

26-009

**RESOLUTION OF MEMORIALIZATION GRANTING USE AND BULK
VARIANCE RELIEF TO ADAM WIZNER TO PERMIT THE
CONSTRUCTION OF A TWO-STORY ADDITION TO HIS EXISTING
RESIDENCE ON LOT 29 IN BLOCK 10**

Approved: July 15, 2026

Memorialized: August 26, 2026

WHEREAS, Adam Wizner (the “Applicant”) is the owner of Lot 29 in Block 10 (“Property”) as noted on the Tax Map for the Borough of Mount Arlington with a street address of 29 McGregor Avenue; and

WHEREAS, the Applicant submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about March 31, 2026, seeking use and bulk variance relief to construct a two and one-half story addition (1,162 square feet) to his existing single-family dwelling (1,024 SF). The proposed addition includes an attached garage with the capacity to hold four (4) vehicles on grade, a partial basement area below, a vestibule, and related site improvements; and

WHEREAS, the Applicant requires bulk variance relief from the zoning limitations set forth in the RA-15 zone district relating to maximum impervious coverage whereas 35% (or 2365.3 square feet) is permitted, 73.1% (4942 square feet) exists, and 72.2% (4880 square feet) is proposed; minimum side yard setback (single) whereas 10 feet is required, 11.5 feet exists on the northwest side of the Property, and 5.7 feet is proposed; and minimum side yard setback (combined) whereas 25 feet is required, 13.5 feet exists and 7.7 feet is proposed. The Applicant also needs bulk variance relief as per Ordinance § 17-30.8D(2) because he will be disturbing 78.4% of the sloped areas having a grade between 10% and 15% when only 40% disturbance is allowed. Similarly, he will need variance relief from Ordinance 17-30.8D(3), because he will be disturbing 89.1% of the sloped areas having a grade between 15% and 25% when no more than 30% is allowed. He will need variance relief from Ordinance 17-30.8D(4), because he is proposing a 93.1% slope disturbance on sloped areas exceeding 25% when only 15% is allowed. The Applicant also requires “D(4)” use variance relief pursuant to N.J.S.A. 40:55D-70d(4) whereas Ordinance 17-29 permits a maximum floor area ratio (“FAR”) of 28%; 32% exists and 45% is proposed. In addition, the Property has pre-existing nonconforming conditions related to lot area, minimum lot width, minimum rear yard setback, and maximum building height. The Applicant is not proposing to change these nonconforming conditions; and

WHEREAS, the Applicant included with his application four (4) sheets of a Variance Plan entitled, “Wizner Residence, Block 10, Lot 29, #29 McGregor Avenue, Borough of Mount Arlington, Morris County, New Jersey,” prepared by Dykstra Walker Design Group, PA, and dated March 30, 2026; two (2) sheets of Architectural

Building Elevations and Floorplans entitled, "Proposed Addition and Alteration for: Adam Wizner, 29 McGregor Avenue, Borough of Mount Arlington, Morris County, New Jersey," prepared by Fox Architectural Design, PC, and dated April 2, 2026; and one (1) sheet of a Boundary and Topographic Survey entitled, "29 McGregor Avenue, Lot 29 Block 10, Borough of Mount Arlington, Morris County, New Jersey," prepared by Ampol Surveying, LLC, and dated August 18, 2025; and

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

WHEREAS, the Application was deemed administratively complete by the Board's Engineer on or about June 12, 2026, and a public hearing was subsequently scheduled and held on July 15, 2026, notice being required; and

WHEREAS, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application dated June 12, 2026;

WHEREAS, the Board's Planner, Jessica C. Caldwell, P.P., also issued a report, dated June 14, 2026; and

WHEREAS, at the conclusion of the public hearing on July 24, 2026, 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:

Ken Fox, A.I.A., P.P. testified first after being accepted as a licensed architect. He described the Property and the existing dwelling. He stated that the Property was very narrow and steeply sloped from McGregor Avenue to the rear that abuts Lake Hopatcong. He described the architectural plans he prepared which illustrated a 4-car garage that would be attached to the existing home. The garage was to be built in the middle of the Property where it is most steeply sloped. He said that the proposal also included an exterior walkway on the outside of the proposed garage that would lead to a door that would also afford access into the home.

Mr. Fox explained that the garage would be built into the sloped portion of the Property and would have a partial basement beneath it. From the garage he stated one could enter onto the second floor of the home or use a proposed staircase that would bring one to the first floor and the proposed basement. Mr. Fox testified that that design would increase the floor area ratio from its current nonconforming condition of 32% to 45%. He emphasized that the addition would not extend above the existing roofline of the home and would not be readily visible from the rear.

Thomas Graham, P.E., next testified after being accepted as an expert in civil

engineering. He identified the Property as Lot 10 in Block 29 in the RA-15 zone. He indicated that the Property was very undersized, having only .16 acres when .43 acres was required. He stated that the Property had frontage on McGregor Avenue and was improved with a driveway and single-family home. Given the proximity to Lake Hopatcong, he advised that permits would be needed from the DEP and the soil conservation district. He also advised that a pre-existing nonconforming shed would be removed.

He acknowledged that the Property had pre-existing nonconforming conditions related to minimum lot width, minimum rear yard setback, maximum building height, maximum impervious lot coverage, floor area ratio, and minimum side yard setback, both single and combined. Mr. Graham testified that the proposal would reduce the impervious lot coverage from 73.1% to 72.2%; however, it would exacerbate the FAR by increasing it from 32% to 45%. Further he stated that the minimum side yard setback (single) be reduced from its current conforming 11.5 feet on the northwest side to 5.7 feet and reduce the minimum side yard setbacks (combined) from their current nonconforming 13.5 feet to 7.7 feet.

Mr. Graham noted the Property was severely sloped. He described the driveway as unsafe because of the slope. As a result, he said that the proposed garage would need variance relief from Ordinance § 17-30.8D(2) because 78.4% of the sloped areas with a grade between 10% and 15% was to be disturbed when only 40% disturbance was allowed. He also stated that variance relief from Ordinance 17-30.8D(3) was necessary because 89.1% of the sloped area having a grade between 15% and 25% would be disturbed when no more than 30% was allowed. He also agreed that variance relief from Ordinance 17-30.8D(4) was needed, because 93.1% of the sloped areas exceeding 25% would be disturbed when only 15% is allowed.

Mr. Graham testified that the proposal included constructing a trench drain that would collect storm water runoff and divert into the ground and not into Lake Hopatcong. He also described the additional landscaping to be planted to further reduce runoff. He confirmed that the Applicant would comply with the recommendations and comments in the report issued by the Board engineer dated June 12, 2026 and the report from the Lake Hopatcong Commission dated June 24, 2026.

Mathew Flynn, P.P. testified after Mr. Graham concluded. He was accepted as an expert in the field of professional planning. He stated that the proposal was to build a 4-car garage onto an existing single-family home where no garage currently exists. He presented Exhibit A-1 which included a map of the immediate area around the Property and 3 aerial photographs taken by drones. He argued that the garage would make the Property look consistent with other lots in the neighborhood that had garages.

Mr. Flynn stated that the photos showed how narrow the Property was and why the Applicant needed the requested variances. The relief included bulk variances for the nonconforming impervious coverage at 72.2%; the minimum side yard setback (single) at 5.7 feet; the minimum side yard setback (combined) at 7.7 feet; and the steep slope disturbance. He also acknowledged that need for a D(4) variance, because the FAR

would increase from 32% to 45%.

Mr. Flynn opined that the bulk variance relief was warranted under either the c(1) or c(2) analysis. He contended that under the c(2) approach the elimination of the steep and unsafe slope on the Property served the general welfare under purpose a of the New Jersey Municipal Land Use Law (MLUL). He also maintained that the garage satisfied purpose (g) by allowing for sufficient space for a garage at a location where one was needed and improved storm water control. He also thought that the garage would improve the aesthetics of the Property as per purpose (i). Finally, he thought that the proposal would represent a more efficient use of the Property in accordance with purpose (m).

Mr. Flynn further testified that the narrowness of the Property, its steep topography and the location of the dwelling imposed a hardship on the Applicant and presented him with peculiar and exceptional practical difficulties in constructing the addition in a conforming manner. In his estimation, this satisfied the analysis under the c(1) standard.

Regarding the floor area ratio, Mr. Flynn explained that the Applicant did not need to demonstrate that the Property was particularly suited for the proposed addition. He said that the Applicant only had to show that the Property could accommodate the proposed garage and the larger floor area it triggered. He opined that the addition would address a serious concern regarding the Property, the severe slope and the danger it presents to the occupants and visitors. In his view, the garage would make the Property more functional by allowing safe parking and eliminating the possibility of on-street parking or people parking at the top of the driveway and backing onto the street. Moreover, he believed the proposal was in scale with the existing dwelling and the neighborhood.

Mr. Flynn also discussed the negative criteria as it pertained to both the use and bulk variance relief. He believed that the proposal would not be a substantial detriment to the public good, because it was in keeping with the look of most of the other dwellings in the neighborhood that had garages. He also stated that the proposal would make it safer for the neighborhood by reducing the Applicant's need to park on the street or parking at the top of the driveway and backing into the street. He also thought it would foster the Master Plan goal of maintaining residential communities, especially around Lake Hopatcong. The addition would help preserve the residential character of the Borough.

Mr. Wizner also testified and explained why he was proposing the garage. He said that the existing driveway was very difficult to walk upon, especially in the winter. He stated that the 4-car garage would eliminate any parking along the severely sloped areas of the Property and would enable motorists to not only park inside but turn their vehicles around on the Property without having to back into the street.

Board members questioned the Applicant and his professionals about the size of the proposed addition. Mr. Fox and Mr. Wizner both explained that the size of the garage

was designed to avoid the steeper sloped areas and provide a safe and efficient use of the land. When asked about the use of the partial basement beneath the garage, Mr. Wizner said that it would only be used for storage. Some members asked about exhaust entering the home from the garage. Mr. Fox stated that the construction of the addition would meet all applicable building code requirements.

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

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 Applicant is seeking use and bulk variance relief to construct a two-story addition (1,162 SF) to the existing single-family dwelling (1,024 SF). The proposed addition includes an attached garage with the ability to hold four (4) vehicles on grade, a basement area below, a vestibule, and associated site improvements.
2. Specifically, the Applicant requires bulk variance relief from the zoning limitations set forth in the RA-15 zone district relating to maximum impervious coverage whereas 35% (or 2365.3 square feet) is permitted, 73.1% (4942 square feet) exists, and 72.2% (4880 square feet) is proposed; minimum side yard setback (single) whereas 10 feet is required, 11.5 feet exists on the northwest side of the Property, and 5.7 feet is proposed; and minimum side yard setback (combined) whereas 25 feet is required, 13.5 feet exists and 7.7 feet is proposed. The Applicant also needs bulk variance relief as per Ordinance § 17-30.8D(2) because he will be disturbing 78.4% of the sloped areas having a grade between 10% and 15% when only 40% disturbance is allowed. Similarly, he will need variance relief from Ordinance 17-30.8D(3), because he will be disturbing 89.1% of the sloped areas having a grade between 15% and 25% when no more than 30% is allowed. He will need variance relief from Ordinance 17-30.8D(4), because he is proposing a 93.1% slope disturbance on sloped areas exceeding 25% when only 15% is allowed. The Applicant also requires a "D(4)" use variance pursuant to N.J.S.A. 40:55D-70d(4) whereas Ordinance 17-29 permits a maximum floor area ratio of 28%; 32% exists and 45% is proposed.
3. The Property currently has pre-existing nonconforming conditions related to lot area, minimum lot width, minimum rear yard setback, and maximum building height, but these lawfully exist and are not being exacerbated.
4. The Board finds that the use variance is warranted under N.J.S.A. 40:55D-70(4). The Board believes that the Property can accommodate the addition. It will not render the home out of place with other residences in the immediate neighborhood. From Lake Hopatcong, there would be no appreciable change in the look of the home. Moreover, the Applicant's decision to implement storm water management controls as part of the construction reduces impervious coverage and eliminates any detrimental impacts from runoff. The garage will also make vehicular access to and from the Property safer by eliminating the

possibility of motorists backing into the street. In short, the Board agrees with Mr. Flynn that purposes a, i, g, and m of the MLUL will be promoted.

5. The Board further finds that the necessary bulk variance relief for the proposed addition is warranted under both the c(1) or c(2) analysis. As per N.J.S.A. 40:55D-70(c)(1), a bulk variance is justified when there is a hardship confronting the developer because of the exceptional narrowness, shallowness, shape or exceptional topographic conditions of the property that present the applicant with an extraordinary and exceptional hardship to develop in a conforming manner. The Board finds that the Property is impacted by extraordinary and exceptional circumstances, the severe slopes, that uniquely impact it and impose a peculiar and exceptional difficulty on the Applicant's effort to build a conforming addition. The lot is exceedingly narrow and severely sloped from McGregor Avenue to Lake Hopatcong. The location of the home in the rear yard setback is also a unique feature that imposes a hardship.
6. As per N.J.S.A. 40:55D-70(c)(2) a variance is permitted when one of the purposes of the MLUL would be advanced from a deviation from the bulk requirements and the benefits from the variance outweigh any the detriment to the public good. Importantly, the benefit must benefit the community and serve as a better zoning alternative for the property. Here, the Board believes that the bulk variance relief is justified because the proposed addition will eliminate an unsafe condition, the severe slope, which present dangers for individual walking to the home or parking their vehicles. The garage will also dramatically reduce the likelihood that motorists will back into McGregor Avenue when exiting the Property. In short, the Board believes that the bulk variance relief is justified, because it promotes purposes a, g, i, and m of the MLUL.
7. The Board believes that the Applicant has satisfied the negative criteria for both the use and bulk variances requested. The negative criteria consist of two parts. One, it must be shown that the use will not be a substantial detriment to the public good. Two, it must be demonstrated that the use will not substantially impair the intent and the purpose of the municipality's master plan or its zoning ordinances. The Applicant's proposal would not be a substantial detriment to the public good, because the proposed addition to the existing dwelling will enhance the aesthetics of the dwelling while not appearing out-of-character with other homes in the neighborhood. The inclusion of storm water management will ensure that the project does not have a substantial impact on other homes in the neighborhood or Lake Hopatcong. The availability of more on-site parking improves the quality of life for those residing and traveling along McGregor Avenue. The addition will also make access to and from the home safer. The elimination of the nonconforming shed is a further benefit to the community. The proposal is also not a substantial impairment to the Borough's zoning ordinances because the use will remain residential, which is permitted in the RA-15 zone. The Board also finds that the proposal is not a substantial detriment to the Master Plan because it will promote the Master Plan goal of maintaining residential communities and enhancing storm water protections for Lake Hopatcong. For these reasons, the Board finds that these Applicant has satisfied

the negative criteria and is entitled to the use and bulk variance relief sought. Specifically, the Applicant is entitled relating to a bulk variance allowing the maximum impervious coverage to be 72.2% (4880 square feet); a minimum side yard setback of 5.7 feet on the northwest side of the Property, and a combined minimum side yard setback of 7.7 feet. The Applicant is entitled to bulk variance relief to allow him to disturb 78.4% of the sloped areas having a grade between 10% and 15%; 89.1% of the sloped areas having a grade between 15% and 25%; and 93.1% of the sloped areas exceeding 25%. The Applicant also shall receive a D(4) use variance pursuant to N.J.S.A. 40:55D-70d(4) allowing a floor area ratio of 45%.

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 use and bulk variance relief to Adam Wizner, as more particularly described on the Variance Plan entitled, "Wizner Residence, Block 10, Lot 29, #29 McGregor Avenue, Borough of Mount Arlington, Morris County, New Jersey," prepared by Dykstra Walker Design Group, PA, and dated March 30, 2026; the Architectural Building Elevations and Floorplans entitled, "Proposed Addition and Alteration for: Adam Wizner, 29 McGregor Avenue, Borough of Mount Arlington, Morris County, New Jersey," prepared by Fox Architectural Design, PC, and dated April 2, 2026; and the Boundary and Topographic Survey entitled, "29 McGregor Avenue, Lot 29 Block 10, Borough of Mount Arlington, Morris County, New Jersey," prepared by Ampol Surveying, LLC, and dated August 18, 2025, subject to the following conditions:

1. The Applicants shall comply with the technical comments and recommendation set forth in the report prepared by Board engineer, David A. Clark, P.E., dated June 12, 2026 and the report from Jessica C. Caldwell, P.P., dated June 14, 2026.
2. Prior to the issuance of a Certificate of Occupancy, the Applicants will remove an existing nonconforming shed on the Property.
3. Prior to the issuance of a building permit for the addition, the Applicants shall present to the Board engineer for his review and approval a revised stormwater plan. The care and maintenance of the agreed-to stormwater techniques shall be incorporated in a manual to be reviewed and approved by the board engineer and recorded against the Property in a deed restriction to be reviewed and approved by the Board attorney. The restriction shall further include a prohibition on the use of fertilizers at the Property as per the recommendation from the Lake Hopatcong Commission.
4. The Applicant shall comply with and adhere to rules, regulations or ordinances of the Borough of Mt Arlington applicable to the proposed development, including but not limited to Section 17-94 of the Borough's Land Development Ordinances that governs the payment of residential development fees.
5. The Board's approval is conditional upon approvals required by the

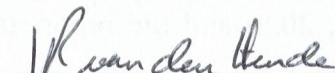
Application from all outside Governmental Agencies exercising jurisdiction over the development of the property, including those identified on the Applicant's NJDEP Permitting Plan.

6. The Applicant shall further amend its plans as per the representations made at the public hearings and the comments from the Board Planner, Board Secretary, and Board Members.
7. No construction permits of any type shall be issued by the Construction Code Official of the Borough of Mt. Arlington until all Board escrow fees have been paid, a Resolution of Approval has been memorialized and appropriately signed by the Board, and the Construction Code Official has received final plans appropriately signed by the Board Chairman, Board Secretary, and Board Engineer.
8. Pursuant to the provisions of N.J.S.A. 40:55D-39 and 55D-65, the Applicant shall provide proof that no taxes or assessments for local improvements are due on the Property.
9. 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

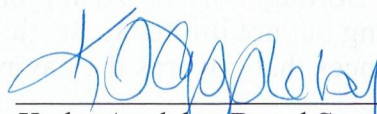
By:  08/26/26
Rob Van den Hende, Chairman

DATED:

THE VOTE:

IN FAVOR: 3
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 August 26, 2026.


Kathy Appleby, Board Secretary