

**MANSFIELD TOWNSHIP ZONING BOARD OF ADJUSTMENT
RESOLUTION MEMORIALIZING THE GRANT
OF A CERTAIN *BULK* VARIANCE PURSUANT
TO N.J.S.A. 40:55D-70(c.) (1) WITH RESPECT
TO SIDE YARD SETBACK TO
CASE NO. Z03-03
GEORGE MOORE
(BLOCK 2202, LOT 11)**

WHEREAS, application having been made on March 7, 2003, by George Moore, residing at 25 Brantwood Terrace, Hackettstown (Mansfield Township), New Jersey, 07840, to the Mansfield Township Zoning Board of Adjustment pursuant to the provisions of the Municipal Land Use Law, particularly N.J.S.A. 40:55D-70(c.) (1), seeking the grant of a certain *bulk* variance with respect to side yard setback for the proposed construction of a 20 foot by 30 foot, two-story addition to the left (westerly) side of the applicant's existing two-story frame dwelling house commonly known as 25 Brantwood Terrace located on property owned by the applicant, said property known and designated as Block 2202, Lot 11, on the Mansfield Township Tax Map, said property being a corner lot, located at the northwesterly corner of the intersection of Brantwood Terrace and Ridgewood Terrace and said property being located within the R-2 Residential Zone District; and,

WHEREAS, in accordance with the provisions of the Municipal Land Use Law, particularly N.J.S.A. 40:55D-12, the applicant having provided and the Board, through its secretary, having confirmed, proper, timely and adequate notice of the variance relief sought by having published, once, in the official newspaper of the Township of Mansfield, a notice of said application and by having provided notice thereof to all property owners located within 200 feet of the subject property and the Board having determined that it was vested with jurisdiction to hear the application and to take Official Action with respect thereto; and,

WHEREAS, in support of the application for the grant of the *bulk* variance, as aforesaid, the applicant having submitted the following plats, documents and other exhibits: a completed Zoning Board of Adjustment application form; an affidavit of proof of publication of notice of the application which appeared, once, in the official newspaper; a plat (untitled) being a photocopy of a survey of the subject property; a colored plan view of the existing dwelling house and the proposed addition to be added thereto (first floor); a colored plan view of the existing dwelling house and the proposed addition to be added thereto (second floor) and a Zoning Permit Application Denial dated February 24, 2003; and,

WHEREAS, a hearing was held upon the application at the regular meeting of the Board convened on June 2, 2003, at which applicant, George Moore, appeared, *pro se*, to present his testimony, the plats and other documents submitted in support thereof and as identified hereinabove and at which meeting no objectors or other parties interested in the

application appeared before the Board, nor were any communications by or on behalf of any such objectors or interested parties received by the Board; and,

WHEREAS, as a result of the hearing held upon the application at the regular meeting of the Board convened on June 2, 2003, as aforesaid, the Mansfield Township Zoning Board of Adjustment hereby makes the following basic **FINDINGS OF FACT**:

1. The property which is the subject of the application and which is owned by applicant, George Moore, is known and designated as Block 2202, Lot 11, on the Mansfield Township Tax Map and is commonly known as 25 Brantwood Terrace.
2. The subject property is a corner lot, located at the northwesterly corner of the intersection of Brantwood Terrace and Ridgewood Terrace, both existing approved and improved municipal streets in the Township of Mansfield.
3. The subject property is a rectangular-shaped parcel having frontage and width on Brantwood Terrace of 125.00 feet; having frontage and width on Ridgewood Terrace of 225.00 feet and containing an area of 0.66 acres or 28,125 square feet.
4. There is presently located upon the subject property the two-story frame dwelling house owned and occupied by the applicant.
5. It is proposed to construct an addition, having dimensions of 20 feet by 30 feet, to the left (southwesterly) side of the existing dwelling house, which will be a two-story addition.
6. The subject property is located in the R-2 Residential Zone District, wherein, by virtue of the requirements of Chapter 22, Section 7.7, the minimum required side yard setback is 20 feet (each side) and 44 feet (total, both sides).
7. In that the existing dwelling house is located 31.9 feet from its northwesterly corner to the westerly property sideline and 32.0 feet from its southwesterly corner to the westerly property sideline and further in that the proposed addition will have a width of 20 feet (and a depth of 30 feet), the resultant side yard setback will be 11.9 feet (northwesterly corner) and 12.0 feet (southwesterly corner) from the westerly property sideline, the minimum required side yard setback being 20 feet.
8. It is for relief from the minimum required (20 foot) side yard setback that

the *bulk* variance application has been submitted.

9. The survey plats submitted and as identified hereinabove and the testimony of the applicant was to the effect that the proposed addition can only reasonably be located on the left (westerly) side of the existing dwelling house, given the existence of a concrete patio to the rear (northerly) of the existing dwelling house, a frame shed and an above-ground pool.
10. Additionally, the existing garage, which is located on the westerly side of the existing dwelling house at ground level will be eliminated and converted to living space, which will be enhanced and expanded by construction of the proposed addition where and as proposed by the applicant.
11. The applicant's testimony, under oath, given at the hearing of the application at the June 2, 2003, meeting of the Board of Adjustment was to the effect that the proposed addition is intended to provide living quarters for the applicant's mother and that a separate sink and stove will be installed to support her use and occupancy, but that the proposed addition will not be converted to a separate apartment or dwelling unit for use or occupancy by any person or persons other than the applicant's mother, who shall have the exclusive right to use and occupy the dwelling house, sharing in common with the applicant and having access to all other facilities and rooms in that existing dwelling house.
12. The second floor of the proposed two-story addition will be devoted to use as a bedroom with three (3) walk-in closets, one each to support the two existing bedrooms in the existing dwelling house and the third to support the proposed new bedroom on the second floor of the proposed new addition.
13. In response to concerns expressed by the Board of Adjustment to the applicant in that regard, the applicant has agreed to establish a deed covenant and restriction to the effect that the proposed addition is and shall always be limited, exclusively and permanently, to use and occupancy by the applicant's mother, during her lifetime and shall never be used by any other person or persons unless and until a new application is submitted to, reviewed and approved by the Board of Adjustment.
14. As previously stated, the existing garage will be converted to living

quarters and the first floor of the proposed new addition will serve as a two-car garage (front portion) and as living quarters in the rear portion.

WHEREAS, as a result of the foregoing basic **FINDINGS OF FACT**, the Mansfield Township Zoning Board of Adjustment hereby makes the following ultimate **CONCLUSIONS BASED THEREON**:

- a. This application is based upon the provisions of the Municipal Land Use Law, particularly N.J.S.A. 40:55D-70(c)(1) which provides, in pertinent part as follows:

Where...by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or...by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or...by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property (the Board of Adjustment may) grant, upon an application or appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardships.

- b. In this particular case, the Board is satisfied that: *...by reason of the exceptional ... narrowness ... of a specific piece of property ... [and] the structures lawfully existing thereon* (the applicant's existing two-story, single-family residence) ... there is practical difficulty and undue hardship attending the applicant's proposal to develop the subject property by construction thereon of a 20 foot by 30 foot two-story addition.
- c. Additionally, the Board is satisfied, given the fact that the existing dwelling house is located in relatively close proximity to the minimum required (20 foot) side yard setback, that existing dwelling house being located, at its closest point, 31.9 feet from the westerly side yard setback, no reasonably sized addition could be constructed thereto, absent the granting of the *bulk* variance sought with respect to side yard setback.
- d. Consequently, the Board is satisfied that practical difficulty and undue hardship attends the applicant's proposal to further develop the subject property by construction to the left (westerly) portion of

the existing dwelling house, the proposed two-story addition, which construction would not be possible, absent the granting of the *bulk* variance sought with respect to side yard setback.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of the Township of Mansfield that, as a result of the foregoing basic **FINDINGS OF FACT** and ultimate **CONCLUSIONS BASED THEREON**, the following **OFFICIAL ACTION** is taken with respect thereto:

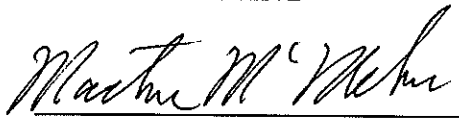
1. The **BULK VARIANCE APPLICATION** of **GEORGE MOORE**, seeking the grant of a variance with respect to **SIDE YARD SETBACK**, in order to enable construction of a 20 foot by 30 foot addition to the left (westerly) side of the applicant's existing two-story frame dwelling house, which addition will be located, at its closest (northwesterly corner) point 11.9 feet from the westerly property sideline, **BE**, and same is herewith **GRANTED**.
2. The foregoing Official Action is taken, subject to full compliance by the applicant with the following terms and conditions:
 - a. The applicant shall pay all *bulk* variance application and review escrow fees and shall reimburse the Township of Mansfield for all its costs and expenses actually incurred in administration of the application.
 - b. The applicant shall provide proof of the payment of all real estate taxes and assessments due on the subject property through the second quarter of 2003.
 - c. The proposed 20 foot by 30 foot two-story addition shall be constructed in precise compliance with the plats submitted to, reviewed and approved by the Board and the use thereof shall be exclusively devoted to the use testified to the Board by the applicant, **any deviations therefrom** requiring resubmission to, review and reapproval by the Board.
 - d. The proposed addition shall have a minimum side yard setback of 11.9 feet.
 - e. The applicant shall establish, by a deed covenant and restriction which shall be subject to the prior review and approval of the Zoning Board of Adjustment attorney and, upon the approval thereof, shall be recorded in the Warren County Clerk's office

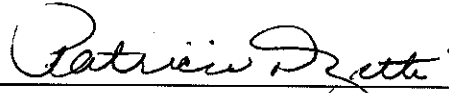
establishing, defining and limiting the use of the portion of the Moore residence to be devoted to use and occupancy by the applicant's mother, which deed covenant and restrictive language shall be as follows:

SUBJECT TO, pursuant to a variance pursuant to N.J.S.A. 40:55D-70(c.) (1) with respect to side yard setback to enable construction of a proposed 20 foot by 30 foot addition to the dwelling house of George Moore in Case No. Z03-03 decided by the Mansfield Township Zoning Board of Adjustment on June 2, 2003, and as memorialized by Resolution dated and adopted July 7, 2003, the restriction that the use of the portion of the dwelling house to be contained within the proposed new addition be limited to use and occupancy, exclusively, by the applicant's (George Moore's) mother who shall, at all times, have common access to the remainder of the dwelling house. The rights conferred as a result of said approval are deemed to be **personal to the applicant and the applicant's mother** and shall not be deemed to be a property right running with the title to the land and shall not be transferable. The Township of Mansfield, in the County of Warren, is herewith made a third-party beneficiary of the foregoing covenant and restriction, having the right, but not the obligation, to enforce same by any legal or equity means, the reasonable costs of any such enforcement action being charged to the non-prevailing party.

- f. The use and occupancy of the dwelling house shall be in continuance compliance with the provisions of Condition 2.(d.), above.

MANSFIELD TOWNSHIP ZONING BOARD
OF ADJUSTMENT


FOR, ARTHUR AGENS, CHAIRMAN VICE CHAIR


PATRICIA ZOTTI, SECRETARY

I hereby certify the foregoing Resolution to be a true and complete memorialization of the Official Action taken by the Mansfield Township Zoning Board of Adjustment at its meeting held on June 2, 2003, by a motion and vote as follows:

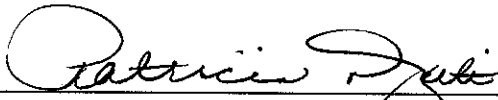
**MOTION TO GRANT THE BULK VARIANCE SOUGHT WITH RESPECT TO
SIDE YARD SETBACK FOR THE PROPOSED CONSTRUCTION OF THE 20
FOOT BY 30 FOOT TWO-STORY ADDITION TO CASE NO. Z03-03-GEORGE
MOORE (BLOCK 2202, LOT 11), SUBJECT TO CERTAIN CONDITIONS:**

IN FAVOR: Chairman Agens, Mr. McMekin, Mr. Harris, Mr. Snyder, Mr. Gentile, Mrs. Hight, Mr. Creedon.

OPPOSED: None.

ABSTAIN: None.

ATTEST:


PATRICIA ZOTTI, SECRETARY

Dated: July 7, 2003
MZBA:MooreGrantSideYardVar.Reso.