

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF MIDLAND PARK**

RE: Michael Kakolewski
43 Colonial Road
Block 25.10, Lot 34.03
R-1 Zone District

RESOLUTION

WHEREAS, Michael Kakolewski (the “Applicant”) has filed an Application with the Midland Park Zoning Board of Adjustment (the “Board”) seeking a variance to allow for the installation of an inground pool at his residential property located at 43 Colonial Road, Midland Park, New Jersey (the “Property”); and

WHEREAS, a Public Hearing was held by the Board on March 9, 2022; and

WHEREAS, the Applicant’s Notice of Public Hearing has been served on all required parties and published in accordance with the requirements of the Municipal Land Use Law; and

WHEREAS, the Board has considered the Application and supporting documents submitted by the Applicant as they relate to the applicable provisions of the Midland Park Zoning Ordinance; and

WHEREAS, the Board has considered the following testimony presented at the Public Hearing:

Testimony

1. The Board heard testimony from the Applicant, Michael Kakolewski,. Mr. Kakolewski testified that a variance was required for improved lot coverage pursuant to Ordinance 34-4.5(g)(2). The Ordinance allows for 45% improved coverage while 49.7% coverage is existing. With the installation of the pool, the total improved coverage would be 51.2%.

2. The Applicant provided a plan prepared by David G. Egarian entitled “Pool Location and Grading Plan for Kakolewski Residence” and dated January 25, 2022. The Plan was marked into evidence. Pursuant to the details of the Plan and the testimony, the location of the pool meets all required setbacks. In addition, the Applicant testified that there are emerald green arborvitaes existing along his rear yard property line which would serve as a buffer to neighboring properties directly adjacent to the pool.

3. The Applicant testified and the Plan shows that the firepit and a portion of the existing patio would be removed to make room for the new proposed pool. The Applicant testified that even if additional patio area and walkway area were removed, the proposed project would still exceed the allowable improved coverage.

4. The Applicant testified that a hardship exists as a result of the undersized nature of the lot and the location of the existing structures on the lot. The existing garage is located in the rear northwest corner of the lot and necessitates a lengthy driveway which increases the improved lot area.

5. The Applicant testified that the pool fence would be connected to the garage in order to secure the pool area. The Applicant further testified that he was aware that the pool fence would need to meet all applicable regulations and requirements.

6. When questioned by the Board's engineer, Richard Wostbrock, the Applicant acknowledged that he was aware that drainage improvements would have to be installed, the size and location to be approved by the Board's engineer.

Comments and Findings of the Board

7. The Board finds that a hardship exists and the Applicant has met his burden of proof for a variance pursuant to N.J.S.A. 40:55D-70(c)(1) as a result of the undersized nature of the lot as well as the existing location of structures on the lot. The Board further finds that there would be no substantial negative impact to the surrounding neighbors and that there would be no substantial negative impact to the Zoning Ordinance or the Zoning Plan of the Borough of Midland Park. Specifically, the location of the pool meets all required setbacks, and the impervious coverage is only increasing by 1.5% percent. Moreover, the Applicant will be required to install drainage improvements to handle any additional runoff, to be reviewed and approved by the Board engineer.

NOW, THEREFORE, BE IT RESOLVED, by the Midland Park Zoning Board of Adjustment that, based upon the above findings of fact and conclusions of law, the Application of Michael Kakolewski for variance as described herein is hereby GRANTED, and that the action taken by the Board of Adjustment on March 9, 2022, be and is hereby memorialized subject to the following conditions:

1. The Applicant is required to obtain a building permit and post all necessary fees and costs with the Borough prior to any construction.
2. All construction shall be completed in accordance with the plans and drawings marked into evidence, along with the testimony of the Applicant and his experts, and in accordance with all applicable, state, county, and municipal codes, ordinances, rules, regulations, and in accordance with the instructions of the construction code of the Borough.
3. The variance relief granted by this Resolution applies only to such variance requests as depicted in the Resolution.
4. The pool fence must meet all applicable codes and regulations and shall be inspected and approved by the Borough's Code Official.

5. A plan for drainage improvements must be reviewed and approved by the Board engineer.
6. Prior to construction, the Applicant must provide the Borough with a plot plan to be reviewed and approved by the Board engineer.

BE IT FURTHER RESOLVED that the Chairperson and Secretary of the Board are hereby authorized to affix their signatures to this Resolution confirming approval of the Application.

Approved: April 13, 2022

Mark Braunius, Secretary

Les Andersen, Chairperson