

June 19, 2019

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, June 19, 2019 and began at 8:03pm.

Chairman Wangner stated that the meeting was being 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. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Salan, Mr. Tilton.

Absent: Mr. Curcio

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

Mr. Wangner asked Mrs. Jenkins to lead the Pledge of Allegiance.

### **APPLICATIONS**

#### **Mr. and Mrs. Henry Ko (Mr. Daniel D'Agostino, Architect), 6 Wildwood Drive – Block 708, Lot 8**

Mr. Henry Ko from 6 Wildwood Drive was sworn in. Mr. Ko stated that he would like to do a renovation and expansion on his home which was purchased approximately nine years ago. He explained his plan to provide a living area for his mother-in-law on the ground floor of the home. He further explained that he and his architect agreed that the best solution was to expand the footprint.

Mr. Frank Troia presented his credentials to the Board and was accepted as an expert witness.

Mr. Troia referred to Sheet A000 and stated that the existing lot is non-conforming with respect to depth, making the rear and front yard setbacks non-conforming. He noted that when the house was originally constructed the setback was forty feet and was later revised to fifty feet. He stated that the Applicant is proposing to add a 750 square foot two-story addition on the west side of the residence. The addition would include an expanded front porch with the roof extended to the edge of the new addition. Mr. Troia explained that the plans also include raising the height of the existing roof by 2 ½ feet but it would still conform with the Borough Code. He noted that the new roof height will be 26.63 feet.

Mr. Augustitus asked for clarification on the setbacks. He stated that the front yard setback in the 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 the 41.79 feet is measured to the addition. Mr. Augustitus asked if the rear yard setback will be maintained at 43.6 feet. Mr. Troia confirmed that the rear yard setback is being maintained which he noted is an existing non-conformity. Mr. Floria-Callori confirmed the numbers were reversed on the Zoning Officer's denial letter.

Mr. Troia referred to Sheet A100 and explained that the existing two-story house is similar to a center hall colonial with a basement, first floor, second floor with four bedrooms and two full bathrooms, and an uncovered deck in the back of the home. He referred to Sheet A200 which exhibits the proposed basement plan which includes a full basement under the two-story addition. He noted that the existing basement will become a study and will not be connected to the proposed basement because of the existing crawl space.

Mr. Troia referred to Sheet A201 and explained the proposal for the first floor. He stated that the proposal includes a four foot wide porch across the entire façade to connect the driveway to the front door. He further stated that the proposal includes a formal entry with a mudroom to the left with an 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 explained that the proposed plan includes an open floor plan with a kitchen and family room. He noted that the second floor would remain the same except for adding a laundry room and hallway which would lead to the new master bedroom suite.

Mr. Troia stated that the proposal includes a bay window bump-out in the front of the home to add character. He referred to Sheet A500 which includes the front

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elevation, partial rear elevation including the proposed addition, and right and left side elevation. He stated that the exterior materials will include hardy lap siding, asphalt shingle roofing with copper metal seams, decorative shutters, columns with a stone base, and copper gutters for aesthetics. He stated that the new windows will match the existing windows and noted that the front bedrooms will have egress windows for safety.

Mr. Floria-Callori asked if the front porch will extend closer to the street. Mr. Troia stated that the front porch will come out about three feet closer to the street and will remain in line with the existing columns and walkway.

Mr. Wangner asked if there were any more questions or comments from the Board. There were no further comments or questions.

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

Mr. Augustitus made a motion to accept the Application as proposed with two corrections: (1) the front yard setback should be 36.8 feet and not the 41.8 feet as reflected in the letter of denial; and (2) the rear yard setback is not changing from its current 47.6 feet. The motion was seconded by Mr. Floria-Callori. A vote was taken and 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.

## **MEMORIALIZATIONS**

**Mr. and Mrs. John Leitao, 2 Fairview Drive – Block 1505, Lot 1**  
Side and front yard setback, Impervious coverage

### **MATTER OF JOHN LEITAO**

**Decided: May 22, 2019**

**Memorialized: June 19, 2019**

**WHEREAS**, Mr. and Mrs. John Leitao (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 2 Fairview Drive, also known as Lot 1 in Block 1505 in order to construct an addition to a pre-existing non-conforming structure to expand the existing kitchen. 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 May 22, 2019; and

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

1. The Applicant, John Leitao, was sworn in. Mr. Leitao described his proposal for an addition to the rear of his home and a circular driveway which requires approval for side and front yard setback and impervious coverage variances.

2. The Applicant stated that he seeks approval for a small bump-out to the rear of the home to square off the existing kitchen. The addition will not encroach any further into the current side yard setback.
3. The Applicant testified that his property is a corner lot where the side yard is actually the front for the driveway and garages.
4. Upon questions from the Board with regard to a conflict in the impervious coverage calculation listed in the denial letter and what is shown on the plans submitted to the Board, The Applicant confirmed that he is seeking variance approval for 41% impervious coverage. The Application shows a proposed driveway of 3,450 square feet but the plans show a driveway of 884 square feet. There is also a conflict in the impervious coverage calculation as shown on page 11 of the Application.
5. The Applicant was questioned as to his proposal to compensate for the substantial increase in the impervious coverage due to the circular driveway. It was noted that runoff due to excessive impervious coverage is a significant problem in the Borough.
6. The Applicant stated that timing for the project is an issue for him and further stated that the only accommodation to compensate for increased impervious coverage would be to add a seepage pit. The Applicant stated that the Borough Engineer told him that the water from the leaders and the driveway can runoff into the sewer. It was noted by the Board that there appears to be a misunderstanding between the impervious coverage issue and water runoff.
7. Upon questioning from the Board, the Applicant confirmed that he would remove the proposed circular driveway, stating there was nothing he could do to accommodate for the increase in impervious coverage. The Applicant stated the architect's plans show the existing driveway as 884 square feet with impervious coverage of 27.13%. The Applicant confirmed there were no other changes to his architect's plans aside from the proposed circular driveway.
8. Upon questioning from the Board, the Applicant indicated that he did not have an updated survey, noting that the site plan on the architect's drawings references a survey from 2007. The Applicant was advised that he must submit an updated signed and sealed survey to the Board.
9. The Applicant was questioned as to the proposed height of the addition. Mr. Leitao stated that the addition would have 8-foot ceilings and that the structure from ground to the second-floor level will stay at 35 feet. The Applicant explained that the second floor

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already exists, but the roof line is low. The Applicant testified that his proposal is to bump out the walls to the perimeter of the house which will not change the existing height of the house.

10. Upon questioning from the Board as to the building height, the Applicant confirmed that there has been no change to the property since the 2007 survey.
11. The Board addressed the issues of building height and front facing garage variances, noting that the property is a corner lot which is considered a hardship. The Applicant testified that the highest point of the house is not being elevated and will not exceed the 32 foot maximum building height.
12. The Applicant testified that the home was built in the 1960s and that he is unaware if any grading work had been done since the house was built. The Applicant stated that he has owned the home for about seven years.
13. The hearing was opened to the public.
14. Mr. Frank Detrolino, 6 Angela Court was sworn in. Mr. Detrolino stated that his rear yard abuts the Applicant's rear yard. He explained that his home sits lower and there is about a 16-foot difference in elevation from the Applicant's home. He further explained that during hard rain, water runs down to his property. Mr. Detrolino requested that landscaping be added along the rear property line to alleviate the water runoff and for aesthetic purposes.
15. Upon questioning from the Board, the Applicant testified that he plans to install PVC piping underground to have the roof leaders drain into the storm drains. The Applicant was advised that he must satisfy the requirements of the Building Department and Borough Engineer with regard to capturing water from the roof leaders.

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 subject property is a corner lot with pre-existing non-conforming side and front yard setbacks; the proposed improvements enhance the home without increasing the setback encroachments beyond what currently exists.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the front and side yard setback variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of

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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 approve the Application of John Leitao, for front and side yard setback variances only with the following conditions:

1. The request for variance approval for impervious coverage is withdrawn and the impervious coverage will remain as it exists, not to exceed 30%.
2. There is a stipulation that the height of the building shall be calculated correctly, and a variance obtained if needed prior to building.
3. The roof leaders shall properly discharge according to the requirements of the Borough Engineer and Building Department.
4. A landscape buffering shall be planted along the rear of the property to help alleviate runoff to the rear neighbor's yard.
5. An updated signed and sealed survey shall be submitted.

The motion was seconded by Mr. Michelotti. A vote was taken, and the Application was approved with the above conditions with affirmative votes by Mr. Augustitus, Mr. Michelotti, Mr. Floria-Callori, Mrs. Jenkins, Mr. Roth, Mr. Curcio, and Mr. Wangner

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 19th day of June 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on May 22, 2019.

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

**ALL THOSE OPPOSED:** --

**ABSTAIN:** Mr. Salan, Mr. Tilton

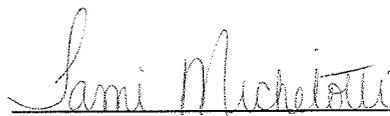
**ABSENT:** Mr. Curcio

**APPROVAL OF MINUTES**

The approval of the minutes of the May 22, 2019 Board Meeting were tabled to the July 24, 2019 Board Meeting to clarify some of the testimony regarding average building height.

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 8:25 p.m.

Respectfully Submitted,

  
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Tami Michelotti  
Zoning Board Secretary