

July 24, 2019

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, July 24, 2019 starting at 8:06pm.

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. Wangner, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Salan.

Absent: Mr. Augustitus, Mr. Curcio, Mr. Tilton

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

APPLICATIONS

Mr. Carey Lathrop, 11 East Greenbrook Road – Block 1303, Lot 16

Board Attorney Lisa Thompson, Esq. announced that Mr. Steven M. Greenberg, attorney for the Applicant, requested that the continuation of the testimony be adjourned until the September meeting to allow for an additional expert witness to testify. Ms. Thompson noted that no further notice by the Applicant was required.

Ms. Nancy McVey, 34 Ferndale Road – Block 101, Lot 11

Board Attorney Lisa Thompson, Esq. announced that Ms. McVey notified the Board Secretary that Ms. McVey's Application would be adjourned to the August meeting, pending notice in the newspaper, with no further notice needed.

REQUEST FOR EXTENSION OF VARIANCE

Mr. & Mrs. Gerald Crum, 13 Maple Drive - Block 1408, Lot 7

Mr. Floria-Callori asked if the Applicant's request involved a change in plans. Ms. Michelotti stated that the request was only for additional time with no changes to the plans. With no further questions or comments heard from the Board, Mr. Salan made a motion to grant the extension of variance for twelve (12) months, seconded by Mr. Floria-Callori. Mr. Michelotti abstained from voting as he lives within 200 feet of the Applicant's property. Said motion passed with five affirmative votes and one abstention.

MEMORIALIZATIONS

Mr. and Mrs. Henry Ko, 6 Wildwood Drive – Block 708, Lot 8

MATTER OF JENNIFER and HENRY KO

Decided: June 19, 2019

Memorialized: July 24, 2019

WHEREAS, Jennifer and Henry Ko (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 6 Wildwood Drive, also known as Lot 8 in Block 708 in order to construct an addition to a pre-existing non-conforming structure. 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 June 19, 2019; and

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

1. Mr. Henry Ko (hereinafter "Applicant") was sworn in. The Applicant described the proposed plan to renovate and expand the existing home to accommodate an in-law suite on the first floor. The Applicant testified that they purchased the home approximately nine years ago.
2. The Applicant's architect Mr. Frank Troia, was sworn in. Mr. Troia presented his credentials to the Board and was accepted as an expert witness.
3. Mr. Troia described the Application, stating that the existing lot is non-conforming with respect to lot depth, making the rear and front yard setbacks non-conforming.
4. The Zoning Ordinance requires a minimum lot depth of 150 feet (128.65 existing). The minimum front yard setback requirement is 50 feet (41.79 feet to the dwelling and 36.8 feet to the front steps proposed). The minimum rear yard setback requirement is 50 feet (43.60 feet existing and proposed).
5. Mr. Troia stated that when the house was originally constructed the minimum setback was 40 feet. The ordinance was later revised to require the current minimum setback of 50 feet.
6. Mr. Troia stated that the Applicant proposes to add a 750 square foot, two-story addition on the west side of the residence which would include an expanded front porch with the roof extended to the edge of the new addition. Mr. Troia further explained that the plans also include raising the height of the existing roof by 2.5 feet to 26.63 feet, which conforms with the Borough Code.
7. In response to questions from the Board, Mr. Troia provided clarification as to the proposed setbacks, stating that the front yard setback in the Zoning denial letter is 41.79 feet and according to the site plan, the proposed front porch will extend to 36.8 feet. Mr. Troia explained that the 36.8 feet is measured to the front steps of the covered porch where 41.79 feet is measured to the addition. Mr. Troia further testified that the rear yard setback is an existing non-conformity and will be maintained at 43.60 feet.
8. Mr. Troia testified that the Applicant proposes a 4-foot-wide porch across the entire façade to connect the driveway to the front door. He further testified that the Applicant's proposal includes a formal entry with a mudroom to the left with entry into the garage. He explained that the in-law suite will be on the front right of the home and will include a bedroom, sitting area and full bathroom. Mr. Troia testified that the rest of the proposal includes an open floor plan with a kitchen and family room, noting that the second floor will remain the

same except to add a laundry room and hallway which will lead to the new master bedroom suite.

9. Mr. Troia stated that the Applicant's proposal also includes a bay window bump-out in the front of the home to add character. He stated that the new windows will match the existing windows and noted that the bedrooms will have egress windows for safety.

10. Mr. Troia presented Sheet A500 to the Board and described the proposed front and rear elevations, exterior building material and aesthetic improvements.

11. The hearing was opened to the public without comment.

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 variances requested may be granted without detriment to the zoning ordinance or the master plan as there is no additional encroachment of the pre-existing non-conforming front and rear yard setbacks; and further that the proposed addition is in keeping with the neighborhood and will enhance the home.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the front and side yard setback and lot depth 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 substantially outweigh the detriments. Mr. Augustitus made a motion to accept the Application as proposed with two corrections: (1) The correct front yard setback shall be 36.8 feet (not 41.80 feet as indicated in the Zoning denial letter); and (2) The rear yard setback will remain unchanged at 47.60 feet. The motion was seconded by Mr. Floria-Callori. The Application was unanimously approved with affirmative votes by Mr. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Salan, and Mr. Wangner.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 24th day of July 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on June 19, 2019.

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

ALL THOSE OPPOSED: --

ABSTAIN: --

ABSENT: Mr. Augustitus, Mr. Curcio, Mr. Tilton

July 24, 2019

APPROVAL OF MINUTES

Mr. Floria-Callori made a motion to accept the minutes of the Board Meeting of May 22, 2019 and noted that the minutes were supplemented by the delivery of an audio file. The motion was seconded by Mr. Michelotti. Said motion was passed with five affirmative votes by Mr. Floria-Callori, Mr. Michelotti, Mrs. Jenkins, Mr. Roth, and Mr. Wangner.

Mr. Michelotti made a motion to accept the minutes of the Board Meeting of June 19, 2019. The motion was seconded by Mrs. Jenkins. Said motion was passed with seven affirmative votes by Mr. Michelotti, Mrs. Jenkins, Mr. Floria-Callori, Mr. Roth, Mr. Salan and Mr. Wangner.

Mr. Wangner stated that he would like to revisit the previous roof height discussion. Mr. Floria-Callori stated that he would like to confirm that according to the Code, the maximum building height shall not exceed 32 feet past the average grade of the lot. Ms. Thompson stated that Paul Ferriero and Paul Milani will confirm this so that the Borough Engineer, the Board and the Code Official are all on the same page.

Mr. Wangner asked Mr. Floria-Callori for his assessment of the roof height discussion. Mr. Floria-Callori stated that the plan that was submitted for a variance application had building heights in excess of 32 feet. He explained that it appeared that an average was taken on the Applicant's plans to arrive at the height which was less than 32 feet. He further explained that the Code refers to the average of the grade of the property, not the average of the various heights of the building. He added that the grade of the property should be averaged and the height of the building should not exceed that average grade of that property. Mr. Wangner stated that he agrees that after review, the Board should interpret it this way. Ms. Thompson stated that she will follow up with the Borough Code Official to have the issue resolved before that next meeting.

Mr. Wangner stated that Mr. Salan noticed a discrepancy between the side yard setback measurements and the survey on the Mc Vey Application. He noted that the Board should obtain clarification from the Borough Code Official before proceeding. Mr. Salan stated that the denial letter states that the setback is 12.09 feet and page 3 shows the setback as 11.91 feet.

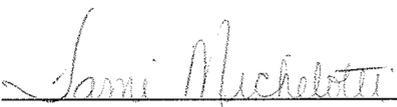
Mr. Floria-Callori stated that the Board should get clarification on what constitutes a structure with respect to setbacks. He asked, for example, if an elevated deck would constitute as a structure.

Mr. Wangner stated that discrepancies should be sorted out before the Applicants come before the Board in order to ease the process. Mr. Floria-Callori stated that the Board should have a conversation with the Borough Code Official to understand his interpretations and explain their concerns to be on the same page and streamline the process for Applicants.

Ms. Thompson stated that any changes to Zoning Board Application forms should be reviewed by the Borough Council.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by Mr. Roth. Said motion passed unanimously. The meeting was adjourned at 8:36 p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary