The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, August 15, 2018 starting at 8:05 pm.

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

Board Members Present: Mr. Wangner, Mr. Augustitus, Mrs. Jenkins, Mr. Floria-Callori, Mr. Michelotti, Mr. Roth

Absent: Mr. Angelo, Mr. Ritter, Mr. Salan

Also present were Lisa Thompson, Esq., Board Attorney and Tami Michelotti, Zoning Board Secretary.

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

Mr. Wangner stated that no new testimony would be heard after 10:00pm.

APPLICATIONS

MATTER OF 21-25 Bloomfield Avenue - 21 Bloomfield Avenue – Block 100, Lot 3

John Wyciskala, Esq., from the Law Firm of Inglesino, Webster, Wyciskala, and Taylor, LLC., attorney for the Applicant stated that he would be continuing with the testimony for the Application, 21-25 Bloomfield Avenue, regarding the preliminary and final site approval with a D1 use variance and additional C bulk variances.

Mr. Wyciskala stated that he would like to take a moment to provide a brief summary of the Application to re-familiarize the Board and public with the Application. He stated that the property is located in the Borough's Office Zone District which allows for a multitude of commercial uses, which would include administrative, executive, and editorial offices. He stated that it allows banks and financial offices, medical and dental offices, professional and retail uses, as well as restaurants with table service. Mr. Wyciskala stated that two-story mixed use developments are permitted in the zone with a maximum height of thirty-five feet. He added that Lot 2 which is directly to the north of the property was improved with a Wells Fargo Bank branch with drive-through facilities and on-site parking. He further added that to the south are residential homes on Bloomfield Avenue and Elm Street and continuing further south are Horseneck Tavern, Spencer Savings Bank and Exxon Gas Station with a Mini Mart. Mr. Wyciskala stated that all of the mentioned properties, including the residential homes are located in the Office Zone District.

Mr. Wyciskala indicated that the site which was previously occupied by Curley Stone Yard contained a masonry retail building and a mix of pavement and gravel with multiple covered storage areas. He explained that Curley Stone which was a site directly adjacent to residential properties, had high intensity and noxious use with high generation of traffic which included landscapers and heavy trucks making deliveries and pick-ups and noisy operations such as stone cutting on-site. He stated that he felt that the use and operations of the site were not attractive to the surrounding areas.

Mr. Wyciskala stated that subsequent to acquiring the property, the Applicant has demolished and removed all structures about one year ago and the site is vacant and clear for development.

Mr. Wyciskala stated that the Applicant proposes to construct a two-story mixed use building with associated parking areas. He explained that the proposed building would consist of approximately 3100 square feet of commercial space on the first floor and four residential apartment units on the second floor with three, two bedroom units and one, one bedroom unit. He further explained that the proposal of the residential units would require a use variance and bulk variance relief due to the size and irregular configuration of the property. Mr. Wyciskala stated that he felt that a mixed use commercial project with residential space on the second floor would be a perfect use and particularly suitable for the property. He explained that the Applicant is proposing an attractive building with high-end architectural treatments and materials which would complement the surrounding properties. He added that he felt that the proposed building would provide a different housing type in the community and would be a great transitional use property between the Wells Fargo Bank to the north and the pre-existing residential homes to the south which are also in the Office Zone District. He further added that he felt that the commercial and residential uses of the property would be complementary from a traffic generation and a parking perspective and would result in a benign land use. Mr. Wyciskala stated that the proposed project would put the current vacant property which is located in the Borough's primary economic corridor back into use for both the property owner as well as the Borough.

Mr. Wyciskala stated that Betsy Dolan, traffic engineer from Dolan and Dean Consulting would testify next regarding her traffic impact study, followed by Nicholas Graviano, professional planner who will provide testimony relative to variance relief.

Mr. Wyciskala stated that they were aware that only six board members were present and they would need five affirmative votes for their use variance case therefore he stated that they may need an adjournment in order to assure the Board would have seven members for a vote.

Elizabeth Dolan, licensed professional engineer focusing on traffic and transportation with Dolan and Dean Consulting from Somerville, New Jersey was sworn in. Ms. Dolan presented her credentials to the Board and was accepted as an expert witness.

Ms. Dolan stated that the purpose of the proposed traffic impact study was to collect traffic data for the existing conditions and forecast future traffic volumes based on the traffic volumes that would be generated from the proposed development. She stated that their assessment began with collecting weekday morning and evening traffic volumes at the Bloomfield Avenue and Elm Road intersections at White Rock Road which would be the most impacted intersections. She explained that the nature of the development is mixed use which would generate the highest traffic during weekday mornings and evenings during peak commuter hours. Ms. Dolan stated that their counts were performed on December 5th and December 7th from 7:00am to 9:00am and from 4:00pm to 6:30pm each day. She indicated that they isolated the busiest one hour period during those timeframes in which 8:00am to 9:00am and 5:00pm to 6:00pm recorded the highest traffic volumes at those intersections. She explained that with those existing peak hours established, the study then estimates the amount of traffic associated with the proposed development. She further explained that the purpose of the traffic study was to take the busiest street volumes combine them with the busiest driveway volumes to find out how that functions and then during all other hours when traffic volumes are lower, there would be better operating conditions compared to the peak hours. Ms. Dolan stated that to estimate traffic associated with the apartments and the commercial component of the proposed building, the study used data published by the Institute of Transportation Engineers and from a manual

called Trip Generation. She explained that the data used included rates based on actual counts of apartments, commercial, and retail developments from the latest edition of Trip Generation. She further explained that according to the data, they are estimating approximately 11 driveway movements during peak morning hours and 16 driveway movements during the peak evening hours. Ms. Dolan added that the overall Trip Generation level is not considered significant in traffic engineering terms. She further added that the state highway access management code defines significant as 100 trips or more in one hour which would cause changes in the operational characteristics of the adjacent roadways and intersections, therefore since the trips would be well below that threshold, there would not be a negative impact on the area from a traffic standpoint.

Ms. Dolan explained that 11 trips are considered to be an entry and/or exit. She added that for this orientation, there would be a nice balance of traffic that would include primarily outbound residential traffic and inbound commercial traffic in the morning and the reverse in the evening. She stated that they include a background growth rate to forecast future traffic volumes and since it will take about two years for this development to be built and generate traffic, they used a two year forecast in which they take the existing peak hour volumes that were counted and inflate them with a growth rate from the New Jersey Department of Transportation's database and then the site traffic is added. She added that they would have access and frontage on both Elm Road and Bloomfield Avenue so they split the minimal amount of traffic up and oriented most to and from the Bloomfield Avenue driveway and then assigned it to the White Rock Road intersections with Elm Road and Bloomfield Avenue which creates the future traffic volume build conditions. Ms. Dolan stated that the traffic engineers then analyze the intersections before the traffic is added and then after the site traffic is added and then use a level of service scale to measure whether or not there is a negative impact of the proposed site traffic. She added that the level of service scale is from A through F, and the letter A is at the top of the scale indicates there is little or no delay in traffic, while the letter F indicates delays such as drivers waiting through multiple traffic signals. Ms. Dolan stated that there is no change in the intersection movements or operational levels of service when the site traffic is added. She added that the proposed driveway movements would operate at an A/B level of service with the exception of the allowance of left turns out of the exit onto Bloomfield Avenue, which would then operate at an E level of service. She stated that the Bloomfield Avenue exit would operate at an A service level if left turns were prohibited. She further added that the analysis shows that there would not be a negative impact or measurable changes in the intersection operations in that there would be enough capacity for the driveway movements to enter and exit the proposed site without any significant delay.

Ms. Dolan stated that the proposal includes parking that not only satisfies the ordinance for both residential and commercial but also would accommodate the two-way circulation with a 24 foot aisle and two means of egress and ingress which would allow for a positive distribution of site traffic. She explained that parking supply for mixed use applications typically require a variance but would not for the proposed site because the parking supply is more than comfortable because the majority of residents will be leaving the site during the day to go to work which would leave more spaces available for the retail customers or office employees, while the opposite would be true during the evening. She stated that while there may be a little overlap on weekends with the residents and possible retail component, she felt that the site plan was designed to promote safe and efficient flow with a comfortable parking supply for the mixed uses of the proposed building. Ms. Dolan added that 9′ by 18′ parking spaces are proposed and are the standard size included within the Residential Site Improvement Standards for New Jersey and are also recommended by the Institute of Transportation Engineers for

lower turnover uses. She stated that she felt it was also common in commercial uses with the exception of sites with high turnover uses such as a convenience store.

Mr. Wangner asked if there was a radius used for the growth rate forecast. Ms. Dolan stated that the forecast is a flat rate based on Department of Transportation and their counts throughout the state. She stated that they summarize growth rates for each county and each roadway type so the growth rate factor used accounts for on-going area developments based on historic data collection. Ms. Dolan stated that she felt that the newly constructed homes up the street would not have a significant impact, adding about one car every minute. She added that the growth rate factor is intended to encompass on-going development in the area.

Mr. Wangner asked how the dates of the study were chosen. Ms. Dolan stated that a few things went into choosing the dates: the timing and due dates of the project, weather, and school. She added that they typically use Tuesday, Wednesday, and Thursdays and avoid Mondays and Fridays due to long weekends. She stated that they chose reasonable time periods which are representative of typical days and conditions.

Mr. Wangner stated that the 9′ by 18′ parking spaces do not conform to the Borough Ordinance. Ms. Dolan stated that the 9′ by 18′ parking spaces conform to the Residential Site Improvement Standards as well as recommended parking space sizes as summarized by the Institute of Transportation Engineers for residential and commercial uses.

Mr. Wangner asked if they are aware of the letter that was sent by the Fire Chief. Ms. Dolan stated that she has heard about the fire lanes but has not read the letter. Mr. Wangner stated that in the letter, the Fire Chief has questioned of there would be a designated fire zone located behind the building. Mr. Wyciskala stated that they he would confirm that with their engineers. Ms. Dolan stated that the plans have not been revised yet to reflect the inclusion of the fire zone.

Mr. Wangner asked if there were any questions from the Board. Mr. Floria-Callori asked if they would observe and/or make recommendations regarding left turns from the building exit onto Bloomfield Avenue. Ms. Dolan stated that they are often in a position to defend making left turns out but in this case because there is access and frontage on Elm Road, she feels it is up to driver but she would exit on Elm Road and use the traffic signal to make a left turn during peak hours but may decide to make a left turn out onto Bloomfield Avenue during non-peak hours when the roadway is not busy. She further stated that she would not look to restrict left turns out of the building site but it would need to be reviewed by Essex County. Mr. Floria-Callori asked if the Application was also sent to the county for approval. Ms. Dolan stated that the Application was sent to the county for approval because the proposed building is on a county road.
Mr. Floria-Callori asked if there would be a safety risk in making a left turn from Bloomfield Avenue into the site. Ms. Dolan stated she does not feel that it would pose a safety risk because according to the study, there would be a low volume of traffic in and out of the parking lot since the proposed building is part residential. She added that the frontage would be clean with a clearly defined driveway that would be signed, striped and curbed. Mr. Floria-Callori asked what consideration was given into making the site one-way or two-way for traffic. Ms. Dolan stated that she would leave the site as having two-way traffic circulation which would give drivers the ability to arrive and depart in different directions. Mr. Floria-Callori asked if that would allow for an increase chance of the site being used as a cut-through for traffic. Ms. Dolan stated that since the driveway would have a circuitous design, it would not be attractive to drivers as a cut-through option. Mr.

Floria-Callori asked if the smaller parking spaces along with the two-way traffic would have a negligible impact. Ms. Dolan stated that she was comfortable with the proposed parking space size and would let Mr. Sean Savage address the Fire Zone addition, although she thought they would be able to accommodate that. Ms. Dolan added that she felt that the overall site as it was designed would allow for the safe and efficient movement of traffic into and out of and through the site and would also accommodate the movements in and out of the parking spaces.

Mr. Floria-Callori asked if there was a commercial counterpart to the proposed 9′ by 18′ residential standard for parking space size. Ms. Dolan stated that the Residential Site Improvement Standards are strictly residential but with regard to the commercial component, the Institute of Transportation Engineers provides guidelines for parking stall dimensions and 9′ by 18′ is their recommended size with exception to high turnover establishments such as a Quick Check or Wawa which would require a width of 10 feet due to parking spaces turning over every couple of minutes.

Mr. Floria-Callori asked if there would be any allowable use under the code that would give heightened concerns with regards to volume. Ms. Dolan stated that with the limited size of the property and proposed footprint, even if the proposed building would be commercial on both floors, she does not feel there would be a need for wider width parking spaces.

Mr. Wangner opened the hearing to the public for any questions or comments.

Mr. George Johnson, Esq., representing the Curley daughters, stepped forward. Mr. Johnson asked how the number of parking spaces required was determined. Ms. Dolan stated that the site engineer determined the number of spaces required. Mr. Johnson stated that there were assumptions made on the primary uses of the first floor of the proposed building. He asked if there would be an impact on parking depending on the type of use for the proposed building. Ms. Dolan stated that the proposed plan meets the required parking based on the Borough Ordinance. Mr. Johnson asked if there would be more traffic movement if a fast food restaurant was in the proposed space. Ms. Dolan stated that the traffic movement for a fast food restaurant would be higher than another retail establishment or office. Mr. Johnson asked if they would anticipate a physician's office in the proposed space as different physician practices require different amounts of parking spaces. Mr. Johnson stated that an allergist would require additional spaces. Ms. Dolan stated that she has never done a study on how many parking spaces an allergist would require.

Ms. Donna Honovic from 17 Bloomfield Avenue was sworn in. Ms. Honovic stated that Elm Road is already very crowded because of traffic being diverted onto the street from Mountain Avenue and adding more traffic in and out of Elm Road is a safety concern to the residents. Ms. Dolan stated that the site redesign plan would allow driveways with clean access lanes in and out of the proposed development on both frontages. She added making a left turn onto Elm Road would be very unlikely because making a right onto Bloomfield Avenue would be more direct. She further added that a modest amount of traffic would be generated from the proposed building and would be comparable to what was historically generated on that site.

Mr. Wangner asked if the traffic study included Elm Road. Ms. Dolan stated that the traffic volume was counted on Elm Road. Ms. Honovic added that her neighbors have difficulty pulling out of their driveways. Mr. Floria-Callori asked if there are cars parked on Elm Road. Ms. Honovic stated that cars are parked in both directions in Caldwell and one direction in North Caldwell. Ms. Dolan stated that the traffic study on Elm Road was done right in front of the

proposed property and at the White Rock Road intersection which included just fewer than 400 vehicles in a two-way volume on Elm Road during the morning peak hour and about 500 vehicles during the evening peak hour. She added that the volume contribution from the proposed development would be about two or three trips during those hours which would be a nominal impact to the Elm Road corridor. Mrs. Jenkins asked if the study included the sixty-two houses being built. Ms. Dolan stated that there would be about another fifty or sixty cars added from the houses being built. She further stated that those added cars would most likely be using White Rock Road and not Elm Road.

Mr. Floria-Callori asked what the historical traffic pattern was for the site. Ms. Dolan stated that she did not have specific historical counts but she reviewed some traffic data for a garden center from the Institute of Transportation Engineers and it would be about 10- 20 trips during the busiest peak hours which are comparable to what is being proposed.

Ms. Honovic asked if it was possible for a high volume retailer such as a mini mart, to occupy the proposed space where the larger 10 foot parking spaces would be needed. Ms. Dolan stated that it is unlikely that a high volume retailer would occupy the space because of the size, lack of loading docks, and mixed use component of the proposed building. Mr. Wyciskala stated that it is very unlikely that a mini mart would occupy this space because of there is not an adjacent gas component. Ms. Dolan stated that mini marts without gas are called legacy stores and there is a program to replace all legacy stores with a site that includes gas. She added that these stores would not occupy a space without gas going forward. Mr. Wyciskala stated that 75% to 90% of convenience stores nationwide have fuel operation. Ms. Honovic asked if coffee shops would be included as well. Ms. Dolan stated that she has worked with Dunkin Donuts, Tim Horton's and Starbucks which all want drive-throughs going forward, so it is not likely that one of these would occupy the proposed space at this location.

Carol Creter, representing the Curley daughters at 24 Elm Road was sworn in. Ms. Creter stated that she does not have a problem with the development of the property if it is done according to the Borough specifications. She stated that she felt the amount of exceptions for the proposed development seemed excessive. She added that she felt that the proposed building could be made smaller to accommodate the property and parking. Ms. Creter asked if there would be a guarantee that a 7-11 would not occupy the proposed space. Ms. Dolan stated that they studied the proposed development as a generic mixed use building so that would a question for the Applicant. Ms. Creter asked if the town had the right to limit what type of retail establishment would occupy the space as she stated that a restaurant would have longer hours than the stone yard that previously occupied the site. She stated that the stone cutting was done inside the shop and there was limited access to the stone yard on Elm Road. She added that her side yard and back yard would be greatly affected by the parking at the proposed development. Ms. Creter asked if the proposed plan included a buffer of trees and plants between the end of the property and the parking area. Ms. Dolan stated that the plans included a buffer and curbing between the property line and the parking area but the site engineer, Mr. Savage would answer any specifics regarding the landscaping. Ms. Creter stated that her concern would be the possibility of cars hitting her fence when they back out of the parking stalls so she felt that there would be a buffer needed. She added that at the last meeting, the engineer stated that there is street parking on Elm Road in case of overflow but she stated that she felt that the developer should have enough of the correct sized parking spots in the lot so there is not a problem with circulation or overflow. Ms. Dolan stated that she does not anticipate any cars backing up outside of property boundaries as there would be a 24 foot wide circulation aisle behind

the parking spaces which is required and provides ample geometry within the paved portion of the proposed development to allow a vehicle to back out without hitting a fence or curb on the property. Ms. Creter asked if there are curbs and a buffer area on the site plan. Ms. Dolan stated that the dark line on the site plan denotes the curb line that defines the drive aisles and the parking areas and the dotted line represents the property line. Ms. Creter asked what the average length of a car is. Ms. Dolan stated that the average car is 15 feet. Ms. Creter stated that the parking spaces are 18 feet and she felt that with the traffic coming off of Elm Road, there should be more space for the vehicles to back out of the first parking stall. Ms. Dolan stated that that the proximity from the entrance on Elm Road to the first parking space would be about 20 to 25 feet. She added that the first parking space would be the furthest from the building and one of the least attractive to use for the commercial uses of the building. She stated that the proposed plan provides for the required parking for both the commercial and residential components of the building making those less attractive parking spaces rarely used and removing the demand for parking on Elm Road.

Mr. Wangner asked if the parking spaces will be designated. Ms. Dolan stated that typically they are not designated to allow for the shared parking concept but sometimes the Applicant may want to designate one space per unit but it would depend on how the property is managed. She added that there would be two handicapped spaces closest to the door.

Mr. Floria-Callori asked Ms. Dolan to go over the positive and negative aspects of the traffic plan if there were only one access to the development on Bloomfield Avenue. Ms. Dolan stated that they would be creating a dead-end circulation system on the property and there would be limited use of the Elm Road driveway because the overall traffic volume generation during the busiest peak hour is nominal. She added that she felt that the proposed site redevelopment plan provides a generous amount of parking which would ensure there would not be a spillover onto the public road.

Mr. Wangner asked Ms. Creter how important the visual aspect of the development is to her. Ms. Creter stated that she would like to enjoy the use of her backyard without looking at the back of a building. She stated her concern with the dumpster and the possible smell it would generate especially if a restaurant would occupy the space.

Mr. Floria-Callori asked Ms. Creter for her building and lot number. Ms. Creter stated that her property is at Building 100, Lot 4 near the proposed entrance and exit on Elm Road.

Ms. Creter stated that they would need privacy from the proposed building and suggested a six foot concrete wall to separate the properties. Mr. Wangner stated that they would address that with the Applicant.

Ms. Creter asked if consideration was given to creating an entrance one way and an exit another way. Entrance one way and exit another way? Ms. Dolan stated that she felt it would create more of an impact on Elm Road by forcing all of the traffic there. She added that providing two-way traffic encourages more activity toward the Bloomfield Avenue corridor.

Ms. Creter asked if there is any ordinance that specifies what type of retail would be allowed to occupy the proposed space. Mr. Wangner stated that the Applicant would have to come before the Board and provide testimony.

Ms. Creter asked if the traffic study considered restaurant hours and what the impact on traffic would be. Ms. Dolan stated that the presented plan focused on retail/commercial office space and what she calls "neighborhood

commercial". She added that there would be a higher trip generation if a larger establishment occupied the space.

Mr. Wyciskala stated that the proposed buffer adjacent to lot 4 would not include a fence but would include a densely planted landscape of shrubs and mixed plantings of approximately 5 to 6 feet in height.

Mr. Roth asked if there was consideration given in the traffic study to the events and practices that are held at the recreational field on Elm Road during the spring and fall seasons. Ms. Dolan stated that there was not any specific accounting for that as they were focused on the weekday peak commuter periods which she felt accounted for the highest volume of traffic. She added that bigger events would need to be managed and traffic entering and existing the site would be comingling with that during the off-peak hours. She further added that there would be a modest amount of traffic generated by the proposed development compared to one of those events.

Elizabeth Dolan, licensed professional engineer focusing on traffic and transportation with Dolan and Dean Consulting from Somerville, New Jersey was sworn in. Ms. Dolan presented her credentials to the Board and was accepted as an expert witness.

Nicholas Graviano, licensed planner with Graviano and Gillis was sworn in. Mr. Graviano presented his credentials to the Board and was accepted as an expert witness.

Mr. Graviano stated that he has visited the site on multiple occasions as well as reviewed the Application and letters prepared by the Board professionals and Municipality departments and has obtained data from the municipality tax assessor to be used in conjunction with his testimony. He stated that he reviewed the master plan and zoning ordinance in conjunction with the Application and was familiar with the requested variance relief including the D1 use variance and the associated bulk variances.

Mr. Graviano stated that there is a diversity of land uses in the area of the site which is in between Bloomfield Avenue and Elm Road. He stated that the frontage on Bloomfield Avenue would meet size requirements and the frontage on Elm Road is approximately 52 feet which would not meet the ordinance requirement but would be ample size for the secondary ingress and egress to the site. He explained that the area is characterized by a great diversity of land uses from the site to White Rock Road and from the site to Mountain Avenue in Caldwell. Mr. Graviano stated that the proposed property meshes well with the established land uses in the area and conforms to the permitted land uses in this zone. He stated that they are before the Board because of the presence of the proposed multi-family dwellings on the second floor of the building and not for the 3100 feet of proposed commercial space which is a minor application and small scale development which would be safe for the neighborhood.

Mr. Graviano stated that this application would require a D1 use variance to permit three, two bedroom apartment units and one, one bedroom apartment unit on the second floor. He stated that the Applicant needs to demonstrate that the site is particularly suitable for the uses proposed. He explained that New Jersey Courts have held that proof of particular suitability does not require that this Applicant demonstrate that there are other sites that can accommodate this use but just that the proposed site has characteristics that can accommodate such use. He further explained that the proposed multi-family use is not very different from the variety of land uses in the area which include duplexes and townhomes. Mr. Graviano stated that the proposed development would have 3100 square feet of

commercial space with the ability to provide parking on-site for both the first floor and residential dwellings. He stated that the site is close to recreational opportunities, a park, and a university which makes the area benefit from the introduction of a multi-family dwelling unit.

Mr. Graviano stated that there are ways that the proposal fulfills purposes of zoning in the municipal land use law:

1. Purpose A: To encourage municipal action to guide the appropriate use of lands in a matter which will promote the public health, safety, morals and general welfare. Mr. Graviano stated that the proposal is a redevelopment and modernization of an underutilized property which will be built with modern construction techniques and amenities and vetted drainage.
2. Purpose G: To provide sufficient space and appropriate locations for a variety of commercial and residential uses to meet the needs of New Jersey citizens. Mr. Graviano stated that he requested information from the tax assessor regarding the types of properties that currently exist in North Caldwell. He explained that the information stated that there are no mixed use properties in North Caldwell and no properties that have the 4c apartment designation. He added that the proposal will fulfill Purpose G within the municipality to establish land uses that offer a variety of dwelling types. Mr. Graviano stated that in the 2010 United States Census of the 2,134 dwelling units, 96.8% were owner occupied and only 3.2% were renter occupied. He added that the proposal would promote a modest increase in the availability of residential dwelling units to meet the needs of New Jersey citizens. He further added that the proposed building will have elevator access which would make it attractive for senior residents.
3. Purpose I: To promote a desirable visual environment through creative development techniques and good civic design and arrangement. Mr. Graviano stated that the mixed residential and commercial uses promote good civic design and arrangement. He added that the good symmetry between the first and second floor will allow for no competition for parking spaces and the proposed parking meets all the requirements of the municipality's code.

Mr. Graviano stated that he reviewed the master plan with respect to the area and it indicated that the mixture of land uses along Bloomfield Avenue should be rezoned for low traffic generated commercial uses similar to the uses located in the Fells Commons retail shops and this Application is in keeping with that master plan goal and the proposed residential units on the second floor do not deviate from that plan.

Mr. Graviano stated that the Board cannot grant the D1 variance unless all the negative criteria have been satisfied. He stated that according to expert testimony there would be no substantial impairment of the zoning ordinance with the proposed mixed use building. He added that the proposed residential use on the second floor of the building would generate less traffic than other permitted use options.

Mr. Graviano stated that the Applicant would require bulk variance 107-25c1 where a minimum front footage of 150 feet is required and 52 feet is existing and proposed on Elm Road while the frontage requirement on Bloomfield Avenue would be met. He stated that this is an existing condition and not augmented by this Application. He added that the Applicant requires a lot size variance where 22,500 square feet is required and the existing lot size is 22,046 square feet so the Applicant has approximately 98% of the ordinance requirements.

Mr. Graviano stated that the C Variances are absorbed into the D Variance Application; however, he stated that he felt it was a C1 Variance case where

the narrow, irregular shape of the property would impose undue hardship on the Applicant. He added that the Applicant requires a Variance from C2 – 107-25b3 which states that an accessory building must be located at least 15 feet from the side lot line and the proposed trash enclosure would be 10 feet from the side lot line and adjacent to the neighboring commercial property so there would not be a detriment. Mr. Graviano stated that the Applicant is requesting a front yard setback variance where 20 feet is required and 15.3 feet is proposed. He stated that there would not be parking in the front of the proposed building so it would not create mobility problems. He added that the proposal is an unnoticeable deviation from the requirements. Mr. Graviano stated that additionally the Applicant would require a lot coverage variance where 35 percent is required and 79.04 percent is proposed which would be a substantial reduction in lot coverage than what was previously on the site which was 89 percent. He added that the Applicant would be removing impervious coverage in that regard and felt that the municipality's code is restrictive and impossible to conform in this scenario.

Mr. Graviano stated that granting the C2 variances can be accomplished via the justifications and advancements of purposes of zoning as was previously discussed. He stated that the Applicant is requesting waivers for the reduction in parking spot size, where 9′ by 18′ is the conventional spot size in the state of New Jersey for a conventional commercial parking lot. He added that the Applicant requires a waiver for no parking in the front yard as the Applicant is proposing parking on the panhandle towards Elm Road.

Mr. Graviano stated that the D and C variances can be granted due to the fact that the D variances fulfill the purposes of zoning A, G, and I listed in municipal land use law and the municipality, through their zoning ordinance identifies the need for a variety of residential and commercial uses to meet the needs of New Jersey citizens. He added that according to the data provides, this project would help amplify the supply and there is no substantial impairment of the zoning ordinance with the proposal.

Mr. Wangner asked if the front yard setback is consistent with the adjoining properties along Bloomfield Avenue. Mr. Graviano stated the front yard setback is consistent with the neighboring buildings as it is indicated on the site plan. Mr. Wangner asked if it would visually be a straight line up Bloomfield Avenue. Mr. Graviano stated that the proposed building is slightly back from the Wells Fargo Bank and the residential properties.

Mr. Wangner asked if the information from the tax assessor was received in writing and if so, can a copy be provided. Mr. Graviano stated that he received the information via email from the tax assessor. Mr. Wyciskala stated that he will submit a copy of the email response regarding the properties with 4c assessments and number of mixed use properties from tax assessor, George Librizzi under Exhibit A-1.

Mr. Floria-Callori stated his concern with upcoming developments and their effect on the school system and the necessity of having residential units in the proposed Application. Mr. Graviano stated that the proposal contains a modest number of residential units, one being a one bedroom unit which typically does not house school children and mixed use scenarios are typically not attractive to people with children. He added that mixed use units typically attract single occupants without children.

Mr. Floria-Callori asked if Mr. Graviano has been involved with the proposed project from the beginning and if so, what the intention was from the start. Mr. Graviano stated that he has been involved with the project since it was submitted and felt that the engineer presented a rational design given the challenging geometry of the site. He added that the engineer designed a functional site that would take the surrounding environment into

consideration by providing landscaping and buffering. He further added that the site is in a commercial zone where commercial use and parking are the intention. Mr. Graviano stated that the Applicant's proposal is a rational use of land where the second floor allows for less use and parking needs making a good relationship between the two floors in the proposed building.

Mr. Wangner opened the hearing to the public for any questions or comments.

Mr. George Johnson, Esq. stepped forward. Mr. Johnson asked Mr. Graviano if he reviewed the most recent zoning and master plan for this area and if it stated that any potential commercial use should be designated as residential. Mr. Graviano stated that he reviewed the plan for the area and a residential use is not a commercial use. Mr. Johnson stated that if the residential use is not mentioned in the plan or zoning ordinance then it is excluded.

Mr. Johnson asked if the proposal would result in a rezoning of the property by variance as opposed to rezoning this property by the procedures that would be followed by the Planning Board and Governing Body. Mr. Graviano stated that this is a specific, non-conventional site with exceptional geometry that is located in a portion of the municipality with a variety of land uses and based on the Zoning Board objectives and collected data, this is a rational location and site for the introduction of multi-family dwellings to the area. Mr. Johnson asked if it was an economic or zoning decision. Mr. Graviano stated that it was a zoning decision based on the geometry of the site and the amount of on-site parking the site could accommodate.

Mr. Johnson stated that the proposal could have included second floor office space instead of residential units and noted the proposed elevator. Mr. Graviano stated that the demand for second floor office space was declining.

Mr. Johnson stated that the municipality is not required to construct make available structures will all the various types of residential uses. Mr. Graviano stated that the municipality's zoning ordinance identifies the desire to have a variety of commercial and residential uses to meet the needs of all New Jersey citizens and the municipality currently does not have any mixed use buildings or properties with an apartment assessment. He added that this proposal will fulfill that need.

Mr. Johnson stated his confusion with the proposed front yard setback. Mr. Graviano stated that the front yard variance is based on numerous factors which include keeping the building in line with the established front yard setbacks that currently exist on Bloomfield Avenue. He stated that with the geometry of the site and provision of parking, it made rational sense to push the building forward slightly on Bloomfield Avenue. Mr. Johnson asked what would happen if the proposed building was pushed back to the requirement of the zoning ordinance. Mr. Graviano stated that the Applicant would lose depth on the first floor commercial area which is already limited in space at 3100 square feet and would in turn be less attractive to potential users. He added that if the proposed building was moved back as it is presented, the geometry of the sight would not allow for proper circulation and flow of the parking area which is designed with a 24' aisle beginning from Bloomfield Avenue to Elm Road.

Mr. Johnson asked if the Applicant has attempted to acquire other lots for the proposed project. Mr. Wyciskala stated that the Applicant has already testified and they would take it under advisement.

Mr. Wangner asked if there were any more questions or comments from the public. No one else from the public came forward.

Mr. Wyciskala stated that Mr. Savage, who was still under oath from the previous meeting, would like to come forward and answer questions about the fire zone proposed in the rear of the building.

Mr. Savage stated that they would coordinate with the Fire Chief to provide striping and signage for the parking area and fire lanes as required. He stated that the striping would not compress the drive aisles so it would not be a detriment to the circulation of the site. Mr. Wyciskala asked Mr. Savage to detail the buffering proposed between the residential home on lot 4 and the site. Mr. Savage stated that the landscape proposal includes evergreens along the entire property line of lot 4, including the northern and western sides. He added that the evergreen plants will be 4′ to 6′, spaced out for a quick growing buffer.

Mr. Roth asked for an explanation of Schedule A of the Application regarding impervious coverage on the lot. Mr. Savage stated that the existing site had 89% lot coverage and 79% is proposed, where 35% is permitted. Mr. Roth stated the fact that the lot is currently vacant. Mr. Savage stated that typically pre-existing lot coverage can be accounted for within a five to seven year period. He added that the lot is not subject to Department of Environmental Protection regulations on storm water based on the size of this site. He stated that much of the impervious coverage still exists today and they would comply with the engineer's requests if the impervious coverage needs to be recalculated and storm water management needed to be addressed.

Mr. Wangner stated that the town's engineer consultant would be available to answer questions at the next meeting.

Mrs. Thompson stated that the next meeting would be on September 26th at 8:00pm and not further notice is required.

MATTER OF Mr. and Mrs. Richard Ronchetti – 33 Roosevelt Boulevard – Block 502, Lot 1

Daniel D'Agostino, licensed architect from Plan Architecture, 125 Paterson Avenue, Little Falls, NJ 07424 was sworn in, presented his credentials to the Board and was accepted as an expert witness.

Mr. D'Agostino stated that the Application is for a second floor addition and partial renovation to an existing single family home on a corner lot located at 33 Roosevelt Boulevard. He stated that the site is conforming where they are required to have 15,000 square feet and have 15,876. He added that the minimum lot depth and width are met.

Mr. D'Agostino stated that there were three existing non-conforming variance conditions that they are seeking relief for:

1. The accessory structures, a shed and a garage, are not part of the construction changes but are existing non-conformities.
2. The impervious lot coverage is an existing non-conformity where 30% is required and 38.98% currently exists, and 38.47% is proposed with a removal of a walkway connecting the driveway to the front door.
3. There is an existing front yard encroachment and the proposed second floor will exacerbate that condition even though no new footprint is being proposed.

Mr. D'Agostino stated that they are proposing an 18 foot cantilever which is an architectural feature used to break up the façade of the proposed structure. He stated that in reference to the plans that were submitted, they

are proposing a second floor where one does not currently exist. He further stated that they would like to reorient the front door so it would exist on the side of the home which would present the home more robustly. He noted that the homeowners have lived in the home for seven years and have made minor improvements. He added that since the homeowners have made investments in the home and have a special needs child which requires the home to have certain improvements to facilitate movement and use of the stairs, they cannot move.

Mr. D'Agostino stated that the second floor plan includes walls that are referred to as hollow at the rear and proposed walls that are referred to as hatched. He stated that they are taking the existing three bedrooms on the second floor and proposing four bedrooms. He added that in the new addition, they are proposing a master bedroom with a master closet and master bathroom which would be located off the existing bathroom so that the plumbing is located in one location.

Mr. D'Agostino stated that the color rendering, sheet a501 shows the architectural significance that they are trying to bring to the home. He stated that the current home is characterized as a bungalow style with craftsman influences where the owners prefer a tudor style so they would like to salvage the existing masonry work to use as a starting point for their proposals.

Mr. D'Agostino stated that he would enter Exhibit A1 which is an enlarged realistic photo rendering of the home to give a sense of scale and massing. He stated that the proposed dormer will project about 18 feet and architectural flair was used to make the windows look unique. He stated that they would be increasing the height of the structure by two feet but would still be below the maximum four foot requirement. He added the proposed relocation of the front door was done in an understated manor by using rafter tails, snow guards and other medieval references into the style.

Mr. Augustitus stated that the front yard setback would be decreased with the proposed reduction of the front porch. Mr. D'Agostino stated that according to the code, the existing portico is not considered building coverage so there would be a three foot decrease in the setback when measuring from the property line to the existing front portico.

Mr. Wangner stated that there would also be a minimal decrease in the impervious coverage with the proposal. Mr. D'Agostino stated that while the decrease is not substantial, it does count.

Mr. Floria-Callori asked if there was an easement on the property near the shed. Mr. D'Agostino stated that there was no mention of an easement on the property and location survey.

Mr. Wangner asked if there were any more questions or comments from the Board. There were no more questions or comments from the Board.

Mr. Wangner opened the hearing to the public for any questions or comments.

Madeline and Lee Globerson from 14 Rose Avenue were sworn in.

Mrs. Globerson stated her concern about water flow and damage to her property from the additional impervious coverage being proposed. Mr. Wangner asked if there were any questions for the architect. Mrs. Globerson stated that she did not have any specific questions but wanted to state her concern about her property value being lowered and the overall appearance of the proposal. Mr. Globerson stated that he believes that presently there is

inadequate drainage from the property which results in loss of topsoil and gullies from the runoff. He stated that they built a retaining wall to hold back the topsoil but the runoff brings the soil down the retaining wall into a swale. Mr. Wangner asked if they felt that any additional work would make the runoff worse. Mrs. Globerson stated that the additional runoff is part of the problem along with the appearance of the proposal. Mr. Wangner stated that the Board does not get involved with cosmetics. Mrs. Globerson stated that she does not believe there is a hardship for the variance.

Mr. Augustitus stated that the Applicant is not increasing impervious coverage but rather decreasing it slightly. Mr. Wangner asked Mr. D'Agostino if a seepage pit would be needed for the runoff from the additional roofline. Mr. D'Agostino stated that they would comply with any requirements from the township engineer but with his experience underground water retention would not be required if impervious coverage was decreased. He stated that the proposed roof slopes are not directing any additional water towards the Globerson's property. He explained that water erosion is not from one small lot but usually from multiple lots contributing together where one underground storage tank would not have much impact on the issue. Mrs. Globerson asked what Mr. D'Agostino's assumptions were based on since she felt he was unfamiliar with her property. Mr. D'Agostino stated that he observed the downward slope of the entire street. Mr. Globerson stated that his property is generally level with the Applicant's property and the direction of the erosion is coming from that property. Mr. Wangner stated that any questions or concerns regarding water runoff should be directed towards the township engineer.

Mrs. Globerson asked how the setbacks would be conforming by taking off a porch. Mr. Wangner stated that it would be a small gain. Mr. Augustitus explained that the current house is already non-conforming and unable to get to the proper setbacks. Mr. Wangner stated that the current house was built with different criteria before the existing codes were in place. He explained that from what was presented, the proposed changes would not make the situation worse and any runoff concerns should be brought to the township engineer. Mr. Wangner stated that any code violations need to be brought to the zoning official. He further stated that the Board reviews the addition for size, encroachment issues, and if it will block air or light. Mr. Floria-Callori stated that the variance would be for the impervious coverage that they are already exceeding although they are improving it. Mrs. Globerson stated that they are in touch with the township engineer regarding the runoff issues and just wanted to make sure the addition would not impact their current problem.

Mr. Wangner asked if there was anyone else from the public who would like to come forward. No one from the public came forward.

Mr. Augustitus made a motion to accept the Application as proposed, seconded by Mr. Michelotti. A vote was taken and the Application was approved with six affirmative votes by Mr. Augustitus, Mr. Michelotti, Mr. Floria-Callori, Mrs. Jenkins, Mr. Roth, and Mr. Wangner.

There being no further matters to come before the Board, Mr. Augustitus made a motion to adjourn the meeting, seconded by the Board. The meeting was adjourned at 10:08p.m.

Respectfully Submitted,

Tami Michelotti

Tami Michelotti
Zoning Board Secretary