

**RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO
MICHAEL BOCCHER TO PERMIT THE EXTENSION OF TWO EXISTING DOCKS
ON LOT 10.03 IN BLOCK 51**

Approved: May 27, 2020
Memorialized: June 24, 2020

WHEREAS, Michael Boccher (“Boccher” or “Applicant”) is the owner of Lot 10.03 in Block 51 (“Property”) as noted on the Tax Map for the Borough of Mt. Arlington and having a street address of 65 North Bertrand Road;

WHEREAS, the Applicant submitted an Application for Development with the Borough of Mt. Arlington Land Use Board (“Board”) on or about March 27, 2019, seeking bulk variance relief to extend two existing wooden docks on the Property;

WHEREAS, the Applicant needed bulk variance relief from the limitations set forth in the Borough Ordinance Sec. 17-47 related to dock setback and water lot coverage. Specifically, Ordinance Sec. 17-47 a (2) requires a dock to be located at least 10 feet from the extended property line with the Applicant’s extended dock being only 4.8 feet. Similarly, Ordinance Sec. 17-47 a (4) limits the water lot coverage to 15% and the Applicant is proposing 18.6%;

WHEREAS, the Applicant included with his application a marked up Plot Plan dated September 28, 2004 and last revised January 8, 2006 prepared by Morris Engineers, which included his hand drawn revisions showing the extension of the docks; a July 31, 2018 letter from the Department of Environmental Protection approving a lift and the extension of the docks, and a survey of the Property prepared by Frederick C. Meola, dated May 4, 1998;

WHEREAS, the Applicant submitted with his application the appropriate fees and escrow deposits;

WHEREAS, the application was deemed administratively complete by the Board on May 27, 2020 with the Board granting waivers from the requirements that the proposed dock extensions be illustrated on a plan prepared, signed and sealed by a licensed engineer, as well as a waiver from the requirement that the Applicant submit copies of any protective covenants and deed restrictions;

WHEREAS, the board engineer, David A. Clark, P.E. issued several reports regarding the application prior to the public hearing, the most recent dated May 26, 2020;

WHEREAS, at the conclusion of the public hearing on May 27, 2020, the Board rendered the decision on the application in accordance with the requirements is 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:

Mr. Boccher testified in support of his application. He explained that he was hoping to extend by 10 feet the two wooden docks along the bulkhead in the rear of his Property. He said

that the extensions would help protect his boats from the large and numerous waves that pummeled the shoreline along the rear of his Property.

Mr. Boccher testified that his lot was on the northwesterly corner of Bertrand Island. He produced an aerial photograph that was marked Exhibit A-1 that showed the location of his lot on Bertrand Island, as well as the surrounding water ways. He told the Board that this location subjected the Property to the waves generated by boaters traveling along both the northerly and westerly side of the island. Mr. Boccher also indicated that there were now more boats in the lake which also contributed to the turbulence. Unfortunately, he explained that his lot was elongated and triangular in shape without significant frontage along the lake which precludes him from relocating his docks. As a result, he is unable to avoid the variances associated with extending the docks.

Mr. Boccher said that extending the docks would enable him to dock his boats in deeper water which would help them better withstand the waves. He also stated that he did have an existing boat lift that he had installed on August of 2018. He referenced a letter from the Department of Environmental Protection dated July 31, 2018, wherein the park superintendent for Hopatcong State Park approved the construction of the boat lift.

The matter was opened to the public and Robert Cobleigh from 61 West Bertrand Road spoke favorably in support of Mr. Boccher's application.

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

1. The Applicant is seeking to extend by 10 feet two existing wooden docks located in the rear of his Property at Lot 10.03 in Block 51. The Property is located in the Borough's RA-7.5 zone.
2. The Board finds that the extension of the two wooden docks will cause the most southerly dock to further violate the dock setback requirement of 10 feet as set forth in Borough Ordinance Sec. 17-47 a (2). Presently, this dock is nonconforming because it is only 7.4 feet from the adjacent property line and will be 4.8 feet after the extension. Therefore, the Board finds that the Applicant will require bulk variance relief in accordance with N.J.S.A. 40:55D-70(c)(1).
3. Similarly, the extension of both docks will result in the need for a variance from the Borough's water lot coverage requirement set forth in Borough Ordinance Sec. 17-47 a (4) which is 15% and 18.95% is proposed. Once again, the Board finds that the Applicant will require relief pursuant to N.J.S.A. 40:55D-70(c)(1).
4. The Board concludes that the Applicant is entitled to the relief sought. The Board agrees that the Property is exceptionally narrow with a triangular shape. In addition, the location of the lot at the northwesterly "corner" of Bertrand Island presents an extraordinary situation that uniquely affects the Property and the two wooden docks, because of the significant boat traffic in the area and the waves generated as a result. Together, these conditions imposed a peculiar and exceptional hardship on the Applicant when trying to design an approach that will save his boats from being

damaged when docked. The Board agrees with the Applicant that the only practical solution is the requested extension of the docks by 10 feet.

5. The Board believes that the relief sought can also be granted in satisfaction of the negative criteria. The Board agrees that the variance relief will not be a substantial detriment to the public good since there is virtually no impact on adjacent property owners or the neighborhood at large. Indeed, the Board found the letters submitted by the neighbors Jessica Price and Yu B. Wan and Yan Wu, as well as the testimony from Mr. Cobleigh to be very persuasive and indicative that the dock extensions would not have a substantial detriment to the neighborhood. In addition, the extension of the docks will allow the continued recreational use of Lake Hopatcong which helps promote the character and quality of life along Lake. It will promote aesthetic and recreational qualities that are among the goals and objectives of the Borough's master plan.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Borough of Mt. Arlington, County of Morris, State of New Jersey to approve the grant of the bulk variance relief to the Applicant, Michael Boccher, as more particularly described in the plans and application he submitted subject to the following conditions:

1. The Applicant is to submit copies of any related protective covenants and deed restrictions that affect his property prior to the issuance of the requisite building permits.
2. 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.
3. The Applicants shall comply with and adhere to rules, regulations ordinances of the Borough of Mt Arlington applicable to the proposed development.
4. The Boards' approval is conditional upon approvals required by the Application from all outside Governmental Agencies, exercising jurisdiction over the development of the property.
5. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies as shall be deemed necessary and appropriate. The Board's 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: _____, Chairman

DATED:

THE VOTE:

IN FAVOR:

OPPOSED:

ABSTENTIONS:

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 _____, 2020.

Kathy Appleby, Board Secretary