

#19-004

**RESOLUTION OF MEMORIALIZATION GRANTING USE AND BULK VARIANCE  
AND AMENDED SITE PLAN APPROVALS TO PERMIT THE EXPANSION OF THE  
LAKE HOPATCONG YACHT CLUB ON LOT 7 IN BLOCK 51**

Approved: August 28, 2019  
Memorialized: September 25, 2019

**WHEREAS**, the Lake Hopatcong Yacht Club (“Applicant”) is the owner of Lot 7 in Block 51 (“Property”) as noted on the Tax Map for the Borough of Mount Arlington and having a street address of 75 North Bertrand Road;

**WHEREAS**, the Applicant previously applied for and received bulk and use variance approvals; preliminary and final site plan approvals; and a minor subdivision approval which all approvals were memorialized in a resolution dated September 10, 2003 (“2003 approvals”);

**WHEREAS**, the 2003 approvals were subject to certain conditions some of which the Applicant never satisfied;

**WHEREAS**, the Applicant submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about March 7, 2019, seeking use and bulk variance relief and amended site plan approval to expand the existing Yacht Club on the Property;

**WHEREAS**, the Applicant required bulk variance relief as per N.J.S.A. 40: 5D-70 (d)(2) since its development proposal would expand and intensify the use of the Club which is a lawful pre-existing, non-conforming use in the RA-7.5 zone district. The Applicant also required bulk variance relief for its development proposal which called for an increase in the maximum impervious coverage on the property to 56% which exceeded the 50% maximum allowed in the zone. The Applicant also required a bulk variance because its proposal did not provide 109 parking spaces as required. The Applicant too required variance relief from the Borough Ordinance Sec. 17-49 (a)(2) since an existing dock was set back only 1 foot from an adjacent property line whereas 16 feet is required and whereas the same dock was also only 11 feet from another dock located on the Property whereas 30 feet is required. Approval was also required for two freezers which were installed behind the existing building. Finally, the Applicant sought to amend certain of the conditions set forth in the 2003 approvals;

**WHEREAS**, the Applicant included with its application a plan set entitled “Rehabilitation of the Lake Hopatcong Yacht Club, 75 N. Bertrand Road, Mt. Arlington, N.J. 07856”, prepared by HMR Architects, dated May 9, 2019, no revisions, consisting of 8 sheets; plan entitled “Boundary Topographic Survey of Block 51, Lot 7, Borough of Mt. Arlington, Morris County, New Jersey” prepared by the Reynolds Group, dated September 18, 2001, and last revised on May 6, 2019, consisting of 1 sheet; and a plan entitled “Existing Dock Detail Sketch”, no author, dated April 19, 2019;

**WHEREAS**, the Applicant submitted with its application the appropriate fees and escrow deposit;

**WHEREAS**, the application was deemed administratively complete by the Board's Engineer in a report dated June 10, 2019, and public hearings were subsequently scheduled and held on July 24, 2019 and August 28, 2019, notice being required lawfully provided;

**WHEREAS**, the Board engineer issued several reports regarding the application prior to the public hearing, the most recent dated July 2, 2019;

**WHEREAS**, the Board's planner also issued a report dated June 18, 2019;

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

The Applicant was represented by Bernd Hefe, Esq. Mr. Hefe introduced the application which he described as the Applicant's proposal for the historic renovation of its 109-year-old clubhouse. Before delving into the merits of the application, however, Mr. Hefe acknowledged that his client did not satisfy all the conditions imposed in the 2003 approvals. He then explained which conditions the Applicant would now address and which it would ask the Board to change or eliminate.

For instance, the Applicant was required to install certain traffic control signage and pavement markings but failed to do so. Mr. Hefe explained that the Applicant, as part of the current application, would perform the following:

1. Install "Do Not Enter" signs on the Western driveway to North Bertrand Road;
2. Install "Handicap Parking" signs at the delineated spaces, including "Penalty" placard and "Van" space placard;
3. Install two (2) "One Way" signs in the front parking area;
4. Stripe the existing parking lot to provide a loading space and a walking aisle in the front parking area and install a sign for the loading space;
5. Install pavement markings to delineate a reserved parking space for the residents living in the single-family dwelling on the Property; and
6. Refurbish all other faded pavement markings on the Property;

Mr. Hefe continued by advising the Board that the Applicant would repair an existing bulkhead as was required in the 2003 approvals and would also record a drainage easement that was to have been granted to the Borough. The 2003 approvals also required the construction of a

staircase on the exterior of the easterly side of the residential structure. Mr. Hefele indicated that the Applicant was seeking to amend the 2003 approvals to eliminate this requirement. Similarly, he told the Board that the 2003 approvals mandated the elimination of an opening in the bulkhead that is currently being used to accommodate a boat ramp. He said that the Applicant did not intend to satisfy this condition, because the opening was the main launch area for the Applicant's members.

Mr. Hefele advised the Board that the Applicant would install 4 new parking area lights and 6 bollard lights along the existing walkway that extended from the lower parking area to the club house. However, upon further discussion with the board and in consideration of the neighbors it was agreed that these lights were not really necessary and they would not be installed and the lighting would remain as currently installed. Mr. Hefele advised that the Applicant did not intend to apply a stone veneer on the retaining walls that were built in accordance with the 2003 approvals. Mr. Hefele said that the veneer was expensive and would not improve the functionality of the walls.

Mr. Hefele represented that the Applicant would plant a double row of evergreens to serve as a buffer along the southerly property line and would also provide 2 parking spaces for the residential dwelling on the property as required in the 2003 approvals. Mr. Hefele concluded his introductory remarks by informing the Board that the Applicant was amending its site plan application to include 2 walk-in freezers that had been constructed without prior permits or site plan approval and a dock that had also been added without a prior permit.

After Mr. Hefele rested, he introduced Commodore Brian Murphy. The Commodore stated that the application had begun first with the Applicant's need to address the roof and the railings along the second floor. Those preliminary discussions led to a plan for the comprehensive historic renovation of the building, as illustrated in Exhibit A-1 which was an architectural rendering of the proposed structure.

Commodore Murphy informed the Board that the Yacht Club was open a few weeks before Memorial Day and a few weeks beyond Labor Day. During this time, the Club hosted dining, social events, and regattas on the weekends. Members participate in junior sailing events, adult sailing on weekends and outdoor dining. The Club also holds a firework display, a large regatta and an antique boat show that are open to the public. Commodore Murphy represented that the Club has a 175-member limit with no intention of increasing its membership. Capacity in the clubhouse is set at 195.

Murphy did acknowledge that parking was an issue during the Club's larger events like the regattas and fireworks. At these times, he testified people park on the neighborhood streets. He assured the Board that there have been no complaints about this arrangement. The Club does provide notice before its regatta about parking rules and members are instructed where to park. He did note that during the regatta, more of the spaces in the parking lot are available for motor vehicles since the boats are in the water. While Commodore Murphy acknowledged that boats are parked in the parking lot, most of the time parking is not an issue since the boats are moved into the water, thereby making spaces available for motor vehicles.

The Applicant next presented Eric S. Holtermann, A.I.A. to testify in support of its proposal. Mr. Holtermann is a principal with HMR Architects, the firm that prepared the site plan and architectural drawings. Mr. Holtermann presented Exhibit A-2 which was a colored site plan dated August 28, 2019, illustrating existing conditions. He said to the Board that the Applicant was hoping to renovate the building in an effort to remove the 1961 addition and replace it with a historically appropriate addition. This would be accomplished by expanding the first floor by 331 square feet and the second floor by 104 square feet. Mr. Holtermann advised the Board that an interior staircase would be built and the bar would be extended by 17 feet. The staircase would provide code required egress and would allow for better access to the second floor of the structure which would allow members to use the second floor and the upstairs patio. In the course of renovating the building, Mr. Holtermann confirmed that the Applicant would be removing an existing exterior shed.

Mr. Holtermann acknowledged that there would be additional coverage resulting from the project, increasing impervious coverage on the lot from approximately 55% to approximately 56% whereas the zone district only allowed 50%. He also noted that the Applicant would require a bulk variance for an existing dock that had been improved through the installation of wood around the concrete portions. Mr. Holtermann presented Exhibit A-3 which was an approval from the Department of Environmental Protection authorizing the construction of the dock subject to any local approvals. He also offered Exhibit A-4 which were photographs of the Property showing existing conditions from various locations.

Mr. Holtermann explained that the Applicant was intending to install a drywell on the Property that would accept stormwater runoff from the roof leaders. It was the Applicant's goal to reduce runoff into Lake Hopatcong. As discussions with the Board ensued, Mr. Holtermann acknowledged that the design of a stormwater system was beyond his expertise. He did agree that the Applicant would agree to retain a civil engineer to perform the appropriate testing and draft a plan that would be reviewed and approved by the Borough engineer.

Martin Kane was also asked to appear. Mr. Kane is the Lake Hopatcong Historian. He began his testimony by introducing Exhibits A-5 and A-6 which were photographs of the Yacht Club from 1910. The photographs confirmed that people were on the outdoor porch on the second floor. Mr. Kane opined that renovations done in 1961 had so "butchered" the building that it made access and the use of the second floor virtually impossible. He believed that the Applicant's development proposal would enable the use of the second floor as was originally contemplated when the building was erected.

John McDonough, P.P. next testified in support of the Applicant's proposal. Mr. McDonough began his testimony by introducing Exhibits A-7 and A-8. These exhibits were individual photographs of the Property from various locations. The photographs included pictures of the docks, the parking lot, and the walk-in freezers. The exhibits were presented to support Mr. McDonough's expert testimony justifying the use and bulk variance relief.

Mr. McDonough opined that the Applicant would require use variance relief in accordance with N.J.S.A. 40:55D-70 (d)(2) since the proposed improvements represented an expansion and intensification of the use of the Yacht Club which is a lawful, pre-existing and

non-conforming use. He noted that the development proposal would promote the historic preservation of the Property which itself was an objective of the Borough's master plan. He also believed that the proposal represented an upgrade over the existing facility and would improve the efficiency and functionality of the structure. Lastly, he believed that the proposal would render the use of the Property to be more compliant with the Americans with Disabilities Act and promote overall safety.

In his estimation, Mr. McDonough believed that these objectives advanced purposes a, i, m of the New Jersey Municipal Land Use Law ("MLUL"). Specifically, the proposed improvements would advance the public health, safety and general welfare (purpose a); promote a desirable visual environment (purpose i); and to coordinate various activities that will shape land development with a view at lessening the cost and creating a more efficient use (purpose m).

Mr. McDonough did not believe that the Applicant's proposal would run afoul of the negative criteria. He did not think that the application would be a substantial detriment to the public good. In his view, the structure has existed for over 100 years and had become an intricate part of the community. The seasonal use of the Property and its efforts to promote efficient parking lessened any impacts to neighbors. He also did not feel that the proposal was a substantial impairment to the Borough's master plan or zoning ordinances. The master plan sought to promote historic preservation, which the Applicant's development would do. It would also help protect the environmental integrity of the Lake Hopatcong which was another goal of the master plan.

Mr. McDonough then offered testimony in support of the bulk variance relief sought which included a variance for impervious coverage, inadequate parking, and the setbacks for the already-constructed dock. Mr. McDonough opined the principles supporting the use variance relief similarly justified the bulk variance relief as per N.J.S.A. 40:55D-70 (c)(2). Similarly, he believed that the testimony he offered to address the negative criteria in support of the use variance was also applicable to the bulk variance analysis. He then concluded his testimony by opining that the grant of the site plan approval would not be a substantial detriment to the public good or substantial impairment to the Borough's master plan or zoning ordinances.

After Mr. McDonough concluded, members of the public appeared to address the Board. They included Mayor Mike Stanzilis who spoke favorably of the proposal. Fred Steinbaum, a member of the Yacht Club also expressed his support, although he did have concerns about stormwater runoff. Colleen Lyons, the Executive Director of the Lake Hopatcong Commission also urged the Applicant to consider a stormwater management plan.

**WHEREAS**, the Board after hearing the testimony deliberated in a documentary evidence provided, made the following findings, facts and conclusions of law:

1. The Applicant is seeking to amend site plan and use and bulk variance approvals to expand the existing 2-story Lake Hopatcong Yacht Club building on Block 51, Lot 7. The Property is irregularly shaped with a front yard located on North Bertrand Road and the rear yard fronting Lake Hopatcong.

The Property also includes former Lot 6 which is developed with a 1-story residence.

2. The Applicant is proposing an addition to the first floor of the clubhouse and a second story addition. The Applicant will also enlarge an existing paver patio and remove and small shed located on the Property.
3. The Applicant's proposal will require use variance relief as per N.J.S.A. 40:55D-70 (d)(2), because the Yacht Club is a lawful, pre-existing non-conforming use in the RA-7.5 zone. The current development proposal would represent an enlargement and intensification of the use of this non-conforming structure.
4. The Board also finds that the Applicant will require bulk variance relief because its development proposal increases the impervious coverage on the Property from 54.9% to 56% whereas only 50% is allowed. In addition, the Applicant will require bulk variance relief, because the use does not provide adequate parking and an existing dock does not satisfy the setback requirements established in Borough Ordinance Section 17-49. Lastly, the Applicant will require amended site plan approval.
5. The Board finds that the Applicant is entitled to use variance relief pursuant to N.J.S.A. 40:55D (d)(2) to allow for an expansion and intensification of the use of a pre-existing, lawful and non-conforming use. The Board agrees with the Applicant that its proposal will promote historic preservation, enhance the general welfare and public safety, and advance a more efficient use of the Property. These objectives are consistent with purposes a, i, and m of the MLUL, thereby satisfying the positive criteria. The Board also finds that the Applicant satisfied the negative criteria since the grant of the use variance will not be a substantial detriment to the public good nor will it substantially impair the intent and purpose of the Borough's master plan and zoning ordinances. The Board concurs that the Applicant's use has endured for over one century. It shares a symbiotic relationship with the surrounding neighborhood and is an intricate part of that fabric. The Applicant's proposal will enhance the efficiency and use of the Property and should curtail any conflicts with neighbors. Further, the Applicant's proposal advances the goals and objectives that the Borough has articulated in its master plan, including historic preservation. Consequently, the Board believes, on balance, that the benefits from the Applicant's proposal outweighs any negative impacts.
6. The Board also finds that the Applicant is deserving of the bulk variance required for impervious coverage, insufficient parking, and the inadequate setbacks for its existing dock. The Board believes that the Applicant has satisfied the positive criteria, because the relief requested promotes the same purposes of zoning set forth above. Specifically, the Applicant's proposal will promote the general welfare and public safety set forth in purpose a; will

create a more desirable and visual environment as set forth in purpose i; and will lead to a more efficient use of land as described in purpose m. Additionally, the Board believes the Applicant satisfies the negative criteria for the same reasons as set forth above.

7. The Board also finds that with the grant of the use and bulk variance relief, the Applicant is deserving of amended site plan approval. The Board believes that the amended site plan approval can be granted without posing a substantial detriment to the public good or a substantial impairment to the intent and purpose of the Borough's master plan and ordinances

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Use Board of the Borough of Mount Arlington, County of Morris, State of New Jersey, does hereby approve the grant of the use and bulk variance relief and amended site plan approval to the Applicant, the Lake Hopatcong Yacht Club, more particularly described on the plan set entitled "Rehabilitation of Lake Hopatcong Yacht Club, 75 North Bertrand Road, Mt. Arlington, NJ 07856", prepared by HMR Architects, dated May 9, 2019, consisting of 8 sheets, subject to the following terms and conditions:

1. With respect to the Resolution adopted by the Board in 2003, same is amended and the Applicant shall comply with the conditions below that remain unsatisfied:
  - a. The Applicant will erect traffic control signage and pavement markings set forth below:
    - (i) Install "Do Not Enter" signs on the Western driveway to North Bertrand Road;
    - (ii) Install "Handicap Parking" signs at the delineated spaces, including "Penalty" placard and "Van" space placard;
    - (iii) Install (2) "One Way" signs within front parking area;
    - (iv) Stripe the pavement to provide for a loading space and install a sign;
    - (v) Stripe a walking aisle in front parking area;
    - (vi) Install pavement markings to delineate 2 reserved parking spaces for resident of single-family dwelling; and
    - (vii). Restripe all other pavement markings.
  - b. Repair existing bulkhead in the eastern corner of site;

- c. Prepare and record drainage easement in favor of the Borough along the southeasterly property line. The easement language and description must be reviewed and approved prior to recording by the Board engineer and attorney;
- d. Install double row of evergreen trees as a buffer along the southerly property line;

The aforesaid conditions must be addressed prior to the issuance of a certificate of occupancy.

- 2. The Board shall amend the 2003 approvals to eliminate the requirement that additional lighting be installed; a staircase be constructed at the easterly corner of the building; stone veneer be installed on the retaining walls; and the existing bulkhead be closed.
- 3. All other terms and conditions in the 2003 approvals shall remain in full force and effect and the Applicant agrees to be bound by same.
- 4. The Applicant agrees that the lawn area shall not be used for the permanent parking of motor vehicles or boats.
- 5. The Applicant shall remove an existing shed located at the westerly side of the structure.
- 6. The Applicant shall apply for and receive any and all municipal approvals and permits in connection with a new dock it has constructed on Lake Hopatcong as per the prior permit issued by the DEP, bearing file no. 24-19.
- 7. The Applicant shall retain a licensed civil engineer in the State of New Jersey to prepare a stormwater management plan for the Property that would subject to the review and approval of the Borough engineer. **THIS SHALL BE A CONDITION PERCEDENT TO THE ISSUANCE OF A BUILDING PERMIT FOR ALL OTHER PERMITTED WORK.**
- 8. The Applicant will revise its plans in accordance with the report from the Board engineer dated July 2, 2019.
- 9. The Applicant shall provide proof that fees, escrow amounts, real estate taxes and assessments, if any, had been satisfied prior to the issuance of both the Building Permit Certificate of Occupancy.
- 10. The Applicant shall comply with the rules and regulations, and ordinances of the Borough of Mount Arlington applicable to the proposed project.



11. This approval is conditional upon any approvals or permits required from any and all outside governmental agencies exercising jurisdiction over the development of Property.
12. 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: \_\_\_\_\_, 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 \_\_\_\_\_, 2019.

\_\_\_\_\_  
Kathy Appleby, Board Secretary