

July 20, 2016

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, July 20, 2016 starting at 8:03pm.

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. Schwartz, Mr. Ritter, Mrs. Jenkins, Mr. Augustitus, Mr. Wangner, Mr. Kearney, Mr. Salan

Absent: Mr. Shah, Mr. Angelo

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

## **APPLICATIONS**

### **MATTER OF MR. & MRS. L. FUNDLER, 15 BLOOMFIELD AVENUE, BLOCK 100, LOT 12**

Laurence Funder, Attorney and Applicant, was sworn in and explained his connection to the subject property. He stated he currently has a verbal agreement with the owner, Mr. Arthur Rees, to lease the property for use as a coffee house. If the application is approved, a written lease agreement will be executed. Mr. Funder stated that the space is not currently occupied.

Mr. Funder described the proposal to open a coffee house. He testified that coffee, tea and espresso along with a small menu of food will be served. Mr. Funder stated that no food items will be prepared on the premises, stating that all food sold will be "grab and go" menu items.

Ms. JulieAnn Cecere, Architect, was sworn in and stated her qualifications. She was accepted by the Board as an expert witness. Ms. Cecere described the proposed plan for the site.

The Board questioned the legal capacity for seating. Ms. Cecere stated that the floorplan shows four tables with two chairs each. She further explained seating capacity is based on the square footage of the building divided by a prescribed number based on the building codes.

The Board questioned the number of parking spaces. Ms. Cecere stated the site originally had three parking spaces. There was a shed located on the property that has been torn down, allowing for the creation of a fourth parking space. One of the spaces in the lot will be designated as handicapped and there are two parking spots on Bloomfield Avenue.

The Board questioned the number of employees and where they will park. Mr. Funder stated there will be two, possibly three, employees. Employees will be directed to park on Elm Road.

The Board questioned where deliveries will be made and by whom, noting a concern with delivery trucks pulling into the parking lot. Mr. Funder stated deliveries will be made by Fed Ex and UPS. The deliveries would be made early in the morning and on Bloomfield Avenue only. He will also have off-site storage where deliveries will be made.

The Board questioned the proposed hours of operation and whether there will be tables and chairs outside. Mr. Funder stated the coffee house will be open from 6:30am to 10:00pm. Ms. Cecere stated there will be no tables and chairs outside as the outdoor space does not allow for this.

The Board questioned signage for the site. Ms. Cecere stated that the Applicant would like two signs. The signs are slightly larger than what the Ordinance allows. The Applicant proposes a lawn sign and a sign on the side of the building which can be seen by the traffic traveling westbound. Both signs will be lit by the existing lighting.

July 20, 2016

The meeting was open to the public.

Mr. Arthur Rees - 20 Glenview Road, North Caldwell was sworn in. Mr. Rees stated he has been the owner since August 2015 and has made some minor renovations to the property. He addressed the parking concerns and feels it is not an issue as the previous business employed five to six people. Other businesses were interested in the space, but feels the coffee house best fits the changes in the area.

No one from the public came forward with questions.

Mr. Augustitus moved to accept the Application with the stipulations that (1) the fourth parking space be added; (2) deliveries shall be made from Bloomfield Avenue only, (3) both signs shall comply with the Borough Code; and (4) the impervious coverage shall be maintained as is, seconded by Mr. Ritter. A vote was taken with others voting yes.

## **MEMORIALIZATIONS**

### **MATTER OF ALFREDO & GRACE PAULO**

**Decided: June 15, 2016**

**Memorialized: July 20, 2016**

**WHEREAS**, Alfredo and Grace Paulo (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 51 Ferndale Road, also known as Lot 22 in Block 102 in order to construct an addition and make alterations to the existing dwelling. 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 15, 2016; and

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

1. The Applicant seeks variances from Section 107-23(G) and 107-21(E)(1) of the Borough Code for a right side yard setback (10 feet proposed where a minimum of 20 feet is required); left side yard setback (17 feet proposed where a minimum of 20 feet is required); and front yard setback (24.9 feet proposed where a minimum of 30 feet is required). In addition, the Applicant proposes a roof elevation for a small portion of the building above 32 feet due to existing slope of the lot. The average roof height complies with the Borough Code.

2. Mr. Alfredo Paulo was sworn in and presented testimony in support of the application, as the Applicant and architect. The Board accepted Mr. Paulo as an expert witness.
3. The Applicant testified that he has lived in the home for twenty (20) years and wishes to stay in the neighborhood. The Applicant further testified that the existing lot is non-conforming as to lot width (50 feet existing where a minimum of 100 feet is required); front yard (26.1 feet existing where a minimum of 30 feet is required); and side yards (10 feet existing and 19.8 feet existing where a minimum of 20 feet is required).
4. The Applicant presented a colorized version of the plans submitted (Exhibit "A-1") and photographs (Exhibit "A-2") of the existing lot and other homes in the neighborhood, stating that the proposed improvement to the property is in keeping with the neighborhood.
5. The Applicant described the lot as very narrow which would require a variance for almost any type of renovation. The proposed renovation requires front and side yard setback variances. The overhangs will be increased from one foot to two to three feet on all sides of the property.
6. The Applicant described the proposed renovation of the building, including required setback variances, indicating that the average roof elevation is in compliance with the Borough ordinances. The proposed roof is flat, which requires a "bump-out" to allow for maintenance of the roof.
7. The Applicant testified that the materials to be used in the renovation are in keeping with other buildings in the neighborhood. The renovation design was described as "mid-century modern" and the Applicant testified that the proposed design is in keeping with the character with the town.
8. The matter was opened to the public. Mary Collitto, 37 Ferndale Road, testified in support of the Application.
9. 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. Mr. Augustitus commented, stating the Applicant proposed a wonderful plan and design.

July 20, 2016

**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 width and setbacks. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Ritter, the Board hereby grants the Application of Alfredo & Grace Paulo as submitted. Mr. Augustitus, Mr. Ritter, Ms. Jenkins, Mr. Kearney, Mr. Schwartz, Mr. Wangner, and Mr. Angelo voted in favor of the Application.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. and Mrs. Shron as submitted. Mr. Ritter seconded the motion with all other members approving.

**MATTER OF WILLIAM FORMOSA  
Denial of Request for Extension of Approval**

**WHEREAS**, William Formosa (hereinafter referred to as the “Applicant”) received variance approval for from the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) on March 18, 2015 (memorialized on April 15, 2015) with regard to property located at 15 Cambridge Drive, also known as Lot 9 in Block 1205 as shown on the tax maps of the Borough of North Caldwell in order to construct an expanded front porch; and

**WHEREAS**, the Applicant submitted a request to extend the variance approval; and

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

1. The Applicant seeks an extension of the approval granted by the Board on March 18, 2015.
2. The Applicant’s request did not set forth the reason(s) for the extension request.
3. The Board determined that it did not have sufficient facts to render a decision on the Applicant’s extension request and accordingly requested that the Applicant present testimony before the Board.
4. The Applicant did not appear before the Board or otherwise provide a sufficient basis upon which the Board could render a decision on the extension request.
5. Without presentation of testimony in support of the Applicant’s request, the Board cannot make a determination on the matter.

July 20, 2016

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the Applicant has not presented sufficient proof that hardships exist and hereby denies the extension requested.

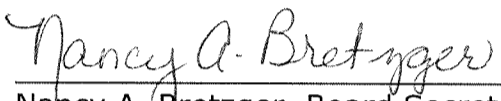
Mr. Augustitus moved to accept the resolution in the Matter of Mr. and Mrs. Shron as submitted. Mr. Ritter seconded the motion with all other members approving.

**MINUTES**

Mr. Ritter moved to accept the minutes of the Regular Meeting of June 15, 2016, seconded by Mr. Augustitus. Said motion carried unanimously.

There being no further matters to come before the Board, the meeting was adjourned at 9:00p.m.

Respectfully Submitted:

  
\_\_\_\_\_  
Nancy A. Bretzger, Board Secretary