

#19-005

RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO LLOYD A. AND CAROL ANN KITCHIN TO PERMIT THE CONSTRUCTION OF AN DETACHED ACCESSORY GARAGE ON LOT 10 IN BLOCK 14

Approved: September 25, 2019
Memorialized: October 23, 2019

WHEREAS, Lloyd A. and Carol Ann Kitchin (“Applicants”) are the owners of Lot 10 in Block 14 as noted on the Tax Map for the Borough of Mount Arlington and having a street address of 21 Edgemere Avenue (“Property”);

WHEREAS, the Applicants submitted an Application for Development with Borough of Mount Arlington Land Use Board (“Board”) on or about August 5, 2019, seeking bulk variance relief to construct a detached accessory garage on the Property;

WHEREAS, the Applicants sought variance relief from the bulk standards applicable in the RA-30 Zone relating to a minimum side yard setback for an accessory structure; maximum building height for an accessory structure; accessory structure located in the front yard; and the maximum square footage for an accessory building;

WHEREAS, the Applicants included with their application a plan entitled “Proposed Site Layout, New Garage For: Lloyd Kitchin, 21 Edgemere Avenue, Mount Arlington Borough, Morris County, New Jersey,” prepared by Fox Architectural Design, P.C., dated July 9, 2019 consisting of 1 sheet; a plan entitled “Detached Garage Plans, Proposed New Garage: Lloyd Kitchin, 21 Edgemere Avenue, Mount Arlington Borough, Morris County, New Jersey,” prepared by Fox Architectural Design, P.C., dated July 9, 2019; and plan entitled “Topographic Survey, 21 Edgemere Avenue, Lot 10 Block 14, Borough of Mount Arlington, Morris County, New Jersey,” prepared by Stires Associates, P.A., dated January 17, 2019, last revised June 20, 2019;

WHEREAS, the Applicants submitted with their application the appropriate fees and escrow deposits;

WHEREAS, the application was deemed administratively complete by the Board’s engineer on or about September 6, 2019 and a public hearing was subsequently scheduled and held on September 25, 2019, notice being required and lawfully provided;

WHEREAS, the Board engineer, David A. Clark, P.E., issued a technical report regarding the application prior to the public hearing dated September 25, 2019;

WHEREAS, the Board’s Planner, Jessica P. Coldwell, P.P., also issued a report dated September 24, 2019;

WHEREAS, at the conclusion of the public hearing on September 25, 2019, the Board rendered a decision on the application in accordance with the requirements set forth N.J.S.A. 40:55D-10(g);

WHEREAS, the Board received as part of the hearing process the following testimony and documentary evidence:

The Applicant, Lloyd Kitchin, testified that he and his wife sought to construct the detached garage to store boats, vehicles and related equipment that are otherwise stored on the lawn of the Property. Mr. Kitchin believed that the garage would be an attractive alternative to merely storing this personal property on the ground of the Property. He told the Board that he thought the garage would be an aesthetic improvement.

The Applicants' architect and planner, Ken Fox, next testified. Mr. Fox presented Exhibit A-1 which was a colored site plan that he prepared. Mr. Fox noted that the Property is large for the neighborhood with a significant front yard setback. He stated that the Property slopes from the front yard along Edgemere Avenue down to the rear of the Property along Lake Hopatcong. Mr. Fox testified that the topography of the land and the location of the existing dwelling precluded erecting a detached garage in the rear of the property closer to Lake Hopatcong, because there would be no access it.

Mr. Fox explained that the Applicants sought to construct a 27 by 33-foot garage that he estimated would be approximately 15.25 feet in height which exceeded the 12-foot limitation under the Borough's ordinances. He presented Exhibit A-2 which showed the height of the building from the grade plane to the highest point. Mr. Fox opined that the exhibit confirmed his calculation of the building height as defined under the Borough's ordinances.

Mr. Fox noted that the additional height would enable the Applicants to store larger boats inside the structure and avoid having any stored on the lawn area. He asserted that the additional height would not have a visual impact since the height of the garage at the street level would actually appear lower. Moreover, the garage doors would face the lake. Mr. Fox also added that the structure itself would be architecturally consistent with the existing home.

Mr. Fox also agreed that the Applicants would relocate the garage in an easterly manner several feet into the interior of the Property to avoid having to seek a variance for an insufficient side yard.

Mr. Fox opined as a planner that the variance relief needed for the height and square footage of the accessory structure, as well as its location in the front yard, was justified under either a C-1 or C-2 analysis. As per the C-1 rationale, Mr. Fox explained that the topography of the Property along with the location of the already existing home did not allow for the construction of the garage in the rear of the property. In support of the C-2 analysis, Mr. Fox explained that the general welfare would be advanced by the construction of the garage and the storage of the boats and vehicles inside. This would promote a desirable visual environment. Mr. Fox supported this argument by presenting Exhibit A-3 which included photographs of the buildings and neighborhood setting.

Mr. Fox testified that he did not believe that the construction of the detached garage in the front yard would propose a substantial detriment to the public good nor would it impair the intent and purpose of the Borough's master plan and zoning ordinances. To the extent there might be any impacts, Mr. Fox agreed that the Applicants would provide drywells and a stormwater plan to ensure that any runoff would be captured and diverted into the ground rather than into Lake Hopatcong. He also said that the Applicants would agree that the garage could not serve as a residence of any kind.

WHEREAS, the Board after hearing the testimony and the documentary evidence provided, made the following findings of fact and conclusions of law:

1. The Applicants are seeking to erect a detached 27 by 33-foot accessory garage on Lot 10 in Block 14, having an address of 21 Edgemere Avenue in the Borough of Mt. Arlington. The garage shall be used by the Applicants to store boats and other related equipment that is currently stored on the lawn surrounding their home.
2. The Property is located in the Borough's RA-30 zone district. The size, height, and location of the detached garage run are contrary to the Borough's ordinances. Specifically, the RA-30 zone imposes a maximum building height of 12 feet for accessory structures. In addition, Borough ordinances Sec.17-32.1 D and 32.1 E limit the square footage of an accessory building to 528 square feet and prohibit said building from being located in any front yard. The Board does agree that the Applicants had previously required a minimum side yard setback variance, but agreed to relocate the proposed garage to a location that would be conforming.
3. The Board finds that the Applicants will require bulk variance relief pursuant to N.J.S.A. 40:55D-70 (c) (1) and (2) from several of the bulk requirements in the Borough's RA-30 zone district. The Board finds that bulk variance relief is warranted under either standard. The Board has determined that the Property is oversized for the neighborhood and slopes from the front yard along Edgemere Avenue to the rear adjacent to Lake Hopatcong. The residential dwelling is situated in the center of the Property towards the rear yard. The location of the residential dwelling coupled with the elevation preclude the construction of the detached garage in the rear of the Property. This circumstance creates a hardship which satisfies the positive criteria under the C-1 analysis. Similarly, the Board finds that the construction of the accessory structure which will be used to store boats and other equipment which would otherwise be stored on the lawn of the Property advances several purposes of zoning as set forth in the MLUL. Specifically, the general welfare is advanced by not having such equipment readily seen from other homes in the neighborhood. In addition, the architectural design and use of the detached garage will promote a desirable visual impact for other properties in the area. Consequently, Purposes a and i will be advanced. Therefore, the Board believes that the positive criteria under C-2 analysis is also satisfied.
4. The Board believes that the Applicant has satisfied the negative criteria associated with their bulk variance request. The relief will enable the Property to be maintained as an attractive residential dwelling that will be in keeping with other dwellings in the

immediate neighborhood. The proposal will not negatively impact Lake Hopatcong or neighboring properties due to excessive stormwater runoff. The proposal is also consistent with the Borough's goals and objectives with respect to lake front development. For these reasons, the Board finds the Applicants have satisfied the negative criteria and are entitled to the Borough relief sought.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Borough of Mt. Arlington, County of Morris, State of New Jersey, does hereby approve the grant of the bulk variance relief to the Applicants, Lloyd A. and Carol Ann Kitchin, most particularly described on the plans entitled "Proposed Site Layout, New Garage For: Lloyd Kitchin, 21 Edgemere Avenue, Mount Arlington Borough, Morris County, New Jersey," prepared by Fox Architectural Design, P.C., dated July 9, 2019 consisting of 1 sheet; a plan entitled "Detached Garage Plans, Proposed New Garage: Lloyd Kitchin, 21 Edgemere Avenue, Mount Arlington Borough, Morris County, New Jersey," prepared by Fox Architectural Design, P.C., dated July 9, 2019; and plan entitled "Topographic Survey, 21 Edgemere Avenue, Lot 10 Block 14, Borough of Mount Arlington, Morris County, New Jersey," prepared by Stires Associates, P.A., dated January 17, 2019, last revised June 20, 2019, subject to the following:

1. The Applicants shall comply with the conditions set forth in the Application Review prepared by Board engineer, David A. Clark, P.E., dated September 25, 2019.
2. The Applicant shall submit proof that all fees, escrow amounts, real estate taxes and assessments have been paid prior to the issuance of both the building permit and Certificate Occupancy.
3. The Applicants shall comply with and abide to the rules, regulations, and ordinances of the Borough of Mt. Arlington applicable to the proposed development.
4. The Applicants shall submit a revised plan evidencing the relocation of the detached accessory garage to a location that will eliminate the need for a side yard setback variance.
5. The Applicants will provide a plan to be reviewed and approved by the Board engineer evidencing an acceptable stormwater management plan that will include, among other things, the installation of drywells.
6. The Applicants agreed that there shall be no residential use of the detached accessory garage.
7. Before the issuance of a building permit, the Applicants shall advise their plans to evidence the relocation of a sewer line in an appropriate location.
8. The Board's approval is conditioned upon the issuance of any other approvals required by other outside agencies exercising jurisdictional development of the Property.

9. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies, agencies, and commissions as shall be deemed necessary and appropriate.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD

Kathy Appleby, Secretary

By: _____
Rob Van den Hende, Chairman

DATED: October 23, 2019

THE VOTE:

IN FAVOR: 7

OPPOSED: 0

ABSTENTIONS: 0

I hereby certify that the above is a true copy of the Resolution adopted by the Borough of Mount Arlington Land Use Board at its meeting on October 23, 2019.

Kathy Appleby, Board Secretary