

September 20, 2017

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, September 20, 2017 starting at 8:10 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. Augustitus, Ms. Jenkins, Mr. Kearney, Mr. Ritter, Mr. Angelo, Mr. Floria-Callori, Mr. Michelotti

Absent: Mr. Salan

Also present were Lisa Thompson, Esq., Board Attorney and Tami Michelotti, Deputy Clerk

Mr. Wangner asked Mr. Angelo to lead the Pledge of Allegiance.

APPLICATIONS

MATTER OF Mr. & Mrs. Anthony Flynn, 3 Soder Road – Block 1003, Lot 54 – Front and Rear Yard Setbacks

POSTPONED – Carried to meeting on October 18, 2017, no further notice required.

MATTER OF Ms. Jennifer Traumann, 26 Cypress Avenue – Block 902, Lot 29 – Side Yard Setback

Mr. Anthony Visaggio, 100 Nielsen Avenue, Oakland, New Jersey, appeared on behalf of the Applicant who was unable to attend the meeting due to the religious observance of Rosh Hashana. Mr. Visaggio stated he is the contractor and the Applicant's friend and he is familiar with the property.

Mr. Visaggio explained the nature of the Applicant's hardship, stating that there is a concrete patio off of the sliding doors at the rear of the home. There is a 3' by 6' concrete extension with 5 to 6 steps which prevents the Applicant to see past the patio to keep watch of her children playing in the yard. The Applicant seeks to construct a deck that would be level with the walkout from the home and avoid walking down the concrete steps.

Mr. Visaggio addressed the existing sideyard setback which is 19-1/2 feet. The Applicant's plans would bring the setback to 15 feet. Mr. Visaggio stated that the new deck would not pass the existing footprint of house and the proposed deck would be one foot back from the existing footprint. The proposed deck would extend four feet past the existing concrete patio in the rear for a total dimension of 18 feet x 28 feet. The proposed deck would allow for easier access and greater safety by eliminating the need to descend the concrete steps.

Mr. Visaggio stated that the proposal is to build the deck over the existing concrete patio but eliminating the existing porch, platform and steps. Mr. Visaggio stated that he would create an apron for the concrete area under the deck that would allow for storage.

Mr. Visaggio stated that he and the Applicant calculated the impervious coverage together and that the proposed plans would have no impact on the impervious coverage. He stated that the materials to be used for the proposed deck include pressure-treated timbers with a Trex railing and skirt.

Mr. Wangner opened the matter for questions from the Board. Ms. Thompson asked if the Applicant looked into placement of the deck in another area that would eliminate the need for a variance. Mr. Visaggio stated that a fireplace at the rear of the home prevents the deck from being accessed further to the right of the proposal and that the existing six foot sliding door was the basis for access to the proposed deck. Mr. Augustitus noted that the property is already non-conforming so a variance would still have been required.

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Ms. Jenkins noted a difference in the impervious calculations on the application form. Mr. Augustitus noted that the plan is still well within the impervious coverage limitations. Mr. Visaggio stated that the Applicant drew up the plans.

Mr. Wangner opened the meeting to the public without comment.

Mr. Wangner opened the meeting to the Board for questions or comments. Mr. Augustitus noted that the Applicant's plans are not encroaching any further than the existing non-conforming aspect of the home and that the proposal will not increase the impervious coverage. Mr. Visaggio added that the Applicant is willing to add trees along the property lines.

Mr. Ritter made a motion to accept the Application as submitted, seconded by Mr. Augustitus. A vote was taken and the Application was unanimously approved.

Mr. Visaggio thanked the Board.

MATTER OF Mr. Douglass Holmes, 37 Beachmont Terrace – Block 1508, Lot 3 – Side Yard Setback

Mr. Douglass Holmes was sworn in. Mr. Holmes stated he purchased the home next door to his sister which is an older home. Mr. Holmes stated that he seeks to build an addition onto the structure which is existing non-conforming although the proposed addition will be conforming. Mr. Holmes proposes to push the rear of the house back and raise the ceiling heights from the existing eight feet on the first floor to nine feet and existing seven feet on the second floor to eight feet.

Mr. Holmes stated that the existing footprint of the structure would change only in the rear of the structure. The existing structure has a two-car side-entry garage with the family room behind the garage. The proposed plan would convert the existing family room into a third garage bay and a new family room would be added at the center rear of the structure. Mr. Holmes stated that the interior of the home would be slightly re-configured to move the staircase in the center of the home to the side. He noted that there would be no increase in the footprint on the sides of the structure. The only increase in footprint would be in the rear.

Mr. Wangner noted the proposed height changes would also require a variance. Mr. Holmes stated that the architect was aware of the possible need for a height variance due to the proposed change in pitch for an additional 1-1/2 feet for the attic. Mr. Holmes stated that the architect calculated the height. Mr. Holmes stated that his architect would be available to receive questions by phone as she was in California.

Mr. Wangner called for a recess at 8:25pm so that the Applicant could contact his architect to answer questions regarding the height calculation.

The Board returned from recess at 8:27pm. Mr. Holmes contacted his architect via Face-Time.

Ms. Christine Miseo, 205 Mount Pleasant Avenue, East Hanover, New Jersey presented her credentials to the Board and was qualified as an expert witness. Ms. Miseo was sworn in.

Mr. Wangner asked Ms. Miseo how she calculated the structure's proposed height, whether from the structure's front, rear, side or an average. Ms. Miseo stated that she determined the height from the lowest front elevation to the ridge which would be about the same in the back. Mr. Wangner noted there were two measurements of elevation from the ridge line, one from the front and one from the back.

Mr. Wangner opened the meeting to the Board for questions and comments.

Mr. Augustitus inquired about the average ridge line. Mr. Wangner asked if the highest elevation calculation reflected the front of the structure. Ms. Miseo confirmed that the highest elevation measurement was for the front. Mr. Wangner stated that the applicant would then be requesting a variance for the difference between 32' to 34'11".

Ms. Thompson confirmed that the public notice published by the applicant is sufficient to cover both the side yard set-back and the height variance requests.

Mr. Augustitus requested clarification of the measurements on the application vs. the plans. He stated that the rear yard setback calculation decreases from 112.75 feet to 86.75 feet which reflects the addition of approximately 26 feet. However, the left side depth calculation shows a 24'11" that increases to 45 feet on the application. Ms. Miseo stated that the addition is on the second floor which was not subject to a variance as the side-yard footprint of the structure did not change. Mr. Floria-Callori estimated the depth based on the front yard and rear yard measurements and confirmed that the footage calculations were acceptable.

Ms. Thompson read the definition of building height from the ordinance in Section 107-8 "the vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof." Ms. Thompson stated that anything above 32 feet would require a height variance. She confirmed that the Applicant's public notice contains language that provides for any other variance identified by the Board and is sufficient to comply with the statute.

Mr. Augustitus stated that the variance requests to be considered are the side yard setback and the height elevation.

Mr. Wangner opened the meeting to the Board for any additional questions or comments.

Mr. Floria-Callori asked on which side of the property the Applicant's sister lives.

Ms. Beth Tanelli, sister of the Applicant, was sworn in. Ms. Tanelli stated that she lives next door to the Applicant, on the left side when facing the front.

Mr. Floria-Callori inquired as to the intended use of the side of the home that faces the other neighbors that will have several windows installed. Mr. Holmes stated that there will be an additional garage bay, an office and a pantry added with two windows on the side of the structure facing the neighbor's home.

Mr. Augustitus inquired about the proposed elevation and if it could be decreased to stay within the Borough ordinance of 32 feet. Ms. Miseo stated that she can re-design the roof line to lower the elevation although the reasoning was to have a walkable, more usable attic since first and second floors were being raised by one foot each. Ms. Miseo offered to lower the pitch of the front roof to get under the 32 foot requirement.

Mr. Floria-Callori asked for a description of the second floor purpose on the right side of the home. Ms. Miseo stated that the master bedroom and bath would have windows facing the right side. Mr. Holmes stated that the neighbor's side windows are toward the back of the house, while his windows will be toward the front of the house. He added that he plans to plant trees for privacy.

Mr. Wangner opened the meeting to the public without comment.

Mr. Augustitus stated that two variances are required. Ms. Thompson suggested one motion with a split vote based on comments and on the testimony.

Mr. Augustitus made a motion to separate the application into two separate variances. Mr. Augustitus made a motion to accept the side yard setback variance as proposed, seconded by Mr. Ritter. A vote was taken and the Application was unanimously approved.

Mr. Augustitus made a motion to accept for the additional 2.9 foot height variance, seconded by Mr. Angelo. A vote was taken and the Board unanimously denied the height variance request. Mr. Augustitus voted not to grant the variance given there is no need for a 10 foot attic space when the roof can be lowered with no aesthetic issues and while the first and second floors are being raised. Mr. Angelo voted no for the same reasons as indicated by Mr. Augustitus. Mrs. Jenkins voted no given that the architect stated that she can easily modify the plans to ordinance height. Mr. Kearney voted no for the same reasons. Mr. Ritter voted no for similar reasons.

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Mr. Wangner voted no in accordance with the other Board members. Mr. Floria-Callori voted no for the same reasons. Mr. Michelotti voted no.

Ms. Thompson stated that the plan relative to side yard setback variance is approved but the variance for 34.9 ridge line is denied. Ms. Miseo stated that she will work with the Zoning Officer to make sure the heights comply.

APPROVAL OF MINUTES

Mr. Augustitus moved to accept the minutes of Board Meeting of July 19, 2017, seconded by Mr. Kearney, with Mr. Angelo abstaining. Said motion was passed with six votes.

MEMORIALIZATIONS

MATTER OF ANTHONY MINNELLA

Decided: July 19, 2017

Memorialized: September 20, 2017

WHEREAS, Anthony Minnella (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-70c to construct a covered front porch to the existing dwelling located at 105 Grandview Avenue, also known as Lot 11 in Block 1904 (the “Property”). The subject property is located in R-1 Residential Zoning District; and

WHEREAS, all owners of property located within 200 feet of the subject Property 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 July 19, 2017; and

WHEREAS, testimony in support of the Application was presented by the Applicant and Architect Daniel D’Agostino.

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

1. Mr. Anthony Minnella and Mr. Daniel D’Agostino, A.I.A. were sworn in.
2. Mr. D’Agostino presented his credentials to the Board qualified as an expert witness in the field of architecture.
3. Mr. D’Agostino stated that the Applicant seeks a side yard setback variance. Mr. D’Agostino stated that the Property is unique in that it is long and narrow, noting that the Property is non-conforming with respect to the minimum lot width which is 75 feet where 125 is required.

4. Mr. D'Agostino described the plans submitted to the Board, which include a second story dormer to enlarge the master bedroom and master bathroom. The second floor addition complies with the municipal set back requirements, accordingly no variance is required.
5. Mr. D'Agostino stated that the Applicant is before the Board concerning the proposed non-conforming covered front porch and arbor trellis in the side yard. Mr. D'Agostino stated that the proposed structure will add to the character of the unique home. Mr. D'Agostino stated that the home used to have the main entrance on the side. The Applicant would like to preserve the integrity of the side entrance while providing a more usable interior space for the family. Mr. D'Agostino testified that the family currently enters the home through the kitchen. The proposed plan is to build a covered outdoor porch, a portion of which would be an open-air arbor. The side yard setback line bisects the proposed arbor.
6. Mr. D'Agostino stated the existing setback is 23.5 feet from the foyer whereas the proposed plan would allow for 18.5 feet from where the furthest column supporting the arbor.
7. Upon questioning from the Board, Mr. Minnella testified that he has lived in home for 10 years. Mr. Minnella noted that there is nothing currently located in the area of the proposed arbor.
8. The Board members questioned if the Applicant considered building off of the double french door on the front of the home rather than building to the side which creates the need for a variance. Mr. D'Agostino stated that the topography toward the back of the lot is substantially lower than on the side which makes the side the natural solution.
9. Upon questioning from the Board, Mr. Minnella testified that closest neighboring structure is 50 to 60 feet away. Mr. Minnella explained that his home is set back approximately 200 feet from Grandview Avenue and the nearest structure is 50 feet from the nearest neighbor which is located on Squire Hill Road.
10. The matter was opened to the public without comments.
11. Mr. Augustitus complimented the design of the 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 and that the benefits of granting the relief requested

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substantially outweigh the detriments. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Kearney, the Board hereby grants the Application of Anthony Minnella, as submitted. Mr. Augustitus, Mr. Kearney, Ms. Jenkins, Mr. Ritter, Mr. Wangner and Mr. Michelotti voted in favor of the Application. Accordingly, the Application was approved.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 20th day of September, 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 July 19, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. Minella with a correction adding the word "the" in item line 5. Mr. Wangner seconded the motion. Mr. Angelo and Mr. Floria-Callori abstained with all other members voting in favor.

MATTER OF SOMERSET TIRE SERVICE, INC./MAVIS DISCOUNT TIRE
Decided: July 19, 2017
Memorialized: September 20, 2017

WHEREAS, Somerset Tire Service, Inc./Mavis Discount Tire (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-70c to replace the existing wall sign and freestanding sign where the total sign area exceeds five percent (5%) of the area of the façade of the building located at 251 Grandview Avenue, also known as Lot 6 in Block 2200 (the "Property"). The subject property is located in Planned Industrial Park (PIP) Zoning District; and

WHEREAS, all owners of property located within 200 feet of the Property 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 July 19, 2017; and

WHEREAS, testimony in support of the Application was presented by Engineer Robert Streker, P.E., and Planner Michael Pessolano, P.P.

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

1. Ana Murteira, Esq. represented 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 business.
2. Mr. Robert Streker, Bohler Engineering, was sworn in. Mr. Streker presented his credentials to the Board and was qualified as expert witness.
3. Mr. Streker presented diagrams submitted with the Application, stating that Mavis Discount Tire, formerly known as Somerset Tire Service, is located on the northwest corner of the intersection of Main Street and Grandview Avenue. Mr. Streker described the freestanding motorized sign currently on the corner of the Property. The freestanding sign is 24 square feet and 18 feet tall. Mr. Streker further testified that the Applicant proposes to replace the sign with a smaller and shorter fixed panel sign. The new sign will no longer spin. The dimensions of the proposed sign are 23.63 square feet with a height of 17 feet, 7.5 inches.
4. Mr. Streker testified that the second sign is a building-mounted sign. The proposed sign is 26 square feet. Mr. Streker noted that the proposed sign will be 1 foot, 4 inches tall. Mr. Strecker stated that a variance is not required because the sign is under the 2-foot limit. The proposed building-mounted signage is 26 square feet. The total sign area at the site including the freestanding sign is 49.6 square feet.
5. Upon questioning from the Board, Mr. Streker stated that both signs would be internally illuminated and noted that the lights on the signs are generally turned off one hour after the close of business. Mr. Streker further stated that the business typically closes at approximately 6:00 pm on weekdays, with a late night on Thursdays (closing at 8:30 pm). The business closes at 5:00 pm on Saturdays and Sundays. Mr. Streker stated the sign would not be illuminated all night.
6. The matter was opened to the public. Mr. Joseph Kalyoussef, owner of the property across the street from the Applicant's site, reviewed the proposed plans. Mr. Kalyoussef thanked the Board for the opportunity to review the Applicant's exhibits without further comment.
7. Mr. Michael Pessolano was sworn in and presented his credentials to the Board. The Board qualified Mr. Pessolano as an expert witness.
8. Mr. Pessolano stated that he is familiar with the site, the Application, and the applicable regulations. With regard to the relief requested for the width of the sign, Mr. Pessolano stated that his C2 analysis shows that the benefits outweigh the detriments. He stated that

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the aesthetic match provided by the proposed signage is a significant benefit. Mr. Pessolano noted that the building is a wide, low building so the sign width is not an issue. Mr. Pessolano further testified that the proposed signage promotes safety and ease of identification of the premises to moving vehicles.

9. Mr. Pessolano summarized his testimony, stating that the proposed signs are appropriate as the dimensions are in scale with the building, the aesthetics are beneficial, and the toned-down lighting which will be shut off in the evening, present no detriments. Accordingly, Mr. Pessolano testified that the C2 analysis is satisfied.
10. 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 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 its burden of proof 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. Ritter, seconded by Mr. Augustitus, the Board hereby grants the Application of Somerset Tire Service, Inc./Mavis Discount Tire, as submitted. Mr. Ritter, Mr. Augustitus, Ms. Jenkins, Mr. Kearney, Mr. Wangner and Mr. Michelotti voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 20th day of September 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 July 19, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Somerset Tire Service, Inc./Mavis Discount Tire with a correction in line item 4 for "26 feet". Mr. Kearney seconded the motion. Mr. Angelo and Mr. Floria-Callori abstained with all other members voting in favor.

MATTER OF JOSEPH KALYOUSSEF
Decided: July 19, 2017
Memorialized: September 20, 2017

WHEREAS, Joseph Kalyoussef (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 conversion to two (2) residential units of

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the commercial office space on the first floor of the existing building located at 2 Fairfield Road / 730 Main Street, also known as Lot 1 in Block 2201 (the "Property"). The subject property is located in Planned Industrial Park (PIP) Zoning District; and

WHEREAS, all owners of property located within 200 feet of the Property 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 July 19, 2017; and

WHEREAS, testimony in support of the Application was presented by the Applicant and Charles Stewart, a Licensed Professional Engineer, Planner and Surveyor.

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

1. Mr. Joseph Kalyoussef (the "Applicant") and Mr. Charles Stewart were sworn in.
2. Mr. Kalyoussef testified that he bought the Property formerly known as Grandview Deli in 1987 or 1988 as commercial/office space.
3. Mr. Kalyoussef further testified 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 approvals from both North Caldwell and Little Falls at that time.
4. Mr. Kalyoussef stated that after 2012, he retired and sold the business to an individual with experience in running a deli. At that time, the lower level was divided into two sections of 1,000 square feet each. The new owner used the space as single 2,000 square feet unit. Mr. Kalyoussef further stated that after three years, the tenant backed out of the five-year lease and sold all the equipment inside the building without giving him the opportunity to buy it back. The first floor of the Property has remained vacant for over two years.
5. Mr. Kalyoussef testified that he currently lives at the Property and rents the other second floor apartment.
6. Mr. Kalyoussef stated that he is seeking permission to convert the first floor from commercial space to residential space. Mr. Kalyoussef testified that he has already been granted approval by the Little Falls Zoning Board.
7. Mr. Charles Stewart was qualified by the Board as an expert witness.

8. Mr. Stewart presented the Application, stating that approximately 22,000 square feet located is in North Caldwell at Block 2201, Lot 1, and 7,600 square feet located 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 municipal boundary bisects the property with the majority of the structure located in Little Falls and the parking lot in North Caldwell.
9. Mr. Stewart stated that the proposal is to convert the first floor to residential space, noting that the architectural plan is designed to make the existing building look like residential space. Mr. Stewart 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 will have two bedrooms.
10. Mr. Stewart explained that his testimony is the same as that presented to the Little Falls Zoning Board. Mr. Stewart 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 will not impair the purpose of the zoning ordinance as the residential use in the area is appropriate.
11. Mr. Wangner opened the discussion for comments from the Board. Upon questioning from the Board, Mr. Stewart confirmed that there would be no changes to the parking lot which currently 19 parking spaces. Mr. Stewart noted that the existing parking lot provides more than sufficient parking for four residential units.
12. 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. Augustitus, seconded by Mr. Michelotti, the Board hereby grants the Application of Joseph Kalyoussef, as submitted. Mr. Augustitus, Mr. Michelotti, Ms. Jenkins, Mr. Kearney, Mr. Ritter and Mr. Wangner voted in favor of the Application.

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IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 20th day of September, 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 July 19, 2017.

Mr. Augustitus moved to accept the resolution in the Matter of Mr. Kalyoussef as submitted. Mr. Michelotti seconded the motion. Mr. Angelo and Mr. Floria-Callori abstained with all other members voting in favor.

RESOLUTIONS

Zoning Board of Adjustment Secretary Appointment - Mr. Augustitus made a motion to accept the resolution, seconded by Ms. Jenkins. A vote was taken and the resolution was approved unanimously.

There being no further matters to come before the Board, Mr. Augustitus made a motion to adjourn the meeting, seconded by Mr. Wangner. The meeting was adjourned at 9:04 p.m.

Respectfully Submitted:


Tami Michelotti, Board Secretary