26-010

RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE RELIEF TO RICK AND ANNA MILLER FOR CONSTRUCTION OF A DECK ON LOT 39 IN BLOCK 10

Approved: August 26, 2026
Memorialized: September 23, 2026

WHEREAS, Rick and Anna Miller ("Applicants") are the owners of Lot 39 in Block 10 as noted on the Tax Map for the Borough of Mount Arlington with an address of 121 McGregor Avenue ("Property");

WHEREAS, the Applicants submitted an Application for Development with the Borough of Mount Arlington Land Use Board ("Board"), on or about June 15, 2026, seeking a bulk variance to construct a deck off the rear of their existing single-family dwelling located on the Property; and

WHEREAS, the Applicants require bulk variance relief from the zoning limitations set forth in the RA-15 zone district relating to rear yard setback, whereas 25 feet is required and 19.83 feet is proposed;

WHEREAS, the Applicants included with their Application Architectural Plans titled "Deck Addition – 121 McGregor Avenue, Mount Arlington, NJ" prepared by Javier Fuentes Architecture, signed and unsealed by Javier E. Fuentes, R.A., dated May 7, 2026, no revisions, consisting of three sheets;

WHEREAS, the Applicants submitted with their Application the appropriate fees and escrow deposit;

WHEREAS, the Application was deemed administratively complete by the Board's Engineer on or about August 4, 2026, and a public hearing was subsequently scheduled and held on August 26, 2026, notice being required and lawfully provided;

WHEREAS, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application prior to the public hearing dated August 4, 2026;

WHEREAS, the Applicant was not represented by an attorney;

WHEREAS, at the conclusion of the public hearing on August 26, 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:

The Applicant's architect Javier Fuentes, R.A., who is licensed in New Jersey, was the only witness introduced. Mr. Fuentes prepared the plans that were submitted with the application. He explained that the Applicants wanted to replace and enlarge the rear porch/deck and stairs on their house that overlooks Lake Hopatcong. Mr. Fuentes said that this presented an issue since the home was built in the interior of the Property and set back considerably from McGregor Avenue. He noted that the rear of the home was already only 25.9 feet off the rear property line and the RA-15 zone required a setback of 25 feet.

Mr. Fuentes stated that the deck and stairs were important because it was the only access available from the home to the rear yard. He testified that the existing stairs were narrow and in need of repair. He designed the addition to not only replace the stairs but to add a small sitting area where people could sit and view the Lake. He presented A-100 of the plans showing the floor plan and the proposed deck that would measure 6 foot by 20 foot with a new staircase. As he was presenting the proposal, it was discovered that the setback would need to be measured from the bottom stair closest to the rear property line. Doing so reduced the setback further to only 12.33 feet approximately.

Board members questioned whether the size of the deck could be reduced or the stairs relocated to minimize the incursion into the rear yard setback. Mr. Fuentes said that the deck was not too large and the stairs had to remain as proposed to avoid interfering with existing retaining walls and drainage patterns on the Property. He agreed that he would provide an as-built drawing after the work was completed to confirm the exact location of the deck and stairs. He also agreed to work with the Borough engineer to improve on stormwater retention on the Property. One member of the Board inquired about any permits needed from the New Jersey Department of Environmental Protection. Mr. Fuentes said that the Applicants would comply.

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

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 Applicants are seeking bulk variance relief pursuant to N.J.S.A. 40:55D-70(c)(1) from the bulk requirement in the Borough's RA-15 zone district. The relief is sought in connection with the Applicants' proposal to construct a deck and staircase off the rear of their existing home.

2. Specifically, the Board finds that the Applicants will require relief from the minimum rear yard requirement of twenty-five (25) feet whereas only 12.33 feet will be provided.

3. The Board finds that the bulk variance relief is warranted as per N.J.S.A. 40-55D-70(c)1. The Board has determined that the home on the Property is located more in the interior of the Property and is already near the required rear yard setback line. The Property is also impacted with steep slopes extending from McGregor Avenue

to the rear of the Property. The location of the home, the slope of the Property and the existing retaining walls impose significant hardships on any attempt to build a conforming rear deck and staircase. Consequently, the Board believes that the Applicants have satisfied the positive criteria.

4. The Board believes that the Applicants have also satisfied the negative criteria associated with their bulk variance request. The relief will enable the Property to be maintained as an attractive residential dwelling. Moreover, use of the deck will have no impact on surrounding neighbors. The Applicants' willingness to work with the Borough engineer to improve upon stormwater drainage also minimizes impacts to the Lake and surrounding properties. The Borough's Master Plan seeks to encourage the redevelopment or rehabilitation of lakefront homes. For these reasons, the Board finds that these Applicants have satisfied the negative criteria and are 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 the Applicants, Rick and Anna Miller, in accordance with the Architectural Plans titled "Deck Addition – 121 McGregor Avenue, Mount Arlington, NJ" prepared by Javier Fuentes Architecture, signed and unsealed by Javier E. Fuentes, R.A., dated May 7, 2026, no revisions, consisting of three sheets, subject to the following conditions:.

1. Applicants shall construct the deck as per the plans submitted with the application.

2. As a condition for the issuance of a Certificate of Occupancy, the Applicants will prepare and submit to the Borough Engineer an as-built plan upon completion of the work.

3. 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 of Occupancy. 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.

4. As a condition for the issuance of a Certificate of Occupancy, the Applicants will work with the Borough engineer to improve upon stormwater management for the Property.

5. The Applicants 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 DEP.

7. 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

DATED:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD

By: _____ 10/08/26
Robert Van Den Hende, Chairman

THE VOTE:

IN FAVOR: 7
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 23, 2026.

Kathy Appleby, Board Secretary