

The Meeting of the North Caldwell Board of Adjustment was held on Wednesday, December 16, 2020 starting at 8:09pm. The meeting was held virtually due to the COVID-19 pandemic.

Chairman Wangner announced that the meeting was held in accordance with the Open Public Meetings Law and notice of this meeting was provided in accordance with the requirements of Chapter 231, P.L. 1975. He noted that tele/video-conference participation instructions were provided to the public in advance of the meeting.

Board Members Present: Mr. Salan, Mr. Curcio, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, and Chairman Wangner. Mr. Roth joined the meeting at 8:21pm. Absent: Mr. Sceppaguercio

Also present were Lisa Thompson, Esq., Board Attorney; Steve Bolio, PA from Ferriero Engineering, Board Engineer; and Tami Michelotti, Zoning Board Secretary.

Mr. Wangner asked Mrs. Jenkins to lead the Pledge of Allegiance.

Ms. Michelotti and the Board Members discussed the 2021 Meeting dates.

APPROVAL OF MINUTES

Mr. Floria-Callori made a motion to accept the minutes of the Board Meeting of October 21, 2020. The motion was seconded by Mr. Curcio. Said motion passed with six affirmative votes.

Mr. Curcio made a motion to accept the minutes of the Board Meeting of November 18, 2020. The motion was seconded by Mr. Salan. Mr. Floria-Callori abstained. Said motion passed with five affirmative votes and one abstention.

MEMORIALIZATIONS

Ms. Renee Paladino – 711-713 Main Street, Block 2103, Lot 7

Use Variance

Ms. Thompson stated that the memorialization would be tabled to the January 20, 2021 meeting and that the Applicant was notified of the date.

Mr. and Mrs. John Leitao – 2 Fairview Drive

Impervious Lot Coverage

MATTER OF JOHN and MARIA LEITAO

Decided: November 18, 2020

Memorialized: December 16, 2020

WHEREAS, Mr. and Mrs. John Leitao (hereinafter referred to as the “Applicant”) have filed an application for variance relief pursuant to N.J.S.A. 40:55D-70c before the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) with regard to property located at 2 Fairview Drive, also known as Lot 1 in Block 1505 in order to construct a circular driveway which exceeds the maximum impervious lot coverage requirements. The subject property is located in the R1 residential zone; and

WHEREAS, all owners of property located within 200 feet of the subject premises were properly notified according to law; and

WHEREAS, the jurisdiction and powers of this Board have been properly invoked and exercised pursuant to Statute; and

WHEREAS, a public hearing was held by this Board on September 16, 2020 and November 18, 2020; and

WHEREAS, the Board makes the following finding and determination based upon the following facts:

1. The Applicant, John Leitao, was sworn in. Mr. Leitao described his proposal for the construction of a circular driveway at his home to allow for ease of access to his home’s front entrance.

2. Mr. Leitao testified that the proposed circular driveway is consistent with other properties in his neighborhood. Mr. Leitao further testified that he needs additional parking for his family. Mr. Leitao stated that his family currently has 5 cars but noted they will soon have 7 as his daughter is getting a car and his mother is moving into his home.
3. Mr. Leitao testified that the proposed driveway increases impervious coverage by approximately 5%.
4. In response to questions from the Board, Mr. Leitao stated that he has a single car garage. The garage is used for storage because the house only has half of a basement and minimal storage space.
5. Mr. Leitao testified that there are two seepage tanks proposed to address stormwater run-off. He explained that there will be two French drains at the end of each driveway apron to catch the run-off from the property and roof leaders. Mr. Leitao explained that the roof overhang was already approved in a variance hearing before the Board last year. He noted that the rear patio approved in the prior variance application had not yet been built but will be reduced to allow for the driveway.
6. Borough Engineer Paul Ferriero reviewed September 9, 2020 report with the Board and noted that he was not present for the prior Application. He explained that the current proposal shows a covered patio at the rear of the property with a proposed overhang. He stated that he reviewed the Board of Adjustment file from the prior Application and noted that the covered porch was approved as part of an extension of the building. Mr. Ferriero noted inconsistencies between the proposed plans versus the elements that exist today as described in Items 1 and 2 of the Report. He added that the proposed patio appears to be a reconfiguration of the irregular shaped patio and reflects a slight reduction in size.
7. Mr. Ferriero referred to Item 3 of the Report and explained that a north arrow is needed on the plans in order to properly reference different parts of the property. Item 4 of the Report notes that a fence and shed extend over the property line. Mr. Leitao stated that the fence and shed existed when he purchased the property in 2013. He stated there were never any complaints from the neighbors.
8. In response to questions from the Board, Mr. Leitao stated that he has been living at the subject property since 2013. Chairman Wangner asked Mr. Leitao if he considered reducing the impact of the impervious coverage by eliminating the shed or reducing the patio or walkway.
9. Mr. Leitao testified that the plans submitted to the Board show what is already on site. He explained that the proposed patio shown on the plan is not built yet and the covered patio already exists. He added that the one car garage and overhang currently exist. Mr. Ferriero noted inconsistencies in the lot coverage calculations between the grading plan and the zoning table in the Application.
10. It was noted by the Board that the Applicant's plans do not show the current status of the property and it was further noted that the impervious coverage calculations do not match what is actually located on the property. In addition, several comments in the Borough Engineer's report require a response.
11. The hearing was adjourned to allow the Applicant time to respond to the issues addressed by the Board and Borough Engineer.
12. The public hearing was reconvened at the Board's November 18, 2020 meeting.
13. Mr. Leitao testified that the revised plan prepared by Matarazzo Engineering addressed the questions raised by Mr. Ferriero during the previous meeting and includes a revised layout and revised impervious coverage calculations.
14. Mr. Leitao testified that the current lot coverage is 25.81% and the proposed plans would increase the impervious coverage to 37.63%. Mr. Leitao stated that recent renovations did not result in additional lot coverage.
15. Steven Bolio of Ferriero Engineering referenced Mr. Ferriero's report dated September 9, 2020 and a subsequent Report dated October 16, 2020. He stated that gas and sewer lines depicted on the prior plan are not shown on the current plan. Mr. Bolio noted that these

- lines may require relocation. He explained that the trench drain crosses an existing gas service for which relocation may be required.
16. In response to questions from the Board, Mr. Leitao explained that his engineer assisted him with the impervious coverage calculation which totals 8,265 feet and includes the house, covered porch, covered patio, sidewalks, and driveway.
 17. In response to questions from the Board, Mr. Leitao stated that he received his building and plumbing final inspection approvals. Mr. Leitao explained that the patio in the back was reduced and that he can get a smaller shed, and move it fully on his property
 18. The meeting was opened to the public without comment.
 19. Mr. Bolio stated that the Borough Engineer's office had no additional concerns beyond points #3 and #4 in the October 16, 2020 report with which the Applicant indicated his compliance.
 20. Mr. Bolio confirmed that the proposed lot coverage is accurately calculated at 37.63%.
 21. Mr. Bolio confirmed that the accessory structure shown as 598 square feet on the plan is the covered patio and that the existing 100 square foot shed was not included in the lot coverage calculation. Mr. Leitao agreed to install paver stones with grass between the stones to further reduce impervious coverage.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met his burden under the Municipal Land Use Law and that the variances requested may be granted without detriment to the zoning ordinance or the master plan as the proposed plan is in keeping with the neighborhood, and the Applicant has addressed potential run-off issues.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the front and side yard setback variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant has sustained his burden of proof that a hardship exists to permit granting the relief requested and that the benefits of granting the relief requested substantially outweigh the detriments. Mr. Salan made a motion to accept the Application as submitted with the following conditions: (1) Confirmation of the sewer line location; (2) the bluestone walkway will have grass (not gravel) between the stones; (3) the existing shed will be removed; (4) the fence will be moved back onto the Leitao property without any encroachment onto other neighboring properties; and (6) the Borough Engineer will check and confirm the impervious coverage calculation to ensure a maximum of 37.63%. Mr. Curcio seconded the motion. The Application was approved with five affirmative votes by Mr. Salan, Mr. Curcio, Mrs. Jenkins, Mr. Michelotti, and Mr. Sceppaguercio. Mr. Roth and Chairman Wangner voted no.

ALL THOSE IN FAVOR: Mr. Salan, Mr. Curcio, Mrs. Jenkins, Mr. Michelotti

ALL THOSE OPPOSED: --

ABSTAIN: Mr. Floria-Callori, Mr. Roth, Chairman Wangner

ABSENT: Mr. Sceppaguercio

Mr. and Mrs. Michael Piscitelli – 248 Mountain Avenue

Side yard Setback and Lot Coverage

MATTER OF MICHAEL and JESSICA PISCITELLI

Decided: November 18, 2020

Memorialized: December 16, 2020

WHEREAS, Michael and Jessica Piscitelli (hereinafter referred to as the "Applicant") filed an application for variances pursuant to N.J.S.A. 40:55D-70c before the Borough of North Caldwell Zoning Board of Adjustment (the "Board") with regard to property located at 248

Mountain Avenue, also known as Lot 5 in Block 400 in order to construct a deck on the rear of the existing dwelling with a proposed side yard setback of 8.86 feet where a minimum of 20 foot is required and impervious coverage of 57.8% (where 54% coverage exists and a maximum lot coverage of 30% is permitted. The subject property is located in the R2 residential zone; and

WHEREAS, all owners of property located within 200 feet of the subject premises were properly notified according to law; and

WHEREAS, the jurisdiction and powers of this Board have been properly invoked and exercised pursuant to Statute; and

WHEREAS, a public hearing was held by this Board on November 18, 2020; and

WHEREAS, the Board makes the following finding and determination based upon the following facts:

1. Mr. and Mrs. Piscitelli were sworn in and reviewed their request approval to construct a deck. The Applicants described the requests for side-yard setback and lot coverage variances.
2. Mr. Piscitelli stated that they propose to construct a 12 foot by 10 foot deck on the rear of their home. He stated that a door would be installed in the dining room leading to the deck and stairs would lead from the deck down into the backyard. Mr. Piscitelli explained that the proposed deck would also allow ease of access to the yard for their young children and pet and would allow for outdoor eating. He further explained that a 20 foot side yard setback is required by the Borough Code but the pre-existing non-conforming setback for the home 8.6 feet.
3. Mr. Piscitelli further described the subject property and referred to the survey, stating that the existing dog run would be removed to facilitate access to the deck from the backyard. He added that the deck would be 10 to 11 feet off the ground and grass would remain under the deck.
4. Mr. Piscitelli stated that the deck would be constructed of a wood frame with composite decking. It was noted that the Borough Engineer issued a report on November 2, 2020 which stated that the Applicant that the proposed deck will increase the lot coverage from 56.2% to 57.8%. Mr. Bolio confirmed that the deck would be considered impervious coverage regardless of the material used. It was noted that the impervious coverage calculation in the Zoning Officer's denial letter does not match the calculation on the Engineer's report. The denial letter was based on the application as submitted that was subsequently corrected by the Borough Engineer during the Application review process.
5. Upon questioning from the Board, it was confirmed that the property had two prior two variance approvals which were granted before the impervious coverage ordinances took effect. It was further noted that the approvals for the two prior applications have expired since the previously approved projects were not started within a year of approval.
6. Mr. Piscitelli stated that all other properties in the neighborhood on their side of Mountain Avenue have decks. He further testified that their lot is undersized.
7. Mr. Piscitelli testified that a neighbor on a bicycle was hit by a car on his street. For the safety of his children, he wants to keep them protected in the backyard.
8. In response to questions from the Board, Mr. Piscitelli stated that the existing fence was in its current location when they purchased the home.
9. Mr. Anthony Lopez, 3 Moonlight Terrace, Oak Ridge, New Jersey was sworn in and stated his role is both contractor for the Piscitellis and previous owner of the property. Mr. Lopez stated that the area to the rear of the property encompasses a 12-foot easement between the subject property and the property of the former Curly Stone business. Mr. Lopez explained that when property was sold, the easement area was to be split in half to be used as a 12-foot drainage easement which was never installed. Mr. Lopez noted that the front of the house is only 15 feet from the road and that the side door is on a steep incline. He added that the house is located on a dangerous street and the safest place for children would be in the backyard.

10. Ms. Michelotti stated that she was able to verify that the property located behind the subject property is Block 400, Lot 14 which is a 1.6 acre lot owned by LaSerra Farms which is land locked with no street address. In response to questions from the Board, Mr. Piscitelli stated that he has not spoken to the owner of the adjacent.
11. In response to questions from the Board, Mr. Piscitelli agreed to move the existing fence to the property line if requested to do so by the adjacent property owner.
12. The hearing was opened to the public without comment.
13. In response from questions from the Board, it was confirmed that the correct lot coverage with the proposed deck is 57.8%.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met her burden under the Municipal Land Use Law and that the variances requested may be granted without detriment to the zoning ordinance or the master plan as pre-existing non-conforming conditions; and further that the proposed deck will enhance the home and increase safety for his children by improving the backyard.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the rear yard setback variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant has sustained the burden of proof that a hardship exists to permit granting the relief requested and that the benefits of granting the relief requested substantially outweigh the detriments. Mr. Curcio made a motion to approve the Application as submitted. Mr. Salan seconded the motion. A vote was taken and the motion was approved with seven affirmative votes by Mr. Curcio, Mr. Salan, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Sceppaguercio, and Chairman Wangner.

ALL THOSE IN FAVOR: Mr. Curcio, Mr. Salan, Mrs. Jenkins, Mr. Michelotti, Chairman Wangner

ALL THOSE OPPOSED: --

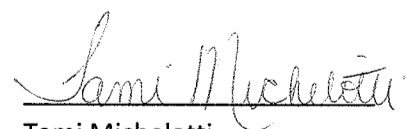
ABSTAIN: Mr. Floria-Callori, Mr. Roth

ABSENT: Mr. Sceppaguercio

Mr. Floria-Callori thanked Chairman Wangner and all the Board members for the opportunity to work with them as a Board member. The Board members thanked and congratulated Mr. Floria-Callori on his election to the Borough Council.

There being no further matters to come before the Board, Mr. Floria-Callori made a motion to adjourn the meeting, seconded by Mr. Salan. Said motion passed unanimously. The meeting was adjourned at 8:27p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary