

December 16, 2015

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, December 16, 2015 starting at 8:02pm.

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. Ritter, Mrs. Jenkins, Mr. Augustitus, Mr. Wangner, Mr. Lisa, Mr. Salan, Mr. Schwartz, Ms. Tanelli

Absent: Mr. Shah

Also present were Lisa Thompson, Attorney, and Nancy A. Bretzger, Board Secretary

Mr. Schwartz wanted to thank Mr. John Lisa for his service to the Board, as this was his last meeting as a member. Mr. Schwartz explained Mr. Lisa has always been a reasonable voice and said it has been a pleasure having him serve on the Board. Mr. Schwartz wished Mr. Lisa good luck.

APPLICATIONS

MATTER OF MR. MARC CONROW, 12 MAPLE DRIVE, BLOCK 1407, LOT 4

Ms. Lynda Korfmann, Esq. represented Mr. Conrow. Ms. Korfmann explained that the Applicant requests a variance for a right side yard setback. She explained the proposed addition to the home, stating that Mr. Conrow would like to add a second floor with a master bedroom and three additional bedrooms for his children. The addition would be over the existing footprint of the home. The Applicant also seeks to add a front porch. The porch would bump out an additional foot.

Mr. Conrow was sworn in.

Upon questioning from his attorney, Mr. Conrow stated that he lived in town and is temporarily living in West Caldwell. He purchased the home on Maple Drive with the intent of renovating it so that he can move back to town. He would like to be in close proximity to his ex-wife with whom he shares custody of his three children. It was asked if he was going to flip the home. Mr. Conrow stated that he was not looking to flip the home. It will be his permanent residence.

The meeting was opened to the public.

Mr. Anthony Michelloti, 10 Maple Drive, was sworn in. Mr. Michelloti stated he reviewed the proposed plans during the week. Once he reviewed the plans and saw Mr. Conrow was not going any closer to the property line, he had no issues.

Mr. Augustitus moved to accept the application as proposed, seconded by Mr. Lisa with all others voting yes.

MEMORIALIZATIONS

MATTER OF JONATHAN SENIOR CARE, INC.

Decided: November 18, 2015

Memorialized: December 16, 2015

WHEREAS, Jonathan Senior Care, Inc. (hereinafter referred to as the "Applicant") has filed an application for interpretation pursuant to N.J.S.A. 40:55D-70b before the Borough of North Caldwell Zoning Board of Adjustment (the "Board") with regard to property located at 132 West Greenbrook Road also known as Lot 2 in Block 1701 in order to renovate a pre-existing

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non-conforming office building for use as group home for Alzheimer's patients. The subject property is located in 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 November 18, 2015; and

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

1. The Applicant was represented by Susan Rubright, Esq. Gwendolyn Monangai, presented testimony on behalf of the Applicant.
2. The Applicant is the purchaser under contract of the subject property and submitted the Application with the owner's consent.
3. The Application in this matter was filed on October 9, 2015 seeking the Board's determination that the Applicant's proposed group home should be deemed to be a single family residence under the Borough's zoning ordinances. Upon such determination, the Applicant would not require use variance or site plan approval under the then applicable Statutory and Case law.
4. Ms. Rubright advised the Board that the property in question was the subject of three (3) prior variance applications for approval of non-conforming commercial uses in a residential zone. The Applicant proposed to renovate the existing building and return the subject property to a residential use for Alzheimer's patients.
5. In support of the Application, the Board was provided with recent case law interpreting the then applicable Statute to permit group homes within residential zones throughout the State.
6. Ms. Rubright further advised the Board that the applicable Statute was amended as of November 9, 2015. The new legislation provides, *inter alia*, that homes for Alzheimer's patients are no longer treated as group homes, but instead shall be subject to State regulation as health care facilities.
7. The matter was opened to the public without comment or objection.
8. The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant's proposal no longer fits within the statutory framework

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allowing Alzheimer's group homes to be treated as single family homes for the purposes of zoning. Accordingly, the Board finds that the relief requested may not be granted and the zoning officer's interpretation requiring variance approval by the Board must stand.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the relief requested cannot be granted pursuant to the requirements of the Zoning Ordinances of the Borough of North Caldwell and the current statutory requirements. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Lisa, the Board unanimously voted to deny the Application of Jonathan Senior Care, Inc. with negative votes by Mr. Augustitus, Mr. Lisa, Ms. Jenkins, Mr. Wangner, Mr. Salan and Mr. Ritter,

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 16th day of December, 2015, by a majority of the members of the Board present at such meeting and who voted for the action taken on November 18, 2015.

Mr. Lisa moved to accept the resolution, seconded by Mr. Augustitus with all other members approving except Mr. Schwartz who abstained.

There being no further matters to come before the Board, the meeting was adjourned at 8:16pm.

Respectfully Submitted:



Nancy A. Bretzger, Board Secretary