

**ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF MANSFIELD**

**RESOLUTION NO. 2017-06-05**

**CONCERNING THE APPLICATION OF  
STERGIOS AND CHRISTINE MORAITIS  
FOR  
VARIANCE APPROVAL**

**WHEREAS**, Stergios and Christine Moraitis have applied to the Zoning Board of Adjustment of the Township of Mansfield for Variance Approval for property located at 459 White Pine Road, known as Block 3, Lot 10.07 (the “Property”), for the purpose of constructing an addition to their residential dwelling to be used as an in-law suite accessory apartment; and

**WHEREAS**, variances pursuant to N.J.S.A. 40:55D-70(d)((3) are required because the proposed in-law suite accessory apartment is a Conditional Use in the R-1 Zoning District and the Applicants’ proposed accessory apartment does not satisfy all of the listed conditions for conditional use approval, as required; and

**WHEREAS**, a variance pursuant to N.J.S.A. 40:55D-70(c) is also required as the Property does not have the Lot Frontage required for residential uses in R-1 Zoning District;

**WHEREAS**, the application was deemed complete on June 5, 2017; and

**WHEREAS**, a public hearing to consider the application was held by the Zoning Board on June 5, 2017, after public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

**WHEREAS**, the Applicants presented evidence to the Board through testimony, plans and other evidence; and

**WHEREAS**, the following review letters were submitted to the Board by its Professionals:

- June 1, 2017 Review Letter of the Board Engineer, Stout and Caldwell Engineers and Surveyors, by Mark E. Malinowski, PE;
- June 1, 2017 Review Letter of the Board Planner, Environmental Resolutions, Inc., by Barbara J. Fegley, PP, AICP; and

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**WHEREAS**, the Board after carefully considering the evidence presented by the Applicants in support of their application for Variances, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicants are the owners of the Property located at 459 White Pine Road, known as Block 3, Lot 10.07, located in the Township's R-1 Residential Zoning District. The total area of the Property is approximately 1.19 acres with primary frontage on White Pine Road and secondary frontage on Aaronson Road. The Property is improved with a two-story single family residential dwelling.

2. The Applicants have submitted an Application to the Board for Variances pursuant to *N.J.S.A. 40:55D-70(c)* and *N.J.S.A. 40:55D-70(d)(3)*, providing the Board with a proposed set of plans.

3. The Applicants have paid and/or posted all required fees and agreed to keep their review escrow current.

4. The taxes on the Property are current.

5. Proper notice of the application for Variance Approval has been given, based upon the certified list from the Office of the Mansfield Tax Assessor.

6. The Applicants are proposing to construct an addition to their existing single family residential dwelling to be used as an in-law suite accessory apartment.

7. The proposed accessory apartment is a Conditional Use in the R-1 Zoning District and the Board has jurisdiction pursuant to *N.J.S.A. 40:55D-70(d)(3)* as the proposed accessory apartment does not satisfy all of the conditions of Section 65-10(C)(2) of the Zoning Ordinance pertaining to conditional uses.

8. The Applicants are proposing to construct a one-story addition over a basement to include two (2) bedrooms, two (2) bathrooms, a kitchen, a dining room and living area. The Applicants are also proposing to expand the rear deck and front porch. The first floor addition will measure 1,270 square feet and the basement will measure 1,252 square feet. The total floor area of the dwelling, as proposed, will be 3,182 square feet.

9. The Applicants' proposed development of the Property does not satisfy the following conditions listed in Section 65-10(C)(2) of the Township's Zoning Ordinance, governing conditional uses:

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- a. Size – Proposed accessory apartment is limited to the lesser of 1,200 square feet or 30% of floor area; Applicants are proposing an accessory apartment, 2,522 square feet in area (aggregate of first floor and basement areas), exceeding the 954.6 square feet limit (30% of 3,182 square foot floor area);
- b. Number of bathrooms – limited to one (1) bathroom with toilet, sink and tub or shower; Applicants are proposing two (2) bathrooms;
- c. Entrance to accessory apartment – not permitted on front of principal dwelling; Applicants are proposing a common exterior access to the dwelling and the accessory apartment along the White Pine Road side of the principal dwelling.

10. The Applicants also require a “C” Variance as the Property has a lot frontage of 161.1 feet and 200 feet is required in the R-1 Zoning District.

11. The Applicants provided the following sworn testimony during the June 5, 2017 Public Hearing:

- a. The addition will be used to house Christine Moraitis’ parents who are downsizing form their existing home;
- b. The accessory apartment will only be utilized by family members and when not so utilized, the dwelling will be restored to a single family residential dwelling, without an accessory apartment, as required by the Township Ordinances;
- c. Separate bedrooms and bathrooms are required because of the existing medical conditions of the parents;
- d. The utilities will not be separately metered;
- e. They have not contacted the Burlington County Board of Health regarding the adequacy of the existing septic system for the expanded single family dwelling;
- f. The Property is large enough to handle our three (3) cars plus the three (3) additional cars when the parents are able to move into the accessory apartment;

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- g. The Property is a corner lot, and large enough so that the neighbors are not impacted by the addition and accessory apartment use;
- h. The addition will match the aesthetics of the existing dwelling and will improve the aesthetics of the neighborhood;
- i. The well will have to be upgraded to accommodate the increase in the size of the house and number of occupants;
- j. We will comply with the comments as contained in the review letters of the Board Engineer and Planner.

12. The June 5, 2017 Hearing was opened to the public without comment.

**AND WHEREAS**, based upon the above factual findings, the Zoning Board has come to the following conclusions:

1. The Applicant has submitted a Complete set of plans in connection with its application so that the Board has the necessary information to make a decision on the application for Variance Approval.

2. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and of the Zoning Ordinance of the Township of Mansfield would be advanced by the deviation from the Zoning Ordinance requirements for a Conditional Use accessory apartment and for lot frontage, as requested by the Applicant.

3. The benefits of the deviations from the Zoning Ordinance requirements specified herein would substantially outweigh any detriment to the public good as variance approval would allow for the development of the Property, and otherwise promote the safety, health and general welfare of the community.

4. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Township of Mansfield, on the 5<sup>th</sup> day of June, 2017 Board hereby grants to the Applicants the following:

1. Variance pursuant to *N.J.S.A. 40:55D-70(c)* to permit a lot frontage of 1161.1 feet;

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2. Variances pursuant to *N.J.S.A. 40:55D-70(d)(3)* to permit the accessory apartment (i) to have two (2) bathrooms, (ii) to have its access door facing White Pine Road and (iii) to be 2,522 square feet in area, with the first floor area of the addition measuring 1,270 square feet and the basement area of the addition measuring 1,252 square feet, in accordance with the plans and sworn testimony submitted by the Applicants, which approvals are subject to the following conditions:

a. Subject to the Applicants obtaining all other approvals that may be required for the development, including, but not limited to Burlington County Planning Board and Burlington County Board of Health Approvals. Copies of all other approvals shall be submitted to the Township upon receipt.

b. Subject to the sworn testimony made by the Applicants during the June 5, 2017 Zoning Board Public Hearing.

c. Subject to the submission of revised plans complying with the comments of the Board's professionals and with this Approval.

d. Subject to the comments of the Board Engineer as contained in the June 1, 2017 Review Letter of Stout and Caldwell Engineers and Surveyors, by Mark E. Malinowski, PE, except as may be modified in this Resolution.

e. Subject to the comments of the Board Planner as contained in the June 1, 2017 Memorandum of Environmental Resolutions, Inc., by Barbara J. Fegley, PP, AICP, except as may be modified in this Resolution.

f. Subject to the Applicants' escrow account for the review of their application being current. Failure of the escrow account to be current may result in the non-issuance of permits.

g. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicants obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicants obtaining those approvals.

h. Subject to this Variance Approval not guaranteeing the issuance of any zoning permit, construction permit or certificate of occupancy; the Applicants are subject to the applicable requirements in obtaining said permits or certificates.

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i. Subject to the Applicants either upgrading the existing septic system or submitting the necessary documentation/certification from the Burlington County Board of Health that the existing septic system can accommodate the larger dwelling and the increase in the number of occupants.

j. Subject to the Applicants upgrading the existing well to accommodate the larger dwelling and the increase in the number of occupants.

k. Subject to a final grading plan being submitted for the review and approval by the Board Engineer prior to the commencement of construction.

l. Subject to the revised plans showing the vehicle turnaround area and the final driveway configuration.

m. Subject to the addition matching the appearance of the existing dwelling.

n. Subject to the Applicants complying with Section 65-10(C)(2) of the Township Zoning Ordinance, excluding those conditions pertaining to size of the accessory apartment, number of bathrooms and entrance to the accessory apartment for which Variances have been granted to the Applicants. The Applicants are being advised that they must obtain a license from and enter into an Agreement with the Township governing the use of the accessory apartment by family members only, obligations of the Applicants upon cessation of the use of the accessory apartment and recording of the approval documents in the Office of the Burlington County Clerk.

o. Subject to this Variance Approval permitting the accessory apartment not running with the land as it is limited to the Applicants as the owner of the Property with family members occupying the accessory apartment. If the accessory apartment has not been previously removed in accordance with Section 65-10(C)(2) or the terms of the license and agreement with the Township, the accessory apartment shall be removed prior to the Applicants transferring the Property to a new owner.

p. Subject to the Applicants assuming all risk if they elect to commence construction of the addition prior to the expiration of the appeals period.

**ROLL CALL VOTE**

Those in Favor: 7  
Those Opposed: 0  
Not Eligible to Vote: 0

**CERTIFICATION**

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Zoning Board of Adjustment of the Township of Mansfield in accordance with its decision at its regular meeting on June 5, 2017.

**THE ZONING BOARD OF  
ADJUSTMENT OF THE  
TOWNSHIP OF MANSFIELD**

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**WILLIAM TAHIRAK, CHAIRMAN**

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**ASHLEY JOLLY, SECRETARY**

**Dated:** \_\_\_\_\_

**Date of Approval:** \_\_\_\_\_

**Date of Memorialization:** \_\_\_\_\_