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The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, July 19, 2017 starting at 8:01 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. Ritter, Mrs. Jenkins, Mr. Augustitus, Mr. Kearney, Mr. Michelotti

Absent: Mr. Floria-Callori, Mr. Angelo, Mr. Salan

Also present were Lisa Thompson, Esq., Board Attorney and Nancy A. Bretzger, Board Secretary and Tami Michelotti, Deputy Clerk

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

APPLICATIONS

MATTER OF MR. ANTHONY MINNELLA, 105 GRANDVIEW AVENUE – BLOCK 1904, LOT 11

Mr. Anthony Minnella, 105 Grandview Avenue, and Mr. Dan D'Agostino were sworn in. Mr. D'Agostino stated he is an architect with Plan Architecture which he opened three years ago and is licensed in New Jersey. He stated he graduated from the New Jersey Institute School of Architecture in 2006 with a Bachelor's Degree in Architecture. Mr. D'Agostino stated he has testified in front of several boards in the State of New Jersey and has never been contested. He is a former board member of the Little Falls Planning Board. The Board found Mr. D'Agostino to be a qualified witness.

Mr. D'Agostino stated that Mr. Minnella seeks a side yard setback variance for the unique property which is long and narrow. He stated the lot is non-conforming with respect to the minimum lot width stated at 125 feet whereas the existing lot width is 75 feet. Mr. Augustitus asked if the plans dated June 16, 2017 are still the same as when submitted. Mr. D'Agostino confirmed the plans are the same which detail a second story dormer to enlarge the master bedroom and master bathroom which are already compliant to the setbacks. He stated the reason the Applicant is before the Board is regarding the non-conforming one-story open arbor trellis that would add to the character of the unique home. Mr. D'Agostino stated he believes the home used to have the front entrance on that side of the home and they would like to preserve the integrity of that entrance while providing a more usable space for the family. The family currently walks into the kitchen and the proposed plan is to build a covered outdoor porch, a portion of which would be an open-air arbor. The property setback line bisects that.

Mr. D'Agostino stated the existing setback is 23.5 feet from the foyer whereas the proposed plan would allow for 18.5 feet where the furthest column supporting the arbor would be located.

Mr. Minnella responded to Mrs. Jenkins' question stating he has lived in this home for 10 years. Mrs. Jenkins asked what was in that area now. Mr. D'Agostino responded that nothing is currently in the area of the proposed arbor. Mr. Augustitus asked if there were any discussions about building off of the double French door on the front of the home rather than building off the side which causes the further encroachment. Mr. D'Agostino stated that the topography of the back is substantially lower than on the side which makes it not a natural solution. Mr. Wangner asked the approximate distance from the structure to the nearest neighboring structure. Mr. Minnella explained that his home is set back approximately 200 feet off of Grandview Avenue and the nearest structure is 50 feet from the nearest neighbor which is on Squire Hill Road. Mr. D'Agostino estimated the closest structure as 50 to 60 feet away.

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Mr. Wangner opened the discussion to the public. No one came forward. Mr. Wangner asked if there were any questions from the Board. No other comments were made. Mr. Augustitus complimented the design of the plan. Mr. Augustitus made a motion to accept the Application, as submitted, and it was seconded by Mr. Kearney. A vote was taken and the Application was unanimously approved.

MATTER OF SOMERSET TIRE SERVICE, INC. / MAVIS DISCOUNT TIRE, 251 GRANDVIEW AVENUE – BLOCK 2200, LOT 6

Ana Murteira – Inglesino Webster Wyciskala Taylor LLC, Parsippany, NJ appeared on behalf of the Applicant. Ms. Murteria described the Application as a request for a C variance for the replacement/modification of one wall-mounted sign and the replacement of one free-standing sign at the existing store. Ms. Murteira stated that the property is located within the Borough's planned industrial park district. Notice of the Application was published in the Star Ledger on July 7, 2017 and notice was given to the property owners on the 200' list on July 7, 2017 with affidavits provided to the Zoning Board Secretary.

Mr. Robert Streker from Bohler Engineering was sworn in. Mr. Streker stated he is a 1997 graduate of Stevens Institute of Technology where he received a Bachelor's of Engineering degree. Mr. Streker stated he is a licensed professional engineer in New Jersey and New York and has been working in site development and civil engineering and has worked with Mavis on several of their locations. The Board accepted Mr. Streker as a qualified witness.

Mr. Streker referred to the diagrams submitted with the Application and noted that the former STS, now Mavis, is located on the northwest corner of Main Street and Grandview Avenue. He stated there are two signs to discuss. The first is a freestanding motorized sign currently on the corner of the property that is 24 square feet and 18 feet tall. The Applicant proposes to replace the sign with a smaller and shorter sign that will no longer spin and will instead be a fixed panel sign. The proposed sign dimensions are 23.63 square feet with a height of 17 feet and 7-1/2 inches. Mr. Streker stated that the second sign is a building-mounted sign with a proposed size of 26 square feet which is sized appropriately to be in scale with the building. The proposed sign is 1 foot, 4 inches tall for which a variance should not be needed since it is under the 2 foot limit. In total, the allowable signage is 90 square feet permitted which is 5% of the facade area. The proposed building-mounted signage is 26 square feet and the total signage including the freestanding sign is 49.6 square feet.

Mr. Wangner asked if both signs would be lit and during what hours. Mr. Streker noted both signs would be internally illuminated and the lights on the signs are generally turned off one hour after business closing. He stated that closing time is usually around 6:00 pm on weekdays, with a late night on Thursdays with a 8:30pm closing, and 5:00pm on Saturdays and Sundays. Mr. Streker stated the sign would not be lit all night long.

The Board had no further questions for Mr. Streker. Mr. Wangner opened the discussion for questions from the public for Mr. Streker. Mr. Joseph Kalyoussef came forward who is the owner of the property across the street from Mavis. Mr. Kalyoussef was interested in looking at the signage plans and thanked the Board for the opportunity to review the exhibit.

Ms. Murteira introduced the site planner, Mr. Michael Pessolano. Mr. Pessolano was sworn in and stated he is a licensed professional planner in New Jersey and has been practicing for over 30 years. He has served as Board Planner for six municipalities, served as an expert planning witness for several other boards, worked as a municipal planner and most recently focuses on expert planning witness work for zoning and planning boards. Mr. Pessolano noted he is a member of the American Institute of Certified Planners. The Board accepted Mr. Pessolano as a qualified expert.

Mr. Pessolano stated that he is familiar with the site, the Application and the regulations. With regarding to the relief requested for the width of the sign, Mr.

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Pessolano stated that his C2 analysis shows that the benefits outweigh the detriments. He stated that the aesthetic match provided by the proposed signage is a significant benefit. He noted that the building is wide, low building so the sign width is not an issue. Mr. Pessolano added that the signage provides safety and ease of identification of the premises which is easily legible to moving vehicles. He summarized that the appropriate dimensions of the signage are in scale with the building, the aesthetics are beneficial, and the toned down lighting which will be shut off in the evening contribute no detriments and the C2 analysis is satisfied.

Mr. Wangner opened the discussion to the public for comment. No one from the public came forward. Mr. Ritter made a motion to accept the Application as submitted, and it was seconded by Mr. Augustitus. A vote was taken and the Application was unanimously approved.

MATTER OF MR. JOSEPH KALYOUSSEF, 2 FAIRFIELD ROAD / 730 MAIN STREET, BLOCK 22.01, LOT 1

Mr. Joseph Kalyoussef, property owner, and Mr. Charles Stewart were sworn in. Mr. Kalyoussef stated that he bought the property formerly known as Grandview Deli in 1987 or 1988 as commercial and office space.

Mr. Kalyoussef stated that the upper portion of the building did not rent well as office space. He appeared before the Zoning Board in 1992 for a variance to convert the second floor to apartments. He received approval from both North Caldwell and Little Falls at that time. After 2012, he retired and sold the business to an individual with experience in running a deli. The lower level was then divided into two sections with 1,000 square feet each. The new owner used the space as one unit of 2,000 square feet. After three years, the business owner backed out of the five year lease and sold all the equipment inside the building without giving Mr. Kalyoussef the opportunity to buy it back. The property remained vacant for over two years and Mr. Kalyoussef stated that he now needs to generate money from the property. He currently lives there and rents the other apartment while the lower level remains vacant. Mr. Kalyoussef stated he is seeking permission for conversion of the first floor from commercial space to permanent residential space. Mr. Kalyoussef stated he has already been granted permission from the Zoning Board in Little Falls and is now seeking relief from the North Caldwell Zoning Board.

Mr. Charles Stewart stated he is the engineer, surveyor and planner for this Application and presented this site plan to the Board in Little Falls. Ms. Thompson noted that Mr. Stewart has been accepted as an expert in the witness in the past. The Board accepted Mr. Stewart as a qualified witness.

Mr. Stewart stated the Applicant received approval from the Little Falls Board and he is now seeking approval from North Caldwell. He stated the lot is divided between the two municipalities with approximately 22,000 square feet in North Caldwell at Block 2201, Lot 1 and 7,600 square feet in Little Falls at Block 2, Lot 7.01. The property runs along the river and is located on Main Street, also known as Fairfield Road and/or Little Falls Road. The town line bisects the property with the majority of the structure in Little Falls and the parking lot in North Caldwell. Mr. Stewart stated that the proposal is to convert the first floor to residential space and the architectural plan is to make it look residential by removing the commercial look. He noted that no other improvements to the site are planned with the overall general site circulation remaining the same. Mr. Stewart stated that the two upper floor apartments are approximately 1,000 square feet each and the two lower level apartments would be similar in size. Each apartment has two bedrooms each.

Mr. Stewart explained that his testimony is the same as that given in front of the Little Falls Zoning Board. He stated that the site is suitable for residential use as there are residential units next door, across the street and at the adjacent Stepping Ridge complex. Mr. Stewart stated there is no substantial detriment to the public good and that the use shall not impair the purpose of the zoning ordinance as the residential use in the area is appropriate.

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Mr. Wangner opened the discussion for comments from the Board. Ms. Jenkins asked if parking would remain the same. Mr. Stewart confirmed that there would be no changes to the parking lot which holds 19 parking spots.

Mr. Wangner opened the discussion to the public for comment. No one from the public came forward. Mr. Augustitus made a motion to accept the Application as proposed, and it was seconded by Mr. Michelotti. A vote was taken and the Application was unanimously approved.

MEMORIALIZATIONS

MATTER OF MR. ALI ASGHER QUERESHI, 236 GRANDVIEW AVENUE, BLOCK 2104, LOT 3

MATTER OF ASGHER ALI QURESHI

Decided: May 17, 2017

Memorialized: June 21, 2017

WHEREAS, Asgher Ali Qureshi. (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 236 Grandview Avenue also known as Lot 3 in Block 2104 in order to construct a front facing detached garage within the side yard setback. 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 May 17, 2017; and

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

1. Asgher Ali Qureshi was sworn in and described that Application, stating that he would like to build a detached garage on his property. The Applicant testified that because of the shape and the topography of the lot, he is limited as to where the garage can be built. The Applicant stated that he is requesting variance relief for the side yard setback and a front-facing garage.
2. The Applicant testified that he cannot change the orientation of the proposed garage without losing the only usable part of his backyard due to the slope of the rear portion of his property.

3. The Applicant testified that the front-facing garage doors will not be noticeable to any neighbor because there is no neighbor across the street. He added that the garage would only be visible if someone stopped in front of the house and looked up the hill.
4. Upon questioning by the Board, the Applicant stated that the attached garage had been converted before he purchased the home in 2004. The Applicant noted that the house is only 2,200 square feet. The proposed garage will include a loft for additional storage.
5. Upon questioning by the Board, the Applicant stated that he parks his own cars in the driveway. Because he has more than two cars, there is no parking available for guests. The Applicant noted that there is no parking on the street.
6. The Board questioned if the storage space is really needed since the proposed garage structure is large. The Applicant stated that he needs the storage space, and that the proposed garage plan follows the same roof pitch, same building materials and same design as the existing home.
7. The Applicant described the topography of the property, explaining that from Grandview Avenue, the driveway slopes up 10 feet. He further explained that there is a 3 foot retaining wall at end of garage, a 23 foot open area, and then another 6 foot retaining wall, followed by a slope up another 20 feet which is unusable yard space. The Applicant stated that the retaining walls were there before he purchased the home.
8. With regard to the interior height of the loft area, the Applicant stated that the middle portion will be approximately 7 feet and the sides will be 3-1/2 feet. The Applicant testified that the loft area would not be used as living space.
9. The Board questioned the Applicant's ability to turn the garage 90 degrees and attach it to the house or relocate the patio. The Applicant stated it is possible but it would be a major renovation and would require building additional retaining walls. The Applicant also noted that adjusting the angle of the proposed garage would create a sharp turning radius issue. The Applicant stated that the only way the garage will work is to pull straight in from the driveway.
10. The matter was opened to the public. Christine Dobrowolski, 242 Grandview Avenue was sworn in. Ms. Dobrowolski stated she is the neighbor next to the Applicant's driveway. Ms. Dobrowolski submitted photographs she took earlier in the day which were marked as Exhibits O-1 through O-3. Ms. Dobrowolski described Exhibit O-1 as her concrete driveway and the Applicant's side yard where he wants to build the

garage. Ms. Dobrowolski described Exhibit O-2 as a close-up view of the first photograph. She then described Exhibit O-3 as a photograph of her side of the driveway and the Applicant's current garage. Upon questioning by the Board, Ms. Dobrowolski stated that she would be looking at the side of the proposed garage if it is built.

11. Ms. Dobrowolski testified that she lives with her elderly, ill parents and has safety concerns from cars going in and out of the garage so close to her property as well as from the fumes emitted. She further testified that she is also concerned that the value of her property would decrease if a garage is built so close to her property.
12. Upon questioning by the Board, the Applicant testified that no trees would be removed as part of the proposed garage construction. The Applicant added that Ms. Dobrowolski's driveway is approximately 2 feet into his property, as shown on the survey; that the Dobrowolski garage is 6.78 feet from the property line; and that his view is of the neighbor's garage. The Applicant noted that Ms. Dobrowolski's garage is front-facing.
13. The Applicant stated that the front of the new garage will be 6.25 feet from the front and approximately 3.25 feet from the back from the neighbor's driveway. The Applicant stated that Ms. Dobrowolski's father has been planting trees and plants to create privacy between the properties.
14. The Applicant stated that there will be a 3-foot retaining wall so there is little chance of a car veering off of the driveway into Ms. Dobrowolski's property.
15. Upon questioning from the Board, the Applicant stated that there will still be cars in his driveway if the new garage is constructed, stating that 2 of his 6 cars would be in the garage.
16. The Board questioned whether the Applicant considered constructing the garage behind the house, as it could relieve congestion along property line, keep cars out of view, eliminate variances and eliminate the front-facing garage facade. The Applicant responded that construction behind the home or moving the garage away from the property line would require removal of a lot of dirt and construction of a large retaining wall which would decrease his usable backyard space and sitting area. The Applicant noted that moving the proposed garage would necessitate more driveway space which would increase the impervious coverage.

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17. The Applicant testified that he would check with the Borough's Building Department if he is granted approval to ensure that there would be no diversion of water that would impact his neighbors.

18. The Board members, in reviewing the above testimony and the materials presented at the hearing, find that the Applicant did not present testimony sufficient to meet the burden of proof required to grant the variances requested.

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 Mr. Kearney, the Board voted to deny the Application of Asgher Ali Qureshi, with negative votes by Mr. Augustitus, Ms. Jenkins, Mr. Kearney, Mr. Salan, Mr. Angelo, Mr. Floria-Callori and Mr. Wangner.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 21st day of June 2017, by a majority of the members of the Board present at such meeting and who voted for the action taken on May 17, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. Qureshi as submitted, seconded by Mr. Kearney. A vote was taken and the Resolution was unanimously approved with four votes and two abstentions.

EXTENSION OF VARIANCE REQUEST, Mr. & Mrs. A. Paulo, 51 Ferndale Road, Block 102, Lot 22

**MATTER OF ALFREDO AND GRACE PAULO
Extension of Approval**

WHEREAS, Alfredo and Grace Paulo (hereinafter collectively referred to as the "Applicant") received variance approval for from the Borough of North Caldwell Zoning Board of Adjustment (the "Board") on July 20, 2016 with regard to property located at 51 Ferndale Road, also known as Lot 22 in Block 102 as shown on the tax maps of the Borough of North Caldwell in order to construct an addition and make alterations to the existing dwelling; and

WHEREAS, due to circumstances beyond the Applicant's control, construction on the proposed addition to their home was delayed; and

WHEREAS, the Applicant seeks approval to extend the period of time within which to commence construction and appeared before the Board at its June 21, 2017 regular meeting; and

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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 July 20, 2016;
2. The Applicant's delay in commencing construction was due to circumstances outside the Applicant's control as both the homeowner and architect.
3. The Applicant plans to submit plans for permits to the Borough's Construction Department in September 2017.
4. The Applicant testified that they propose to commence construction on the dwelling as soon as the permits are approved.
5. The Board, in reviewing the above facts presented, finds that the Applicant has provided a sufficient basis to grant the relief requested.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the Applicant has presented sufficient proof that hardships exists and hereby grants the extension requested.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 19th day of January 2017, by a majority of the members of the Board present at such meeting and who voted for the action taken on June 21, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. & Mrs. Paulo as submitted, seconded by Mr. Michelotti. A vote was taken and the Resolution was unanimously approved with three votes and three abstentions.

MATTER OF EDDIE IV, LLC, 132 W. GREENBROOK ROAD, BLOCK 1701, LOT 2

**MATTER OF EDDIE IV, LLC
Decided: June 21, 2017
Memorialized: July 19, 2017**

WHEREAS, Eddie IV, LLC (hereinafter referred to as the "Applicant") has filed an application before the North Caldwell Zoning Board of Adjustment (the "Board") for variance approval pursuant to N.J.S.A. 40:55D-70d to permit the use of one of the two existing buildings located at 132 West Greenbrook Road, also known as Lot 2 in Block 1701 (the "Property") for office space. The subject property is located in R-1 Residential Zoning 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 21, 2017; and

WHEREAS, testimony in support of the Application was presented by the Applicant's authorized representative, Matthew Stevens.

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

1. Joshua Gorsky, Esq. represented the Applicant. Mr. Gorsky stated that the Applicant seeks a use variance for existing office space at the Property. The property is located in an R-1 residential zone and therefore, the existing office buildings are non-conforming. Mr. Gorsky advised the Board that a use variance was granted in 1998, a copy of which was attached to the variance application. The prior approval refers to the history of the Property. The Applicant seeks to continue to use of one building on the Property as office space.
2. The Applicant's authorized representative, Matthew Stevens was sworn in.
3. Mr. Stevens testified that the Property was purchased approximately one (1) year ago. Mr. Stevens further testified that the Property was marketed as office space and that it was his intention to use the Property as office space when purchased. Mr. Stevens stated that his company intends to use the smaller of the two buildings on the Property for a family office for a maximum of two (2) people to deal with in-house real estate.
4. Mr. Stevens testified that that there would be no visitors or deliveries to the office and that the hours of operation would be 9:00am to 4:00pm.
5. Mr. Stevens testified repairs and renovations were undertaken to modernize the space, consistent with use as an office.
6. In response to questioning by the Board, Mr. Stevens stated that the business that will occupy the smaller building is a property management company.
7. The Board clarified that the variance requested by the Applicant refers only to the smaller building on the Property, noting that the Applicant would be required to submit a variance application for use any future use of the larger building. Mr. Stevens confirmed his understanding.
8. Mr. Gorsky summarized the application, stating that the positive criteria are satisfied as the property is particularly suited for a small office, noting that the building is set back from the property line with an existing parking lot. Mr. Gorsky further noted there will be

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no obstruction to the flow of traffic or other detriment to the neighborhood. Mr. Gorsky explained that given the low-key use of the property, there would be no impact on the surrounding neighborhood since this is an existing site that presents no negative impact to the intent and purposes of the zoning ordinance.

9. The matter was opened to the public without comment.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the Applicant has sustained its 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 existing structure and the history of the use of the Property as office space. Therefore, on a motion by Mr. Floria-Callori, seconded by Mr. Salan, the Board hereby grants the Application of Eddie IV, LLC as submitted. Mr. Augustitus, Mr. Kearney, Mr. Salan, Mr. Michelotti and Mr. Floria-Callori voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 19th day of July, 2017, 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 21, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. & Mrs. Paulo as submitted, seconded by Mr. Kearney. A vote was taken and the Resolution was unanimously approved with three votes and three abstentions.

Mr. Wangner announced Mrs. Bretzger's resignation from the Borough. Mrs. Jenkins thanked Mrs. Bretzger for her service and wished her success on behalf of the Board. Mrs. Bretzger expressed her appreciation and her pleasure working with the Board.

There being no further matters to come before the Board, Mr. Augustitus made a motion to adjourn the meeting, seconded by Mr. Ritter. The meeting was adjourned at 8:42 p.m.

Respectfully Submitted:

Nancy Bretzger, Board Secretary