

24-011

**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: August 28, 2024
Memorialized: September 25, 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 had previously 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 two-story, 22.7 foot high, 1211 square foot accessory garage on the Property;

WHEREAS, the Applicants needed bulk variance relief from the 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 was proposed; maximum building height for an accessory structure, whereas 12 feet is permitted and 22.7 feet was proposed; maximum square footage for an accessory building whereas 538 square feet is permitted and 1211 square feet was proposed; maximum lot coverage whereas 25% is permitted and 34.2% was proposed; and maximum slope at garage whereas 5% is permitted and 26% at the north side is proposed. In addition, the Applicants needed use variance relief from maximum permitted floor area ratio whereas 18% is allowed and 20.9% was proposed;

WHEREAS, the Board granted the Applicants the aforesaid relief as memorialized in a Resolution dated April 24, 2024; and

WHEREAS, after receiving the aforesaid approvals, the Applicants decided to relocate the proposed detached garage closer to the side and front property lines; and

WHEREAS, the Applicants submitted another Application for Development with Board on or about June 18, 2024 seeking to amend the prior approvals to allow the garage to be relocated. The proposed location was to only have a front yard setback of 5 feet where 40 feet is required as per Ordinance §17-32.1.g. Similarly, the proposed garage was to have a side yard setback of 9 feet where 12 feet is required as per Ordinance §17-32.1.g). Finally, the new location would led to an increase in the height of the garage to 23.4 feet where the original approval allowed 22.7 feet. Accordingly, a variance was needed since no accessory structure can exceed 12 feet in height as per Ordinance §17-32.1.c); and

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 June 17, 2024; 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, last revised May 28, 2024 consisting of 2 sheets; and

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 August 28, 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 August 27, 2024;

WHEREAS, at the conclusion of the public hearing on August 28, 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 after securing the prior approvals from the Board to build the detached garage on the Property, they began to reconsider the original location proposed. He said that the Applicants finally determined that it would be better if the garage was relocated 3 feet to the southwesterly corner of the Property. He stated that doing so would provide more open space between the house and the garage and would be aesthetically more appealing from the road. Mr. Jackson explained to the Board nothing else about the garage was changing. It was to be built as originally proposed.

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-1. The Exhibit illustrated the location of the garage as originally approved and the proposed new location. He indicated that the proposed location of the detached garage was to be 9 feet from the side yard where 12 feet is required and 5 feet from the front yard where 40 feet is required. He also indicated that the proposed location would result in a slight increase in the height of the garage from the original proposed height of 23.1 to 23.4 feet. He testified that all other variances previously granted would remain unchanged and the floor area ratio was to remain the same.

With respect to the bulk variances needed, Mr. Roth opined that the relief could be granted in accordance with either 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 given the configuration of the lot and the location of the dwelling which made it virtually impossible to build a garage in an otherwise conforming He also noted that the Property had exceptional topographic conditions and an existing sanitary sewer easement on the east side that precluded the garage from being built there.

Mr. Roth also argued that the new location of the garage satisfied the c(2) standards because it would advance several purposes of zoning, including purpose a of the Municipal Land Use Law which encourages appropriate uses of land. He also believed that the garage created a desirable visual environment which was consistent with purpose i.

Mr. Roth opined that the new proposed location satisfied the negative criteria because there was no discernable impact to the public good, because the garage was not closer to the dwelling on the adjacent lot. He added that the Applicants also proposed more landscaping. 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 the owner of the home at 11 Edgemere Avenue 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 relocate a detached two-story, 23.4 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 from the location that the Board had previously approved. The garage is still to be used by the Applicants to their personal property.
2. The Property is located in the Borough's RA-30 zone district. The new location proposed for the garage generated several bulk variances. Specifically, the proposed location was to only have a front yard setback of 5 feet where 40 feet is required as per Ordinance §17-32.1.g. Similarly, the proposed garage was to have a side yard setback of 9 feet where 12 feet is required as per Ordinance §17-32.1.g. Finally, the new location would lead to an increase in the height of the garage to 23.4 feet where the original approval allowed 22.7 feet. Accordingly, a variance was needed since no accessory structure can exceed 12 feet in height as per Ordinance §17-32.1.c;
3. The Board finds that the Applicants' request for the needed bulk variance relief is warranted pursuant to N.J.S.A. 40:55D-70 (c) (1) and (2). The Board 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. Further, the new proposed location is a de minimis change that does not undermine the rationale supporting the Board's initial decision. Similarly, the Board finds that the architectural design and use of the detached garage will still 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 further finds that the Applicant has satisfied the negative criteria associated with the variance request. There will be no substantial detriment to the public good from the change in the location of the proposed garage. It still 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 continues to be 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.

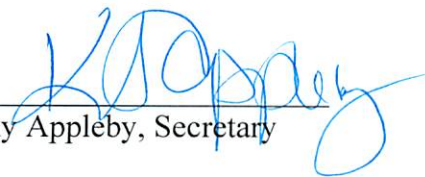
NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of Borough of Mt. Arlington, County of Morris, State of New Jersey, does hereby approve the grant of the bulk variance relief to the Applicants, Jeff Jackson and Marta Alvarez, most particularly described on the two (2) sheets of Architectural Drawings and Plans entitled, "Alvarez Residence, 13 Edgemere Avenue, Mount Arlington, NJ," prepared by Byrne Design Associates LLC, and dated June 17, 2024; 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, last revised May 28, 2024 consisting of 2 sheets, subject to the following:

1. The Applicants shall comply with the conditions set forth in the Technical Review #1 prepared by the Board Engineer dated August 27, 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 comply with the conditions set forth in the Board's initial application approved on April 24, 2024, which included the following:
 - a. Submission of 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.
 - b. Submission of a landscaping plan showing additional plantings that shall be reviewed and approved by the Board planner and engineer.

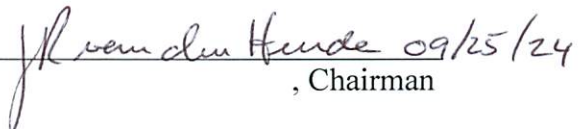
- c. Submission of a deed restriction against the Property confirming that there shall be no residential use of the detached accessory garage and no use of fertilizers on the Property. The proposed restriction must be reviewed and approved by the Board attorney prior to recording.
- 5. The Board's approval is conditioned upon the issuance of any other approvals required by other outside agencies exercising jurisdictional development of the Property.
- 6. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies, agencies, and commissions as shall be deemed necessary and appropriate.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD



Kathy Appleby, Secretary

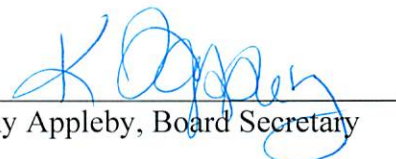
By:  09/25/24
_____, Chairman

DATED:

THE VOTE:

IN FAVOR: 8
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 September 25, 2024.



Kathy Appleby, Board Secretary