

The Meeting of the North Caldwell Board of Adjustment was held on Wednesday, July 21, 2021 and started at 8:02pm. The meeting was held virtually due to the COVID-19 pandemic.

Chairman Roth 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. He noted that tele/video-conference participation instructions were provided to the public in advance of the meeting.

Board Members Present: Mr. Salan, Mrs. Jenkins, Mr. Sceppaguercio, Mr. Wangner, Mr. Kumar, Mr. Spindler, and Chairman Roth. Absent: Mr. Michelotti, Mr. Curcio.

Also present were Lisa Thompson, Esq., Board Attorney; Paul Ferriero, Board Engineer; Tom Behrens, Borough Planner; and Tami Michelotti, Zoning Board Secretary.

Chairman Roth asked Mr. Sceppaguercio to lead the Pledge of Allegiance.

APPLICATIONS

NJRE Development, LLC – 1 Fairfield Road, Block 2200, Lot 4

Ms. Kara Kaczynski from McNally, Yaros, Kaczynski & Lime, LLC., attorney for the Applicant reviewed the Application and stated that the project engineer, Mr. Caballero, completed testimony at the last meeting. Ms. Kaczynski offered that Traffic Engineer, Betsy Dolan, would be offering testimony as would the Applicant's Planner, John McDonough, who would provide testimony regarding landscaping. Ms. Thompson stated that the Board would limit testimony to 9:30pm. Ms. Kaczynski introduced Mr. Caballero to answer any questions. Mr. Roth asked Mr. Caballero to summarize his testimony from the last meeting. Mr. Caballero reviewed his testimony from the last meeting for the Board. Mr. Roth opened the floor for questions.

Chairman Roth asked Ms. Kaczynski for the definition of a contract purchaser. Ms. Kaczynski stated that the Applicant is under contract to purchase the property. She confirmed that numerous contingencies exist with applications such as this and that the contingencies would be addressed with the Board. Chairman Roth asked if any other properties are currently under contract in North Caldwell by NJRE Development, LLC. Ms. Kaczynski stated that there are not. Chairman Roth asked if there are any portions of land at the Stepping Ridge Development that would be necessary for the proposed development to take place, i.e. easements. Ms. Kaczynski communicated that there were not any to her knowledge. Chairman Roth asked if NJRE Development, LLC had successfully developed any other properties in New Jersey. Ms. Kaczynski stated that the Applicant is a compilation of individuals who developed the property located on the two lots adjacent to this in North Caldwell. Chairman Roth asked if anything would prevent the contract purchaser from selling the contract instead of developing the property if the variance was approved. Ms. Kaczynski stated that she did not believe such a restriction would be imposed on any developer but noted that the Applicant is focused on presenting the best proposal to the Board that would address all concerns of the town and of the Board. She continued that the Applicant would ensure that any conditions imposed would be considered obligations that the Applicant must satisfy. Chairman Roth asked if the contract purchaser could sell this property at a higher price if the variance were granted. Ms. Kaczynski stated that could be possible but noted that she did not believe the Board should consider such a scenario when deciding whether or not to grant a variance. She added that a re-developer had not been designated as this is not the Applicant's intention. She indicated that Applicants have developed other properties in town and stated that she is an area resident. Mrs. Jenkins asked if the Board could mandate the Applicant to not sell the property if the variance was approved. Ms. Thompson stated that it would be difficult for the Board to impose that restriction on an Applicant as the property is not in a redevelopment zone.

Mr. Wangner asked Mr. Ferriero if any other properties were available in North Caldwell for this type of development. Mr. Ferriero noted that the Board should evaluate the application and property at hand and not the availability of other properties in town. He added that the property in question has an overlay zone that does permit multi-family development with a defined maximum density. Mr. Wangner asked Borough Planner, Tom Behrens, if any other properties have been similarly developed in North Caldwell. Mr. Behrens stated that the Applicant's proposed density is 26.5 units per acre. He noted that this Fairfield Road Overlay Zone permits a maximum density of 10 units per acre. He stated that he is not aware of any other developments that have a density of 26.5 units per acre or more. Mr. Behrens stated that he is anticipating learning from the Applicant's planner about the existing density surrounding the proposed site.

Chairman Roth asked Ms. Kaczynski to address comments from Mr. Ferriero's letter dated May 10, 2021. Mr. Caballero addressed comment #1 and stated that they will coordinate with final architectural drawings and prepare grading and elevation plans for the site plan application if the density variance is approved. Mr. Ferriero stated that bifurcated applications typically provide building elevation details. He stated that an elevation drawing is needed to determine if substantial detriment exists due to the height of the building. Ms. Kaczynski offered to have the Applicant's planner provide an elevation drawing. Mr. Caballero addressed comment #2 regarding the 100 year flood plain; he explained that they would obtain any required permits and approvals from the Department of Environmental Protection. Mr. Caballero responded to comment #3 and explained that they will be able to maintain the elevation of 172.42 with the grading plan. Regarding comment #4, Mr. Caballero explained that the ditch on the east side has a riparian buffer that can be lined to meet the ordinance. Mr. Caballero confirmed his understanding of #5. Mr. Ferriero asked if any pre-application meetings have been conducted with the Department of Environmental Protection. Mr. Caballero stated that such a meeting has not yet occurred but noted that background analysis was underway to understand the area. Ms. Kaczynski stated that all the issues in Mr. Ferriero's memo will be addressed but noted that the Applicant hoped to first obtain the density variance. Mr. Ferriero stated that his recommendation is if the Board grants an approval, it should be on condition of a pre-approval application from the Department of Environmental Protection prior to providing the site plan. Ms. Kaczynski stated that they did not have any objection to that. Mr. Caballero addressed comment #6 and stated that the parking does comply with the Borough ordinance. Ms. Kaczynski offered to resubmit architectural drawings. Mr. Caballero addressed #7 and explained that where any discrepancies between plans, the engineering plan would take precedence. Mr. Caballero stated that #8, #9 and #10 would be best addressed by the planner. Ms. Kaczynski explained that they will provide what is needed for the 15% rental set aside which she noted would be five (5) units designated around the development.

Chairman Roth asked for confirmation of that three (3) stories over the parking garage are proposed. Ms. Kaczynski confirmed this. Chairman Roth asked what the intended floor to ceiling height is of each floor. Ms. Kaczynski stated that they will comply with the overall height that is permitted for the development and noted they can provide more architectural details for the Board to see.

Chairman Roth asked if there were any other questions from the Board regarding Mr. Ferriero's May 10th letter. Mr. Salan asked how much experience NJRE has with the complexity of the New Jersey Department of Environmental Protection issues that need to be addressed. Ms. Kaczynski explained that they have an experienced team that will work with the professionals for any required approvals from outside agencies and will comply and perform all inspections to satisfy the Board and their professionals. Mr. Salan asked if it would have made sense to get pre-approvals from the Department of Environmental Protection first. Ms. Kaczynski explained that they provided engineering drawings that identify all the environmental conditions and

offered to provide more information at the next meeting if necessary. Mr. Caballero noted that the Department of Environmental Protection employees are currently working from home and are not currently scheduling any in person pre-application meetings.

Chairman Roth asked about the size of the sanitary and water service. Mr. Caballero explained that they would be tying into the existing services within the roadway. Chairman Roth asked Ms. Kaczynski if any factors prevent the contract purchaser from developing this property to include the density of 11 units currently permitted. Ms. Kaczynski stated that the planner will address the question. She noted that a response was provided to the Board regarding Mr. Ferriero's and Mr. Behren's review letters.

Mr. Sceppaguercio asked for the square footage of the apartments. Ms. Kaczynski stated that they will range from approximately 875 square feet to 1500 square feet. Mr. Sceppaguercio asked how the Applicant arrived at 30 units for the property. Ms. Kaczynski stated that there were many considerations that went into the design and noted that their planner will address this more in detail. Mr. Salan asked about the North Caldwell Fire Department response and stated his concern about how much room a fire truck would have to maneuver on the property. Ms. Michelotti acknowledged that the Fire Department had not yet submitted a letter of application review and offered to follow up with the Fire Department for a response. Ms. Kaczynski noted that the new design will have more room for maneuverability than what currently exists. She added that they received a response from the North Caldwell Police Department and they did not have any comment on the Application.

Mr. Behrens asked about the impact on the proposed plan if Essex County were to develop the front row of parking that is about one (1) foot from the county right-of-way. Mr. Caballero stated that the concern would be discussed with the county. Mr. Behrens asked if sidewalks are proposed to give access to the exterior of the site. Mr. Caballero stated that this will also be reviewed with the county engineer. Mr. Behrens asked if the architectural plans would be revised to show the remaining parking spaces under the building. Mr. Caballero stated that exhibit A1 of the architectural drawings shows the ground floor garage and confirmed that it depicts the 33 parking spaces. Mr. Behrens asked about the location of the trash. Mr. Caballero confirmed that the trash will be located within the confines of the building and trash removal will be coordinated. Mr. Behrens asked if there was any public transportation within the vicinity of the site. Mr. Caballero stated that the traffic engineer will speak to that. Mr. Behrens asked about the feasibility of underground parking within a flood plain. Mr. Caballero explained that it is set according to the Department of Environmental Protection's requirements. Mr. Behrens asked where people would park if there was a flood event. Mr. Caballero stated that the proposal is for a 55 year+ development and that more parking spaces are provided than what is required which would leave vacancies. Ms. Kaczynski noted that the Department of Environmental Protection would review this. Mr. Salan asked if an environmental impact study was done on the property. Ms. Kaczynski stated that it had not yet been performed. Mr. Ferriero confirmed that the Board can request this as a condition of approval.

Chairman Roth asked if it is common for a contract purchaser to purchase a property without completing a Phase 1 environmental study. Ms. Kaczynski stated that the Applicant has Phase 1 information that they can share with the Board although it may not be a complete environmental impact statement. Chairman Roth asked if the Applicant will do a Phase 1 environmental before closing on the property. Ms. Kaczynski stated that they have conducted all the due diligence that was needed to purchase the property. Chairman Roth asked if the Applicant's experts have any information on the content or quality of the soil. Ms. Kaczynski stated that the soil is certified based on the Phase 1 information gathered. Chairman Roth stated that information from the studies should be necessary to evaluate the variance request regardless of density. Ms. Kaczynski stated that their due diligence is complete. Chairman Roth

asked if the contract purchaser's intent, since there are no studies completed, is to obtain the variance as a bargaining tool in order to "flip" the contract. Ms. Kaczynski stated that this is not the Applicant's intention and the Applicant has not made that representation to the Board.

The hearing was opened to the public for questions regarding the engineer's testimony.

Mr. Dave Bergamotto from 10 Drew Court came forward. Ms. Thompson noted that questions asked at this time should be for the Applicant's engineer only. Mr. Bergamotto stated his concern for the proposed height of the building and noted that the proposed plans seem too large for the property. He asked how the Applicant will address the impact this building would have on the Stepping Ridge Development regarding height, flooding, and parking. Mr. Caballero explained the shortest distance from the proposed building to the property line shared with Stepping Ridge.

Ms. Kaczynski asked Mr. Caballero to confirm the permitted height in the Fairfield Road overlay zone. Mr. Caballero stated that the permitted height is 35 feet and three (3) stories. Ms. Kaczynski asked if the Application falls within the permitted height and stories. Mr. Caballero confirmed this. Ms. Kaczynski stated photos can be taken and submitted to show the vantage point from the Stepping Ridge Development.

Mr. Brian Campbell from 17 Andrea Drive came forward. Mr. Campbell asked if there had been any inquiries submitted to the Township of Fairfield regarding the delivery of water to the proposed development. He asked what the impact might be on the neighborhood residents. Mr. Caballero offered that this would be addressed with the site plan application.

Mr. Matt Mansback from 16 Andrea Drive same forward. Mr. Mansback asked if there would be anything placed on the roof of the proposed structure in excess of the maximum height of the building such as antennas, lights or air conditioning units. Mr. Caballero stated that this question will be addressed by the architect.

There were no more questions from the public. Chairman Roth asked the Board if they had any questions. Mrs. Jenkins asked Mr. Ferriero if the air conditioner units would be part of the height restriction. Mr. Ferriero confirmed that the permitted building height is 35 feet at a 30 foot distance from the property line. He noted that a rear-yard setback variance would be needed. Mr. Ferriero explained that various elements affect building height and noted the importance of determining the proposed building elevation of the building so the Board can get better evaluate the proposal.

Chairman Roth confirmed that there were no additional questions from the Board. Ms. Kaczynski stated that they would like to adjourn to the next meeting and begin with the planner's testimony. Ms. Thompson stated that the next meeting is scheduled for Wednesday, August 18th. Chairman Roth indicated that there will be a discussion later in the meeting regarding the meeting start times. Ms. Michelotti confirmed that once the meeting times were confirmed, notice would be posted in the Borough's official newspaper, on the Borough website and would be provided to Ms. Kaczynski.

Mr. and Mrs. A. Lojek, 9 Highfield Terrace – Block 1801, Lot 5
Rear-Yard Setback

Mr. Andrew Lojek, applicant and owner of 9 Highfield Terrace came forward and was sworn in. Mr. Lojek stated that he is seeking approval for an outdoor deck with an associated rear setback variance. He explained that the property is located in an R1 zone with non-conforming depth

and is bound by residential homes on each side and to the rear. He added that the property abuts the West Essex High School stadium where the home team bleachers and concession stand extend the entire length of the rear property.

Mr. Lojek referred to the architectural details and explained that they are looking to construct a 17 x 31 foot deck which is 522 square feet with a portion of the deck being covered by a roof that ties to the existing roof line of the home. He noted that currently they have a sliding glass door that goes out to three stairs. He explained that the deck will be constructed of composite and have decorative metal railings. He added that the deck will be one level and explained the right side elevation view on the plans.

Mr. Lojek explained that the majority of the properties in the neighborhood adjacent to the West Essex School District have non-conforming properties where the lot depth does not comply with the Borough Ordinance. He indicated that his property is 140 feet deep where the R1 zone allows 150 foot minimum depth. He stated that the property is currently shallow as an existing non-conforming situation. He explained that the proposed deck will encroach into the 50 foot rear yard setback by 12.7 feet. Mr. Lojek stated that a variance of 37.3 feet is requested as he noted that the encroachment will not be in compliance with the Borough Code Chapter 107, Section 21 D5. He stated that the construction of the deck will be in conformance with the character of the neighborhood and will not be a detriment to the surrounding properties. He added that other neighboring properties on the same side of Highfield Terrace have decks or similar structures that are part of their outdoor living space. Mr. Lojek noted that the variance can be granted without substantial detriment to the public good or impair the intent of the land use ordinance. He added that the proposed project will not be visible from the public right of way; it is located at the rear of the residence; it is consistent with other properties on the street and the improvements will increase property values on the block.

Mr. Lojek stated that he reviewed a letter from the North Caldwell Police Department dated 6/2/2021 with no comments. He added that he responded and provided clarification to the comments in the Board Engineer's letter dated 6/30/2021. He concluded that if the variance is approved, he plans on beginning construction in the fall when the material prices stabilize.

Chairman Roth asked the Board if they had any questions or comments. Mr. Ferriero suggested that Mr. Lojek briefly summarize the responses to his letter. Mr. Lojek summarized his responses to Mr. Ferriero's letter to the Board. Chairman Roth asked Mr. Lojek why he didn't submit an updated survey. Mr. Lojek stated that he didn't want to incur any additional cost as he thought the survey was adequate for the deck project. Mr. Kumar asked if there was any proof of variances from other homes in the neighborhood with similar decks. Mr. Ferriero stated that he does not know of any but noted that the Board should evaluate every application on its own merits. Mr. Kumar asked if there were any existing photos. Mr. Lojek explained each of the photos of the existing backyard area. Mr. Salan asked Mr. Lojek what the view is when looking out into his backyard. Mr. Lojek explained that there is a 30-foot buffer at the back of his yard that is owned by the West Essex Regional School System which ends at a fence. He added that the West Essex stadium with bleachers and a concession stand is beyond the fence. Mrs. Jenkins stated that she visited Mr. Lojek's home that and asked if he was living there. Mr. Lojek stated that his family was on vacation for the week. Mrs. Jenkins asked he considered making the deck smaller. Mr. Lojek stated that the size was discussed with many professionals and he added that the size is needed for entertaining with a sitting area, grill and patio set. He noted that he would consider making the deck smaller by one (1) or two (2) feet but noted that he would like to maximize the space. Mr. Spindler asked if there will be storage underneath the deck. Mr. Lojek stated that there will be crushed stone with fabric so the weeds don't grow through and explained that there is only one (1) to two (2) feet of clearance

between the grade and the bottom of the floor joists. Mr. Sceppaguercio thanked Mr. Lojek for a great presentation and stated that the proposed design will fit the house.

Chairman Roth opened the meeting to the public for any questions or comments. There were no questions or comments from the public.

Mr. Salan made a motion to accept the Application as submitted. Mr. Sceppaguercio seconded the motion. A vote was taken and the motion was approved with seven affirmative votes by Mr. Salan, Mr. Sceppaguercio, Mrs. Jenkins, Mr. Wangner, Mr. Kumar, Mr. Spindler, and Chairman Roth.

MEMORIALIZATIONS

Mr. Stephen A. Smith – 50 Beachmont Terrace – Block 2004, Lot 2

MATTER OF STEPHEN A. SMITH

Decided: June 16, 2021

Memorialized: July 21, 2021

WHEREAS, Stephen A. Smith (hereinafter referred to as the “Applicant”) filed an application for a variance pursuant to N.J.S.A. 40:55D-70(c) before the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) with regard to property located at 50 Beachmont Terrace, also known as Lot 2 in Block 2004 (the “Property”) in order to construct a sport court requiring a variance for maximum lot coverage (47.1% proposed where a maximum lot coverage of 30% is permitted). The subject property is located in the 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 virtual public hearing was held by this Board on June 16, 2021; and

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

1. The Applicant was represented by Michael Coluzzi, Esq. of the firm of Giannascoli & Thomas, P.C. Mr. Coluzzi introduced his witnesses, including the Applicant and Charles Baldanza, a New Jersey professional engineer and registered architect.
2. Mr. Coluzzi described the Application, stating that the Applicant has owned the Property since March 2017. The Applicant is seeking a variance pursuant to N.J.S.A 40:55D-70(c) to permit an increase in lot coverage from the existing 41.9% to 47.1%. The Applicant will present a comprehensive grading and drainage plan, which has been

revised to incorporate the recommendations of Borough Engineer Paul Ferriero as a demonstration of the Applicant's desire to present the best possible plan. Mr. Coluzzi further explained that the variance relief requested would permit the installation of a sport court with a concrete base and sport court coating to be used primarily for basketball. Mr. Coluzzi stated that the proposed sport court will be 31 feet by 51.25 feet and will be for the Applicant's personal use only.

3. Charles Baldanza, R.A., P.E. was sworn in. Mr. Baldanza presented his educational background and professional credentials and was accepted by the Board as an expert witness.
4. Mr. Baldanza presented Exhibit A-1 and described the aerial view of the neighborhood and subject Property. The site is a single-family residential lot containing a house, cabana and pool. Mr. Baldanza stated that the property is 30,129 square feet and surrounded by single family residences with similar lot sizes within the R1 residential zone. Mr. Baldanza added that the Property slopes from the southern property line to the north and the nearest cross street is Hamilton Drive East.
5. Mr. Baldanza described the proposed 1,589 square foot sport court to be installed at the easterly end of the Property. He noted that sport court will be located 15 feet from the nearest property line as permitted under the Borough Code. The proposed area for the sport court is currently grass and slopes toward the north.
6. Mr. Baldanza stated that the sport court will be constructed of a concrete slab covered with plastic tiles. He explained that the proposed perimeter drain around the edge of the sport court will be tied into a drainage system.
7. Mr. Baldanza explained that the Applicant proposes a two (2) foot retaining wall to provide a level surface. Mr. Baldanza added that the Applicant will also re-grade the northern side of the sport court to achieve a flat area.
8. Mr. Baldanza reviewed the Borough Code (Chapter 53, Section 5(a)3) which requires dry wells or seepage pits for new sport courts designed to retain a minimum of 250 cubic feet of storage volume for every 1,000 square feet of surface and confirmed that lot coverage is strictly regulated due to the adverse effects of storm water runoff when rainfall hits impervious surfaces. Mr. Baldanza stated that he recommended that the Applicant provide more than the required drainage to mitigate the impact from the additional runoff. He explained that the proposed plan provides twice the storage capacity than required by the Borough Code. Mr. Baldanza presented the drainage plan which he indicated

includes a redesigned storm water system to mitigate the proposed increase in impervious surface. He stated that new drainage pipes and seepage pits were designed to both collect the overflow runoff from the adjoining properties and to direct the leaders from the existing cabana into the overflow system. He explained that he designed double-capacity seepage pits and added an overflow pipe that would connect to an inlet on Beachmont Terrace. Mr. Baldanza stated that the original plans were reviewed by the Borough Engineer and that all comments and suggestions were addressed and incorporated into the revised plans presented to before the Board.

9. Mr. Baldanza added that the R1 zone allows for 30% lot coverage. He noted that the property is currently at 41.9% coverage which will be increased to 47.1% coverage with the installation of the sport court.
10. Mr. Baldanza further stated that the proposed plans would offer an overall improvement to the existing site drainage, specifically (1) currently there is uncontrolled storm water flow from the proposed sport court area, which is grass and mulch, which flows onto the adjacent lots. The proposed plan will capture the water in drains and direct it into the seepage pit to be recharged; and (2) the new design will capture water flowing from the neighboring properties into inlets along the subject Property. He stated that the Applicant's proposal will provide a great benefit to the drainage in the area, both upstream and downstream.
11. In response to questions from the Board concerning Item No. 2 of the Borough Engineer's May 24, 2021 correspondence, Mr. Baldanza referred to two trees that will have to be removed due to the grading and wall installation plan. He explained that the proposal includes replacing the trees. Mr. Baldanza stated that the proposal only includes replacement of the trees that need to be removed. Mr. Ferriero stated his assumption that the trees will be replaced with a similar species but not similar size. Mr. Baldanza confirmed, stating that it would be difficult to replace a tree of the same size. Mr. Ferriero agreed that it would be impractical to replace the same size trees but noted that the evergreen trees should be 6 feet to 8 feet tall at planting.
12. It was noted by the Board that larger trees would absorb some of the noise that would be coming from the sport court. Mr. Baldanza indicated that the Applicant will plant two (2) trees to replace each tree that would be removed.
13. In response to questions from the Board, Mr. Baldanza stated that there are no lights proposed on the plan and noted that the Applicant will comply with any regulations. Mr.

Ferriero confirmed that while sport courts are not specifically mentioned in the Borough Code, the Code provides that the installation or use of artificial lighting for the purpose of illuminating a tennis court for play during non-daylight hours is prohibited.

14. The Applicant was sworn in. Mr. Smith stated that lighting is not an issue and he noted that he does not want to disturb his neighbors and does not plan to use the sport court at night. He explained that being in the public eye, he lives a relatively quiet life when he is at home. He noted that privacy is challenging and because of this, he has a home gym and would like a basketball court to play in private. Mr. Smith acknowledged his understanding that all Borough rules and regulations must be followed.
15. Mr. Baldanza stated that his planning testimony would demonstrate that a bulk variance for impervious coverage may be granted pursuant to N.J.S.A. 40:55D-70(c)2. Mr. Baldanza stated that there is single bulk variance proposed for this project for lot coverage of 47.1% where a maximum of 30% is permitted. Mr. Baldanza explained that the Municipal Land Use Law provides that the Board may grant a variance to allow a departure of regulations for a specific piece of property when the purposes of the Act will be advanced by a deviation from the zoning ordinance requirements where the benefits of the deviation would substantially outweigh any detriments. Mr. Baldanza stated that 5 criteria must be shown with the Application: (1) relates to a specific piece of property; (2) the purposes of the Municipal Land Use Law would be advanced by a deviation in the zoning ordinance requirement (3) the variance can be granted without substantial detriment to the public good; (4) the benefits of the deviation would substantially outweigh any detriment; and (5) the variance would not substantially impair the intent and purpose of the zone plan and zoning ordinance.
16. Mr. Baldanza testified that the proposed maximum lot coverage of 47.1% is only an increase approximately 5.2% from the existing 41.9% coverage. Mr. Baldanza further testified that the added coverage can be considered minimal in view of the mitigating effects of the proposed drainage system. Mr. Baldanza explained that for the reasons expressed in his testimony and in his professional opinion, the benefits of the single bulk variance for maximum impervious lot coverage will outweigh any possible detriments.
17. Mr. Coluzzi noted that the design of the project will make a substantial improvement to Property which in turn will have a positive impact on the community, including improved drainage. Upon questioning from the Board, Mr. Coluzzi stated that if approvals are needed to connect to the Borough's storm water system, the Applicant shall obtain same.

Mr. Baldanza noted the proposed plans provide for the collection of water to prevent further erosion. He stated that the Applicant will not be putting any undue stress on the municipal system. Mr. Ferriero noted that a road opening permit would be necessary because work will be done in the public right of way.

18. Mr. Ferriero added that he would not require any additional calculations other than the storm water information that has been provided. In response to questions from the Board, Mr. Ferriero stated that he is not aware of any other seepage pits on the Property, and Mr. Baldanza confirmed that there are no seepage pits visible or shown on the survey.
19. In response to questions from the Board concerning current run-off, Mr. Ferriero stated that he reviewed aerial photos of the property and concluded that the pool and patio existed before the ordinance was adopted by the Borough limiting maximum impervious coverage to 30%.
20. In response to questions from the Board, Mr. Baldanza and Mr. Smith both stated that they agree to comply with the Board's request that Mr. Baldanza remain involved in the project, if required.
21. In response to questions from the Board, Mr. Baldanza explained that there is enough storage capacity in the proposed drainage system for a 3,200 square foot sport court. Mr. Ferriero explained that there would be un-stored runoff from 11,000 square feet versus 9,000 square feet. Mr. Baldanza stated that the runoff would be worse without building the sport court.
22. In response to questions from the Board, Mr. Baldanza stated that the trees can be planted along the eastern property line.
23. In response to questions from the Board, Mr. Coluzzi stated that the sport court installation is designed with materials to mitigate and absorb sound through tiles instead of just concrete. In addition, Mr. Coluzzi confirmed that the Applicant would be willing to add four (4) trees to fill in the area where trees would add privacy.
24. The matter was opened to the public for questions and comments.
25. Mark Feldstein, 31 Stepping Ridge, questioned runoff from the Property, asking if the overflow would drain onto Grandview Avenue and Fairfield Road. Mr. Ferriero stated that surface runoff from that rear yard drains along the property line and goes to the same inlet in the street. He explained that there will be a reduction in the water flow as the proposed plan provides double the capacity for storage required for the proposed amount of additional impervious surface.

26. Xinofer Wang, 48 Beachmont Terrace, questioned the silt fences and how the seepage pits store water. Mr. Baldanza referred to the grading and drainage plan and provided an explanation on the silt fences and how water will be stored in the concrete cylinder seepage pits.
27. Ellen Skibiak, 56 Hamilton Drive East, stated that the rear of her property faces the Property and questioned the proposed trees. Mr. Baldanza referred to the plan and provided an explanation on which trees will be removed. Mr. Baldanza confirmed that the Applicant will be replacing the two (2) trees that will be removed and will be adding two (2) more trees along the property line.
28. Mr. Wang questioned the anticipated duration of the project. Mr. Coluzzi stated that a contractor had not been retained yet, therefore an anticipated time for the project is not set. He noted that the Applicant will be hiring a professional sport court company to install the project and the goal is to complete this process as timely as possible.
29. Mr. Ferriero added his suggestions for the site if the Board were to grant approval, as follows: (1) modify the plans to show the location of the four (4) proposed trees and obtain Board approval of those drawings; and (2) obtain a road opening permit and a lot grading/ storm water permit from the Construction Department.
30. Mr. Coluzzi stated that the Applicant intends to fully comply with all the regulations to make this project successful and will assume the risk to start the project as quickly as possible.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met his burden under the Municipal Land Use Law and that the variance requested may be granted without detriment to the zoning ordinance or the master plan as the proposed drainage system upgrades will improve the Property and neighborhood; and further that the proposed sport court will enhance the home with minimal impact.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the impervious coverage 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 the burden of proof that a hardship exists to permit granting the relief requested and that the benefits of granting the relief requested substantially outweigh the detriments with regard to the impervious coverage variance request.

Mr. Salan made a motion to accept the Application as submitted with the following conditions:

1. Four (4) trees are to be added along the property line of Lot 12.
2. A storm water permit is to be obtained.
3. A road opening permit is to be obtained.
4. Mr. Baldanza will be retained to work with the contractor for installation of the sport court, as may be required. Mr. Coluzzi asked that the contingency be reviewed to ensuring that an engineer retained without being specific to whom.

Mr. Ferriero stated that he would remain involved throughout the construction process and his office will perform the necessary inspections. Mr. Ferriero noted that he would consider the Applicant's request to proceed with construction before the adoption of the variance resolution. Mr. Ferriero noted that revised plans must be submitted, meeting all stipulations detailed by the Board, prior to the start of construction. Mr. Coluzzi stated that they will make the amendments to the plan and assume the risk during that process.

Mr. Salan amended his motion to state that another qualified engineer may be retained during construction if Mr. Baldanza's services are unavailable. Mr. Salan further amended the motion to add that the trees being planted will have a 2 ½' trunk and be 6' to 8' in height on Mr. Curcio's suggestion.

The amended motion was seconded by Mr. Curcio. The motion was approved with seven affirmative votes by Mr. Salan, Mr. Curcio, Mrs. Jenkins, Mr. Sceppaguercio, Mr. Wangner, Mr. Spindler, and Chairman Roth.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 21st day of July 2021, by a majority of the members of the Board present at such meeting and who voted for the action taken on June 16, 2021.

MEMORIALIZED:

ALL THOSE IN FAVOR: Mrs. Jenkins, Mr. Wangner, Mr. Salan, Mr. Sceppaguercio, Mr. Spindler, Chairman Roth

ALL THOSE OPPOSED: --

ABSTAIN: Mr. Kumar

ABSENT: Mr. Curcio

APPROVAL OF MINUTES

Mr. Wangner made a motion to accept the minutes of the Board Meeting of June 16, 2021. The motion was seconded by Mr. Salan. Said motion was passed with six affirmative votes by Mr. Wangner, Mr. Salan, Mrs. Jenkins, Mr. Sceppaguercio, Mr. Spindler, and Chairman Roth. Mr. Kumar abstained.

MEETING SCHEDULE

After a discussion with the Board members, Chairman Roth stated that the Board of Adjustment meeting start time will be changed to 7:30pm with conference meetings starting at 6:30pm. Mr. Salan made a motion to add the resolution to change the meeting start time to 7:30pm from 8:00pm to the agenda. Mr. Salan made a motion to amend the resolution from 7:00pm to 7:30pm start time. Mr. Spindler seconded the motion. A vote was taken and the motion was approved with seven affirmative votes by Mr. Salan, Mr. Spindler, Mrs. Jenkins, Mr. Sceppaguercio, Mr. Wangner, Mr. Kumar, and Chairman Roth.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by Mrs. Jenkins. Said motion passed unanimously. The meeting was adjourned at 9:58p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary