

RESOLUTION NO. 18-005

**BOROUGH OF MOUNT ARLINGTON LAND USE BOARD
RESOLUTION GRANTING CERTAIN VARIANCES
WITH REFERENCE TO BLOCK 51, LOT 16**

WHEREAS, Marie and Craig Peterson had made application for variances associated with an addition to an existing single-family home located on Block 51, Lot 16, as shown on the Tax Map of the Borough of Mount Arlington, and which property is also known as 55 West Bertrand Road, Mount Arlington; and

WHEREAS, the application was deemed complete, and a hearing was scheduled and held on September 26, 2018, after the applicants had provided proper notification pursuant to the Land Use Act; and

WHEREAS, at said hearing, the applicants offered testimony, as well as John Heyrich, a licensed architect of the State of New Jersey, and Arthur Murphy, the previous owner of the property, and Craig Peterson, the current owner of the property; and

WHEREAS, the applicants offered photos of the existing property, and an existing survey with the proposed additions shown on said survey, as well as plans prepared by the architect; and

WHEREAS, the Planner and Engineer for the Planning Board provided reports and offered testimony at the hearing; and

WHEREAS, as a result of the documents and testimony offered at the public hearing, the Land Use Board does hereby make the following findings of fact:

1. The property is located in the RA-7.5 Zone, where single-family residential uses and accessory garages are permitted.
2. The property consists of an existing dwelling with outside decks, a garage in the front yard, and two sheds along the northerly property line of the property.
3. The property is 60' in width.
4. The existing dwelling, garage and sheds date back to approximately 1925, and they existed prior to the existence of any zoning ordinance for the Borough of Mount Arlington which means that they are non-conforming structures.
5. The existing structure along the southerly property line requires a 10' side-yard and now has a side-yard of

approximately 1.9'. The two existing sheds along the northerly boundary line have a side-yard of approximately 2.1'.

6. One of the two existing sheds along the northerly boundary line is forward of the principal structure.
7. The garage is located within the front yard, which is in violation of the existing zoning ordinance, but as indicated, is a non-conforming structure, and therefore no variances are needed.
8. The existing impervious coverage on the property is 5,380 SF, wherein 50%, or 4,605 SF are permitted pursuant to the zoning ordinance. Applicant is proposing to increase the square footage by approximately 516 SF to a total of 5,899 SF.
9. The property was purchased from the applicants in 2018 from Mrs. Peterson's father, Arthur Murphy.
10. The proposed addition will accommodate an "in-law suite" for Mr. & Mrs. Murphy, as well as changing a deck plan along the rear of the property, modernizing the property and improving the appearance of the property.

and

WHEREAS, the applicant needs the following variances: side-yard encroachment by the existing structure, as well as a portion of the proposed addition along the southerly side-yard, which presently has a side-yard of 1.9' and which will be amended to 2.2', wherein 10' is required, as well as increasing the impervious surface from 5,383 SF to 5,899 SF, wherein 4,605 SF (or 50% of the total area of the Lot) is permitted; and

WHEREAS, the architect for the applicant testified that the side-yard variance should be granted because the existing side-yard is 1.9' and they are improving the setback slightly to 2.2' and, in fact, the existing side-yard which will be exacerbated as a result of the addition, has existed since approximately 1925, and as a practical matter there is no other place to construct the proposed addition; and

WHEREAS, there already exists impervious coverage which is more than permitted pursuant to the ordinance and they are increasing it by approximately 516 SF; and

WHEREAS, they are proposing to improve the drainage on the property by modifying the existing sidewalk along the northerly side-yard by removing concrete and replacing it with crushed stone, and in addition, constructing on the northerly side of the garage a rain garden to

capture runoff from the roof of the garage; and

WHEREAS, the Board determines that the side-yard variance should be granted because of the exceptional narrowness of the property, and because of the existing structure which already violates the side-yard, as well as exceptional topographic conditions and physical features equally affecting the property, which result in peculiar and exceptional practical difficulties; and

WHEREAS, the variance for impervious coverage can be granted because it promotes the principal of the Land Use Act, *i.e.*, the addition and reconstruction of the property will provide a desirable visual environment and a good design which will improve the appearance of the property; and

WHEREAS, the applicant is mitigating the impacts of the excessive impervious cover by providing stormwater mitigation in the form of a rain garden; and

WHEREAS, the other existing bulk area violations are non-conforming with reference to the garages and the two sheds, in that they both existed prior to the adoption of any zoning ordinances; and

WHEREAS, the side-yard violation has been existing since approximately 1925, and there is adequate side-yard on the adjoining property; and

WHEREAS, the Board does determine that the variances requested can be granted without substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan or zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Mt. Arlington Land Use Board, Morris County, New Jersey, that an application for a variance to permit a side-yard setback along the northerly property line of approximately 2.2' is hereby granted; and

BE IT FURTHER RESOLVED that increasing the impervious surface on the property from 5,383 SF to approximately 5,899 SF is hereby granted, subject to the following terms and conditions:

1. The survey for the property which is to be filed with the Borough shall show the rain garden as a permanent feature of the property.
2. The plans shall be supplemented with a construction detail for the proposed rain garden.
3. The height of the existing garage shall be added to the Zoning Chart on the plans.
4. The plans shall be revised to address dimensional

inconsistencies as noted during testimony.

5. All fees associated with the application shall be paid in full.
6. The improvements shall be constructed pursuant to the plans submitted during the hearing.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD

Kathy Appleby, Secretary

By: _____
Robert Van den Hende, Chairman

DATED: