

24-010

**RESOLUTION OF MEMORIALIZATION GRANTING USE AND BULK VARIANCE RELIEF TO STEPHAN SLIASKY TO PERMIT THE CONSTRUCTION OF ADDITIONS TO TWO PRE-EXISTING NON-CONFORMING RESIDENCES ON LOT 8 IN BLOCK 64**

Approved: July 24, 2024

Memorialized: August 28, 2024

**WHEREAS**, Stephan Sliasky (“Applicant”) is the owner of Lot 8 in Block 64 (“Property”) as noted on the Tax Map for the Borough of Mount Arlington with a street address of 3 Larson Lane; and

**WHEREAS**, the Applicants submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about May 20, 2024, seeking bulk variance relief to construct two (2) additions to the two (2) pre-existing non-conforming residences located on the Property; and

**WHEREAS**, the Applicant required bulk variance relief from the zoning limitations set forth in the RA-40 zone district relating to the addition to the two-story frame dwelling. Specifically, the Applicant needed relief from the minimum front yard setback whereas 50 feet is required and 4.6 feet is proposed and the minimum side yard (westerly) whereas 20 feet is required and 19.4 feet is proposed. Subsequent to the filing of the Application, it was determined that the Applicant would require a use variance because the Property has two principal dwellings on it which is a pre-existing conforming condition. The proposed additions to both dwellings therefore represents an expansion or intensification of that pre-existing nonconforming condition which necessitates a use variance as per N.J.S.A. 40:55D-70(d)(2) and

**WHEREAS**, the Applicant included with his Application eight (8) sheets of the Architectural Building Elevations and Floorplans entitled, “Sliasky Residence, 3 Larson Lane, Mt. Arlington, NJ 07856,” prepared by Babula Architecture, LLC, and dated April 26, 2024; one (1) sheet of a Variance Plan entitled, “Map of Property, 3 Larson Lane, Lot 9 Block 13201 & Lot 8 Block 64, Roxbury Township & Mt. Arlington Borough, Morris County, NJ,” prepared by Stewart Surveying & Engineering, LLC, and dated June 22, 2022; and one (1) sheet of a Property Survey entitled, “Tax Lot 8 – Block 64, 3 Larson Road, Borough of Mt. Arlington, Tax Lot 9 – Block 13201, 3 Larson Lane, Township of Roxbury, Morris County, New Jersey,” prepared by Lakeland Surveying, dated November 6, 2023, and revised through May 8, 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 July 18, 2024, and a public hearing was subsequently scheduled and held on July 24, 2024, notice being required; and

**WHEREAS**, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application dated July 18, 2024;

**WHEREAS**, the Board's Planner, Jessica P. Caldwell, P.P., also issued a report, dated July 22, 2024; and

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

Stephan Sliasky testified in support of the application. He informed the Board that he and his wife have lived on the Property for 44 years. He explained that the Property has a two-story frame dwelling in the front of the lot and a smaller cottage to the rear. He has researched the history concerning the Property and believes that the two-story frame dwelling was built sometime in the late 1800's or early 1900's and the cottage sometime after. He stated that he and his wife have lived in the two-story frame dwelling since acquiring the Property and have leased the cottage to residential tenants.

Mr. Sliasky testified that he wanted to build an addition onto both structures to expand the available living area and make it easier for he and his wife to continue to live in them. He said that they would likely move into the cottage and make the other home available for one of their children to reside in.

After Mr. Sliasky concluded, Jon Babula testified. Mr. Babula was accepted as a licensed architect. He described the Property, advising that it was 89,781 square feet. He noted that the Property was uniquely impacted by the municipal boundary line shared by Mt. Arlington and the Township of Roxbury which bisected the Property. He indicated that the development already existing and proposed would be situated on the Mt. Arlington side. He stated that the bulk standards impacting the lot were to remain unchanged. He did acknowledge that the addition to the two-story frame dwelling would trigger a need for a variance from the front yard setback although there was some discrepancy as to the correct figure. He indicated that several surveys done on the Property had noted different setbacks. He represented that the Applicant would present an as-built survey when the project was completed confirming the correct measurement although he opined that the worst case for the setback would be 3.7 feet where 50 feet was required. He also indicated that the nonconforming side yard setback would remain at 19.4 feet where 20 feet is required.

Mr. Babula described the proposed additions and explained the construction process. He stated that each dwelling had its own septic system and that neither system

would need to be modified because the number of bedrooms was not changing. He also noted that both dwellings shared a private well and that condition would not be modified either. When asked by the Board about stormwater runoff and drainage, Mr. Babula agreed to have the driveway graded to the east to prevent stormwater from running down the driveway and into the road. He also agreed to install drywells to capture some of the runoff from the roofs.

After Mr. Babula concluded, the Applicant introduced Alexander McClean, P.P. to testify. Mr. McClean was accepted as an expert in professional planning. He began his presentation by introducing Exhibit A-1 which was 7 photographs of the Property taken from various locations. The exhibit was used to support his testimony supporting the use and bulk variance relief.

Mr. McClean testified that the D-2 use variance was needed because the zone district only allowed one principal dwelling on the Property and the Property had 2 principal dwellings. Therefore, he said the additions to both dwellings expanded both which increased the nonconforming use. Mr. McClean stated that the Board needed to look at whether the proposal would be able to satisfy the positive and negative criteria.

He testified that he believed that the Applicant's proposal would promote the general welfare by preserving the older structures and help preserve the character of the neighborhood. He also argued that the proposal would allow for an intergenerational housing opportunity. In his estimation, these factors promoted Purpose A of the New Jersey Municipal Land Use Law. He added that he believed the proposal would create a desirable visual impact for the area which is consistent with Purpose I of the MLUL.

Mr. McClean also maintained that these purposes supported the bulk variances required. He opined that the front and side yard variance relief was justified as per the C-2 basis. He explained that the Applicant's plan did not create any additional bulk variance relief. He testified that Purposes A and I that supported the D-2 use variance could also support the C-2 variance relief.

When questioned about the applicability of the C-1 bulk variance standard, Mr. McClean acknowledged that it would be appropriate. He agreed that the municipal boundary line dividing the Property created a unique circumstance impacting the Property. In addition, he confirmed that the location of the existing structures also presents an exceptional circumstance. In his view, these circumstances impose a peculiar and exceptional practical difficulty in trying to expand and modernize these dwellings in a conforming manner.

Mr. McClean next 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 the additions would enhance the look of the buildings and ensure that they remain in keeping with the neighborhood. He also stated that the proposal would foster the Master Plan goals of maintaining residential communities and preserving the Borough's historic roots.

The matter was opened to the public, but no one from the public attended the hearing.

**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 seeking use and bulk variance relief to construct two (2) additions to the two (2) pre-existing non-conforming residences located on the Property.
2. The Applicant requires bulk and use variance relief from the zoning limitations set forth in the RA-40 zone district relating to the proposed addition to the two-story frame dwelling. Specifically, the Applicant needs relief from the minimum front yard setback whereas 50 feet is required and at a minimum a setback of no more than 3.7 feet is proposed. The Applicant also needs relief from the minimum side yard (westerly) setback whereas 20 feet is required and 19.4 feet is proposed. The Applicant will also require a use variance since the Property has two principal dwellings which is a pre-existing conforming condition. The proposed additions to both dwellings will then represent an expansion or intensification of that pre-existing nonconforming condition which would necessitate a use variance as per N.J.S.A. 40:55D-70(d)(2).
3. The Board finds that the D-2 use variance is warranted under N.J.S.A. 40:55D-70(2). The Board believes that the relief is needed because the Applicant's Property has 2 principal dwellings on it and the additions to each represent an expansion of those pre-existing nonconforming structures. The Board finds that the additions will preserve the character of the neighborhood by enhancing the look and functionality of the 2 dwellings. The Board concludes that the proposal will thus promote the general welfare (Purpose A of the MLUL) and promote a desirable visual impact (Purpose I of the MLUL).
4. The Board further finds that the Applicant will require bulk variance relief because the front and side yard setbacks as related to the two-story frame structure are nonconforming. The Board concludes that the variance relief is justified under both the C-1 and C-2 standards. Pursuant to the C-1 standard, the Board believes that the Property is impacted by an extraordinary and exceptional circumstance that uniquely impacts it and imposes a peculiar and exceptional difficulty on the Applicant to build conforming additions. The Board deems the municipal boundary line bisecting the Property and the current locations of both dwellings to be the extraordinary and exceptional circumstances confronting the Applicant.
5. With respect to the C-2 standard, the Board believes that the bulk variance relief is justified because the finds that the additions will preserve the character of the neighborhood by enhancing the look and functionality of the 2 dwellings. The Board concludes that the proposal will thus promote the general welfare

(Purpose A of the MLUL) and promote a desirable visual impact (Purpose I of the MLUL).

6. In addition, the Board believes that the Applicant has satisfied the negative criteria for both the use and bulk variances requested. The Applicant's proposal would not be a substantial detriment to the public good, because the proposed additions to the existing dwellings will enhance the aesthetics of both buildings and ensure that they continue to remain consistent with the character of the neighborhood. The proposal is also not a substantial impairment to the Borough's zoning ordinances because the use will continue to remain residential, which is permitted in the RA-40 zone. The proposal also does not generate any new nonconforming conditions. The Board also finds that the proposal is not a substantial detriment to the Master Plan because it will the Master Plan goals of maintaining residential communities and preserving the Borough's historic roots. 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.

**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 the Applicant, Stephan Sliasky, as more particularly described on the eight (8) sheets of the Architectural Building Elevations and Floorplans entitled, "Sliasky Residence, 3 Larson Lane, Mt. Arlington, NJ 07856," prepared by Babula Architecture, LLC, and dated April 26, 2024; the Variance Plan entitled, "Map of Property, 3 Larson Lane, Lot 9 Block 13201 & Lot 8 Block 64, Roxbury Township & Mt. Arlington Borough, Morris County, NJ," prepared by Stewart Surveying & Engineering, LLC, and dated June 22, 2022; and the Property Survey entitled, "Tax Lot 8 – Block 64, 3 Larson Road, Borough of Mt. Arlington, Tax Lot 9 – Block 13201, 3 Larson Lane, Township of Roxbury, Morris County, New Jersey," prepared by Lakeland Surveying, dated November 6, 2023, and revised through May 8, 2024, subject to the following conditions:

1. The Applicant shall comply with the technical comments set forth in the reports prepared by Board engineer, David A. Clark, P.E., dated July 18, 2024.
2. Prior to the issuance of the Certificate of Occupancy for either of the two additions, the Applicant shall present an as-built survey that shall confirm the actual measurement for the nonconforming front yard setback.
3. Prior to the issuance of the building permit either of the two additions, the Applicant shall present to the Board engineer for his review and approval a stormwater plan that will capture the runoff from the additional impervious coverage. The Applicant shall also revise his plans to regrade the driveway to ensure that runoff from the driveway does flow onto Larson Lane.
4. 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 Permits and Certificates of Occupancy.

5. The Applicant shall comply with and adhere to rules, regulations 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.
6. 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 the NJ Department of Environmental Protection for the permits needed for the dock and boathouse and to abandon the private well on the Property.
7. 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.
8. All other State, County, and Municipal regulatory agency reviews that may be necessary must be obtained.
9. 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.
10. 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.
11. 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  
Kathy Appleby, Secretary

BOROUGH OF MOUNT ARLINGTON  
LAND USE BOARD

By: JR van der Horst 09/25/24  
, Chairman

DATED:

THE VOTE:	D2	BULK
IN FAVOR:	$\frac{7}{0}$	$\frac{7}{0}$
OPPOSED:	$\frac{0}{0}$	$\frac{0}{0}$
ABSTENTIONS:	$\frac{0}{0}$	$\frac{0}{0}$

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 July 24, 2024.

Kathy Appleby  
Kathy Appleby, Board Secretary