences to allow a fence of four feet (4') in height to be constructed consistent with the following specific conditions as stated herein all of which conditions were agreed upon by the Applicant:

(A) The portion of the fence emanating from the Applicant's house to his property line with 32 Waterford Drive will be constructed at an angle perpendicular to the property line. The fence will have gates on the side facing Bentwood Drive;

(B) The fence would be installed at a point where the existing trees along Bentwood Drive would be located outside the fence, will not be damaged by the fence or the installation

and shall not be situated on the base of the trees' existing roots which are currently covered with mulch material;

(C) the Applicant will plant mid-height evergreen shrubs or an equivalent type of planting outside of the fence on the side-yard adjacent to Bentwood Drive every six feet (6') on center along the fence but so as not to interfere with the proposed gates along the Bentwood Drive portion. The mid-height evergreens would be of a species which grow to a height of six feet or higher along the fence line;

(D) The fence will be placed so that the existing trees are outside of the fence and the fence is 12 feet from the edge of the sidewalk measured from the edge closest to the Applicant's house;

(E) The fence will be constructed/installed so that there will be a two-inch (2") gap at the bottom of the fence to prevent the growth of weeds and undergrowth and for general ease of maintenance.

BE IT FURTHER RESOLVED, that the Application for the variance relief requested as to the height of a proposed fence and the set-backs for the fencing are hereby approved and GRANTED, subject to the following general conditions:

1. The Applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or file a written protest with the Township Business Administrator within seven (7) days of receipt of a final voucher from the Township.
2. These General Conditions of Approval, and any additional conditions of approval, if any, shall be binding upon the Applicant, the owner, and any successors and/or assigns of them, including any conditions or specific requirements as to the placement and/or construction of the fence in such a fashion so as to be consistent with the approval granted.
3. The Applicant has submitted certain plans and documents which were accepted by the Zoning Board as part of the application, and further the applicant has testified, made certain representations, and agreed to certain conditions at the time of the public hearing, all of which has been relied upon by the Zoning Board in making its determination. Should there be any material deviation from said documents, plans, representations or testimony, or from any conditions contained herein, then the Zoning Board may, upon notice to the Applicant and an opportunity to be heard, elect to rescind its approval.
4. The Applicant is required to submit an application for a permit to construct the fence and pay all applicable permit fees and comply with other applicable Code requirements as a condition for this approval.
5. The Applicant has agreed to certain conditions to the proposed plan and the applicant's stated acceptance to said conditions was relied upon by the Zoning Board as part of its consideration of this application and shall be a basis for the

conditional approval granted herein, specifically as it relates to the construction of the fence in a manner consistent with the approval granted by the Board.

6. Any improvement(s) to be constructed as a result of the Township of Bordentown Zoning Board approving this application shall be constructed and operated in full compliance with the Uniform Construction Code, Bordentown Township Code, the Revised Statutes of the State of New Jersey, and any other applicable state, County and/or federal law.
7. The Applicant is responsible for obtaining all zoning, construction and/or building permits and approvals necessary for the erection of the fence.

ROLL CALL ON THE APPLICATION: September 25, 2014:

Yes - 7 No - 0 Absent - 1 ~~Recused~~ - 0 Not Voting - 1
Abstain

Grybowski: *yes*
Carney: *yes*
Holliday: *yes*
Kostoplis: *yes*
McTamney: *yes*

Simpson: *yes*
Whittington: *yes*
Dela Cruz (Alt. 1): *Not Voting*
Caldwell (Alt. 2): *Absent*

This Resolution adopted on October 23, 2014 memorializes the actions taken at a meeting of the Bordentown Township Zoning Board of Adjustment on September 25, 2014, with the roll call vote on the memorialization as follows:

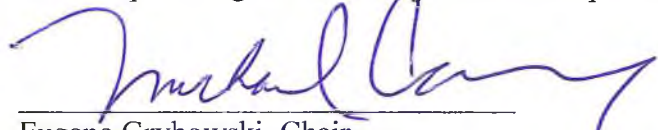
ROLL CALL ON MEMORIALIZATION: October 23, 2014:

Yes - 6 No - 0 Absent - 2 ~~Recused~~ - 1 Not Voting - 0
Abstain

Grybowski: *Absent*
Carney: *yes*
Holliday: *yes*
Kostoplis: *yes*
McTamney: *yes*

Simpson: *Absent*
Whittington: *yes*
Dela Cruz (Alt. 1): *yes*
Caldwell (Alt. 2): *Abstain*

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Bordentown Township Zoning Board of Adjustment at a public meeting held on October 23, 2014.


~~Eugene Grybowski, Chair~~
Michael Carney, Vice-Chair

Attest:

 10/23/14

Brian K. Johnson, Dir. of Community
Development and Board Secretary

TOWNSHIP OF BORDENTOWN
BURLINGTON COUNTY, NEW JERSEY

1 MUNICIPAL DRIVE
BORDENTOWN, NJ 08505-2193

OFFICE OF COMMUNITY DEVELOPMENT
Telephone: (609) 298-2800, EXT. 5
FAX: (609) 298-0667

January 15, 2015

Mr. Mark Palumbo
30 Waterford Drive
Bordentown, NJ 08505

Re: *Block 93.05, Lot 1*
Variance for Fence Installation
Palumbo Residence, 30 Waterford Court

Dear Mr. Palumbo:

An inspection of your property on this date revealed that the recent installation of the yard fencing was in substantial conformance with the variance approval granted by Bordentown Township Zoning Board of Adjustment, with the following exception:

The Board's Approval required you to plant evergreen shrubs along the "street side" of the fence on Bentwood Drive. It is reasonable to expect that you will plant the shrubs during the upcoming spring planting season, but no later than June 30, 2015.

Should you or any interested party have questions regarding this matter, please contact the undersigned, with email being the preferred method of contact.

Very Truly Yours,



Brian K. Johnson, PE, CME
Director of Community Development / Zoning Officer / Code Enforcement
(609) 298-2800, Direct Extension 2116 b.johnson@bordentowntownship.com

cc: Ms. Madeline Schechter, 32 Waterford Drive, Bordentown, NJ 08505
 M/M Mark Roselli, 16 Bentwood Drive, Bordentown, NJ 08505
 Chief Nucera, Administrator
 Pete Carbone, Construction Official
 Teri Ezzo, TACO

ZONING PERMIT

30 WATERFORD DR
Block/Lot 93.05/1.

Applicant

PALUMBO, MARK D & ALICICA A
30 WATERFORD DR
BORDENTOWN, NJ 08505

Real Estate Owner

PALUMBO, MARK D & ALICICA A
30 WATERFORD DR
BORDENTOWN, NJ 08505

This is to certify that the above-named applied for a permit to/authorization for.
Construct a 19' x 35' inground pool with 347 sqft of decking/patio. Pool setback to waters edge is 10' with 7' of open area to rear yard property line., which is a use permitted by ordinance

Zone

R30

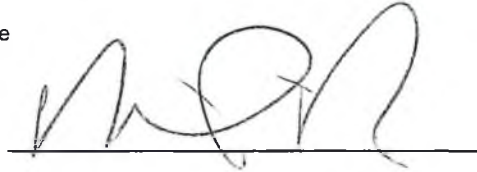
Application is

Approved

Comments on Decision:

HOA approval rec'd.

. Additional permits must be obtained through the Construction Office



Bordentown Township

1 Municipal Drive
Bordentown, NJ 08
(609)298-2800 FAX(609)298-0667

May 15, 2019

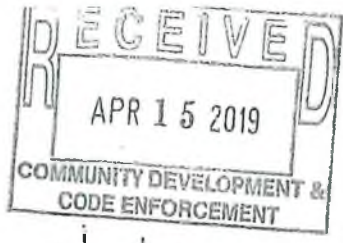
Applic No. 20190083

1420

Cut Here

Deliver to...

PALUMBO, MARK D & ALICICA A
30 WATERFORD DR
BORDENTOWN, NJ 08505



APPLICATION FOR ZONING PERMIT
BORDENTOWN TOWNSHIP

Community Development: _____ Date: 4/15/19

Is this an update to a previously submitted application? YES NO Permit No.: 19-0083

Block: 93.05 Lot: 1 Zone: R-30

Work Site Location: 30 Waterford Drive

Property Owner: Palumbo, Mark

Address of Owner: 30 Waterford Dr Phone No.: 609-424-3331

Existing Use: Single Family Dwelling Proposed Use: _____

Description of Work: Install a 19 x 35' Inground pool.

I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her agent and we agree to conform to all application laws of this jurisdiction.

Signature: [Signature] Address: 5500 U.S Hwy 9 S, Howell, NJ 07731 Telephone: 732-505-9000 Fax: 732-364-1818

Name of Applicant: Pool Town Inc.

- Submitted: Three Plot Plans showing existing building(s) and proposed building(s) including the front, side and rear setbacks.
- One (1) copy of the Homeowners Association approval.
- Site Plan Waiver with required Check list.
- Construction Permit.

VARIANCE Approval Date: _____ Application No.: _____

Check One: Corner Lot Inside Lot Lot Frontage: _____ Lot Width: _____

Principal Setbacks: Front: _____ Rear: _____ Smallest Side: _____ Aggregate: _____ Second Front: _____

Accessory Setbacks: Front: 11' Rear: 12' Smallest Side: 10' Aggregate: _____ Second Rear: _____

Ground Floor Area: Existing 1792 Proposed 522 Total 2314 Sq. Ft. 2994

Square Foot of Lot 12649 % of Lot covered by building 18% Height: _____ Density: 236

Swimming pool distance from Foundation wall: 16' Side: 10' Rear: 12' 17% of rear yard covered by pool

Fencing Type: PVC Height: 6' Location: _____

This application is: Approved Denied

Application Fee: _____ Application No.: _____

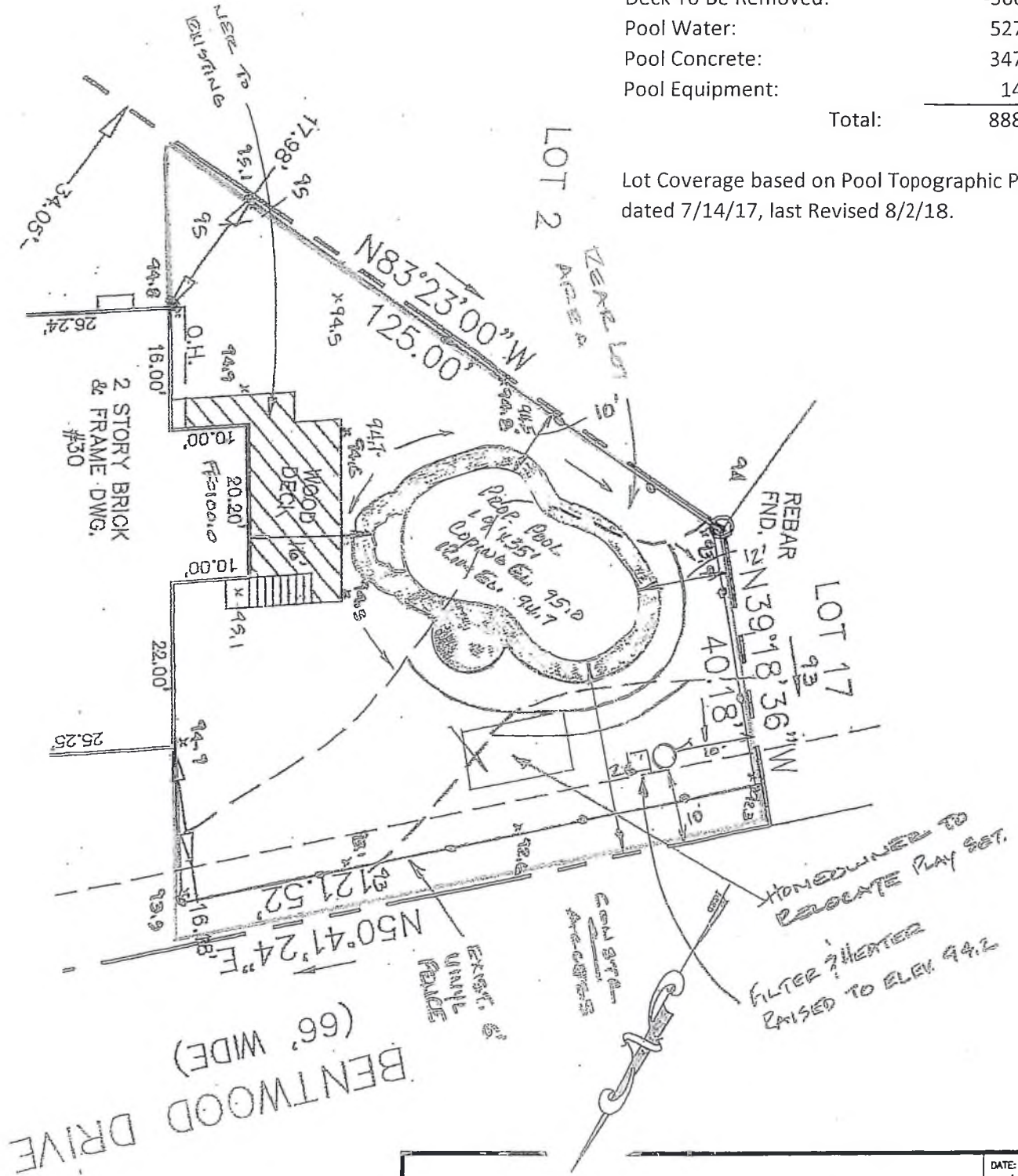
Received: Cash/Check 12733 Construction Control No.: _____

[Signature]
Zoning Officer

fence var- 28-2014-0019
Res 28-2014-08

Rear Lot Area:	5052 ± sf
Existing Deck:	366 ± sf
Deck To Be Removed:	-366 ± sf
Pool Water:	527 ± sf
Pool Concrete:	347 ± sf
Pool Equipment:	14 ± sf
Total:	888 ± sf

Lot Coverage based on Pool Topographic Plan dated 7/14/17, last Revised 8/2/18.



REAR LOT COVERAGE PLAN

DATE: 5/03/19

SCALE: 1" = 20'

JOB No.: 2170604

SHEET 1 OF 1

Martin G. Miller III
Professional Engineer &
Land Surveyor

8 STRATHMORE COURT
FREEHOLD, NJ 07728

M. G. Miller III
MARTIN G. MILLER III
N.J. PROFESSIONAL ENGINEER &
LAND SURVEYOR
License No. 20363

NO.	DATE	DESCRIPTION	BY

Palumbo


Bordentown Township

Block: 93.05 Lot: 1

30 Waterford Drive

Lot Coverage Based on Pool Grading Plan Last Rev. 7/19/17.

Lot Area:	12,649 ± sf	
Existing:		
House & Garage:	1,792 ± sf	
Concrete Drive:	750 ± sf	
Existing Walk:	105 ± sf	
Deck:	366 ± sf	
Subtotal of Existing Structures:	3,013 ± sf	23.8%
Proposed:		
Remove Existing Deck:	-366 ± sf	
Proposed Pool Water:	527 ± sf	
Proposed Concrete:	347 ± sf	
Proposed Pool Equipment:	14 ± sf	
Subtotal of Proposed Structures:	522 ± sf	4.1%
Total of Existing and Proposed:	3,535 ± sf	27.9%


Martin G. Miller III, NJPE & PLS No. 20363

7/19/2017

REV. 8/2/18