

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

RE: Gerard Lubbe
49 Colonial Road
Block 25.10, Lot 34.05
R-1 Zone District

RESOLUTION

WHEREAS, Gerard Lubbe (the “Applicant”) filed an Application with the Midland Park Zoning Board of Adjustment (the “Board”) seeking approval of variances for rear yard setback, distance of accessory structure to principal dwelling, and an improved lot coverage so as to allow for the construction and addition to the Applicant’s existing dwelling located at 49 Colonial Road, Midland Park, New Jersey (the “Property”); and

WHEREAS, a Public Hearing was held by the Board on June 9, 2021; 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, Gerard Lubbe, who stated that he proposes to construct a first floor addition off his existing rear sunroom, 6 feet by 18 feet in size. The sunroom will be extended 6 feet towards the rear property line and will measure 25 feet from the rear property line. The Applicant also proposes to construct a dining room addition off the eastern rear corner of the home which is also proposed to be 25 feet from the rear property line. The required rear yard setback for the property is 27.5 feet, and, therefore, the 25-foot rear yard setback requires a variance of 2.5 feet.

The sunroom extension would be 7 feet from the existing detached garage while the zoning ordinance requires a 10-foot distance between accessory structures and principal dwellings. Therefore, a variance of 3 feet is required as a result of the distance of the garage to the sunroom addition.

2. As a result of the addition, the Applicant's improved lot coverage will exceed the maximum of 40% that was allowed by the ordinance at the time of the application. The Applicant testified that he would be removing an overhang by the garage, a slate walkway, and remove a portion of the patio in order to reduce the amount of improved lot coverage. The Applicant asked for a variance that would allow him up to 42% improved lot coverage.

3. The Applicant testified that improved lot coverage was an issue as a result of the size of the lot and the location of the garage at the rear of the property. The location of the garage necessitated a long driveway which increased the improved lot coverage. Moreover, the Applicant testified that the existing location of the garage and house created a hardship which necessitated the set back variance between the house addition and garage.

Comments and Findings of the Board

4. The Board finds that the Applicant has met his burden of proof, pursuant to N.J.S.A. 40:55D-70(c)(1), since the location of the garage and home on the lot requires a lengthy driveway which increases the improved lot coverage. In addition, the close proximity of the existing detached garage to the home necessitated the variance with respect to the distance between the home and the accessory structure. Finally, the Board recognizes the fact that the lot is undersized in area which impacts the allowable improved lot coverage. Therefore, the Applicant has established a hardship as a result of the size of the lot as well as the existing location of the structures.

5. The Board further finds that the Applicant has met his burden of proof, pursuant to N.J.S.A. 40:55D-70(c)(2), as the modest sunroom expansion and dining room addition will allow for modern and reasonable updated facilities for single-family purposes. The Board finds that the granting of the variance would promote the purposes of the Municipal Land Use Law by providing updated improvements to accommodate single family living.

6. The Board finds that the granting of the variance would be consistent with the purposes of the Municipal Land Use Act and that the benefits of any deviation from the zoning ordinance will substantially outweigh any detriments. The Board finds that the Application for variance can be granted without substantial detriment to the neighboring properties, the public good, or without substantially impairing the zoning plan or the zoning ordinance of the Borough of Midland Park. Specifically, the Board finds that the proposed addition will be consistent with other homes and improvements in the neighborhood. In addition, the Board also took notice of the fact that the Borough had introduced and was close to adopting an ordinance to expand the allowable improved lot coverage in the zone to 45%. However, because the ordinance was not adopted at the time the Board acted upon the Application, a variance was necessary at the time of the hearing.

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 Gerard Lubbe for variance as described herein is hereby GRANTED, and that the action taken by the Board of Adjustment on June 9, 2021 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; and
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; and
3. The variance relief granted by this Resolution applies only to such variance requests as depicted in the Resolution; and
4. Applicant shall provide an as-built plan to the Building Department of the Borough of Midland Park confirming that the setbacks and improved lot coverage are conforming with respect to applicable ordinances and/or the relief provided within this Resolution and the Board's approval.

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: July 14, 2021

John Meeks, Secretary

Les Andersen, Chairperson