

20-003

RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO GILRAY LLC TO PERMIT THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE AND ATTACHED TO CAR GARAGE ON LOT 8 IN BLOCK 57

Approved: February 26, 2020

Memorialized: April 22, 2020

WHEREAS, Gilray LLC (“Gilray” or “Applicant”) is the owner of lot 8 in block 57 (“Property”) as noted on the Tax Map for the Borough of Mt. Arlington and having an address of 23 Bertrand Island Road; and

WHEREAS, Gilray filed an Application for Development, dated November 1, 2019, with the Borough of Mt. Arlington Land Use Board (“Board”) seeking to demolish an existing single-family dwelling located on the Property and to construct a new two story single-family dwelling with an attached two-car garage; and

WHEREAS, the Applicant requested bulk variance relief from the bulk requirement set forth in the RA- 7.5 zone district relating to minimum front yard setback; minimum side yard setback; and minimum total side yard setback; and

WHEREAS, the Applicant included with its Application engineering plans titled “Variance Plans for Lot 8, Block 57, 23 Bertrand Island Road situated in the Borough of Mt. Arlington, Morris County, New Jersey,” prepared by Civil Engineering Inc., dated September 20, 2019, last revised January 23, 2020, consisting of 5 sheets and architectural plans titled “Garage Addition to Residence for Gilray LLC, 23 Bertrand, Lake Hopatcong, NJ,” prepared by Charles Schaffer Associates LLC dated November 14, 2018, last revised September 30, 2019, consisting of 2 sheets; and

WHEREAS, subsequent to the filing of the Application, it was discovered that the Applicant would also require design waivers from Borough Ordinance 17-46 that prohibits 2 docks on a property; Ordinance 17-22.5(h) that regulates the grade of the main section of a driveway and at the garage; Ordinance 17-22.6(f) related to the height of a retaining wall in relation to its distance to an adjacent property line; Ordinance 17-24.1c establishing minimum distance between driveways; and Ordinance 17-22.6e that regulates the grading set back at the property line; and

WHEREAS, the Applicant submitted with its Application the appropriate fees and escrow deposits; and

WHEREAS, the application was deemed administratively complete by the Board’s engineer, David A. Clark, P. E., on December 15, 2019, and a public hearing was subsequently scheduled and held on February 26, 2020, notice being required and lawfully provided; and

WHEREAS, Mr. Clark submitted several reports to the Board in connection with the application, the most recent being dated February 26, 2020; and

WHEREAS, the Board's planner, Jessica C. Caldwell, P. P., issued several memoranda to the Board, the most recent dated February 25, 2020; and

WHEREAS, the Applicant was represented by Bernd Hefe, Esq.; and

WHEREAS, at the conclusion of the public hearing on February 26, 2020, the Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g); and

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

Ray Torella testified initially for Gilray. He told the Board that the Property was formerly owned by his father. After his father passed away, the estate transferred title to Gilray which Mr. Torella owned. He explained that Gilray was looking to build a home over the existing foundation and a two-car garage that would be connected by way of a covered breezeway. According to Mr. Torella, the larger garage was needed to provide storage since many of the sheds that had formerly been built on the property were removed.

After Mr. Torella concluded, James Glasson, P. E. was called to testify. He presented Exhibit A-1 which was a colored rendering of the Grading and Utility Plan he drafted for the Application. Mr. Glasson advised the Board that the Property was zoned RA-7.5. He said that the Applicant was hoping to build a two-story 1025 square foot home over the foundation of the former house with an attached 484 square foot two-car garage connected by a 122 square foot breezeway. He indicated that the Property also had 2 docks extending into Lake Hopatcong.

Mr. Glasson noted that the proposal was generally conforming and in some instances an improvement over the current condition of the Property. For instance, he explained the former owner had built a number of sheds and concrete walkways throughout the Property. He advised that Gilray eliminated them which reduced the impervious coverage from 47.36% to 34.79% which is far below the zone district's maximum coverage allowance of 50%. According to Mr. Glasson this reduction provided opportunities for more greenspace and swales needed to collect and treat stormwater runoff.

Mr. Glasson stated that the garage was to be located on the northeasterly side of the dwelling. He testified that the front section of the garage would be 23.6 feet from the street in contravention of the zone district's front yard setback requirement of 25 feet. He also indicated that the Applicant would need a bulk variance from the zone district's minimum side yard setback requirement since the right-hand side of the garage would only be 5 feet from the property line whereas ten feet was required. Similarly, he opined that the combined side yard setback would only be 15.1 feet whereas 20 feet was required.

Mr. Glasson described the Property as severely sloped from Bertrand Island Road to Lake Hopatcong. He told the Board that the elevation at the street was 99 feet and only 90 feet at the garage which was a mere 23 feet away. He pointed out that even though the garage was 31 feet high only 9 feet would be visible from the street. He testified that the proposed driveway meets

the ordinance required grade of 2% for 10 feet starting at the curb. The Applicant would need a design waiver for the slope of the driveway at the standing area by the garage where they are providing a 1% grade for 14 feet where 5% maximum for 25 feet is required. A design waiver was also requested for the main driveway grade of 27.9% where a maximum 15% is permitted. Since the driveway already existed, he felt there was not much that could be done to avoid this relief.

Mr. Glasson testified that on the southerly side of the Property the Applicant was proposing to replace an existing railroad tie wall with a concrete wall needed to stabilize the raised parking area. The current wall was shared with the owner of Lot 9 because it helped the owner of Lot 9 maintain its parking area. Mr. Glasson said that the new wall would be 3.8 feet high and located entirely on the Applicant's property. He represented that the Applicant would be responsible for the maintenance even though the wall would be shared with his neighbor.

When Mr. Glasson concluded, the matter was opened to the public for any comments. Tom Foley spoke in favor of the application.

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 Applicant is seeking to demolish an existing single-family residence located on Lot 8 in Block 57, having an address of 23 Bertrand Island Road in the Borough of Mt. Arlington. In its place, the Applicant is proposing to construct a two-story 3,212 square foot home on the 1,025 foundation of the former house with a 484 square foot two-car garage which would be connected to the home by a 122 square foot breezeway. The Property is in the Borough's RA-7.5 zone.

2. The Applicant is 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 since the Applicant's proposal does not meet the zone district's minimum side yard requirement of 10 feet with only 5 feet provided; the combined side yards requirement of 20 feet with only 15.1 feet provided; and the minimum front yard requirement of 25 feet with only 23.6 feet provided.

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 Property is impacted with exceptional topographic conditions, chiefly the severe grade of the Property. This unavoidable condition imposes a peculiar and practical difficulty when trying to develop the Property in a conforming manner. Despite this condition, the Board finds that the deviations sought by the Applicant are not substantial. Moreover, the Applicant has dramatically reduced the amount of impervious coverage over the existing condition which helps promote stormwater management and open space.

4. The Board believes that the Applicant has satisfied the negative criteria associated with its bulk variance request. The relief sought will enable the Property to be developed as an attractive residential development that is in keeping with the neighborhood. The Applicant's proposal is not a substantial detriment to the neighborhood, for the intended home will be

consistent with the established development patterns in the immediate area. In addition, the proposal will promote many of the goals and objectives of the Borough's Master Plan including promoting the character and quality of life along Lake Hopatcong. It will advance the aesthetic and recreational features along the Lake and provides a diversity of housing types and styles. In addition, the Applicant's use of creative stormwater management techniques will help protect the environmental integrity of the Lake. For these reasons the Board finds the Applicant has satisfied the negative criterion are entitled to the use and bulk variance relief sought.

5. The Board also finds that the Applicant will require design waivers from Borough Ordinance 17-46 that prohibits 2 docks on a property; Ordinance 17-22.5(h) that regulates the grades of a driveway at the garage and on the main driveway; Ordinance 17-22.6(f) related to the height of a retaining wall in relation to its distance to an adjacent property line; Ordinance 17-24.1(c) establishing minimum distance between driveways; and Ordinance 17-22.6(e) that regulates the grading set back at the property line. The Board finds that given the topographic condition of the Property that the waivers are reasonable and necessary under the circumstances and will not adversely impact adjacent properties.

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 Applicant, Gilray,, LLC, more particularly described on the engineering plans titled "Variance Plans for Lot 8 Block 57, 23 Bertrand Island Road Situated in the Borough of Mt. Arlington, Morris County, New Jersey," prepared by Civil Engineering Inc., dated September 20, 2019, last revised January 23, 2020, consisting of five sheets and architectural plans titled "Garage Addition to Residence for Gilray, LLC, 23 Bertrand, Lake Hopatcong, NJ," prepared by Charles Schaffer Associates LLC dated November 14, 2018, last revised September 30, 2019, consisting of 2 sheets, subject to the following conditions:

1. The Applicant shall comply with the technical comments set forth in the reports prepared by Board engineer, David A. Clark, P.E., the most recent being dated February 26, 2020.

2. The Applicant shall comply with the recommendations of the Lake Hopatcong Commission dated January 20, 2020.

3. The Applicant shall agree to record a deed restriction against their Property setting forth the required maintenance for the stormwater management system to be installed on the Property. The deed restriction shall be a condition precedent to the issuance of the Certificate of Occupancy. The proposed deed restriction shall first be presented and approved by the Board's attorney and engineer prior to recording.

4. 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 of Occupancy.

5. The Applicants shall comply with and adhere to rules, regulations ordinances of the Borough of Mt. Arlington applicable to the proposed development.

6. 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.

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

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