

MEDFORD TOWNSHIP
ZONING BOARD OF ADJUSTMENT
RESOLUTION #2020-15

Lisa Mikulak
188 S. Lakeside Drive East
(Block 4903, Lot 149)
Bulk Variance Approval to Permit 8' X 16' Shed,
Denial of Design Waivers to Permit 630 Square Foot Secondary Horseshoe Driveway
ZVE-1050

WHEREAS, Applicant Lisa Mikulak requests bulk variance approval to permit construction of a 10' X 16' accessory shed and design waivers to permit an existing 630 square-foot secondary horse-shoe driveway constructed of permeable pavers at her residential property, more particularly described as Block 4903, Lot 149 on the Tax Map of the Township of Medford; and,

WHEREAS, Applicant provided public and personal notice in accordance with the Land Development Ordinance of the Township of Medford and the statutory requirements of N.J.S.A. 40:55D-12; and

WHEREAS, after hearing and considering the exhibits filed with the Application (see attached Exhibit List), testimony from the Applicant Lisa Mikulak and her husband, Stephen Mikulak, testimony from the Zoning Board Planner and Zoning Board Engineer, and there being no testimony from any person during the public comment period at the public hearing on November 14, 2019, and the Applicant, thereafter, having filed a subsequent written request for reconsideration of the Board's decision on the application, the Zoning Board finds as follows:

1. Applicant Lisa Mikulak requests bulk variance approval to permit construction of a 10' X 16' accessory shed with the side-yard setback (5' proposed; 15' required) and design waivers to permit an existing 630 square foot secondary access "horse shoe" driveway in the front of their residential property at 188 S. Lakeside Drive in the Birchwood Lakes residential subdivision. The

subject property consists of 0.31-acres. The subject property is located within the GD Growth District. By Zoning Board Resolution #2016-24, Applicant was previously granted bulk variance approval from side-yard setback, rear-yard setback and building coverage requirements to permit construction of a 576 square-foot building addition to the existing dwelling.

2. In support of the requested bulk variance relief for the proposed 10' X 16' shed, Applicant testified that it would be used for storage of canoes, a log splitter, lawnmower, snow blower, garden equipment and tables and chairs during the winter season. Applicant also testified the shed would match the color scheme of the existing dwelling in terms of the siding and roofing materials and shutters. Applicant further testified that the proposed siting of the shed in the side-yard is necessitated due to the existence of steep slopes located within the rear-yard.

3. The Zoning Board members expressed concern with the proposed shed being sited only 5-feet from the adjoining property-line. Board members recommended a reduction of the size of the proposed shed from 10' X 16' to a smaller-sized 8' X 16' with increased 6' side-yard setback to reduce the proposed impact on the neighboring property owner. Applicant verbally agreed to this modification of her development application to minimize any adverse impact to the adjoining property owner.

4. Applicant requested several design waivers to permit an existing secondary 630 square-foot permeable paver horseshoe driveway. Specifically, Applicant requested the following design waivers: a) secondary access driveway minimum lot-frontage (120' required; 100' proposed), dwelling setback for horse shoe driveways (requirement of 70' from right-of-way and at least 25' must be located at least 50' from right-of-way; proposed 47.21' driveway setback and driveway setback is 20'), and secondary access lot coverage (30% allowed; 32.22% existing and 38.46% proposed).

5. In support of the requested design waivers, Applicant's husband, Stephen Mikaluk, testified that he parks his work truck for his swimming pool business in the main driveway. Applicant testified that the horseshoe driveway would allow for parking of four (4) personal vehicles by the Mikaluk's and their two adult children. Applicant testified that Lakeside Drive is a narrow street and that it would be safer to allow family vehicles to park in the horseshoe driveway. Applicant testified that several other residential properties in the Lakeside Drive neighborhood also have similar horseshoe driveways to eliminate parking on the street. Applicant testified that the horseshoe driveway is constructed of permeable pavers to prevent any stormwater management issues.

6. The Zoning Board Engineer, Christopher Noll, P.E. testified that the Township Council, approximately 15-years ago, adopted an ordinance amendment intended to impose more restrictive standards on the allowance of horseshoe driveways. Mr. Noll indicated that the proliferation of horseshoe driveways was becoming a problem at that time and instigated the ordinance amendments. Noll further indicated that a traffic safety issue arises from allowing too many driveway curb cuts on residential streets. As an older neighborhood, Mr. Noll described existing horseshoe driveways in Birchwood Lakes as predating the ordinance from fifteen years ago, and they exist today as lawful non-conforming amenities, but would not otherwise be permitted today.

7. No one from the public appeared in opposition to the requested bulk variance and design waivers.

8. The Zoning Board Planner posed no objection to the granting of the requested bulk variance for the 8' X 16' shed with 6' side-yard setback. A motion was then made to grant approval of the modified bulk variance to permit the 8' X 16' shed with 6' side-yard setback, which was approved by a 7-0 vote.

9. The Zoning Board finds that the within application for bulk variance approval, as set forth above, should be granted since the proposed shed will be attractive in design, match the existing dwelling and add utility to the residential use of the subject property. The Board further finds that the granting of such relief will pose no substantial detriment to adjoining properties and the surrounding neighborhood and Zone Plan and Master Plan of Medford Township, particularly given Applicant's willingness to reduce the size of the shed from 10' X 16' to 8' X 16' and to increase the side-yard setback from 5 to 6 feet.

10. Through a bifurcated vote, the Zoning Board voted 7-0 to deny the requested design waivers to permit the 630 square foot permeable paver horseshoe driveway. The Zoning Board finds that the ordinance was intended to stop the proliferation of horseshoe driveways, particularly on undersized lots within existing residential subdivisions, which do not meet the design waiver criteria. The Zoning Board finds and concludes that, on balance, the detriments in granting the requested design waivers outweigh any potential benefit to the subject property. The Board further finds that property owners desiring a horseshoe driveway to meet their family parking needs should consider the purchase of larger-sized properties that can satisfy the ordinance criteria.

11. Subsequent to the Zoning Board's decision at its public hearing on November 14, 2019, Applicant filed a written request for reconsideration of the original application for the 10' X 16' shed and the 630 square-foot horseshoe driveway. Such application for reconsideration is authorized by the decisional law but requires the Applicant to demonstrate proof of fraud, mistake or other relevant evidence that should have been considered during the hearing of the application. Upon filing the request for reconsideration, Applicant was immediately instructed by the Board Secretary to replenish the escrow account for professional staff review, which has a negative

balance currently, and to provide public and personal notice of the requested reconsideration hearing date and time as required by the decisional law.

12. Prior to the subsequent Zoning Board meetings on December 18, 2018 and January 15, 2020, Applicant, did provide public and personal notice of the reconsideration hearing, but did not replenish the escrow balance despite the notice provided to them of this requirement by the Zoning Board Secretary. The Zoning Board finds and concludes that Applicant has abandoned the request for reconsideration through her inaction and that the reconsideration request is thus denied with prejudice.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of the Township of Medford that the within application for bulk variance approval is hereby granted to permit a 8' X 16' shed with 6' side-yard setback, subject to the following conditions:

1. Applicant shall pay all taxes, fees and required escrow deposits which may be due and owing prior to the issuance of a zoning permit for the shed.
2. The shed shall match the dwelling in terms of siding, roofing materials and shutters.
3. The existing permeable paver driveway shall be removed from the property prior to issuance of a zoning permit for the shed.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Zoning Board of the Township of Medford that the requested design waivers to permit the existing 630 square-foot horseshoe driveway and request for reconsideration are hereby denied for the reasons set forth above.

ROLL CALL VOTE

Those In Favor of Bulk Variance for 8' X 16' Shed with 6' Side-yard Setback, Denial of Design Waivers to Permit 630 Square-foot Horseshoe Driveway and Denial of Request for Reconsideration: 7

Those Opposed: 0

Attest:

**MEDFORD TOWNSHIP ZONING
BOARD OF ADJUSTMENT**

Beth Portocalis, Secretary

Donna Symons, Chair

Dated: _____

Date of Board's Decision: November 14, 2019

Date of Memorialization: February 19, 2020