

**RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE BOROUGH OF MIDLAND PARK**

In the matter of:

**Ryan and Valerie Baumann
217 Paterson Avenue
Block 26.01, Lot 13
Midland Park, New Jersey**

WHEREAS, Ryan and Valerie Baumann (collectively the “Applicant”), owners of the property (the “Property”) located at 217 Paterson Avenue, known and designated as Block 26.01, Lot 13 on the tax map of the Borough of Midland Park (the “Borough”) applied to the Midland Park Zoning Board of Adjustment (the “Board”) for approval of variances required in connection with the Applicant’s proposal to construct a second floor addition over the existing open front porch (the “Application”); and

WHEREAS, sufficient proof that notice of the Application was published and sent to all property owners within 200 feet of the Property in accordance with the requirements of N.J.S.A. 40:55D-12 was received by the Board; and

WHEREAS, a public hearing on the Application was held on September 13, 2023 at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant, any objectors and all members of the public, and the reports from consultants and reviewing agencies, if any, has made the following factual findings and conclusions:

1. The Applicant was represented by Bruce Rosenberg, Esq. of Winnie, Banta, Basralian & Kahn, P.C.
2. Cesar F. Padilla, RA was P duly sworn according to law, provided his credentials, and was accepted by the Board as an expert in the field of architecture.
3. Mr. Padilla testified to the plans prepared by his office and submitted to the Board as part of the Application, entitled “Proposed Second Story Front Extension for Mr. & Mrs. Baumann, 217 Paterson Ave., Midland Park, N.J.” undated (the “Plan”).
4. Mr. Padilla marked into evidence five (5) photos, A-1 through A-5, and explained these photos show the existing house, the front setback of the porch of the existing house in relation to neighboring homes, and homes in the immediate vicinity of the Property that have similar appearance to the proposed addition.

5. The Property is located in the R-5 residential district and requires a minimum front yard set back of 25'. The existing house has a front yard setback of 31'. The existing porch is presumed to be pre-existing non-conforming and is set back 23' feet.

6. The Applicant proposes to construct a second floor addition above the existing open front porch that will be set back 23' where 25' is required. The house has currently has a side yard setback of 5.3' where 6' is required and the proposed addition will maintain that setback.

7. The Applicant requires a variance from Section 34-4.5(b) to allow a front yard setback to the proposed addition of 23' where a minimum of 25' is required and a variance from Section 34-4.5(d) to allow a side yard setback to the proposed addition of 5.3' where a minimum of 6' is required.

8. Mr. Padilla testified that the addition would not extend any further to the front or side than the existing open front porch. There is no change in the footprint of the existing house proposed. He further testified that the addition is modest in size, it would be an aesthetic improvement to the house and in keeping with other homes in neighborhood.

9. In response to questioning from the Board, Mr. Padilla stated that the total impervious coverage on the Property is compliant at 43.3% and will not be increased. However, the driveway as shown on the Plan has since been changed. Mr. Padilla agreed to confirm the amount of impervious coverage and update the Plan accordingly.

10. The Applicant stipulated that the existing open front porch would remain open and not be enclosed.

11. Frank Kalata of Paterson Avenue, a neighbor immediately adjacent to the Applicant questioned whether the recent change to the driveway or the second floor addition would have an impact on run off from the Property that would adversely impact his property.

DECISION

12. After reviewing the evidence submitted, the Board, by a vote of 7 to 0, finds that the Applicant has satisfied its burden of demonstrating that the grant of the requested variances will promote one or more of the purposes of zoning, and in particular purpose (i) to promote a desirable visual environment through creative development techniques and good civic design and arrangement, where the Applicant established that the existing open front porch has non-

conforming front yard and side yard setbacks and the proposed addition will not be set any closer to the front property line or side property line than the open front porch, and where the Applicant agreed that the open front porch would not be enclosed. Further, the Applicant has demonstrated to the satisfaction of the Board that the grant of the variance will not result in a substantial detriment to the public good, as it will be consistent with the character of the neighborhood nor will it substantially impair the intent and purpose of the zone plan or zoning ordinance.

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 that the Application is hereby approved subject to the following conditions:

CONDITIONS OF APPROVAL

1. All conditions of approval shall be binding upon the Applicant and any successors and/or assigns.
2. The Applicant shall be bound to comply with all of the representations made before this Board by the Applicant and the Applicant's witnesses and professionals at all public hearings and same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable against the Applicant as if those representations were made conditions of this approval.
3. The Applicant shall pay all required application fees and professional fees and shall replenish any deficiencies in the Applicant's escrow account as may be requested by the Board.
4. The Applicant shall obtain approvals from all applicable state, county, regional, or municipal governmental body or agency having jurisdiction over the development of the Property and submit a copy of all such approvals to the Board's secretary and engineer.
5. The Applicant shall not enclose the open front porch without the prior approval of the Board.
6. The Applicant shall submit a revised, corrected plan of its architect, which plan shall include all required zoning information and accurately depict the existing conditions of the Property.

7. The Applicant shall submit, or have its architect submit, to the Board's engineer, the calculation of impervious coverage on the Property.

8. The Applicant shall submit a revised, updated survey which accurately reflects the property conditions.

9. The Board presumes that the Applicant's application, all exhibits, maps and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to the Board, or any of the Board's consultants, including but not limited to the Board engineer and/or the Board attorney, on reasonable grounds, that such application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may rescind its approval and rehear the application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

BE IT FURTHER RESOLVED, that the Borough of Midland Park is hereby directed to mail a copy of this Resolution to the Applicant and/or the Applicant's attorney and to file copies of this Resolution with the Borough Clerk, Borough Construction Official, Borough Tax Assessor and Borough Zoning Officer and to cause notice of these determinations of the Zoning Board to be published in the official newspaper of the Borough of Midland Park within ten (10) days of the date hereof and thereafter published accordingly to law.

I hereby certify that this is a true copy of a resolution of the Midland Park Zoning Board of Adjustment duly adopted at a regular public meeting held on October 11, 2023. This Resolution memorializes an action of the Board taken on September 13, 2023.

Richard Formicola, Secretary

Les Andersen, Chairman