

24-004

**RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO
JEFF JACKSON AND MARTA ALVAREZ TO PERMIT THE CONSTRUCTION OF
AN DETACHED ACCESSORY GARAGE ON LOT 7.010 IN BLOCK 14**

Approved: March 27, 2024
Memorialized: April 24, 2024

WHEREAS, Jeff Jackson and Marta Alvarez (“Applicants”) are the owners of Lot 7.01 in Block 14 as noted on the Tax Map for the Borough of Mount Arlington and having a street address of 13 Edgemere Avenue (“Property”);

WHEREAS, the Applicants submitted an Application for Development with Borough of Mount Arlington Land Use Board (“Board”) on or about December 21, 2023, seeking bulk variance relief to construct a detached accessory garage on the Property;

WHEREAS, the Applicants sought variance relief from the bulk standards applicable in the RA-30 Zone relating to a minimum front yard setback for an accessory structure, whereas 40 feet is required and 5 feet is proposed; maximum building height for an accessory structure, whereas 12 feet is permitted and 22.7 feet is proposed; maximum square footage for an accessory building whereas 538 square feet is permitted and 1211 square feet is proposed; maximum lot coverage whereas 25% is permitted and 34.2% is proposed; maximum floor area ratio whereas 18% is permitted and 20.9% is proposed; and maximum slope at garage whereas 5% is permitted and 26% at the north side is proposed.

WHEREAS, the Applicants included with their application, among other things, two (2) sheets of Architectural Drawings and Plans entitled, “Alvarez Residence, 13 Edgemere Avenue, Mount Arlington, NJ,” prepared by Byrne Design Associates LLC, and dated November 22, 2023; and Engineering Plans entitled “Lot Grading Plans For 13 Edgemere Avenue, Block 14, Lot 7.01, Borough of Mount Arlington, Morris County, New Jersey,” prepared by Roth Engineering, LLC, dated November 2, 2023 consisting of 2 sheets;

WHEREAS, the Applicants submitted with their application the appropriate fees and escrow deposits;

WHEREAS, the application was deemed administratively complete by the Board’s engineer on or about January 12, 2024 and a public hearing was subsequently scheduled and held on March 27, 2024, notice being required and lawfully provided;

WHEREAS, the Board engineer, David A. Clark, P.E., issued a technical report regarding the application prior to the public hearing dated January 12, 2024;

WHEREAS, the Board’s Planner, Jessica P. Caldwell, P.P., also issued a report dated March 21, 2024;

WHEREAS, at the conclusion of the public hearing on March 27, 2024, the Board rendered a decision on the application in accordance with the requirements set forth N.J.S.A. 40:55D-10(g);

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

The Applicant, Jeff Jackson, testified that the home on the Property was built in 1895. He presented a photograph of the structure that was taken in 2019 which was marked as Exhibit A-1. Since purchasing the property, he said that the Applicants have spent considerable time and money restoring the dwelling. Mr. Jackson said that they now need additional space for storage of their personal property and vehicles. He stated that they sought to construct a detached garage that would provide storage while maintaining the architectural consistency of the existing home.

The Applicants' architect, William Byrne, next testified. Mr. Byrne presented Exhibit A-2, which was a more recent photograph of the home. He explained that he not only wanted to design a garage that would complement the architect of the home, but he also wanted to select a location for it would complement it aesthetically. Mr. Byrne said he considered a number of different locations on the Property, including connecting it to the home, but none made any sense to him. The location ultimately chosen was, in his opinion, ideal, because it would complement the house without detracting from it.

Mr. Byrne explained that the garage would be two stories high, having an overall height of 22.7 feet. While he acknowledged this was rather tall, he argued that the height of the garage was needed given the height of the existing home. He noted that the taller garage would help match the pitch of the roof on the house. He opined that the additional height would not have a visual impact for the neighbors since most actually have homes that sit at higher elevations. since the height of the garage at the street level would actually appear lower.

Mr. Byrne described the structure using the architectural plans he drafted. Mr. Byrne testified that the garage would be built over an existing driveway so there would be no appreciable increase in impervious coverage. He said that the side of the building would face the road and there was to be an inoperable door on the second floor. He said that there would be 3 garage doors facing the right-side elevation. The rear of the building would face Lake Hopatcong and have an exterior door allowing access. He designed the building to have a brick veneer finish since it would be impossible to match the existing stone used to build the home. There were to be windows installed on all 4 sides with a 7 foot cupola on the roof. He also designed the building to include some modest exterior lighting. Mr Byrne noted that the second floor of the garage was only to be used for storage and was not designed for habitable space although it would increase the floor area ratio on the Property. In response to a question asked about the second floor, Mr. Jackson said he would agree to a deed restriction that would prohibit the use of the second floor as living space.

Michael Roth, P.E., P.P. next testified for the Applicants as both an engineer and as a planner. He presented an aerial photograph of the Property that was marked as Exhibit A-3. He noted that the Property was .7 acres in the RA-30 zone district that had a circular driveway. He

explained that the easterly driveway had a slope of 8% and the driveway to the west had a 6% slope. He testified that the driveway presently allows parking for 4 vehicles. He said that the current lot coverage was 33.4% when only 25% was permitted. He calculated the current floor area ratio for the Property to be .162.

Mr. Roth next presented a colored site plan rendering that he marked as Exhibit A-4. He relied on the rendering to explain the location of the proposed garage and to identify the variances needed. He advised that the garage would be built over existing impervious surface and would have a driveway from the rear of the building extending to Lake Hopatcong. Applicants needed bulk variances for the minimum front yard setback for an accessory structure, whereas 40 feet is required and only 5 feet is proposed. He added that the garage being located in the front yard also triggered a variance. He further testified that the maximum building height for the garage was 22.7 feet when only 12 feet is permitted. Mr. Roth also said that the maximum square footage for the garage was 538 square feet and 1211 square feet was proposed. Similarly, he described the need for a variance because the maximum lot coverage was 25% and 34.2% is proposed which was an increase over the existing 33.4%. Mr. Roth also described the maximum slope for the driveway at garage was only 5% and 26% was proposed at the north side. He concluded by noting that the maximum floor area ratio was 18% and 20.9% is proposed thereby requiring a use variance.

With respect to the bulk variances needed, Mr. Roth opined that the relief could be granted in accordance with the standards set forth in N.J.S.A. 40:55D-709(c)(1) or c(2). He believed that that C(1) standard was met because the Applicants faced hardships in trying to build a conforming garage. Their hardships included exceptional topographic conditions, the existing sanitary sewer easement on the east side of the home that precluded the garage from being built there, and the unique driveway configuration.

Mr. Roth argued that the garage also satisfied the c(2) standards because the Applicants' proposal advanced several purposes of zoning, including purpose a of the Municipal Land Use Law which encourages appropriate uses of land. He added that he believed purpose h was promoted because the garage encouraged the free flow of traffic. Mr. Roth also believed that the garage created a desirable visual environment which was consistent with purpose i.

Mr. Roth also testified that the use variance for the nonconforming FAR was appropriate because the Property could accommodate the larger garage. He stated that the garage did not increase the habitable space on the Property. Moreover, he noted that it was being built over already existing impervious surface and would be farther away from the front and west side property lines than where automobiles currently park.

Mr. Roth explained that both the use variance and the bulk variances required the Applicants to demonstrate that their garage would not impact the negative criteria. Specifically, he noted that they needed to show that there would be no detriment to the public good or the Borough's zoning ordinances and Master Plan. Mr. Roth contended that the garage did not violate the public good, because the garage was no closer to the adjacent neighbor than the current parking area. He noted that the closest home was on the east side of the Property and the garage would not even be visible. Also he believed the architectural design of the garage is in

character with the neighborhood which included a number of other lots that had detached garages. Mr. Roth explained that the variance relief for the garage was consistent with the Borough's Master Plan because the Applicant's willingness to include stormwater management techniques and to avoid the use of harmful fertilizer would help protect Lake Hopatcong. Moreover he believed that the architectural design of the garage would protect an historic lake front home and neighborhood. For these reasons he believed that the variances should be granted.

At the conclusion of the Applicants' presentation, the matter was open to the public and several members of the public spoke in favor of the proposal.

WHEREAS, the Board after hearing the testimony and the documentary evidence provided, made the following findings of fact and conclusions of law:

1. The Applicants are seeking to erect a detached two-story, 22.7 foot high, 1211 square foot accessory garage on Lot 7.01 in Block 14, having an address of 13 Edgemere Avenue in the Borough of Mt. Arlington. The garage shall be used by the Applicants to store motor vehicles and other personal property.
2. The Property is located in the Borough's RA-30 zone district. The size, height, and location of the detached garage are contrary to the Borough's ordinances. Specifically, the RA-30 zone imposes a minimum front yard setback for an accessory structure of 40 feet and only 5 feet is proposed; a maximum building height of 12 feet and 22.7 feet is proposed; a maximum square footage for an accessory building of 538 square feet and 1211 square feet is proposed; a maximum lot coverage of 25% and 34.2% is proposed; and a maximum slope at garage of 5% and 26% at the north side is proposed.
3. The Board finds that the Applicants will require bulk variance relief for these nonconforming conditions pursuant to N.J.S.A. 40:55D-70 (c) (1) and (2) from several of the bulk requirements in the Borough's RA-30 zone district. The Board finds that bulk variance relief is warranted under either standard. The Board has determined that the Property has unique features that create a hardship for the Applicants. The Property slopes from the front yard along Edgemere Avenue to the rear adjacent to Lake Hopatcong. The residential dwelling is situated in the center of the Property with a sanitary sewer easement to the east which precludes building the garage there. The size and age of the existing dwelling also preclude building an attached garage. These circumstances create a hardship which satisfies the positive criteria under the C-1 analysis. Similarly, the Board finds that the architectural design and use of the detached garage will promote a desirable visual impact for other properties in the area. Consequently, Purposes a and i will be advanced. Therefore, the Board believes that the positive criteria under C-2 analysis is satisfied.
4. The Board also finds that the Applicants will require use variance relief as per N.J.S.A. 40:55D-70(d)(4) because the maximum permitted floor area ratio is 18% and the garage will increase it to 20.9%. The Board believes that the Applicants are entitled to the relief because the Property will be able to accommodate the increase in the FAR. The garage is

to be located on existing paved areas that will not be any closer to the property line than the current parking area already is. The garage will not be visible to adjacent owners and will be visually compatible with the neighborhood scheme. In addition, the Board agrees that the Applicants' willingness to not use the garage as habitable space also renders the garage compatible on the Property.

5. The Board further finds that the Applicant has satisfied the negative criteria associated with their variance request. There will be no substantial detriment to the public good as the proposed garage will be aesthetically consistent with the existing neighborhood; will not create runoff or erosion problems for adjacent owners; will not result in the degradation of Lake Hopatcong; and will be consistent with other lots that have detached garages. Moreover, the proposal is also consistent with the Borough's Master Plan goals and objectives with respect to lake front development. The garage will be compatible with the Borough's goal of enhancing the historic nature of this lake front neighborhood. It will promote the Borough's goal of preserving the environmental integrity of Lake Hopatcong. For these reasons, the Board finds the Applicants have satisfied the negative criteria and are entitled to the relief sought.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Borough of Mt. Arlington, County of Morris, State of New Jersey, does hereby approve the grant of the use and bulk variance relief to the Applicants, Jeff Jackson and Marta Alvarez, most particularly described on the plans entitled "Alvarez Residence, 13 Edgemere Avenue, Mount Arlington, NJ," prepared by Byrne Design Associates LLC, and dated November 22, 2023; and Engineering Plans entitled "Lot Grading Plans For 13 Edgemere Avenue, Block 14, Lot 7.01, Borough of Mount Arlington, Morris County, New Jersey," prepared by Roth Engineering, LLC, dated November 2, 2023 consisting of 2 sheets, subject to the following:

1. The Applicants shall comply with the conditions set forth in the Completeness & Technical Review #1 prepared by Board engineer, David A. Clark, P.E., dated January 12, 2024.
2. The Applicants 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 Occupancy.
3. The Applicants shall comply with and abide to the rules, regulations, and ordinances of the Borough of Mt. Arlington applicable to the proposed development.
4. The Applicants shall submit a stormwater management plan to address the runoff flowing from the proposed development on the Property. The plan must be reviewed and approved by the board engineer prior to the issuance of a building permit.
5. The Applicants will provide a landscaping plan showing additional plantings that shall be reviewed and approved by the Board planner and engineer.

