

22-003

**RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE  
RELIEF TO DENNIS AND BARBARA DONDERO FOR CONSTRUCTION OF  
A DECK ON LOT 5.02 IN BLOCK 18**

**Approved: September 28, 2022  
Memorialized: October 26, 2022**

**WHEREAS**, Dennis and Barbara Dondero (“Applicants”) are the owners of Lot 5.02 in Block 18 as noted on the Tax Map for the Borough of Mount Arlington with an address of 223 Windemere Avenue;

**WHEREAS**, the Applicants submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about August 4, 2022, seeking land use approvals to construct a deck off the rear of their 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-30 zone district relating to rear yard setback, whereas 25 feet is required and 18.6 feet is proposed;

**WHEREAS**, the Applicants included with their Application a survey entitled “Boundary Survey, 23 Windemere Avenue, Tax Map Block 18, Lot 5.02, Borough of Mt. Arlington, Morris County, New Jersey”, prepared by 3 Wire Surveying, L.L.C. by Phillip A. McEntee, Jr., P.L.S. dated September 28, 2020 and various plan view, section view and detail drawings of the proposed deck, undated, believed to be prepared by Applicants;

**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 September 26, 2022, and a public hearing was subsequently scheduled and held on September 28, 2022, notice being required and lawfully provided;

**WHEREAS**, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application prior to the public hearing dated September 26, 2022;

**WHEREAS**, the Applicant was not represented by an attorney;

**WHEREAS**, at the conclusion of the public hearing on September 28, 2022, 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:

Mr. and Mrs. Dondero testified that they have owned the property since 2022. Since purchasing the property, Mr. Dondero stated that they have renovated the entire home. He explained that they would like to now include a modest deck off the rear of the dwelling that would overlook Lake Hopatcong.

As Mr. Dondero testified the deck would extend approximately sixteen feet from the rear of the home. However, as he acknowledged, doing so would result in the deck encroaching into the rear yard and reducing the setback from 34.6 feet to approximately 18.6 feet.

The Dondero's noted that the deck would only be accessible from two doors in the rear of their home and would not include steps into their back yard. In addition, they agreed that nothing would be stored beneath the deck. They did testify that the slope of their lot would not be conducive to using the area beneath the deck. They also said the use of their rear yard was limited by a common driveway that their neighbor to the back uses to access his property.

The matter was opened to the public, but no one appeared.

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

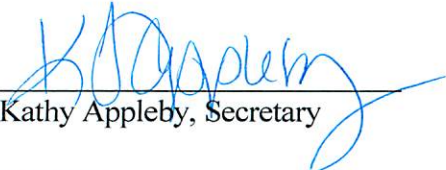
1. The Applicants are seeking bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) (1) from the bulk requirement in the Borough's RA-30 zone district. The relief is sought in connection with the Applicants' proposal to construct a deck off the rear of their existing home.
2. Specifically, the Board finds that the Applicants will require relief from the minimum rear yard requirement of twenty-five (25) feet whereas only 18.6 feet will be 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 lot is undersized and narrow with severe slopes extending from the front of the property along the Windemere Avenue to the rear. The property is also encumbered with a common driveway that traverses along the westerly side of the lot. The slope, shape, size and the dimensions of the lot along with the common driveway impose significant hardships on any development proposed for the property
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, use of the deck will have virtually no impacts on surrounding neighbors. Without access to the rear yard, it will not introduce any activity that might be deemed a nuisance to others. Given the

grade of the property, the deck will actually be at a higher elevation than the home located to the rear of the Applicant's property. 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, Dennis and Barbara Dondero.

1. Applicants shall construct the deck as per the plans submitted with the application. The deck will not include a staircase that would provide access to the rear yard.
2. The Applicants shall not use the area beneath the deck for storage or a patio.
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:

  
Kathy Appleby, Secretary

BOROUGH OF MOUNT ARLINGTON  
LAND USE BOARD

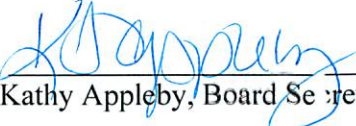
By:  11/16/22  
Robert Van Den Hende, Chairman

DATED:

THE VOTE:

IN FAVOR: 6  
OPPOSED: 0  
ABSTENTIONS: 0

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 October 26, 2022.

  
Kathy Appleby, Board Secretary