

**RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE
RELIEF TO GEORGE AND LORRIE ALBINSON FOR ADDITION TO
EXISTING RESIDENCE ON LOT 4 IN BLOCK 51**

**Approved: May 22, 2019
Memorialized: June 26, 2019**

WHEREAS, George and Lorrie Albinson (“Applicants”) are the owners of Lot 4 in Block 51 as noted on the Tax Map for the Borough of Mount Arlington with an address of 89 North Bertrand Road;

WHEREAS, the Applicants submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about February 4, 2019, seeking land use approvals to construct an addition to an existing single family dwelling located on the property; and

WHEREAS, the Applicants require bulk variance relief from the zoning limitations set forth in the RA-7.5 zone district relating to lot area; lot width; one side yard setback for a principal use; total side yard setbacks; impervious coverage; and disturbance of 15 - 25 % slopes and 25 % slopes;

WHEREAS, the Applicants included with their Application engineering plans entitled “89 North Bertrand Road, Lot 4, Block 51” prepared by Stewart Surveying & Engineering, LLC, dated December 28, 2018, last revised May 10, 2019, consisting of three (3) sheets; a Survey of the property prepared by Stewart Surveying & Engineering, LLC, dated April 30, 2019, consisting of one (1) sheet; and architectural plans entitled “Addition to Resident for: George + Lorrie Albinson, 89 North Bertrand Rd. Mt Arlington, NJ”, prepared by Charles Schaffer Associates LLC, dated March 29, 2019, last revised May 10, 2019, consisting of two (2) sheets;

WHEREAS, the Applicants submitted with their Application the appropriate fees and escrow deposit;

WHEREAS, the Application was deemed administratively complete by the Board’s Engineer on or about May 19, 2019, and a public hearing was subsequently scheduled and held on May 22, 2019, notice being required and lawfully provided;

WHEREAS, the Board Engineer Thomas R. Lemanowicz, P.E., issued several reports regarding the Application prior to the public hearing, the most recent dated May 19, 2019;

WHEREAS, the Board’s Planner, Jessica P. Caldwell, P.P., also issued a Report, dated May 13, 2019; and

WHEREAS, the Applicant was represented by Bernd Hefele, Esq. to present their Application;

WHEREAS, at the conclusion of the public hearing on May 22, 2019, the Board rendered a decision on the Application in accordance with the requirements set forth in N.J.S.A. 40:55D-10(g);

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

George Albinson testified that he and his wife have owned the property since 1996. The home was built in the 1950's and is located in RA-7.5 zoning district. Mr. Albinson stated that he and his wife had never renovated the dwelling since purchasing it, although they did install a walk out basement to provide some additional storage.

Mr. Albinson noted that his property is narrow and slopes towards the rear of the property which fronts Lake Hopatcong. In speaking with their Architect, Charles Schaffer, it was decided that it would be better to extend the addition towards the road rather than constructing an addition on top of the existing home. By doing so Mr. Albinson observed the backyard would not be "boxed" in and it would provide more air, light and open space. This approach, according to Mr. Albinson, would also distinguish his home from his neighbors on either side who constructed second floor additions on their existing dwellings.

Fred Stewart, P.E. testified next as the Application's professional engineer. Mr. Stewart confirmed that he had prepared the plans and began his testimony by describing current conditions on the property. His description included reference to the elevated front yard along North Bertrand Road, the paved parking areas in the front yard, as well as the stairs that provided access from the front of the property to the home. Mr. Stewart also noted that there was an existing dock located to the rear of the property extending into the Lake.

Mr. Stewart stated that extending the addition into the front yard towards North Bertrand Road would help maintain the existing side yard setbacks. He explained that the RA-7.5 zone required a side yard setback of 10 feet with the Applicants only providing 3.5 feet while the zone district had a total side yard setback of 20 feet with the Applicants could only provide 8 feet.

Mr. Stewart indicated that there were also non-conforming conditions related to the property which would not be exacerbated by the Applicants' proposal. These include an existing lot area of six thousand eight hundred seventy-one (6,871) square feet, whereas seven thousand five hundred (7,500) square feet is required. Similarly, the lot width is required to be 50 feet and the Applicants could only provide 40.1 feet.

Mr. Stewart agreed that the proposed addition would exacerbate the non-conforming impervious coverage which was presently at 69.2% with only 50%

allowable. If approved, the impervious coverage would be 76.7%. He further stated that addition would disturb 51.1 % of steep slopes between 15-25 % and 23.7% of slopes in excess of 25%. However, Mr. Stewart indicated that any development on this property would likely create the need for this type of variance relief due to the significant grade changes as the lot extended from the road to the Lake.

Mr. Stewart acknowledged that development within these steeper sloped areas would create runoff. He reminded the Board that the Applicants would be installing drainage in the front of the property which will help reduce the volume of runoff and improve water quality. Further, the increase in impervious coverage from the addition would generate run off that was primarily clean since it would be running off the roof, which the Department of Environmental Protection considered to be “clean”. Questions were raised concerning other means of capturing the additional run off, but ultimately it was determined that there were very few options for the Applicants. The Lake Hopatcong Commission submitted a letter dated May 20, 2019, expressing concerns about the increase in impervious coverage and the additional run off created as a result. Mr. Stewart argued that the modest increase in the footprint of the dwelling was a better development proposal than construction of a second story on the existing structure which would result in the look of a “wall” for people looking at this neighborhood from either the street or the Lake. The Applicants did agree, however, that they would comply with the other recommendations set forth in the Commission’s Report.

WHEREAS, the Board after hearing the testimony delivered and the documentary evidence provided, made the following finds a fact and in conclusion of law:

1. The Applicants are seeking bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) (1) from several of the bulk requirements in the Borough’s RA-7.5 zone district. The relief is sought in connection with the Applicants’ proposal to construct a seven hundred seventy-eight (778) square foot addition to their existing home.
2. The Board finds the Applicants will require bulk variance relief from several of the area and bulk requirements in the subject zone. Specifically, the Board finds that the Applicants will require relief from the minimum side yard requirement of ten (10) feet whereas only 3.5 feet will be provided. Similarly, the zone district has a minimum side yard requirement for both sides of twenty (20) feet and only 8.0 feet will be available. In addition, the Applicants will further exceed the maximum lot coverage requirement of fifty (50)% while the lot coverage will be increase from 69.2% to 76.7%. Moreover, the Borough’s Ordinance Sections 17-30.8d3 and 30.8d4 will also not be complied with. These ordinance sections restrict disturbance in steep slopes of 15-25% to no more than 30% while Section 17-30.8d4 limits disturbance in steep slopes of 25% to no more that 15%. The Applicants propose disturbance of 51.1% in steep slope areas between 15 and 25% and 23.7% in areas having a grade more than 25%.
3. The Board finds that the bulk variance relief is warranted as per N.J.S.A. 40-55D-70(c)1. The Board has determined that the Lot is undersized and extremely

narrow with severe slopes extending from the front of the property along the North Bertrand Road to the rear that abuts the Lake Hopatcong. The slope, shape, size and the dimensions of the lot along with Lake Hopatcong located to the rear, impose significant hardships on any development proposed for the property. In addition, the Board finds that on already-existing residential homes on the lots to either side of the property preclude the Applicants from acquiring additional land to remedy their circumstance.

4. The Board believes that the Applicants have satisfied the negative criteria associated with their bulk variance request. The relief will enable the property to be maintained as a attractive residential dwelling. Moreover, the proposed expansion of the footprint, while not increasing the height of the building offers an attractive alternative to a taller building that would otherwise block light and air. It would also have a more negative impact on the view for those traveling along North Bertrand Road or Lake Hopatcong. In addition, the drainage to be installed along the roadway and the other improvements are consistent with lakefront development in the Borough. Indeed, the Borough's Master Plan seeks to encourage the redevelopment or rehabilitation of lakefront homes. For these reasons, the Board finds that these Applicants have satisfied the negative criteria and are entitled to the bulk variance relief sought.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Mt. Arlington, County of Morris, State of New Jersey does hereby approve the grant of the bulk variance relief to the Applicants, George and Lorrie Albinson, more particularly described on the Variance Map, prepared by Stewart Surveying & Engineering, LLC, dated December 28, 2018 and last revised May 10, 2019 and as illustrated by the Architectural Plan prepared by Charles Schaffer Associates, LLC, dated March 29, 2019, last revised May 10, 2019, subject to the following:

1. The Applicants shall comply with the third condition set forth in the Report prepared by Board engineer, Thomas R. Lemanowicz, P.E., dated May 19, 2019.
2. The Applicants shall comply with conditions 4, 5 and 6 set forth in the correspondence received from the Lake Hopatcong Commission dated May 20, 2019, as related to soil erosion, vegetation, and fertilizer, respectively.
3. The Applicants shall submit proof that all real estate taxes and assessments due on the property have been paid in full prior to the issuance of both the Building Permit and Certificate of Occupancy.
4. The Applicants shall comply with and adhere to rules, regulations ordinances of the Borough of Mt Arlington applicable to the proposed development.
5. The Boards' approval is conditional upon approvals required by the Application from all outside Governmental Agencies, exercising jurisdiction over the development of the property.
6. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies as shall be deemed necessary and appropriate.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD

Kathy Appleby, Secretary

By: _____
Robert Van den Hende, Chairman

DATED:

THE VOTE:

IN FAVOR: 7

OPPOSED: 0

ABSTENTIONS: 2

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 June 26,2019.

Kathy Appleby, Board Secretary