

April 18, 2018

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, April 18, 2018 starting at 8:03 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, Mr. Angelo, Mr. Floria-Callori, Mrs. Jenkins, Mr. Roth

Absent: Mr. Ritter, Mr. Salan, Mr. Michelotti

Also present were Lisa Thompson, Esq., Board Attorney and Tami Michelotti, Zoning Board Secretary.

Mr. Wangner asked Mrs. Jenkins 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

MATTER OF Mr. Ankim Shah/Falcon Custom Homes – 2 Falcon Point Drive - Block 801, Lot 9.05 – Signage Variance - POSTPONED

MATTER OF Mr. Michael Dunn, 8 Old Farm Road – Block 604, Lot 13

Mr. Alexander Bol, Architect for the Applicant was sworn in. Mr. Bol stated that his client was originally scheduled at the March hearing which was cancelled due to a snowstorm. Mr. Bol stated that Mr. Dunn was unable to be present at the rescheduled hearing due to a previous commitment.

Mr. Bol stated that he has practiced for over 45 years in New Jersey as a licensed architect and professional planner. He added that he has testified in front of Zoning Boards many times and did so in North Caldwell several years ago. The Board determined Mr. Bol was qualified as an expert witness.

Mr. Bol explained that the application involves a front and side yard setback variance which is a pre-existing condition. He offered photos to each Board member which were admitted as Exhibit A1.

Mr. Bol stated that the home is one of the original homes on the block and built before the current zoning laws were in place. He described the home as built on an angle and not centered on the property. He noted that the garage encroaches into the front yard setback by 15 square feet and the side yard by 85 square feet. Mr. Bol explained that the low pitched roof would be replaced with a more suitable roof pitch of 5 on 12 to blend in with the neighborhood and reduce the overhang, thereby, infringing less on the setbacks.

Mr. Bol referred to a diagram that corresponds to the photos he provided. He noted photos from several different perspectives showing the house which he described as modest. Mr. Bol stated that a large overhang falls below the top of the garage doors which make it difficult for an SUV to enter the garage. He added that the front door is currently hidden which will be exposed with the proposed reduction of the overhang. Mr. Bol stated that he is in favor of not tearing structures down and tries to work with existing structures for environmental, time and cost savings.

Mr. Bol stated that the second floor would be added at the back of the house which would be far from property lines. He exhibited distances to the property lines and vegetation in the photos to show no infringement on the neighbors. Mr. Bol stated that the need for the variance is to increase the roof pitch over the area of the existing structure that is already non-compliant to the front and side yard setbacks.

Mr. Bol noted that the proposed project will result in less lot coverage than the coverage of the existing structure. He stated that the only lot coverage addition would be from a turnaround driveway that will eliminate the need for the Applicant to back into street. Mr. Bol added that the driveway coverage would be offset by the elimination of lot coverage from overhangs and planters.

Mr. Augustitus asked for confirmation that the proposed plans would not encroach upon existing setbacks. Mr. Bol confirmed that there would be no encroachment upon the setbacks and that the pre-existing condition is the only reason for the variance. He added that lot coverage would be decreased by 272 square feet.

Mrs. Jenkins offered her appreciation for the Applicant's plans to avoid tearing down the house. Mr. Wangner stated that the proposal provides for a net gain in impervious coverage with no encroachment on setbacks. He opened the hearing to any questions or comments from the public. No one from the public came forward. Mr. Wangner asked for any questions or comments from the Board. There were no further comments or questions.

Mr. Floria-Callori made a motion to accept the Application as submitted, seconded by Mr. Augustitus. A vote was taken and the application was unanimously approved with six votes.

MATTER OF Ms. Amritpal Singh, 20 Birch Avenue – Block 1406, Lot 19

Ms. Amritpal Singh, Applicant, and John Guadagnoli, architect for the Applicant, were sworn in. Mr. Guadagnoli stated that he is a licensed architect in New Jersey with 28 years' experience. He stated that he has testified before Zoning and Planning Boards in New Jersey but not in North Caldwell. The Board determined Mr. Bol was qualified as an expert witness.

Mr. Guadagnoli stated that his client's property is an undersized corner lot with an extended Cape Cod style dwelling. He added that the two-story dwelling has two to three bedrooms. He stated that they propose to add a level with a small, narrow addition on the back of the first level in order to add an island in the kitchen.

Mr. Guadagnoli stated that the requested variances are due to the small lot size (100 feet by 160 feet) which does not allow for any structure if the 50 foot front and rear yard setbacks were maintained. He noted the hardship being that any structure would require a variance.

Mr. Guadagnoli offered Exhibit A1 as the color version of the plans that accompanied the application and Exhibit A2 which are photos from the side street. He noted that the existing front yard setback of 30 feet, where 50 is required, would be unchanged. Mr. Guadagnoli added that the rear yard setback of 44 feet, where 50 feet is required, would be reduced to 30 feet to expand the rooms in the rear of the dwelling. He noted this is the only lateral expansion proposed for the dwelling. Mr. Guadagnoli stated that the first floor of the home will remain and the irregular roof would be replaced to accommodate a full second floor. He noted that the proposed plans take into account the elevation and provide for a symmetrical view from the street since the dwelling is on a corner lot. He noted the choice of a hip roof to reduce height as opposed to gable roof to unify the house and provide a uniform look from the side and front.

Mr. Wangner asked for the existing versus proposed setback in the rear of the dwelling. Mr. Guadagnoli confirmed the existing setback of 44 feet with a proposed setback of 39 feet. He added that the proposed expansion is generally only 2 feet, 6 inches with the exception of a small area off the dining room.

Mr. Wangner opened the hearing to any questions or comments from the public. No one from the public came forward. Mr. Wangner asked for any questions or comments from the Board. There were no further comments or questions.

Mr. Augustitus complimented Mr. Guadagnoli on the design and made a motion to accept the Application as submitted, seconded by Mrs. Jenkins. A vote was taken and the application was unanimously approved with six votes.

MEMORIALIZATIONS

Mrs. Monika Banas, 15 Woodland Avenue – Block 1300, Lot 2

Mr. Augustitus noted three grammatical corrections to be made in the resolution. All three errors were made and are reflected below. Mr. Augustitus made a motion to accept the memorialization, seconded by Mr. Angelo. A vote was taken and unanimously approved with six votes.

MATTER OF MONIKA BANAS Decided: February 21, 2018 Memorialized: April 18, 2018

WHEREAS, Monika Banas (hereinafter referred to as the “Applicant”) has filed an application for variances pursuant to N.J.S.A. 40:55D-70c before the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) with regard to property located at 15 Woodland Avenue, also known as Lot 2 in Block 1300 in order to construct an extension of the front covered porch and two-car garage requiring a front yard setback variance; rebuild the deck requiring a side yard setback variance. 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 public hearing commenced on January 17, 2018, but was adjourned to allow the Applicant to provide notice of the variance required for the proposed front facing garage doors. The testimony in support of the Application was presented at a public hearing held by this Board on February 21, 2018; and

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

1. Mr. Gabriel Landaverde, Architect and Project Manager for the Applicant, and Mr. Rosario Mannino, Principal, were present on behalf of the Applicant. The Board determined Mr. Landaverde was qualified as an expert witness. It was noted that Mr. Landaverde and the Applicant, Ms. Monika Banas, were still under oath from the January 17, 2018 meeting.
2. Mr. Landaverde stated that the Applicant seeks a side-yard variance for the proposed two-car garage and a front-yard variance for both the garage and the proposed three-foot

expansion of the covered porch. He testified that the porch is already non-conforming at 39 feet where 50 is required. He stated that the garage has a 41-foot, 8-inch front yard setback which is in line with the front of the house. Mr. Landaverde added that the proposed garage requires a side-yard variance with 19 feet proposed set back where 25 feet is required. Additionally, the deck in the rear of the house requires a side-yard variance with a 19.1-foot side-yard setback proposed where 25 feet is required.

3. Mr. Landaverde testified that the previous deck required reconstruction as it was found to be structurally unsound, adding that the deck was already demolished with permission from the Building Department due to the safety concern.
4. Mr. Landaverde referred to Plan Sheet Z-3, stating that the Applicant is proposing to convert a portion of the existing two-car garage on the left side of the dwelling into a mudroom and an office. He added that the existing driveway would continue to be utilized, but that the garage doors would be converted to front-facing. Mr. Landaverde testified that an existing drainage ditch on the left side of the property does not allow for sufficient turning radius to enter the garage from the side.
5. Mr. Landaverde stated that the Applicant proposes to add a veranda in the back of the property which would be partially covered by the second-floor addition and the remaining portion would be covered with a roof over a new patio. He explained the proposed floorplan stating that the covered front porch would be widened by three feet, the main entrance would lead into the existing foyer, the existing family room would be slightly modified to create an open floor plan, the kitchen in the back of the house would be extended, and the dining room would remain in lower portion of the first floor. He added that the Applicant proposes to make one of the garage bays into a mudroom and butler's pantry between the garage and the house.
6. Mr. Landaverde referred to Plan Sheet Z-4 and described the proposed second floor plan. He stated that the existing four bedrooms are small, so the Applicant seeks to convert two of the front-facing bedrooms into one larger bedroom. The master bedroom would be expanded along with the master bathroom and the remaining bedroom would remain unchanged.
7. Mr. Landaverde submitted renderings identified as Exhibit A-1. He stated that the house is currently brick with siding. Mr. Landaverde testified that the Applicant proposes to strip the existing exterior and install new Hardy plank with a stone veneer in front and add

architectural details similar to a craftsman style home. The plans show an addition of decorative brackets in front and Hardy plank at the gable ends. Mr. Landaverde added that the design element would be consistent on the back of house. Mr. Landaverde described Exhibit A-2 to show the veranda and deck to the rear of the home.

8. Mr. Floria-Callori asked for clarification between the Applicant's first and second submissions. Mr. Landaverde stated that the original plans reflected the Applicant's attempt to work with the existing side entry garage, however, the garage bay would only be 10 feet wide, and working within the existing structure would limit the garage to one bay, thereby creating an artificial double door. Mr. Landaverde stated that the Applicant chose to withdraw the initial application.
9. In response to questions from the Board, Mr. Landaverde stated that the revised application requires a variance for the side yard setback. Working within the existing structure would convert one of the garage bays into an office, but the Applicant deemed the plan impractical. Mr. Landaverde noted that the garage extension would add to the square footage inside the home. Mr. Landaverde further stated that additional square footage could not have been added at the rear of the home as the Applicant was trying to preserve as much of the back yard as possible. Mr. Landaverde noted that the lot is irregularly shaped. Ms. Banas testified that constructing an addition to the rear of the home would require the removal of the existing 12-foot sliding door and would create an interior room without windows.
10. In response to questions from the Board concerning the need for front-facing garage doors, Mr. Landaverde testified that there is not enough room to pull in and back out of a side-entry garage due to a 7-foot drainage ditch at the side of the property which creates a hardship. Mr. Landaverde further testified that he believes the Borough owns the ditch.
11. The Board questioned how the Applicant claims the easement prevents turning into the side-facing garage but does not prevent the extension of the home toward the easement and if the neighbor on the drainage easement side of the property supports the proposed plans. Ms. Banas stated that her neighbors on both sides signed letters of agreement. The Chairman stated that the letters could not be submitted as evidence.
12. The hearing was opened to the public without comment.
13. Upon deliberation by the Board, the Applicant was asked if she considered not extending the garage as far or eliminating the mudroom to reduce the side yard expansion. Mr.

Landaverde stated that without the side expansion, the study would not be as functional due to an existing column between the two bays of the garage. Ms. Banas added that she has little storage space in the house and she wishes to keep the existing storage in this part of the house. Mr. Landaverde stated that the shallow roof line allows for very little attic space.

14. In response to questions from the Board, Ms. Banas stated that other houses in the neighborhood have two car garages and she was not comfortable reducing her garage to a one car garage; therefore, she submitted the second application which included a two-car garage.
15. During deliberation, the Board noted that elimination of the modified storage space would eliminate the need for two variances: the left side-yard setback and the front-facing garage doors. Mr. Landaverde stated that other homes do have front-facing garages which still fit the look of the neighborhood as shown in photos submitted as Exhibit A-3. Mr. Floria-Callori noted that the other homes in the neighborhood may be older and grandfathered in before the new garage door ordinance.
16. Mr. Landaverde confirmed that the existing structure is 2,635 square feet and the proposal will add 863 square feet for a total of 3,498. Mr. Landaverde stated that the proposed size is comparable to other homes. Ms. Banas added that her neighbor at 13 Woodland has a front-facing garage and a home of 3,250 square feet.
17. Based upon the Board's questioning, and after a short recess, the Applicant advised that Board that she will explore the option to take space from storage area to bring the garage into compliance with the side-yard and front-yard setbacks and to eliminate the need for front-facing garage doors. The Applicant modified the request before the Board, seeking approval for variances for only the covered porch and the deck, specifically, approval of variances for the front-yard setback regarding the covered porch and for the right side-yard setback regarding the deck.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met her burden under the Municipal Land Use Law and that the variances requested may be granted without detriment to the zoning ordinance or the master plan as the proposed deck and covered front porch do not present substantial additional encroachment into the side and front yard setbacks; and further that the location proposed deck and covered front porch are limited by the location of the existing home.

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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 that a hardship exists 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. Augustitus, seconded by Mr. Floria-Callori, the Board unanimously voted to grant the Application of Monika Banas, with the stipulation that the front-facing garage door and left side-yard variances are excluded. Mr. Augustitus, Mr. Floria-Callori, Mr. Angelo, Ms. Jenkins, Mr. Wangner, and Mr. Michelotti cast affirmative votes. Accordingly, the Application, as amended, was approved.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 18th day of April 2018, by a majority of the members of the Board present at such meeting and who voted for the action taken on February 21, 2018.

ALL THOSE IN FAVOR: Mr. Angelo, Mr. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Salan, Mr. Wangner

ALL THOSE OPPOSED: NONE

ABSTAIN: NONE

ABSENT: Mr. Ritter

Mr. and Mrs. Scott Holzberg, 8 Oxford Drive – Block 1107, Lot 4

Mr. Floria-Callori noted one correction to be made in the resolution. The error was made and is reflected below. Mr. Augustitus made a motion to accept the memorialization, seconded by Mr. Floria-Callori. A vote was taken and unanimously approved with six votes.

MATTER OF SCOTT AND SAMANTHA HOLZBERG

Decided: February 21, 2018

Memorialized: April 18, 2018

WHEREAS, Scott and Samantha Holzberg (hereinafter referred to as the “Applicant”) have filed an application for variances pursuant to N.J.S.A. 40:55D-70c before the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) with regard to property located at 8 Oxford Drive, also known as Lot 4 in Block 1107 in order to extend the existing deck. 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 public hearing was held by this Board on February 21, 2018; and

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

1. The Applicant, Samantha Holzberg, and Todd Damersian, General Contractor were sworn in. Mr. Damersian was accepted by the Board as an expert witness.
2. Mr. Damersian testified that the Applicant seeks to extend the existing deck to the left side of the house. The proposed side yard setback is 19.2 foot setback where 25 feet is required. The deck will be extended only to the end of the existing house. Mr. Damersian stated that a door would be added in place of an existing window to access the deck.
3. Mr. Damersian further testified that the proposed plan maximizes use of the rear yard which has a severe grade. The deck is the only flat area for use by the Applicant.
4. Mr. Damersian stated that the left side of the yard has a patio with a low roof structure as well as the driveway which did would allow for the deck expansion on that side of the house.
5. Mr. Wangner opened the discussion for questions from the Board. Hearing none, Mr. Wangner then opened the discussion for questions and comments from the public. No one from the public came forward.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met her burden under the Municipal Land Use Law and that the variances requested may be granted without detriment to the zoning ordinance or the master plan as the proposed deck extension will not extend beyond the existing dwelling and does not present substantial additional encroachment into the side yard setback; and further that the location proposed deck extension is limited by the existing slope of the rear yard and the location of an existing patio.

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 that a hardship exists 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. Salan, seconded by Mr.

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Augustitus, the Board unanimously voted to grant the Application of Scott and Samantha Holzberg, as submitted. Mr. Salan, Mr. Augustitus, Mr. Angelo, Mr. Floria-Callori, Ms. Jenkins, Mr. Wangner, and Mr. Michelotti cast affirmative votes. Accordingly, the Application was approved.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 18th day of April 2018, by a majority of the members of the Board present at such meeting and who voted for the action taken on February 21, 2018.

ALL THOSE IN FAVOR: Mr. Angelo, Mr. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Salan, Mr. Wangner

ALL THOSE OPPOSED: NONE

ABSTAIN: NONE

ABSENT: Mr. Ritter

APPROVAL OF MINUTES

Mr. Augustitus moved to accept the minutes of Board Meeting of February 21, 2018, with the same corrections discussed for the memorializations. The motion was seconded by Mr. Floria-Callori. Said motion was passed with six votes.

MEETING DATES

Ms. Michelotti noted a scheduling conflict between the September hearing and a Municipal Court hearing. The Board discussed moving the hearing date from September 20, 2018 to September 26, 2018. The Conference Meeting would also be rescheduled to avoid a conflict with the Mayor and Council Conference Meeting from September 12, 2018 to September 13, 2018. Mr. Augustitus made a motion to accept revisions to the September Conference and Hearing dates as discussed, seconded by Mr. Floria-Callori. A vote was taken and the motion was unanimously approved with six votes.

There being no further matters to come before the Board, Mr. Augustitus made a motion to adjourn the meeting, seconded by the Board. The meeting was adjourned at 8:35 p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary