

THE VOTE:

D (FAR) Variance

IN FAVOR: 7

OPPOSED: 0

ABSTENTIONS: 0

Bulk Variances

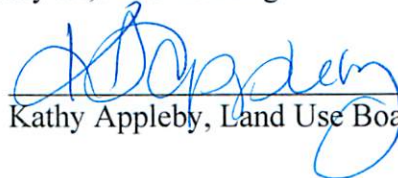
IN FAVOR: 8

OPPOSED: 0

ABSTENTIONS: 0

CERTIFICATION

I, Kathy Appleby, Land Use Board Secretary for the Borough of Mount Arlington, do hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Borough of Mt. Arlington Land Use Board at their February 22, 2023 meeting.



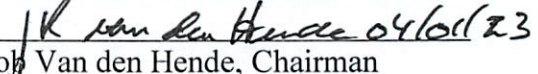
Kathy Appleby, Land Use Board Secretary

5. The Applicant will revise his plans to confirm the percentage of disturbance for the various slope disturbance categories on the Property in conformance with Ordinance Section 17-30.8(d).
6. The Applicant shall only install exterior lighting that is shielded and downward facing.
7. The Applicant will comply with the recommendation set forth in the December 12, 2022 report from the Lake Hopatcong Commission.
8. The Applicant shall submit proof that all fees, escrow amounts, real estate taxes and assessments have been paid prior to the issuance of both building permit and Certificate of Occupancy
9. The Applicant shall comply with and adhere to the rules, regulations and Ordinances of the Borough of Mount Arlington applicable to his proposed development.
10. The Board's approval is conditional upon the Applicant securing approvals from any and all outside governmental agencies exercising jurisdiction over the development of the property.
11. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies that shall be deemed necessary and appropriate.

ATTEST:


Kathy Appleby, Secretary

BOROUGH OF MOUNT ARLINGTON

By:  04/01/23
Rob Van den Hende, Chairman

6. The Board believes that the Applicant has satisfied the negative criteria associated with its bulk variance relief. The relief will enable the Property to be maintained as an attractive residential dwelling that will be in keeping with the neighborhood. By satisfying the conditions imposed, the Applicant will also not negatively impact Lake Hopatcong or neighboring properties. The proposal preserves the residential character of the area which is consistent with the Borough's Master Plan. For these reasons, the Board finds that the Applicant has satisfied the negative criteria and is entitled to the bulk variance relief sought.

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 to, Daniel Agatino, the Applicant, more particularly described on the architectural plans entitled "Agatino Residence, 133 McGregor Avenue, Mount Arlington, N.J.", prepared by Babula Architecture, LLC, dated September 28, 2022, consisting of seven sheets subject to the following conditions:

1. The Applicant will revise its architectural plans to relocate the chimney into the interior of the proposed addition.
2. The Applicant will revise his plans to show the sanitary sewer easement on the Property.
3. The Applicant will revise his architectural plans to show the proper calculation for the proposed building height.
4. The Applicant will design a stormwater control system for the Property that shall be reviewed and approved by the engineer before the issuance of a building permit.

detriment to the public good. Moreover, the Borough's Master Plan seeks to promote the rehabilitation and improvement of residential properties along Lake Hopatcong.

4. The Applicant is also 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-15 Zone District. Specifically, the Board finds that the Applicant will require relief from the zone district's minimum lot size requirement of 15,000 square feet whereas 8,173 is provided; the minimum lot width is 100 feet whereas 50 feet is provided; the minimum setback for one side-yard is 12 feet whereas only 2.3 feet is available on the left side of the property and only 5.1 feet is available on the right side of the property; and the minimum side-yard requirement for both sides whereas 25 feet is required and only 7.4 feet is available. The Board notes that the non-conforming minimum lot size and lot width are pre-existing conditions that cannot be satisfied given the existing development on either side of the subject property. Moreover, the Board finds that the minimum side-yard requirements are pre-existing, non-conforming conditions, although the Applicant's proposal does exacerbate those non-conforming conditions.
5. The Board finds that the bulk variance relief is warranted. The Board has determined that the Property is undersized and narrow. The Property also has unique topographical conditions including a slope that runs from McGregor Avenue to Lake Hopatcong, as well as the lake itself. Further, the Board finds that adding an addition to the existing home is a more practical approach than demolishing the existing home and building an entirely new residence. In short, the Board agrees that the Property presents unique conditions that impose certain hardships on any attempt to build a conforming dwelling.

provide the correct height dimensions; provide the proper calculation for slope disturbance; and to use only exterior lighting that was shielded and downward facing.

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

WHEREAS, the Board after hearing the testimony and reviewing the documents provided, made the following findings, facts and conclusions of law:

1. The Applicant is seeking to construct a two-story addition to an existing single-family residence located on Lot 45 in Block 10, having an address of 133 McGregor Avenue in the Borough of Mount Arlington.
2. The proposed addition would increase the square footage of the existing dwelling from 1,438 to 2,867 square feet. The Property is located in the Borough's RA-15 Zone.
3. The Applicant's proposal exceeds the Zone Districts FAR limitation of 28%. The Applicant's proposed home after construction will be approximately 40.1% where the home currently has an FAR of 22.6%. Accordingly, the Applicant will require relief pursuant to N.J.S.A. 40:55D-17(d)(4). The Board finds that relief is justified because the property is particularly suited for the more intense development. The Board agrees with the Applicant that the larger than permitted floor area of the proposed dwelling will be accommodated on site and will be compatible with the surrounding neighborhood. The Board finds that the design of the home is compatible with the topography of the Property, as well as the existing neighborhood scheme. The Board finds that the proposal will promote purposes g, i, and j of the of the Municipal Land Use Law. In addition, the Board believes that the negative criteria will be satisfied if the Applicant addresses the conditions set forth below. Moreover, the design of the home is consistent with other dwellings in the area and will not be a substantial

property. Mr. Agatino asserted that he has spoken to his neighbors about his proposal and that no one had objected.

The Applicant's architect, John Babula, A.I.A. also testified as to the architectural plans and issues associated with the Application. Mr. Babula described the property as being an undersized lot that currently cannot meet several of the Borough's bulks standards in the RA-15 Zone District. He described the existing home as being relatively small consisting of only 1,438 square feet.

Mr. Babula explained to the Board that the Applicant was seeking to construct a two-story addition to the home that would include a mud room, expanded kitchen and family room on the first floor. He noted that the second floor would include an enlarged master bedroom, a new master bathroom, three bedrooms and an additional bathroom. The proposal would increase the size of the home to 2,867 square feet.

According to Mr. Babula, the size of the home would be compatible with others that front Lake Hopatcong in the immediate neighborhood. He added that the construction of the home would be aesthetically pleasing and consistent with the neighborhood scheme.

Board Members did raise questions about stormwater runoff, particularly in light of a report issued by the Lake Hopatcong Commission. In response, the Applicant agreed to work with the Board's engineer to design a stormwater management approach that would be satisfactory.

Board Members also inquired about the location of the proposed chimney and its impact on the side-yard variance. In response, the Applicant agreed to move the chimney to the interior of the structure thereby avoiding any further encroachment into the side yard. The Applicant also agreed to amend his plans to illustrate a sanitary sewer easement on the Property;

LLC, dated September 28, 2022, consisting of seven sheets; a Waiver/Variance hardship Statement and a Property Access Statement; and

WHEREAS, prior to filing his Application, the Applicant had applied for a building permit to allow for the construction of his proposed addition, which said Application was denied by the Borough's Zoning Officer on June 17, 2022; and

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

WHEREAS, the Application was deemed administratively complete by the Board's engineer on or about November 28, 2022 and a public hearing was subsequently scheduled and held on December 14, 2022, notice being required and lawfully provided; and

WHEREAS, the Board Engineer, David A. Clark, P.E., issued one report regarding the Application prior to the public hearing dated November 28, 2022; and

WHEREAS, the Board's Planner, Jessica P. Caldwell, P.P., also issued a report dated December 7, 2022; and

WHEREAS, at the conclusion of the public hearing on December 14, 2022, the Board rendered a decision on the Application with requirements set forth in N.J.S.A 40:55 D-10(g); and

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

The Applicant, Daniel Agatino, testified that he purchased the house in 2016. He stated that since that time his family has grown with the addition of twin boys. Given the relatively small size of the family home, Mr. Agatino stated that additional living space is needed to accommodate his family. Mr. Agatino said that he thought his proposed addition would make his home similar to other homes in the area, including his neighbors that live on either side of his

23-003
RESOLUTION
OF THE BOROUGH OF MOUNT ARLINGTON
MEMORIALIZATION GRANT OF USE AND BULK VARIANCE RELIEF TO DANIEL
AGATINO TO PERMIT THE CONSTRUCTION OF AN ADDITION TO AN EXISTING
RESIDENCE ON LOT 45 IN BLOCK 10

APPROVED DECEMBER 14, 2022
MEMORIALIZED FEBRUARY 22, 2023

WHEREAS, Daniel Agatino (“Applicant”) is the owner of Lot 45 in Block 10, as noted on the Tax Map of the Borough of Mount Arlington with a street address of 133 McGregor Avenue; and

WHEREAS, the Applicant submitted an Application for development with the Borough of Mount Arlington Land Use Board (“Board”), on or about October 3, 2022, seeking use and bulk variance relief to permit the construction of an addition to his existing home on the Property; and

WHEREAS, the Applicant required bulk variance relief from the zoning limitations set forth in the RA-15 Single Family Residence Zone relating to minimum lot size whereas 15,000 square feet is required and only 8,173 is available; minimum lot width, whereas 100 feet is required and only 50 feet is available; minimum side-yard setbacks, whereas 12 feet is required and only 2.3 feet on the left-side of the dwelling is provided and only 5.1 feet on the right-side of the dwelling is provided; minimum side-yard setback for both setbacks whereas 25 feet is required and only 7.4 feet is proposed. In addition, the Applicant requires a use variance since the proposed addition will result in the dwelling exceeding the permitted floor area ratio of 28% with 40.1 % proposed; and

WHEREAS, the Applicant included with his Application a plan entitled “Agatino Residence, 133 McGregor Avenue, Mount Arlington, N.J.” prepared by Babula Architecture,