

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, December 21, 2016 starting at 8:07pm.

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. Kearney, Mr. Salan

Absent: Mr. Shah, Mr. Angelo, Mr. Schwartz

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

## **APPLICATIONS**

### **MATTER OF MR. & MRS. T. FANT, 18 SQUIRE HILL ROAD, BLOCK 1900, LOT 2 - SIDE YARD SETBACK**

The Applicant was sworn in and explained that they are looking to expand the existing dining room on to a raised patio. Mr. Wangner asked about the previous variance approved by the Board. The Applicant stated that the prior approval involved an expansive renovation including the addition of a second floor. The Applicant testified that they are only proposing to expand the dining room at this time. The Applicant further testified that there is no other location available to expand the dining room and that the proposed expansion does not encroach any further into the side yard than the existing dwelling.

Mr. Wangner asked if anyone from the public had any questions. No one came forward. No members of the Board had any questions of the Applicant.

Mr. Salan made a motion to approve the Application as submitted, seconded by Mr. Kearney. Said motion was passed unanimously.

## **MINUTES**

Mr. Augustitus moved to accept the minutes of the Regular Meeting of November 16, 2016 as written, seconded by Mrs. Jenkins. Said motion carried unanimously.

## **MEMORIALIZATIONS**

### **MATTER OF SHALLON AND JOANN HADDAD**

**Decided: November 16, 2016**

**Memorialized: December 21, 2016**

**WHEREAS**, Shallon and Joann Haddad. (hereinafter referred to as the "Applicants") 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 552 Mountain Avenue also known as Lot 7 in Block 800 in order to construct a front facing three car garage for a new dwelling. 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 16, 2016; and

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

1. The Applicants and Architect Gerald Novak were sworn in. Mr. Novak presented his credentials to the Board and was accepted as an expert witness.
2. Mr. Novak referred to Exhibit A-1 and explained the plan for proposed dwelling and new driveway location, and discussed the topography of the lot. Mr. Novak described the property, stating that the existing home is located at the crest of a hill. The new home is designed to utilize the existing topography, which allows for a walk-out basement on the right side of the property and the garage on the left side for easy access to the kitchen and living area.
3. Mr. Novak further testified the Applicants propose to demolish the existing home so that the new residence can be constructed. Mr. Novak stated that the Applicants propose to build a three-car garage on the left side of the home with a circular driveway. Mr. Novak noted that there will be two garage bays for parking cars and the third garage bay, closest to the home, will be used for storage.
4. Mr. Novak stated that the Applicants seek to place the garage on an angle so that after dropping off passengers at the front door, a driver can directly access the garage. The location of the garage on the higher side of the property allows entry into the home without having to go up a full flight of stairs.
5. The Board questioned what room is accessed directly from the garage. In response, Mr. Novak stated entry is into a mud room/laundry room, with half a flight of stairs into a hallway to access the kitchen.
6. Mr. Schwartz questioned the Applicants' hardship requiring the front-facing garage doors since the existing home is being demolished and a new home is being built. Mr. Novak stated having the garage in its proposed location allows for parking of additional vehicles without blocking the front door or having them in a row. The garage location and circular driveway will limit the need for on-street parking.

7. Mr. Augustitus questioned if the garage doors could be relocated to comply with the Borough Code and still allow access while not being too close to the front door.
8. Mrs. Haddad testified that she hoped the new home could be designed without the necessity of Board approval. Mrs. Haddad stated there were certain criteria she was looking for when designing the home and it was important that the home have a certain look. Mrs. Haddad stated that she believes the proposed garage location is the best place for the garage doors.
9. The matter was opened to the public without comment.
10. The Board members, in reviewing the above testimony and the materials presented at the hearing, find that the Applicants did not present testimony sufficient to meet the burden of proof required to grant the variance requested. Mr. Augustitus noted that there are options available to the Applicants to construct a new home without requiring variance approval.

**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. Therefore, on a motion by Mr. Augustitus, seconded by Ms. Jenkins, the Board voted to deny the Application of Shallon and Joann Haddad. with negative votes by Mr. Augustitus, Ms. Jenkins, Mr. Wangner, Mr. Ritter, Mr. Kearney and Mr. Salan. Mr. Schwartz voted in favor of granting the relief requested.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. and Mrs. Haddad as submitted, seconded by Mr. Kearney with all other members approving.

**MATTER OF KAREN ABRAMSON**  
**Decided: November 16, 2016**  
**Memorialized: December 21, 2016**

**WHEREAS**, Karen Abramson (hereinafter referred to as the “Applicant”) has 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 3 Orient Way, also known as Lot 3 in Block 103 in order to construct a second-floor addition over an existing garage. 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 16, 2016; and

**WHEREAS**, prior to the commencement of the public hearing, Ms. Jenkins recused herself as she is an owner of property within 200' of the subject property;

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

11. The Applicant, Karen Abramson, and Architect Yuval Wellich were sworn in. Mr. Wellich presented his credentials to the Board and was accepted as an expert witness.
12. Mr. Wellich testified that the Applicant proposes to construct a second-floor addition over the existing garage. No cantilevers or other additional encroachments beyond the existing side yard are proposed.
13. Mr. Wellich noted that the current impervious coverage for the lot is 40.6%. The Applicant proposed to remove 417 square feet of the existing driveway to bring the lot coverage to 31.1% (where a maximum of 30% is permitted). The Applicant testified that the existing deck is constructed of wood and does not impact the impervious coverage calculation.
14. The Applicant seeks variance approval from the requirements of the Borough Code for the addition to the existing home including: right side yard setback (12.12 feet existing/proposed where a minimum of 20 feet is required) and impervious coverage (31.1% (decreased from 40.6%) where 30% is permitted). Mr. Wellich testified that due to the narrowness of the lot it would be impossible to upgrade/renovate the home and meet the Borough's setback requirements.
15. Mr. Wellich further testified that the existing lot is narrow (60 foot lot width) and small (10, 140 square feet) compared to the Borough's standards.
16. The Applicant testified that the proposed addition is in keeping with other homes in the neighborhood.
17. The matter was opened to the public. Mary Colitto, 37 Ferndale Road, was sworn in and testified in support of the Applicant's proposal.

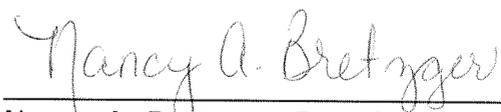
The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met her burden under the Municipal Land Use Law and that the variances requested may be granted without detriment to the zoning ordinance or the master plan as the existing lot is exceptionally narrow and small and the proposed addition will be constructed over the existing garage with minimal additional encroachment into the side yard setback; and further that the proposed addition is in keeping with the neighborhood and will enhance the home.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the 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 her 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. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Ritter, the Board unanimously voted to grant the Application of Karen Abramson, with the stipulation that the impervious coverage be decreased to 31.1%. Mr. Augustitus, Mr. Ritter, Mr. Wangner, Mr. Kearney, Mr. Wangner, Mr. Salan and Mr. Schwartz cast affirmative votes. Accordingly, the Application was approved.

Mr. Ritter moved to accept the resolution in the Matter of Ms. Abramson as submitted, seconded by Mr. Augustitus with Mrs. Jenkins abstaining and all other members voting yes. Said motion was passed.

There being no further matters to come before the Board, the meeting was adjourned at 8:17p.m.

Respectfully Submitted:

  
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Nancy A. Bretzger, Board Secretary