

March 20, 2019

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, March 20, 2019 starting at 8:02 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. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Curcio

Absent: Mr. Salan

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

Mr. Wangner asked Mr. Curcio to lead the Pledge of Allegiance.

### **INSTALLATION OF NEW BOARD MEMBERS**

Mr. Ted Roth, Board Member – Four-year term expires December 31, 2022

Mr. Benjamin Curcio, Alternate Board Member – Two-year term expires December 31, 2020

The Oaths of Office were administered by Board Attorney, Lisa C. Thompson, Esq.

### **APPLICATIONS**

#### **Mr. Peter Ricci for Mr./Mrs. DeVescovo, 3 Hamilton Drive South – Block 307, Lot 18 - Side Yard Setback**

Ms. Susana Tavera, licensed architect for two years with over ten years experience in the field was sworn in. Ms. Tavera graduated from New Jersey Institute of Technology and has appeared before Boards in Orange, Caldwell, and Fairfield, New Jersey. The Board accepted Ms. Taverna as an expert witness.

Mr. Peter Ricci, licensed architect in eleven states since 1983 was sworn in. Mr. Ricci is a graduate from New Jersey Institute of Technology and has his own practice in West Caldwell, NJ for 19 years. He has been before the North Caldwell Board and many other boards in New Jersey. The Board accepted Mr. Ricci as an expert witness.

Ms. Taverna stated that the property is a typical three bedroom, single family home. She stated that the Applicant would like to add an extension to the back to add more space to the kitchen, family room, and dining room to make the space more comfortable for family gatherings. She added that the Applicant would also like to add a second floor to make four bedrooms and extend the patio back further. Ms. Taverna explained that there is a side yard setback variance and there currently is a stream dividing this property with the neighboring property.

Mr. Augustitus asked to clarify if the proposed right yard setback would be 17.4 feet as stated on the denial letter. Ms. Taverna stated that 17.4 feet is existing and explained that it would be 15.3 feet from the end of the house to the property line and 12.4 feet from the patio canopy. Mr. Augustitus noted that the denial letter is incorrect and the Applicant is looking for 12.9 foot setback which includes the patio canopy roofline.

Mr. Floria-Callori asked for clarification on the impervious coverage increase that is stated in the denial letter. Ms. Taverna explained that the Application submitted for the site plan includes the purchase of land from their neighbor in the back, which was approved by the Planning Board last month; therefore the impervious coverage number is now lower. Ms. Thompson clarified that the Planning Board approval eliminated the impervious coverage variance.

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Mr. Roth asked if the canopy is an existing structure. Ms. Taverna confirmed that the canopy currently exists but the proposed plans include pushing the canopy further back closer to the property line. Mr. Augustitus asked if the main section of the house would be 15 feet. Ms. Taverna referred to the plans and confirmed that it would be 15.3 feet from the corner of the house. Mr. Wangner asked if the canopy is permanent. Ms. Taverna confirmed that the canopy is a permanent roof structure.

Mr. Floria-Callori asked for an explanation of the purchase of the neighbor's land. Mr. Ricci explained that the neighbor was selling off the back portion of their property. He added that the property was subdivided and then subdivided again in half and one portion was purchased by the Applicant and the other was purchased by the neighbor behind them. He further added that there was no change in the appearance of the property. Mr. Floria-Callori asked if there was intent to develop on this property besides what is proposed in the Application. Mr. Ricci stated that the property is landlocked and there are no plans to develop the property further. Mr. Wangner asked Ms. Thompson if a new property owner could re-subdivide the property back to the original owner. Ms. Thompson explained that the new property owner would have to go before the Planning Board and it would be difficult to subdivide back if it caused a non-conforming situation that would require the need for a variance.

Mr. Curcio asked to describe the character of the woods or vegetation in between the two lots at the area where the setback would be reduced. Ms. Taverna stated that the lots include many trees and a stream that divides the properties. She added that the neighbor has a fence between their house and the stream.

Mr. Floria-Callori asked if the acquisition of land changed the original plans for the addition. Ms. Taverna stated that they both happened simultaneously and they wanted to make sure the addition kept with the original character of the house.

Mr. Roth asked how the patio addition would be raised to match the elevation of the first floor addition. Ms. Taverna stated that the existing pavers will be removed and the proposed patio will be built at the elevation of the new addition. She added that there will not be a step down and the proposed patio will be covered eliminating any snow or water to be present on the patio.

Mr. Floria-Callori asked if the addition would have an effect on the stream. Ms. Taverna stated that larger gutters would be installed but numbers have not been calculated yet. Mr. Ricci stated that by raising the patio, the site would go higher as it goes back and the proposal includes a basement under the addition. He stated that the drainage comes down the yard toward the back of the house. He added that a new retaining wall will be installed in the same location as the existing one with new drainage to follow the natural drainage path around the house and down the two sides. He explained that the stream is independent of any drainage around the properties. Mr. Ricci confirmed to Mr. Floria-Callori that the new retaining wall would be in the same place as the current wall.

Mr. Wangner asked what the distance would be from the new addition to the neighbor's house. Mr. Ricci stated that he would estimate it to be about 150 feet to the neighbor's house structure. He added that it would be very unlikely for the neighbor's to put an addition on that side of their house because of the close proximity to the stream.

Mrs. Jenkins asked if they are adding to the existing basement. Mr. Ricci stated that currently there is a small basement and they will be making it larger.

Mr. Ricci confirmed to Mr. Floria-Callori that there will be no effect on the runoff and current path of water drainage.

Mr. Wangner asked Mr. Ricci is he was involved in the renovation that was done to the property in 2003. Mr. Ricci stated that he was not involved in the renovations done in 2003 but looked at the plans. He added that the home has a lot of character and nice finishes and the proposed addition will complement this. Mr. Wangner asked how many bedrooms are currently in the home. Ms. Taverna stated

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that the current home has three bedrooms and the Applicant is looking to add one more bedroom with the addition to make it four.

Mr. Roth asked what the additional square footage is for the basement. Ms. Taverna stated that it would be about an additional 500 to 550 square feet. Mr. Roth confirmed the proposed additional square feet as follows: the basement 550 square feet, the first floor 548 square feet, and the second floor 246 square feet.

Mr. Floria-Callori stated that the 2003 Application was related to an encroachment of the right side setback as well. He asked for an explanation of the finality of the future of the current proposal. Mr. Ricci stated that the proposed addition fit in to the usable yard very well. He added that the property inclines toward the back and it is not logical to build there because of the difficulty in digging out the rock landscape. He further added that the proposed addition would be underground and out of scale. He explained that the side of the house is staying straight and the encroachment would increase because the property lines are skewed.

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. Ricci added that they take pride in doing nice work. He further added that the proposed addition will not be overpowering and fit in nicely to the neighborhood.

Mr. Augustitus made a motion to accept the Application as proposed with the correction to the letter of denial that the proposed right yard setback should not be 17.4 feet but should be 12.9 feet and noted that the impervious coverage is correct at the 23.6 percent due to the additional property in the rear. The motion was seconded by Mrs. Jenkins. A vote was taken and the application was unanimously approved with affirmative votes by Mr. Augustitus, Mrs. Jenkins, Mr. Floria-Callori, Mr. Michelotti, Mr. Roth, Mr. Curcio, and Mr. Wangner.

### **MEMORIALIZATIONS**

#### **MATTER OF 21-25 Bloomfield Avenue, 21 Bloomfield Avenue – Block 100, Lot 3**

Mr. Augustitus noted grammatical changes to pages 108 and 112. Due to the length of the resolution, it is not reflected within these minutes. Please see the original resolution for reference.

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

**ALL THOSE OPPOSED:** --

**ABSTAIN:** Mr. Curcio

**ABSENT:** Mr. Salan

#### **MATTER OF Mr. David Schlosser, 18 Evergreen Drive – Block 1302, Lot 5**

#### **MATTER OF DAVID SCHLOSSER**

**Decided: January 23, 2019**

**Memorialized: March 20, 2019**

**WHEREAS,** David Schlosser (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 18 Evergreen

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Drive, also known as Lot 5 in Block 1302 in order to construct an addition to a pre-existing non-conforming structure to increase the width of the front porch. 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 January 23, 2019; and

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

1. Mr. Schlosser was sworn in and described his proposal, stating that he seeks to extend the width of the front entrance of his home and move the front door out slightly.
2. Mr. Schlosser explained that his entire home is already located within the front yard setback so in order to extend the front entrance a variance is required.
3. Mr. Schlosser stated that he would like to widen the front entrance by approximately eight feet.
4. Mr. Schlosser stated that he purchased the home in 2008. Mr. Schlosser stated that thereafter he had a pool installed. Mr. Floria-Callori asked for an explanation of the violations with the setback regarding the pool and shed depicted on the plan submitted. Mr. Schlosser stated that currently there are no violations present. Mr. Schlosser stated that the shed was removed and the application for the pool was approved.
5. Mrs. Jenkins asked if the existing porch was added to the house. Mr. Schlosser stated that the current porch was existing. Mr. Schlosser noted that there was an addition to the house by the prior owners in 2005 that went up and back.
6. Mr. Wangner asked if there were any variances sought for the extension in 2005. Mr. Schlosser stated that he was unsure if there were any variances given to the prior owners.
7. Mr. Wangner noted that the reason provided in the application for the new front entrance is for safety. Mr. Schlosser stated that when his front door is open, there is very little space between the door and the staircase to maneuver. He noted that this was noticeable when his mother-in-law had difficulty getting into the house with her walker. Mr. Schlosser confirmed that the plans include widening the porch, removing

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the bay window and moving the front door to the center of the home to make the front entrance less awkward on the inside and more attractive on the outside.

8. Mr. Augustitus noted that the municipal denial letter states that Mr. Schlosser is seeking a 43.9 foot setback but the plans show a 38 foot 11 inch setback. Mr. Schlosser confirmed that the request for the 38 foot 11 inch setback is correct. Mr. Wangner noted that the error is on the part of the official.
9. In response to questions from the Board, Mr. Schlosser confirmed that the contractor obtained permits for the pool.
10. 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 pre-existing non-conforming front yard setback; the proposed improvements enhance safety within the home; and further that the proposed improvements will enhance the exterior of 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 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. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Salan, the Board unanimously voted to grant the Application of David Schlosser, as submitted, with confirmation of the front yard setback as 38 feet, 11 inches. Affirmative votes were cast by Mr. Augustitus, Mr. Salan, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth and Mr. Wangner.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 20th day of March 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on January 23, 2019.

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

**ALL THOSE OPPOSED:** --

**ABSTAIN:** Mr. Curcio

**ABSENT:** Mr. Salan

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**MATTER OF Mr. Martinho Fantin, 590 Mountain Avenue – Block 801, Lot 8**

Mr. Augustitus noted a grammatical correction to number two.

**MATTER OF MARTINHO FANTIN**  
**Decided: January 23, 2019**  
**Memorialized: March 20, 2019**

**WHEREAS**, Martinho Fantin (hereinafter referred to as the “Applicant”) has filed an application for variance relief 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 590 Mountain Avenue, also known as Lot 8 in Block 801 in order to construct front facing garage on an existing non-conforming lot. The subject property is located in 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 January 23, 2019; and

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

1. Mr. Gary Rosard, architect for the Applicant, was sworn in. Mr. Rosard presented his credentials to the Board and was accepted as an expert witness.
2. Mr. Rosard stated that the Applicant is seeking variance approval for a front facing garage. Mr. Rosard described that site, stating that it is unusual, with steep cliffs in the front. The site is not accessible from the street. Mr. Rosard further explained that the property is accessed from a shared service road that runs parallel to Mountain Avenue along the cliff. The property is located at the end of the road with the entrance at the corner.
3. Mr. Rosard referred to the photos submitted and explained that the lot is narrow and would require two sharp, ninety degree turns to access a side facing garage. A side facing garage would also require additional excavation.
4. Mr. Rosard further testified that a front facing garage would allow for more visitor parking, noting that the Applicant has guests often and enjoys entertaining so providing sufficient parking is important. Mr. Rosard stated on street parking is unavailable.
5. Mr. Rosard referred to the plans, stating that the home has a three-car garage with room to park two cars at the turnoff, three cars in front of the garage, and two additional cars.

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6. Mr. Rosard presented mock-up photographs of the garage using yellow tape to show where the garage doors. Mr. Rosard noted that the photographs show the minimal impact of the front facing garage, stating that the garage will not be visible from either direction when traveling on Mountain Avenue.
7. Mr. Rosard stated that the proposed front facing garage is in keeping with the intent of the ordinance as there is no impact on the neighbors. He added that there is a tennis court directly across the street from the property. The landscape plan submitted with the Application depicts plantings in front of the garage to help buffer any negative visual impact.
8. Mr. Augustitus noted that the properties across the street have the same situation with the auxiliary road running through. Mr. Rosard stated that the slope is steep coming in from the side which would require a considerable amount of regrading to gain access.
9. Upon questioning from the Board, Mr. Rosard stated that the Applicant will be installing a wall to level the backyard space and will add more levels in the rear corner of the property.
10. Mr. Floria-Callori questioned potential water runoff from the driveway on the ridge draining into the main road. Mr. Rosard stated that the potential water runoff has been accounted for in the engineer's plan which includes a dry well. Mr. Rosard stated that the Applicant will not be adding impervious coverage therefore would not contribute to any icing problem.
11. In response to questions from the Board, Mr. Rosard stated that the garage on the existing house faces the street, but the other two homes have wider lots to accommodate side facing garages.
12. In response to questions from the Board, Mr. Fantin stated that he bought the property two years ago from the prior owner and obtained the demolition permit.
13. In response to questions from the Board, Mr. Rosard stated that consideration was given to placing the garage facing the rear of the property, but it would require too much impervious coverage and the property is too steep from the Falcon Point side. It was noted that there are houses across the street with front facing garages that had the same issue of fitting the side facing garage on to their properties.
14. Mr. Augustitus stated that the visual impact is very limited due to the setting and property elevation.
15. The hearing was opened to the public without comment.

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**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the front facing garage variance 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 due to the narrowness of the lot, steep slopes and lack of on street parking 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. Salan, the Board unanimously voted to grant the Application of Martinho Fantin, as submitted. Affirmative votes were cast by Mr. Augustitus, Mr. Salan, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth and Mr. Wangner.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 20th day of March 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on January 23, 2019.

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

**ALL THOSE OPPOSED:** --

**ABSTAIN:** Mr. Curcio

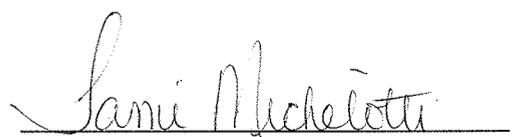
**ABSENT:** Mr. Salan

**APPROVAL OF MINUTES**

Mr. Michelotti made a motion to accept the minutes of the Board Meeting of January 23, 2019. The motion was seconded by Mr. Roth. Said motion was passed with six affirmative votes by Mr. Michelotti, Mr. Roth, Mr. Augustitis, Mr. Floria-Callori, Mrs. Jenkins, and Mr. Wangner. Mr. Curcio abstained.

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 8:36 p.m.

Respectfully Submitted,

  
Tami Michelotti  
Zoning Board Secretary