

**Resolution  
of the  
City of Millville  
Zoning Board of Adjustment  
Cumberland County  
New Jersey**

**RESOLUTION NO. 17-2023ZB**

**WHEREAS**, Joseph Chiarello has made application to the Millville Zoning Board of Adjustment seeking two bulk variances of 5' for one side yard and a rear yard encroachment into the required side and rear yard setbacks at a property located at 374 Esibill Avenue and known on the Official Tax Maps of the City of Millville as Block 67 Lot 3, Tax Map Sheet 12; and

**WHEREAS**, upon a finding that the applicant had provided proper mailed and published notices and that jurisdiction was proper in the Board this application was heard by the City of Millville Zoning Board at its regular meeting of September 7, 2023; and

**WHEREAS**, the applicant is the owner of the subject property; and

**WHEREAS**, the applicant was represented by Matthew Robinson, Esq of Robinson & Robinson. Mr. Robinson provided a presentation; and

**WHEREAS**, the applicant, Joseph Chiarello, was sworn, and offered his testimony in support of the application; and

**WHEREAS**, the Board has made the following findings of fact and conclusions of law:

## FINDINGS OF FACT

1. The applicant is the owner of the subject property, and therefore has standing to bring this matter before the Board.

2. The applicant has provided proper mailed and published notices of hearing, and jurisdiction is proper in the Board.

3. Application has been made for two bulk variances of 5' for one side yard and a rear yard encroachment into the required side and rear yard setbacks located at 374 Esibill Avenue and known on the Official Tax Maps of the City of Millville as Block 67 Lot 3, Tax Map Sheet 12.

4. The applicant has submitted the following documents in support of its application:

A. City of Millville Zoning Board of Adjustment Application Form dated July 24, 2023;

B. Tax record of property;

C. Plan of Survey, prepared by Donald C. Pennell, PLS, for Pennell Land Surveying, Inc., signed but not sealed, dated 7/22/2022;

D. Disclosure Statement;

E. Transmittal letter dated July 24, 2023 from Matthew J. Robinson of Robinson & Robinson;

F. Proper application and escrow fees as required by ordinance;

G. A-1 survey from July of 2022

5. The Board's Planner and Engineer, Barbara Fegley and Wayne Johnson, submitted an Engineering & Planning Report dated August 31, 2023 commenting on the application which is hereby incorporated into the record.

6. Required setback for the side yard is 10 feet and 5 feet are proposed. The existing setback is 8.7 feet.

7. Required setback for the rear yard is 10 feet and 5 feet are proposed. The existing setback is 8.8 feet.

8. Mr. Robinson stated that the applicant wants to replace the current shed on the property, which was there at the time the applicant purchased the property, with a larger shed. The larger shed will impact both side and rear setbacks.

9. Mr. Robinson survey from July of 2022, for 374 Esibill Avenue which was marked at Exhibit A-1.

10. Mr. Robinson stated that the pre-existing nonconforming conditions based on the placement of the existing shed are at about 8.7 ft. The applicant is asking for 3.7 ft. closer to the fence.

11. Mr. Chiarello stated that the current shed that exists is an 18 by 12 shed sitting on a 16 by 18 pad.

12. Mr. Chiarello referenced A-1 and stated that the "X out" portions on the survey which appear to the side of the house are overhangs over the concrete driveway creating a carport, in the back it is a patio and in the front a porch.

13. Mr. Chiarello stated that the other shed on the property is not his and he discovered when the survey was completed that his neighbor's shed was over the property line.

13. Mr. Chiarello testified that there is a wooden slat fence at 6ft high which extends from his house back along the property line and around his shed. Running from the front of the house it is a 4 ft chain link fence.

14. Mr. Chiarello stated that he would like to replace the existing shed with a larger shed which would be 30 ft x 30 ft. His needs have outgrown the existing shed. Mr. Chiarello has several boats and would use the shed for storage of the boats when they were not in seasonal use. He also intends to store bicycles and fishing equipment in the new shed.

15. Mr. Chiarello further stated that the 5 ft setback is requested, because conforming to the 10 ft setback would place the shed too close to the house. The 5ft setback would allow he and his family to continue to utilize and enjoy their yard.

16. Mr. Chiarello continued that he intends to use the existing concrete pads. He stated the only utility to the shed would be electricity, no water or telephone line. The shed will not be used for any residential purposes.

17. Mr. Robinson indicated that the existing shed is about 12 ft high. The ordinance allows for 15ft of height. Mr. Robinson further indicated that they are not seeking relief in that regard, and will comply with the ordinance.

18. Mr. Chiarello stated that he will not be adding exterior light to the shed as the house gives off sufficient light to light up the yard. He will have a light on top of the door only which will be pointed down over the door. There will be one entry door facing the house and a garage door facing Earle Avenue.

19. Mr. Robinson concluded that the C variance is appropriate due to the property being on a corner lot. To not grant the variance would have a negative impact on the applicant's

quality of life. He continued municipal land use law would not be jeopardized or impacted in any negative way by having accessory structure 3.7 ft closer to the property line.

20. The Board accepts the testimony of the applicant as credible and probative.
21. No public comment was offered on the application.

### CONCLUSIONS OF LAW

1. The Board finds that the proposed bulk variance can be approved pursuant to N.J.S.A. 40:55D-70(c)(1), because with regard to this particular property strict application of the zoning requirement would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant arising out of the shape of a specific piece of property, as it is a corner lot located at the corner of Esibill and Earle Avenues in the City of Millville.

Therefore, the Board finds it appropriate, pursuant to N.J.S.A. 40:55D-70(c)(1), and subject to appropriate conditions, to grant the requested bulk variance.

In addition to the conclusions set forth above the applicant has fulfilled the procedural requirements for the proposed development. Therefore, the requested bulk variance should be granted.

2. The Board finds that the proposed bulk variance can be approved pursuant to N.J.S.A. 40:55D-70(c)(2), because with regard to this particular property the benefits of the community of providing amenities on this property that are consistent with development of the neighborhood outweigh any detriment to the public good or impairment of the zone plan that may flow from these relatively minor deviations from applicable ordinance standards. Because the property improvements are typical of those found on similar nearby properties, a larger shed could be constructed in the proposed location. The Board has determined that the applicant has demonstrated the need for the structure, and does not perceive any substantial detriment to the public good or impairment of the zone plan which would flow from the proposed development.

Therefore, the Board finds it appropriate, pursuant to N.J.S.A. 40:55D-70(c)(2), and subject to appropriate conditions, to grant the requested bulk variance.

In addition to the conclusions set forth above the applicant has fulfilled the procedural requirements for the proposed development. Therefore, the requested bulk variance should be granted.

**NOW, BE IT RESOLVED** by the City of Millville Zoning Board of Adjustment in the County of Cumberland, State of New Jersey that the application of Joseph Chiarello seeking two bulk variances of 5' for one side yard and a rear yard encroachment into the required side and rear yard setbacks at a property located at 374 Esibill Avenue and known on the Official Tax Maps of the City of Millville as Block 67 Lot 3, Tax Map Sheet 12, be and hereby is **GRANTED**, subject to the following conditions:

1. The Board relied upon the testimony of the applicant and factual findings discussed above in this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth herein.

2. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: City of Millville Construction Office.

3. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend same.

4. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required and shall provide the Board with copies of all reports and approvals from same, including copies of any and all applications filed.

5. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date thereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not perfect this approval within one year of the date hereof (or such extended date as may be

provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

**ROLL CALL**

Motion to Approve:  
Seconded:

MEMBER	YEA	NAY	ABSENT	ABSTAIN	EXCUSED
Kevin Smaniotto, Chairman					
William Smith, Vice-Chairman					
John Worthington					
Paul Williams					
Timothy Carty					
William Beck					
Ricardo Lim					
Vacant, Alt. I					
Angeline Broomhall, Alt. II					
Vacant, Alt III					
Vacant, Alt. IV					

**AND BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the applicant and to all who request a copy for a reasonable fee. In addition, a copy of this Resolution shall be filed in the Office of the Zoning Board Secretary of the City of Millville.

By: \_\_\_\_\_ By: \_\_\_\_\_  
Itzel Torres, Board Secretary Kevin Smaniotto, Chairman

Dated:

**CERTIFICATION**

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the City of Millville at a meeting of September 7, 2023, memorializing action taken by the Board at its regular meeting held on October 5, 2023.

By: \_\_\_\_\_  
Itzel Torres, Board Secretary