

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, November 18, 2020 starting at 8:03pm.

Chairman Wangner announced that 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. Salan, Mr. Curcio, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Sceppaguercio, and Chairman Wangner. Absent: Mr. Rentzis.

Also present were Lisa Thompson, Esq., Board Attorney; Steve Bolio, PA from Ferriero Engineering, Board Engineer; and Tami Michelotti, Zoning Board Secretary.

Mr. Wangner asked Mr. Floria-Callori to lead the Pledge of Allegiance.

APPLICATIONS

Mrs. Renee Paladino – 711-713 Main Street, Block 2103, Lot 7

Use Variance

Mr. Robert Gaccione, attorney for the Applicant, stated that testimony from the Applicant, the Architect, and the Traffic Expert completed their presentation. He added that the Board requested that Little Falls be contacted for a response which was submitted to the Board. He recalled his traffic expert to respond to the responses.

Mr. Staigar read the letters from the Little Falls Fire Chief which expressed his concern that fire apparatus already has a difficult time navigating the narrow streets without the additional proposed parking. The Little Falls Police Chief expressed his disagreement with the parking availability report and concerns for safety of the patrons and employees crossing Main Street. Mr. Staigar stated that he understood that he was still under oath from the previous meeting. Mr. Gaccione asked Mr. Staigar to present his follow up research to the Board. Mr. Staigar stated that he believes that the Little Falls Fire and Police Departments' claims rely on the data collected in the field. Mr. Staigar stated that he went out for a third time and surveyed the same streets in Little Falls and North Caldwell to validate the availability of vacant parking spaces, the concerns of the residents, and the claims of the Little Falls Fire and Police Departments. He stated that the survey was done on the evening of November 17th at 7:00pm. Mr. Staigar explained that Hillside Avenue has capacity for 13 cars, but the spaces are permit-only; therefore, these spaces are not being considered for patrons. He noted that the portion of Hillside Avenue nearest to the intersection of Main Street has 10 minute parking for four (4) cars which were considered in the counts for the proposed take-out business. He explained that Park Place is a narrow street so he assumed only one side would be available for parking. He added that there is capacity for nine (9) parking spaces on one side and noted that there were no cars parked on Park Place on that evening. Mr. Staigar stated that Mozart Avenue from Clarence Avenue to River Boulevard has a capacity of nine (9) cars on the north side. He explained that the street is 24 feet wide and a parked car takes up seven (7) feet of width, leaving 17 feet of travel way. He added that a fire truck is 8.5 feet wide and would take up about half of the available width of the travel way on Mozart Avenue. He stated that there would be sufficient space for the fire truck even when snow is present on the sides of the road. He noted that there was a nine (9) car capacity with four (4) cars parked on the street that evening, leaving five (5) vacant spaces available. Mr. Staigar stated that Woodcliff Avenue is 24 feet wide and has a capacity for 15 cars, where six (6) cars were parked on the street that evening. He stated that Clarence Avenue is 24 feet wide and has a capacity of 11 cars, where six (6) cars were parked on the street, leaving five (5) empty spaces. He added that Cherry Street is narrower than the other streets and has a capacity for nine (9) cars on one side. He noted that four (4) cars were parked there that evening, leaving five (5) available spots. Mr. Staigar stated that the total capacity for all the streets is 66 available parking spots and there were 21 cars in total parked on all those streets, leaving a total of 45 vacant spaces. He stated that the claim that there is insufficient available parking on these streets is not accurate. He noted that the three (3) separate surveys of these streets show that there is sufficient parking to accommodate the patrons of the proposed restaurant. Mr. Staigar presented photos of each

of the streets in North Caldwell and Little Falls to show the characteristics of the area and evidence of the available parking spots.

Ms. Michelotti stated that Mr. Joseph Wenzel, Township Attorney for Little Falls, raised his hand virtually for comment. Ms. Thompson reminded all present that the rebuttal testimony presented that evening is the only area subject for comment. Mr. Wenzel stated that he had some brief questions regarding Mr. Staigar's testimony. Mr. Wenzel, Township Attorney for Little Falls, came forward. Mr. Wenzel asked Mr. Staigar to confirm that all the streets spoken about in Little Falls have one side of the street parking with two-way traffic and no sidewalks. Mr. Staigar confirmed this. Mr. Wenzel asked Mr. Staigar to confirm that people who park on the street would have to use the actual road bed to traverse the area. Mr. Staigar stated that he agreed with that but noted that people can walk on the grass where possible. Mr. Wenzel asked Mr. Staigar to confirm that there is no crosswalk or stop sign at the intersection of Clarence and Main Street. Mr. Gaccione disputed Mr. Wenzel's scope of the direct in cross examination. Mr. Wenzel stated that his questions are based on Mr. Staigar's testimony about people parking on these streets and then walking to the restaurant crossing Main Street which was noted by the Little Falls Police as a traffic concern. Chairman Wangner asked if Mr. Wenzel's concern is safety. Mr. Wenzel stated that he was trying to determine if there are any markings or traffic control devices at the intersection of Clarence and Main Street. Mr. Staigar stated that according to a photo from August 2019 on Google Earth, there is a stop sign that controls traffic from Clarence onto Main Street. Mr. Wenzel stated that this matter has been reviewed by the Township of Little Falls. He noted appreciate for small businesses but noted residents' concerns because of the relatively small streets with two-way traffic, no sidewalks and a potential increase in pedestrians. He stated that if the Application is approved, the Township of Little Falls will likely review the matter of parking restrictions in the area. He added that the Township of Little Falls asked that a condition be placed to ensure the current requested capacity remain at 20 seats. Mr. Gaccione stated that his client does not have an objection to that condition.

Mr. Gaccione summarized that the application seeks to modify a prior approval granted to an existing restaurant which dates back to the 1920s. He explained that in 1995, the hours were increased and the seating was increased from 24 to 32 which the Board approved with a stipulation that a good faith effort was made to obtain off street parking. He added that in 1998, the hours were again increased. He further explained that in 2002, the application for the expansion of the seating from 32 to 60 was approved subject to a letter authorizing Sofia's Restaurant to use the gas station lot across the street for patron parking. He noted that the current owner of the gas/service station property will not respond to requests for parking. He further explained that the Application seeks to excise the condition of the Zoning Board resolution of 2002 and to return to the 1998 capacity of 32 or 24, although the Applicant is only seeking 20 seats. Mr. Gaccione stated that the proposed use is pre-existing and was never abandoned.

Mr. Gaccione stated that Mr. Staigar made three (3) visits to the area and presented statistics and photographs to show the availability of 20 or more parking spaces at all times. Mr. Gaccione added that 20 parking spaces are required by Borough Ordinance and noted that more than double the requirement has been available on the street. He explained that deliveries will be made by a driver who will park on-site or in a 10-minute parking space around the corner. He added that the adjacent properties are commercial use entities opened during the day while his client will be open in the evening, alleviating parking issues.

Mr. Gaccione stated that the North Caldwell Police Department did not have any issues with the Application and that no comments were received from the North Caldwell Fire Department. Mr. Gaccione stated that the peak traffic time for the area is 4:00pm – 6:00pm while the peak time for the restaurant will be 7:00pm – 9:00pm. Mr. Gaccione noted the concern with crossing Main Street, as identified by Mr. Wenzel. He explained that the capacity of the former restaurant was three times what is currently proposed and that all patrons used to park at the gas station and cross the street. He further noted that, if approved, the proposed restaurant will generate fewer people crossing the street because of the decrease in capacity. Mr. Gaccione request that the Board grant relief from the parking condition and allow his client to go revert back to the 20 seat capacity that existed before parking

conditions were imposed. He noted that three (3) years have passed since the owner has been able to lease the property. He reviewed that Mr. Staigar's latest survey found numerous parking spaces available. He added that it is in the best interest of the municipality that this property not remain vacant.

Mrs. Jenkins made a motion to approve the Application with the condition that seating for patrons be limited to 20 and the condition for off-street parking be excised. Mr. Michelotti seconded that motion. A vote was taken and the motion was approved with five affirmative votes from Mrs. Jenkins, Mr. Michelotti, Mr. Floria-Callori, Mr. Roth, and Mr. Curcio. Mr. Salan and Chairman Wangner voted no.

Mr. and Mrs. John Leitao – 2 Fairview Drive

Impervious Lot Coverage

Mr. Leitao of 2 Fairview Drive came forward. Ms. Thompson confirmed that Mr. Leitao was still under oath from a previous meeting. Mr. Leitao stated that the revised plan from Matarazzo Engineering, LLC addressed the questions raised by Mr. Ferriero during the previous meeting and includes a revised layout and revised impervious surface calculations. Mr. Leitao stated that the current lot coverage is 25.81% and the proposed plans would increase it to 37.63%. Mr. Leitao stated that recent renovations did not result in additional lot coverage. Chairman Wangner asked if the calculations include the new additions and patios as well as the proposed circular driveway. Mr. Leitao confirmed the proposed calculation included all items. Chairman Wangner asked if the fencing that extends past the property line will be moved. Mr. Leitao stated that he would move the fence if the Board made it a condition of approval.

Mr. Bolio referenced Mr. Ferriero's report dated September 9, 2020 and a subsequent report dated October 16, 2020. He stated that gas and sewer lines depicted on the prior plan are not shown on the current plan. Mr. Bolio noted that they may require relocation. Chairman Wangner asked Mr. Leitao if those items are reflected in the new grading plan. Mr. Leitao stated that he did not recall the letter from October 16th but did see the September 9th letter. Mr. Bolio stated that the gas and sewer line concerns in the October 16th letter were derived from comments on the September 9th letter. He explained that the trench drain crosses an existing gas service for which relocation may be required.

Chairman Wangner asked Mr. Leitao to explain how he arrived at the impervious surface calculation. Mr. Leitao stated that Mr. Matarazzo assisted him with the impervious coverage calculation which totals 8,265 feet and includes the house, covered porch, covered patio, sidewalks, and driveway. Chairman Wangner asked if the construction official had inspected the completed work yet. Mr. Leitao stated that he received his building and plumbing final inspection approvals.

Chairman Wangner opened the hearing for questions from the Board. Mrs. Jenkins asked Mr. Leitao about the need for the circular driveway. Mr. Leitao stated that the current driveway accommodates only four (4) cars and that he needs to park six (6) cars for his family of four and his mother as well as a work vehicle. He added that the garage is mainly used for storage. He explained that his proposal conforms to other homes in the neighborhood that have easy access to the front door. Mrs. Jenkins asked if the family cars would be parking in the front of the house. Mr. Leitao stated that it would be dependent on how many cars fit in the back. Chairman Wangner asked Mr. Leitao if any impervious elements could be removed to reduce the coverage. Mr. Leitao explained that the patio in the back was reduced and that the walkways are needed but was open to suggestions. Chairman Wangner asked Mr. Bolio if the drywell encroaches on any of the utilities. Mr. Bolio stated that there is no conflict with the gas line or the sewer line if they are located to the left of the circular driveway. Chairman Wangner asked Mr. Leitao if the shed in the rear yard could be removed. Mr. Leitao stated that he can get a smaller shed, move it fully on his property and reduce the footprint. He added that the shed houses lawn and garden equipment. Mrs. Jenkins suggested that the equipment be stored in the garage. Chairman Wangner explained the Board's concern with increasing impervious surface and the effects on stormwater drainage.

Chairman Wangner opened the meeting to the public for any questions or comments. No one from the public came forward.

Chairman Wangner asked Mr. Bolio if he had any other comments or concerns regarding the Application. Mr. Bolio stated that he had no additional concerns beyond points #3 and #4 in the letter from Ferriero Engineering dated October 16, 2020 which the Applicant indicated his compliance. Mr. Curcio referred to the September 9, 2020 letter and asked if the bluestone walkways were accurately reflected in the impervious calculation. Mr. Bolio stated that the lot coverage was reviewed by Mr. Ferriero and, to his understanding, it had been rectified. He confirmed that the proposed lot coverage is accurately calculated at 37.63%. Mr. Salan asked Mr. Leitao to estimate the reduction in coverage if the shed was removed. Mr. Leitao estimated a reduction of about 100 square feet. Chairman Wangner stated that the impervious coverage calculation shows an accessory structure of 598 square feet. Mr. Leitao stated that the accessory structure is the covered patio not the shed. Chairman Wangner noted that the shed is not included in the lot coverage calculation. Mr. Leitao offered to remove the shed. Mr. Salan agreed that the current shed is not included in the coverage calculation and, therefore, the impervious coverage would be higher. Mr. Leitao asked if he would be permitted to replace the current shed with a 3 x 7 shed. Mr. Salan stated that Mr. Leitao would most likely need to come back to the Board for a variance because the shed is not included in the calculations.

Chairman Wangner recommended that the gas and sewer services require attention and that the lot coverage should be decreased. He asked if there was any possible way to change the size of the driveway. Chairman Wangner asked Mr. Bolio if the calculations were checked by Mr. Ferriero. Mr. Bolio stated that it appears the shed was not included in the coverage calculation. He calculated that the 12 x 9 shed is 108 square feet and confirmed that the covered patio is the accessory structure calculated at 598 square feet.

Chairman Wangner noted some recommended conditions for variance approval including moving the fence off of the neighbor's property, removing the shed, and ensuring that the gas and sewer services are not hindered. Ms. Thompson asked Mr. Bolio to confirm that the impervious coverage calculations matched the survey. He stated that Mr. Ferriero reviewed it as noted in his review letter. Ms. Thompson stated that a condition of the approval can stipulate that the impervious coverage calculation be confirmed and be a maximum coverage of 37.63%. She confirmed that if the Borough Engineer finds the proposed calculation to be greater, then the variance would not be approved.

Mr. Salan stated that the impervious coverage should be 38.12% if the shed is 108 square feet. He asked if the bluestone sidewalk, which accounts for 268 square feet of coverage, could be reduced. Mr. Leitao stated that the walkway is a series of stepping stones and will have grass or crushed stone in between. Mr. Bolio stated that crushed stone in between the stepping stones is considered impervious lot coverage. Mr. Leitao offered to plant grass in between the stepping stones instead.

Chairman Wangner summarized the following conditions of approval: the fence will be moved within Mr. Leitao's property line; the shed will be removed; the gas and sewer lines will not be encumbered; and Mr. Ferriero will verify the impervious coverage calculations. Mr. Salan made a motion to accept the Application as submitted with the following conditions:

1. Confirmation of the sewer line location.
2. The bluestone walkway will have grass (not gravel) between the stones.
3. The shed will be removed.
4. The fence will be moved back onto the Leitao property without any encroachment onto other neighboring properties.
5. The Borough Engineer will check and confirm the impervious coverage calculation to ensure a maximum of 37.63%.

Mr. Curcio seconded the motion. A vote was taken and the motion was approved with five affirmative votes by Mr. Salan, Mr. Curcio, Mrs. Jenkins, Mr. Michelotti, and Mr. Sceppaguercio. Mr. Roth and Chairman Wangner voted no. Absent: Mr. Floria-Callori departed the meeting at 8:50pm.

Mr. Leitao asked if he can keep the fence in place as it is if he gets written consent from his neighbor. Ms. Thompson stated that since it is a condition of approval, Mr. Leitao would have to submit an Application to the Board to keep it if the neighbor does not have an issue with it.

Mr. and Mrs. Michael Piscitelli – 248 Mountain Avenue

Side yard Setback and Lot Coverage

Mr. and Mrs. Piscitelli were sworn in and reviewed their request for a deck which present side-yard setback and lot coverage non-conformities. Mr. Piscitelli stated that they propose the installation of a 12 x 10 foot deck on the rear of the house. He stated that a door would be installed in the dining room leading to the deck and stairs would lead from the deck down into the backyard. He explained that the side yard requires a 20 foot setback where the pre-existing non-conforming setback is at 8.6 feet. Mr. Piscitelli explained that the proposed deck would allow ease of access to the yard for their young children and pet and would allow for outdoor eating. Mrs. Jenkins asked how they would access the deck from the driveway. Mr. Piscitelli referred to the survey and stated that the dog run would be removed to facilitate access to the deck from the backyard. He added that the deck would be 10 to 11 feet off the ground under which grass would remain. Ms. Thompson confirmed that no increase in impervious coverage would be realized if grass was maintained. Mr. Salan noted that grass would be difficult to maintain under the deck. Mr. Piscitelli stated that the deck would be constructed of wood with composite decking. Chairman Wangner asked for confirmation regarding composite decking as pervious or impervious. Mr. Roth stated that if it is not an organic material, it is not counted towards impervious coverage.

Mr. Curcio stated that the Borough Engineer issued a report on November 2nd which stated that the Application proposes a 10 x 12 deck that will increase the lot coverage from 56.2% to 57.8%. Mr. Bolio confirmed that the deck would be considered impervious coverage regardless of the material. Mr. Salan noticed that the impervious coverage numbers in the denial letter do not match the numbers on the Engineer's report. Ms. Thompson explained that the denial letter was sent to the Applicant and shared with the Application to the Board and was subsequently corrected by the Borough Engineer during Application review. She added that the Board can be guided by the information that is provided by their professionals.

Mr. Salan asked if there was a variance for a swimming pool and what the lot coverage was when that was approved. Ms. Michelotti stated that two approvals for this property were granted before the impervious coverage zoning ordinances took effect. Ms. Thompson stated that those resolutions have expired since the projects were not started within a year of the memorialization. Ms. Thompson asked the Applicants for a description of their lot relative to the other lots in the neighborhood. Mr. Piscitelli stated that other properties on their side of Mountain Avenue have decks except for theirs. He noted that their lot is undersized. He added that a neighbor on a bicycle was hit by a car so he wants to keep his children protected in the backyard. Chairman Wangner asked if their chain link fence extends past their property line. Mr. Piscitelli stated that the fence was there when they purchased the home. Chairman Wangner asked who owns the property behind them. Mr. Piscitelli stated that they were told it was an easement when they purchased the property.

Mr. Anthony Lopez, 3 Moonlight Terrace Oak Ridge, NJ was sworn in and stated his role as both the contractor for the Piscitellis and as the previous owner of the property. Mr. Lopez stated that the property in the back encompasses a 12-foot easement between their property and the property of the former Curly Stone business. He explained that when property was sold, it was to be split in half to be used as a 12-foot drainage easement which was never installed. Ms. Thompson stated that it can be researched for a potential decrease in impervious coverage but that the Board can only evaluate the Application details before them. Mr. Lopez noted that the front of the house is only 15 feet from the road and that the side door is on a steep incline. He added that the house is located on a dangerous street and the safest place for the children is in the backyard.

Ms. Michelotti stated that she was able to verify that the property located behind the Piscitellis is Block 400, Lot 14 which is a 1.6 acre lot owned by LaSerra Farms and is land locked with no street address. Chairman Wangner asked Mr. Piscitelli if LaSerra Farms ever spoke to him about the fence. Mr. Piscitelli confirmed that they have not spoken to the owner. He asked Mr. Piscitelli if he would be opposed to bringing the fence back onto his property line. Mr. Piscitelli agreed to do so.

Chairman Wangner opened the meeting to the public for any questions or comments. No one from the public came forward.

Chairman Wangner asked if the Board had any questions or comments. Mr. Salan stated that the revised Application under section 10 describes the proposed lot coverage as 1.72%. Ms. Thompson surmised that percentage is the increase to the existing lot coverage of 57.8%. Mr. Curcio suggested that moving the fence may not be necessary. He explained that La Serra Farms' property owner was noticed regarding this Application and has not objected. He added that he considers the Application to have a significant hardship and would consider it as requested. Chairman Wangner agreed and rephrased his request to Mr. Piscitelli to move the fence if LaSerra Farms asks that it be moved. Mr. Piscitelli stated that he had no issues with the suggestion. Ms. Thompson stated that the Board is not approving or denying the existence of the fence as it is a civil matter between property owners. Chairman Wangner agreed to disregard the fence at this time.

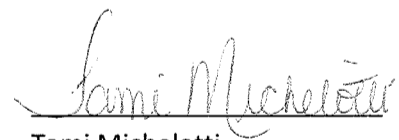
Mr. Curcio made a motion to approve the Application as submitted. Mr. Salan seconded the motion. A vote was taken and the motion was approved with seven affirmative votes by Mr. Curcio, Mr. Salan, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Sceppaguercio, and Chairman Wangner. Absent: Mr. Floria-Callori

APPROVAL OF MINUTES

The October 21st meeting minutes will be introduced for consideration and approval at the December 16th meeting.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by the Mrs. Jenkins. Said motion passed unanimously. The meeting was adjourned at 10:04p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary