

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

In the matter of:

**Christopher Stirone & Jennifer Walsh
112 Prospect Street
Block 11.03, Lot 40.01
Midland Park, New Jersey**

WHEREAS, Christopher Stirone and Jennifer Walsh (collectively the “Applicant”), owners of the property (the “Property”) located at 112 Prospect Street, known and designated as Block 11.03, Lot 40.01 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 shed on the Property (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 February 14, 2024 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 appeared and testified regarding the Property, which is a corner lot and, therefore, has two front yards. There is an existing dwelling that faces Prospect Street, a driveway to the north of the dwelling off of Prospect Street that leads to a garage located in the rear of the Property. There is an in-ground swimming pool and pavers directly to the rear of the dwelling. The south property line fronts on Payne Avenue.
2. The Applicant proposes to locate a shed, approximately 10 feet by 12 feet (and 10 feet in height) to the south side of the pool, and along the Payne Avenue frontage.
3. The Property is located in the R-1 residential district which prohibits an accessory structure, such as the proposed shed, from being located in the front yard. Accordingly, the Applicant requires a variance from Section 34-13.1.a.4 of the Zoning Ordinance.
4. The Applicant testified that due to (a) the fact that the Property, as a corner lot, has two front yards; and (b) the location of the dwelling and other lawfully existing structures and

improvements on the Property, the proposed shed could not reasonably be located outside of the front yard. The Applicant further testified that the shed would comply with the required setback and is shielded by existing landscaping.

5. Board members took note that the shed would be barely visible from Payne Avenue as a result of the landscaping which buffers the location of the proposed shed. The Applicant agreed to maintain a landscape buffer around the shed, similar to what exists there now, as a condition of approval.

6. The meeting was opened to the public and no one came forward to speak with respect to this application.

DECISION

7. After reviewing the testimony and evidence submitted, the Board, by a vote of 7 to 0, finds that the Applicant has satisfied its burden of demonstrating that the strict application of the Zoning Ordinance, and specifically Section 34-13.1.a.4 prohibiting an accessory structure in a front yard, would result exceptional practical difficulties upon the Applicant due to the configuration of the Property as a corner lot and the location of the existing dwelling, driveway, garage, in-ground swimming pool and other improvements on the Property. 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 the proposed shed will not be visible from Payne Avenue due to the landscape buffer 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 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 maintain a landscape buffer similar (or better) to that which is in place as of the date of this approval around the shed, which consists of Arbor Vitae approximately 14' high, such that the shed will not be visible from adjacent properties or from Payne Avenue for as long as the shed is on the Property.

6. The Applicant shall obtain any and all required permits from the building department.

7. 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 March 13, 2024. This Resolution memorializes an action of the Board taken on February 14, 2024.

Richard Formicola, Secretary

Les Andersen, Chairman

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