

24-009

RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO ROBERT M. SCERBO TO MERGE BLOCK 10, LOTS 13 AND 13.02; RAZE THE EXISTING SINGLE-FAMILY DWELLING ON LOT 13; AND CONSTRUCT A TWO AND ONE-HALF STORY ADDITION ON THE EXISTING SINGLE-FAMILY DWELLING ON LOT 13.02 AND A DETACHED GARAGE

Approved: June 26, 2024
Memorialized: July 24, 2024

WHEREAS, Robert M. Scerbo (“Applicant”) is the owner of Lots 13 and 13.02 in Block 10 (“Property”) as noted on the Tax Map for the Borough of Mount Arlington with a street address of 71-73 McGregor Avenue;

WHEREAS, the Applicant submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about April 1, 2024, seeking to merge Block 10, Lots 13 and 13.02 into one (1) consolidated parcel, demolish the existing single-family dwelling on Lot 13 and construct a two-and-one-half (2-½) story addition for the existing dwelling on Lot 13.02 and construct as a detached accessory garage; and

WHEREAS, the Applicant requires bulk variance relief from the zoning limitations set forth in the RA-15 zone district relating to minimum lot width whereas 100 feet is required and 29 feet is proposed; minimum side yard (one) setback whereas 12 feet is required and 0 feet is proposed; maximum lot coverage whereas 35% is required and 41.4% is proposed; minimum side yard for the accessory garage whereas 12 feet is required and only 5 feet is proposed on the westerly side and 6.5 feet is proposed on the southerly side; minimum rear yard setback for an accessory structure whereas 25 feet is required and 6.25 feet is proposed; and maximum building height for an accessory structure whereas 12 feet is permitted and 20.25 feet is proposed; and

WHEREAS, the Applicant included with his Application a variance plan entitled “Variance Map & Lot Consolidation Plan for 71 & 73 McGregor Avenue, Lots 13, 13.2 Block 10, Borough of Mount Arlington, Morris County, N.J.,” prepared by Stewart Surveying & Engineering, LLC, and dated March 20, 2024; and Architectural Building Elevations and Floor Plans entitled, “Proposed Addition for: Bob Scerbo, 73 McGregor Ave., Mount Arlington Borough-Morris County, N.J.,” prepared by Fox Architectural Design, P.C., and dated March 26, 2024; and

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

WHEREAS, the Application was deemed administratively complete by the

Board's Engineer on or about June 19, 2024, and a public hearing was subsequently scheduled and held on June 26, 2024, notice being required and lawfully provided.; and

WHEREAS, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application prior to the public hearing on June 19, 2024; and

WHEREAS, the Board's Planner, Jessica P. Caldwell, P.P., also issued a report, dated June 20, 2024; and

WHEREAS, at the conclusion of the public hearing on June 26, 2024, 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:

The Applicant, Robert Scerbo, testified and told the Board that he owned both lots since 1989. He said that there were homes on each lot that were built in the late 1800's. Mr. Scerbo stated that the home on Lot 13.02 was very well preserved. He explained that he would like to merge the 2 lots to create one larger conforming lot and construct an addition to the home on Lot 13.02. He stated that the other home would be demolished. He testified that he preferred proceeding in this manner rather than maintaining the 2 lots and trying to build on both.

After Mr. Scerbo concluded his testimony, Kenneth Fox, A.I.A., P.P. addressed the Board. Mr. Fox was qualified as both a licensed architect and professional planner. He presented Exhibit A-1 which was a colored version of the variance plan submitted. Relying on Exhibit A-1, he stated that the 2 lots were undersized flag lots with structures on them. Mr. Fox also noted that the lots fronted Lake Hopatcong and there were 4 docks.

Mr. Fox explained that the Applicant intended to merge the 2 lots into one larger conforming lot, raze the dwelling on Lot 13, and build an addition on the home on Lot 13.02. He also indicated that the Applicant sought to build a detached garage. Once merged, the lot would include 4 docks although 2 were so small that they could only service small nonmotorized boats. Mr. Fox testified that the Applicant would agree to a condition that the smaller docks could not be used for larger motorized vessels.

Mr. Fox next presented Exhibit A-2, which were 8 photographs of the property and the home that was to remain. He followed up with Exhibit A-3 which a colored rendering of the proposed expanded home. Mr. Fox explained that while the home would still remain nonconforming with respect to the easterly side yard setback, none of the proposed work on the home would exacerbate that nonconforming condition. He did acknowledge that the location of the proposed detached garage would need a variance from the westerly and southerly side yard setbacks, but he stated that the location of the garage could not be changed. He said that the flag lot configuration of the property did

not offer enough space for an adequate turning radius. He maintained that the garage could also not be attached to the home. Fox did testify, however, that the proposed layout and the merger of the lots decreased the number of nonconforming conditions on these lots. He also emphasized that the garage was not to be used as a residence.

Mr. Fox next addressed the comments raised by the Board engineer in his June 19 report. He advised that the Applicant would comply with each comment and present the requested information and make the requested plan revisions. He agreed that the garage height was incorrectly noted as being 20,25 feet when it was to be 15 feet. However, even at 15 feet, Mr. Fox agreed that a variance would be needed. Mr. Fox also stated that he believed that the Applicant proposed sufficient stormwater runoff techniques.

Mr. Fox next offered planning testimony in support of the variances. He testified that the variances were justified under the C(1) analysis. He maintained that the flag lot configuration of the merged lot presented a hardship for conforming development on the property. He did not believe that there were any negative impacts stemming from the proposal as the number of dwellings and lots were being reduced from 2 to 1. He argued that the merger of the lots also eliminated a number of other nonconforming conditions affecting the lots while maintaining its residential character. He believed that this resulted in the lot being more consistent with the Borough Master Plan

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

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 to merge Block 10, Lots 13 and 13.02 into one (1) consolidated parcel, demolish the existing single-family dwelling on Lot 13 and construct a two-and-one-half (2-½) story addition for the existing dwelling on Lot 13.02 and construct as a detached accessory garage. The property is located in the Borough's RA-15 Zone.
2. The Applicant requires bulk variance relief from the zoning limitations set forth in the zone district relating to minimum lot width whereas 100 feet is required and 29 feet is proposed; minimum side yard (one) setback whereas 12 feet is required and 0 feet is proposed; maximum lot coverage whereas 35% is required and 41.4% is proposed; minimum side yard for the accessory garage whereas 12 feet is required and only 5 feet is proposed on the westerly side and 6.5 feet is proposed on the southerly side; minimum rear yard setback for an accessory structure whereas 25 feet is required and 6.25 feet is proposed; and maximum building height for an accessory structure whereas 12 feet is permitted and 15 feet is proposed. Following his presentation, the Board further finds that the Applicant will also require a bulk variance because the maximum square foot area of the detached garage is 625 feet when it cannot exceed 528 square feet and for the 4 proposed docks.

3. The Applicant is seeking bulk variance relief for these nonconforming conditions pursuant to N.J.S.A. 40:55D-70(c) (1). Specifically, the Board finds that the flag lot configuration of the property along with the location of the home that is to remain imposes a peculiar difficulty for the Applicant to develop the property in a conforming manner. The Board finds that the merger of the 2 lots and preserving one of the historic dwellings is a better zoning alternative than trying to maintain 2 lots each with their home.
4. The Board believes that the Applicant has satisfied the negative criteria associated with his bulk variance request. The relief will enable the property to be more conforming with regards to size and will help maintain an older historic home in the community. It will also reduce the number of variances currently affecting the lots. It does not appear that the proposal will negatively impact Lake Hopatcong or neighboring properties. The proposal preserves the residential character of the area in keeping 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.

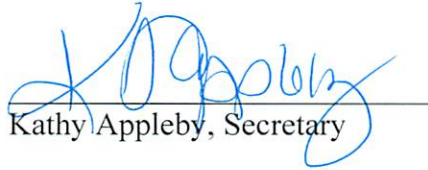
NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Mt. Arlington, County of Morris, State of New Jersey does hereby approve the grant of the bulk variance relief to allow the Applicant Robert M. Scerbo to merge Block 10, Lots 13 and 13.02 into one (1) consolidated parcel, demolish the existing single-family dwelling on Lot 13 and construct a two-and-one-half (2-½) story addition for the existing dwelling on Lot 13.02 and construct as a detached accessory garage, as more particularly described on the variance plan entitled "Variance Map & Lot Consolidation Plan for 71 & 73 McGregor Avenue, Lots 13, 13.2 Block 10, Borough of Mount Arlington, Morris County, N.J.," prepared by Stewart Surveying & Engineering, LLC, and dated March 20, 2024; and Architectural Building Elevations and Floor Plans entitled, "Proposed Addition for: Bob Scerbo, 73 McGregor Ave., Mount Arlington Borough-Morris County, N.J.," prepared by Fox Architectural Design, P.C., and dated March 26, subject to the following conditions:

1. The Applicant shall comply with the technical comments set forth in the Completeness and Technical Review prepared by Board engineer, David A. Clark, P.E., dated June 19, 2024.
2. The Applicant shall prepare and submit to the Board attorney and engineer a proposed Deed of Merger with the correct metes and bounds descriptions. Said deed is to be recorded within 180 days of the memorialization of the within Resolution.
3. The Applicant shall revise the plan to show the location of the sewer easement on the property and the water line near the proposed garage.
4. The Applicant shall dock no more than 4 boats at the existing docks and no

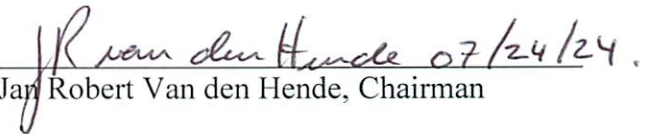
motorized boats may dock at either of the 2 smaller docks.

5. The detached garage cannot be used for any residential habitation.
6. The Applicant 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 of Occupancy.
7. The Applicant shall comply with and adhere to rules, regulations ordinances of the Borough of Mt Arlington applicable to the proposed development.
8. 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.
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:  07/24/24.
Jan Robert Van den Hende, Chairman

DATED:

THE VOTE:

IN FAVOR: 5
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 ~~February 24, 2021~~.

July 24, 2024


Kathy Appleby, Board Secretary