

July 15, 2015

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, July 15, 2015 starting at 8:05pm.

The meeting was 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: Mrs. Jenkins, Mr. Augustitus, Mr. Ritter, Ms. Tanelli, Mr. Schwartz

Absent: Mr. Wangner, Mr. Lisa, Mr. Salan, Mr. Shah

Also present were Lisa Thompson, Attorney, and Nancy Pravata, Secretary.

APPLICATIONS

MATTER OF SAAED PAYDAR, 55 GRANDVIEW AVENUE, BLOCK 1900, LOT 14

Mr. Paydar – One Sleepy Hollow Court
Roger Winkle – architect for Mr. Paydar

Mr. Paydar and Mr. Winkle were sworn in. Mr. Schwartz stated that after we reviewed your application we see that the lot is narrow and that is the reason you are here.

Mr. Paydar states he purchased the land approximately four months ago. He stated that he is building this home for himself and his wife. His children are grown and they would like to downsize.

Mr. Schwartz asked if they could build within the setbacks. Mr. Paydar stated if they build within the setbacks, the house would be too narrow.

Mr. Augustitus said he has an issue with the front facing garage. He asked if they thought about putting a detached garage instead of the garage attached to the house.

Mr. Winkle explained that typically you need 24 feet to turn the car on the side of the house. He explained that the Paydar's do not want a detached garage. He stated that presently the width of the garage can be shrunken by 3 feet.

Mr. Schwartz stated that his concern is more with the side yard setbacks than he is with the front facing garage. He feels the land lends itself to the front facing garage.

Mr. Schwartz asked about the other house in the area that was just built and their garage. Mr. Paydar explained that the property of their house was much lower and they have a garage underneath in the basement. His property is much higher and he would have to dig at least 30 feet to put the garage the same way.

Mrs. Jenkins asked if they had a problem with putting the garage on the side of the house. Mr. Paydar stated that would not be a problem as long as the side yard can be shifted and a smaller right side variance.

Mr. Schwartz asked if anyone from the public has any questions. No one from the public came forward.

Mr. Augustitus said that he has a problem with the front facing garage. He does not have a problem with shifting the side yard variance. Mr. Ritter, Ms. Tanelli and Mrs. Jenkins agreed with Mr. Augustitus.

Mr. Schwartz still does not have problem with the front facing garage.

Mr. Augustitus would like to give them a total of 25 feet on the left side and 15 feet on the right side. Mr. Paydar stated that he does not have a problem with this condition.

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Mr. Augustitus motioned to accept the application, seconded by Mr. Ritter with the following conditions - The home on the right side no less than 15 feet from the property line, which would give the left side of the home 25 feet. Move the front facing garage to the side of the home on the left side. A vote was taken with all others voting yes.

MEMORIALIZATIONS

MATTER OF MR. PERKINS, 444 MOUNTAIN AVENUE, BLOCK 606, LOT 2

MATTER OF KENNETH PERKINS

Decided: May 20, 2015

Memorialized: July 15, 2015

WHEREAS, Kenneth Perkins (hereinafter referred to as the “Applicants”) has 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 444 Mountain Avenue, also known as Lot 2 in Block 606 in order to construct a single story detached garage in the side yard of the existing lot. 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 February 18, 2015, March 18, 2015 and May 20, 2015; and

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

1. Applicant Kenneth Perkins and Karen Perkins were sworn in and presented testimony in support of the Application.
2. Mr. Perkins described the proposed single story detached garage to be constructed in the side yard near the existing dwelling. The proposed garages requires a variance from the requirements of §107-20(4) which prohibits front (street) facing garage doors. The proposed garage complies with all other requirements of the Borough’s Zoning Ordinance.
3. Mr. Perkins described the existing lot, noting that the dwelling had a garage at one time that was converted to living space. The garage could not be attached to the existing dwelling at this time due to the location of two bedrooms. A garage

addition to the existing dwelling would result in the loss of two (2) bedroom windows.

4. Mr. Perkins further testified that the property slopes away from the roadway to the rear of the property and the change of grade limits the viable locations to construct the garage. Mr. Perkins stated there is a ten (10) to twelve (12) foot change in grade from the roadway to the proposed garage location which would limit the view of the front facing doors. In addition, Mr. Perkins stated that the garage would be screened from the roadway by a berm, which includes evergreen screening.
5. Mr. Perkins stated that the site is also constrained by a stream along the side and rear of the property which further limits the potential locations for the garage. It was noted by the Board that any approval in areas adjacent to a stream would be subject to any required NJDEP approvals, and the approval of the Municipal Engineer.
6. Mr. Perkins described the proposed garage, noting that the structure was designed to blending in with the existing dwelling and lot. Two standard nine (9) foot carriage house doors will be installed and the proposed lighting is designed for safety, without interfering with neighbors. Mr. Perkins stated that the garage doors cannot be placed on the side or rear of the proposed garage due to the location of the existing driveway and dwelling, change in grade, and the location of the stream.
7. The matter was opened to the public. Mr. Stephen Knee, 451 Mountain Avenue, objected to the Application, stating that his home is across the street and would be negatively impacted by the view of the front facing garage doors. Mr. Knee noted that his home is at a higher elevation and has a clear view to the proposed garage location. The potential negative impact to the neighborhood was reiterated by Mrs. Carol Knee.
8. Due to the neighbor's comments, Mr. Perkins requested that the hearing be adjourned to attempt to address the neighbors' concerns.
9. The Applicant submitted a revised survey and plans in advance of the Board's May 20, 2015 meeting. Mr. Perkins testified that the proposed garage was relocated twenty-six (26) feet further from the roadway than the initial submission, with the garage turned to reduce the impact of the front facing doors.

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10. When the meeting was opened to the public, Mr. Knee stated that he had no objection to the revised plan

The Board, in reviewing the above facts and the materials presented at the hearings, finds that the Applicant has met its 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 property presents a hardship due to the topography of the lot and its location adjacent to a stream.

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 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. Therefore, on a motion by Mr. Augustitus to approve the Application based upon the revised plans dated as of April 14, 2015, seconded by Ms. Jenkins, the Board voted to grant the Application of Kenneth Perkins with affirmative votes by Mr. Augustitus, Ms. Jenkins and Mr. Wangner. A negative vote was cast by Mr. Ritter. Accordingly, the Application was approved.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 15th day of July , 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on May 20, 2015.

Mr. Augustitus motioned, seconded by Mrs. Jenkins to accept the resolution with all others abstaining.

MATTER OF MARIA PEREIRA
Decided: June 17, 2015
Memorialized: July 15, 2015

WHEREAS, Maria Pereira (hereinafter referred to as the “Applicant”) has filed an application before the North Caldwell Zoning Board of Adjustment (the “Board”) for variance approval to permit use of first floor retail space as an office pursuant to N.J.S.A. 40:55D-70d with regard to certain real property located at 707 Main Street, also known as Lot 8 in Block 2103 (the “Property”). The subject property is located in R-2 Residential District; and

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

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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 June 17, 2015; and

WHEREAS, the Applicant was represented by Fausto Simoes, Esq.; and

WHEREAS, testimony in support of the Application was presented by the Applicant, proposed Tenant Jeff Serfaty and Architect Gerald Novak; and

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

1. The Applicant seeks use variance approval to permit occupancy of a portion of the first floor of the existing building for a small office. The existing site was described as a mixed use building. Three rental apartments occupy the second floor and accessory structure. The first floor is used for commercial and retail establishments. The Applicant was advised by the Borough's Zoning Officer by way of letter dated March 18, 2015 that Board approval would be required to permit the proposed office use in a portion of the first floor.
2. The Applicant testified that she has owned the site since 2006. During her ownership, the site has maintained the mixed use character. The first floor uses have included a deli/restaurant and a dog groomer. The dog groomer has recently downsized its operation, leaving approximately 375 square feet available for rent.
3. The Applicant further testified that the proposed office area is too small for a residential use. The available space is sufficient for the proposed office use and will not conflict with the other tenants.
4. The Applicant testified that there are sufficient parking spaces available for the residential tenants, who generally park at the subject property at night. The dog groomer business has a "drop-off" space for customers and employees may park on the street, in the driveway, or at the STS business. The Applicant testified that the STS manager allows tenant parking in their lot. Upon questioning from the Board, the Applicant agreed to provide written proof of this agreement to the Board.
5. The proposed tenant, Jeff Serfaty, testified that he seeks to occupy a portion of the first floor (formerly used by the dog groomer) to move his home improvement business operation from his home which will allow him to present a more professional image. Mr. Serfaty further testified that he anticipates being the only employee at the site, but may hire an office employee

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in the future. Mr. Serfaty stated that his sub-contractors do not typically work out of the office. Mr. Serfaty testified that he may occasionally meet clients at the office, but generally he meets clients at their homes.

6. Upon questioning by the Board, Mr. Serfaty testified that there will be no construction or manufacturing at the office. All custom work is done at his clients' sites. Mr. Serfaty anticipates installing a sign for this office, which shall comply with Borough requirements. Mr. Serfaty testified that his business is to improve properties and he intends to do so with the proposed office.

7. Mr. Novak described the site and the neighborhood parking situation. Mr. Novak noted that the residents and restaurant patrons typically require parking spaces in the evening. Mr. Novak indicated that the proposed office use will not exacerbate parking problems in the area.

8. The matter was opened to the public without question or comment.

9. Mr. Augustitus noted that his issue with the Application is on-street parking concerns, which is outside of this Board's jurisdiction. Ms. Jenkins noted that the proposed Tenant is not a typical 8:00am – 5:00pm job.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the Applicant has sustained her burden of proof and that the use variance relief requested can be granted as the Applicant has demonstrated special reasons including the appropriate use of the structure and the inability to use the proposed office space for a permitted residential use. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Lisa, the Board hereby grants the Application of Maria Pereira with the stipulation that the Applicant provide notarized written proof from the neighboring property owner/ STS manager that the Applicant is permitted to utilize a parking space in the STS parking lot. Mr. Augustitus, Mr. Lisa, Ms. Jenkins, Mr. Wangner, Mr. Salan, Mr. Ritter and Mr. Schwartz voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 15th day of July, 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on June 17, 2015.

Mr. Augustitus motioned, seconded by Mrs. Jenkins to accept the resolution with changes to be made by Ms. Lisa with all other members approving, except Ms. Tanelli who abstained.

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MATTER OF MR. ALEXANDER ALBU, 40 FERNDALE ROAD, BLOCK 101, LOT 13

MATTER OF ALEXANDER ALBU

Decided: June 17, 2015

Memorialized: July 15, 2015

WHEREAS, Alexander Albu (hereinafter referred to as the “Applicant”) has 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 40 Ferndale Road, also known as Lot 13 in Block 101 in order to construct an addition to the rear of the existing dwelling, expansion of the existing single car detached garage to a two car garage and installation of a new patio. The subject property is located in 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 June 17, 2015; and

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

10. The Applicant seeks variances from Section 107-23(G) and 107-21(D)(9) of the Borough Code for a right side yard setback (19.8 feet proposed where a minimum of 20 feet is required); left side yard setback (6.3 feet proposed where a minimum of 20 feet is required); and impervious lot coverage (41.86 % proposed where a maximum of 30% is permitted).
11. The Applicant presented testimony in support of the application, together with his architect Albert Albu. The Applicant testified that he purchased the subject property in October 2014 and seeks approval to expand the living area for his family. The Applicant further testified that the existing lot is non-conforming as to its size (9,400 square feet where a minimum of 15,000 square feet is required); lot width (50 feet where a minimum of 100 feet is required); front yard (27.3 feet where a minimum of 30 feet is required); and impervious coverage (34.94 % existing where a maximum of 30% is permitted).
12. The Applicant presented photographs of the existing lot and other homes in the neighborhood, stating that the proposed improvement to the property is in keeping with the neighborhood (Exhibit “A-1”). The Architect presented an

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exhibit depicting the neighborhood, supporting the Applicant's testimony that the proposal fits in with the character of the neighborhood (Exhibit "A-2")

13. The Architect described the proposed addition to the dwelling and improvement to the detached garage. The proposed addition will not exceed the height of the existing dwelling is designed to match the existing home. The architect testified that the proposed improvement does not present any further encroachment into the existing yard setbacks.
14. Upon questioning from the Board as to the increase in impervious coverage, the Applicant agreed to reduce the impervious coverage by constructing a deck from composite material, rather than the proposed patio constructed of impervious material.
15. The matter was opened to the public. Daniel Gallagher, 36 Ferndale Road, testified in support of the Application.
16. The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant had met its burden under the Municipal Land Use Law and that the relief requested may be granted without detriment to the zoning ordinance or the master plan.

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 his burden of proof that a hardship exists to permit granting the relief requested based upon the existing non-conforming lot size, width and setbacks. Therefore, on a motion by Mr. Ritter, seconded by Mr. Salan, the Board hereby grants the Application of Alexander Albu with the stipulation that on-site drainage retention shall be reviewed and approved by the Municipal Engineer and that the proposed impervious patio be constructed of composite material. Mr. Ritter, Mr. Salan, Ms. Jenkins, Mr. Wangner, Mr. Lisa, Mr. Augustitus and Mr. Schwartz voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 15th day of July, 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on June 17, 2015.

Mr. Augustitus motioned, seconded by Mrs. Jenkins to accept the resolution with all others approving, except Ms. Tanelli who abstained.

MATTER OF MR. & MRS. J. WESCHKE, 24 GRANDVIEW AVENUE, BLOCK 1803, LOT 8

MATTER OF JASON AND TANYA WESCHKE

Decided: June 17, 2015

Memorialized: July 15, 2015

WHEREAS, Jason and Tanya Weschke (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 24 Grandview Avenue, also known as Lot 8 in Block 1803 in order to construct an addition to the existing single family home. The subject property is located in R1 residential zone; 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 June 17, 2015; and

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

1. Jason Weschke presented testimony in support of the Application, together with his architect, Predrag Petric. Mr. Petric presented his credentials to the Board and was accepted as an expert witness.
2. Mr. Weschke testified that he moved into the existing dwelling in December 2014. The dwelling is currently a two bedroom, which he seeks to expand to provide more living space for his family.
3. The Applicant seeks variances from Section 107-21 of the Borough Code for front yard setback (24.75 feet proposed where 32 feet is existing and 50 is required); left side yard setback (15 feet existing and proposed where 25 feet is required); and right side yard setback (14.6 feet proposed where 15.3 is existing and 25 is required).
4. Mr. Pedric testified that in addition to the non-conformities noted hereinabove, the existing lot width is non-conforming (81.2 feet provided where 120 feet is required). Mr. Pedric further testified that the lot is bisected by a drainage channel that limits use of the backyard. The proposed addition to the rear of the property does not encroach further into the side yards. The proposed encroachment into the

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front yard setback allows for a covered porch to be constructed on the existing dwelling.

5. The Applicant and his Architect testified that the proposed addition is in keeping with the character of the neighborhood. The Applicant testified that the addition is part of an overall upgrade to the home, which he described as his family's "forever home."
6. The matter was opened to the public without comment.
7. Mr. Augustitus complimented the design of the proposed addition and deck, noting the upgrade to the property will be beneficial to the neighborhood.

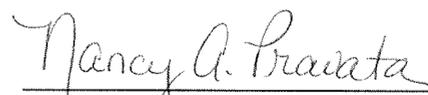
NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant has sustained his burden of proof that a hardship exists to permit granting the relief requested based upon the existing non-conformities and the drainage channel. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Ritter, the Board hereby grants the Application of Jason and Tanya Weschke, as submitted. Mr. Augustitus, Mr. Ritter, Ms. Jenkins, Mr. Wangner, Mr. Lisa, Mr. Salan and Mr. Schwartz voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 15th day of July, 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on June 17, 2015.

Mr. Augustitus motioned, seconded by Mrs. Jenkins to accept the resolution with all others approving, except Ms. Tanelli who abstained.

There being no further matters to come before the Board, the meeting was adjourned at 8:40pm.

Respectfully Submitted:



Nancy A. Pravata, Board Secretary