

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF MANSFIELD

RESOLUTION NO. 2017-10-07

**CONCERNING THE APPLICATION OF
AIELLO
VARIANCE APPROVAL**

WHEREAS, Carmela Aiello has applied to the Zoning Board of Adjustment of the Township of Mansfield for variance approval for property located at 40 Settlers Lane, known as Block 42.21, Lot 6, on the Official Tax Map of the Township of Mansfield, for the purpose of constructing a 3-season sunroom addition in the rear of her existing dwelling¹; and

WHEREAS, a variance pursuant to N.J.S.A. 40:55D-70(c) is required because the proposed sunroom does not comply with the rear yard setback requirement of the Township's Zoning Ordinance; and

WHEREAS, the Application was deemed complete by the Zoning Board on October 2, 2017; and

WHEREAS, the Applicant presented evidence to the Zoning Board of Adjustment through testimony, plans and other evidence; and

WHEREAS, a Public Hearing to consider the Application for Variance Approval was held by the Zoning Board on October 2, 2017, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the Statutes of the State of New Jersey; and

WHEREAS, the Zoning Board of Adjustment after carefully considering the evidence presented by the Applicant in support of her application for variance approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is the owner of Block 42.21, Lot 6, a 5,025 square foot lot located at 40 Settlers Lane in the Residential – 5 (R-5) Zoning District of the Township (the “Property”). The Property is improved with a single family detached residential dwelling and an open concrete patio.

¹ The Applicant provided a notarized letter for her contractor, Tom Edger of Patio Enclosures, to testify on her behalf at the Board hearing.

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2. The Applicant has submitted an application for a variance from the ordinance requirement pertaining to rear yard setback in the R-5 Zoning District.

3. The taxes on the subject property are current.

4. The Applicant has paid and/or posted all required fees and agreed to keep the review escrow current.

5. Proper notice of the application for variance approval has been given, as based upon the certified list of property owners provided to the Applicant by the Township Tax Assessor.

6. The Applicant is proposing to install a 10 foot by 23 foot 3-season sunroom addition in the rear of her existing dwelling.

7. Section 65-86.10(B)(7) requires a 20 foot rear yard setback in the R-5 Zoning District. The Applicant is proposing a rear yard setback of 10.2 for the sunroom and a variance is required.

8. Thomas Edger, after being duly sworn, testified at the October 2, 2017 Public Hearing as follows:

- a. He is the Applicant's Agent and an employee of Patio Enclosures, the Applicant's contractor/installer for the proposed sunroom;
- b. The sunroom will measure 10 feet by 23 feet and will be constructed on an existing 10 foot by 24 foot concrete patio;
- c. The patio is 4 to 5 inches thick and additional support will be required to accommodate the sunroom;
- d. Approval will be required from the Homeowners Association prior to construction of the sunroom;
- e. The sunroom is designed as a 3-season room and will include electricity service only, with no heat or air conditioning;
- f. An egress light will be installed on the exterior of the sunroom;
- g. The adjacent properties are the same grade as the Property so no stormwater runoff issues are expected;
- h. The downspouts will include splash blocks and will be directed away from the adjacent properties;
- i. The exterior of the sunroom will be white to match the existing dwelling;

- j. The plot plan submitted with the Application is accurate;
 - k. Impervious coverage is not being increased with the construction of the sunroom; and
 - l. There are similar sunroom additions in the neighborhood.
9. The October 2, 2017 Hearing was opened to the Public without comment.
10. The Applicant is requesting variance approval to allow her to construct the sunroom as proposed, to enhance her Property and the surrounding area.
11. Without variance approval, the Applicant would be unable to construct the sunroom as proposed on the Property, which is otherwise in conformance with the requirements of the Zoning Ordinance.

AND WHEREAS, based upon the above factual findings, the Zoning Board of Adjustment has come to the following conclusions:

- 1. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and the Township of Mansfield would be advanced by the deviation from the ordinance requirement as specified herein for rear yard setback, as requested by the Applicant.
- 2. The benefits of the deviation from the ordinance requirement specified herein would substantially outweigh any detriment to the public good by this deviation from such requirement, as variance approval would allow for the development of the Property as proposed by the Applicant, and otherwise promote the safety, health and general welfare of the Community, and enhance the aesthetics of the neighborhood.
- 3. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Mansfield, on the 2nd day of October, 2017, that this Board hereby grants to the Applicant a variance to permit a rear yard setback of 10.2 feet for the construction of a 10 foot by 23 foot 3-season sunroom addition, in accordance with the Application, plans, survey and testimony submitted by the Applicant and subject to the following conditions:

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1. Proof that the Applicant has applied for the necessary approval(s) from all other agencies having jurisdiction over the Applicant's use of the Property shall be filed with the Township's Land Use Coordinator.

2. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Township, which may cause such reports to be verified in an appropriate manner. Only upon the fulfillment of all of the conditions shall the required building permit, certificate of occupancy or zoning permit be issued.

3. Subject to the comments of the Board Engineer as contained in the September 26, 2017 review letter of Stout & Caldwell Engineers, LLC by Mark E. Malinowski, PE, except as may be modified herein.

4. Subject to the testimony provided by the Applicant's agent at the October 2, 2017 Public Hearing.

5. Subject to the 3-season sunroom being serviced by electricity only; heating and air conditioning shall not be extended into the sunroom.

6. Subject to the sunroom being no larger than 10 foot by 23 foot with a resulting rear yard setback of at least 10.2 feet.

7. Subject to the sunroom's downspouts directed to the sides of the Property.

8. Subject to the egress light on the exterior of the sunroom shining down and not off of the Property.

9. Subject to variance approval not guaranteeing the issuance of a zoning permit, construction permit or certificate of occupancy as the Applicant is required to comply with all other applicable codes for the issuance of such permits or certificates.

10. Subject to the Applicant being made aware that she assumes all risk if she elects to start construction of the sunroom prior to the expiration of the appeals period.

11. Subject to the Applicant submitting approval form the Homeowners Association prior to construction commencing on the sunroom addition.

ROLL CALL VOTE

Those in Favor: 7
Those Opposed: 0
Those Abstaining: 0

CERTIFICATION

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Zoning Board of Adjustment of the Township of Mansfield in accordance with its decision at its regular meeting on October 2, 2017.

**THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF MANSFIELD**

Attested:

WILLIAM TAHIRAK, CHAIRMAN

**ASHLEY JOLLY
LAND USE COORDINATOR**

Dated: 11-6-2017
Date of Approval: 10-2-2017
Date of Memorialization: 11-6-2017