

November 28, 2018

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, November 28, 2018 starting at 8:09 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, Mrs. Jenkins, Mr. Ritter, Mr. Salan, Mr. Michelotti, Mr. Roth

Absent: Mr. Floria-Callori

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.

## **MEMORIALIZATIONS**

### **MATTER OF JOSEPH FARNESE**

Decided: October 17, 2018

Memorialized: November 28, 2018

**WHEREAS**, Joseph Farnese (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 85 Veranda Avenue also known as Lot 3 in Block 2107 in order to construct a second-floor addition to the existing home. The subject property is located in the R2 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 October 17, 2018; and

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

1. Ms. Rosemary Watkins, Esq. presented the Application. Ms. Watkins stated that the Applicant seeks variances for side, front, and rear yard setbacks. The Applicant proposes to demolish the attic and add bedrooms on the second floor of the existing home. Ms. Watkins stated that the Applicant does not propose to change the footprint of the existing home. The variances are needed because the existing structure is non-conforming.
2. Ms. Watkins presented pictures of the existing home and surrounding neighborhood (Exhibit A-1).

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3. Ms. Watkins stated that the survey for the property, footprint and impervious coverage will remain unchanged if the variances are granted.
4. Ms. Watkins further stated that granting the requested variances would not cause any detriment and instead would be a benefit to the neighborhood since the existing structure is in disrepair.
5. Mr. Joseph Farnese was sworn in. Mr. Farnese confirmed that the addition to the structure will not expand beyond the existing footprint. The existing garage will be unchanged.
6. In response to questions from the Board, Mr. Farnese stated that most of the homes in the area are two-story. Mr. Farnese further stated that his home is currently a small ranch. There are many two-story homes on the street.
7. Ms. Watkins stated that the proposed structure will fit the character of the area and be an improvement to the neighborhood.
8. In response to questions from the Board, Mr. Farnese testified that the house will be for his newly married daughter.
9. Mr. Farnese testified that the proposed second floor will include three bedrooms and one bathroom. He explained that the current first floor bedroom will become a dining room and the other bedroom in the front of the home will become a living room and a staircase. Mr. Farnese added that the exterior will be vinyl siding with a shingled roof.
10. Mr. Farnese testified that the existing home is approximately 100 feet away from the neighbor's house on the right and approximately 35 to 40 feet away from the neighbor's house on the left. Mr. Farnese stated that adjacent structures are both two-story homes.
11. Mr. Farnese testified that the proposed addition to the structure will not create any problems with views, air circulation, or noise. Ms. Watkins stated that the proposed addition will be below the Borough's height requirements.
12. The matter 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 the 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 proposed addition does not expand beyond the footprint of the existing home, the existing location of the home creates a hardship, and that the proposed addition is in keeping with the neighborhood and will enhance the 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 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. Mr. Ritter made a motion to accept the Application as submitted. Mr. Floria-Callori seconded the motion. A vote was taken and the Application was approved with six affirmative votes by Mr. Ritter, 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 28th day of November 2018, by a majority of the members of the Board present at such meeting and who voted for the action taken on October 17, 2018.

**ALL THOSE IN FAVOR:** Mrs. Jenkins, Mr. Michelotti, Mr. Ritter, Mr. Roth, Mr. Wangner

**ALL THOSE OPPOSED:** --

**ABSTAIN:** Mr. Augustitus, Mr. Angelo, Mr. Salan

**ABSENT:** Mr. Floria-Callori

**MATTER OF JENNIFER TRAUMAN**

**Decided: October 17, 2018**

**Memorialized: November 28, 2018**

**WHEREAS,** Jennifer Trauman (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 26 Cypress Avenue, also known as Lot 29 in Block 902 in order to construct an in-ground swimming pool. The subject property is located in R2 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 October 17, 2018; and

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

1. The Applicant and Mr. Michael Spillane, pool contractor, were sworn in.
2. Mr. Spillane presented his credentials to the Board and was accepted as an expert witness.

3. Ms. Trauman testified that she has lived in North Caldwell for ten years. She described the process of obtaining the services of a pool contractor, stating that with five different contractors and ultimately chose to work with Mr. Spillane. She further explained that she worked with Mr. Spillane to understand the impervious coverage situation and what would be necessary to install a reasonably sized pool with a safe patio area surrounding it, while preserving enough of the yard area for her children to play.
4. Ms. Trauman stated that she seeks approval of an impervious coverage variance, along with a variance for a 5-foot rear yard setback variance.
5. Mr. Spillane presented aerial photographs to the Board (marked as Exhibit A-1).
6. Mr. Floria-Callori questioned why the pool is proposed to be located so far from the home which necessitates the rear yard setback variance. Ms. Trauman explained that the proposed plan creates two areas in the rear yard to include a space for the pool, which would only be used for a few months of the year, a yard area for the children to play sports and gather all year.
7. Ms. Trauman stated that there was an error with the location of the retaining wall on the initial plans submitted to the Board. She stated that the engineer was able to revise the plans to show the area in the yard that she is trying to preserve (marked as Exhibits A-2 and A-3). Ms. Trauman stated that the pool deck will be installed to meet the retaining wall.
8. In response to questions from the Board, Mr. Spillane confirmed that the new information shown on the revised plans will be used to build the pool and stated that the low wall is a field change that does not require additional engineering or variances. Ms. Trauman confirmed that the existing walkway from the deck to the pool will remain to prevent the children from getting grass on their feet and into the home. She explained that the children will be able to play across the walkway as it is not raised and will be level with the grass.
9. Ms. Trauman stated that the swing set would most likely be eliminated, but may be moved. She further stated that the playhouse in the far-left corner will remain and is included in the impervious coverage calculation. Mr. Spillane stated that the playhouse footprint is 68 square feet.
10. Mr. Floria-Callori questioned the impervious coverage. Mr. Spillane explained that every one percent of coverage in this plan is 150 square feet. Mr. Spillane stated that without the extra lot coverage, he would not be able to install a pool. He noted that the proposed

pool is small at 14 feet by 32 feet (450 square feet) where the average pool he installs is 18.5 feet by 38 feet (700 square feet).

11. In response to questions from the Board, it was noted that the original plan proposed 35% impervious coverage and the revised plan was reduced to impervious coverage of 33.46%. Mr. Spillane stated a sufficient walkway is provided around 3 sides of the pool and the fourth side provides an area for chaise loungers. He explained that if that area of the patio were reduced, it would only allow for a regular chair. He further explained that the proposed area is 10 feet, which is the absolute minimum for a chaise lounge with a walkway in front. Mr. Spillane stated that 12 feet would be the optimal measurement.
12. In response to questions from the Board, Ms. Trauman testified that the area of the yard between the wall and the deck would be the main activity space for the children and would be too small if the pool was built five feet closer to the house. The left side of the property is not a suitable activity space because it is uneven and rocky.
13. In response to questions from the Board, Ms. Trauman stated that the deck is constructed of composite material and there are some pavers from a previous patio still located underneath, which is considered impervious coverage.
14. Ms. Trauman described that existing landscaping on the property, stating that there are currently trees on the property, but stated that the plan is to enclose the yard with trees to block the view from the neighbors. Mr. Spillane stated that a uniform hedge would be installed for privacy.
15. Mr. Spillane explained the stormwater detention proposal stating that Mid-State Engineering provided a plan which meets all the Borough regulations for capturing runoff based on the amount of impervious coverage that has been added. Mr. Spillane stated that the volume calculations recommend that 3.5 stormwater detention chambers be installed, and the Applicant proposed to install 4 underground chambers. Mr. Spillane noted that the property will be graded toward the 3 yard drains to be installed to capture the water runoff from the additional impervious coverage. He added the proposed plan provides a significant improvement in surface drainage.
16. Ms. Trauman testified that there are currently no issues with water runoff toward her house or the neighbors' homes. Mr. Spillane stated that the runoff will go into the drains and be discharged through the chambers. Mr. Spillane further stated that according to the plan, the proposed surface drainage arrows show an improvement because the runoff would come from the rear neighbor towards Ms. Trauman's yard where the grading will

allow the water to be collected in the yard drains. He added that there is a retaining wall on the neighbor's yard that prevents runoff. Ms. Trauman stated that the neighbors have a retaining wall with a large driveway before their house and the water drains next to the wall. Mr. Spillane stated that according to the plan the proposed surface drainage would improve significantly from what currently exists.

17. Mr. Spillane testified that in order to provide a level play area in a different location in the rear yard, the retaining wall would need to be extended to the back of the rear of the property. He explained that is not feasible to create a level yard due to the topography of the lot and requirement to bring in additional fill.
18. In response to questions from the Board, Mr. Spillane explained that the drainage plan, stating that the arrows represent the existing drainage and the black arrows represent the planned runoff into the yard drains. Mr. Spillane testified that the proposed plan does not increase surface drainage toward neighboring Lot 30.
19. Mr. Spillane explained that the stormwater chambers are centrally located, and the property would be graded toward the chambers with yard drains. He reiterated that the volume calculations require 3.5 chambers, but the Applicant will be installing 4 chambers. Ms. Trauman confirmed that the neighbors do not have any water issues or concerns about the proposed pool.
20. In response to questions from the Board, Mr. Spillane stated that approximately 240 square feet of the patio was removed when the deck was constructed, making approximately half of the 500 square foot deck impervious.
21. The hearing was open 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 variance requested may be granted without detriment to the zoning ordinance or the master plan as the proposed swimming pool plan, as revised by the Applicant to decrease the impervious coverage, reduces the potential negative impact to drainage in the area.

**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

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permit granting the relief requested and that the benefits of granting the relief requested substantially outweigh the detriments. Mr. Floria-Callori made a motion to accept the Application with two changes: (1) that the plan be revised to incorporate evergreen landscaping for privacy and drainage on the north and east lot lines; and (2) that the Borough Engineer shall retain jurisdiction regarding any drainage issues associated with the pool installation. Mr. Michelotti seconded the motion. A vote was taken and the application was approved with six affirmative votes by Mr. Floria-Callori, Mr. Michelotti, Mrs. Jenkins, Mr. Ritter, Mr. Roth, and Mr. Wangner.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 28th day of November 2018, by a majority of the members of the Board present at such meeting and who voted for the action taken on October 17, 2018.

**ALL THOSE IN FAVOR:** Mrs. Jenkins, Mr. Michelotti, Mr. Ritter, Mr. Roth, Mr. Wangner  
**ALL THOSE OPPOSED:** --  
**ABSTAIN:** Mr. Augustitus, Mr. Angelo, Mr. Salan  
**ABSENT:** Mr. Floria-Callori

**MATTER OF MICHAEL and NANCY PETRY**

Decided: October 17, 2018

Memorialized: November 28, 2018

**WHEREAS,** Michael and Nancy Petry (collectively 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 Hamilton Drive West also known as Lot 2 in Block 1902 in order to construct an addition to the rear of the existing home. 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 October 17, 2018; and

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

1. Michael Petry and Nancy Petry were sworn in. Mr. Petry explained that when the Application was submitted, they were purchasers under contract, but purchased the property two and a half weeks ago.

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2. Mr. Petry stated that he will present testimony not only as the owner, but also as the architect, engineer and planner. Mr. Petry presented his credentials to the Board and was accepted as an expert witness.
3. Mr. Petry stated that the existing property is located in the R1 zone and includes a total of 37,161 square feet. He stated that the property has 120.93 feet of frontage along Hamilton Drive West with a lot width of 188.2 feet measured at the required setback according to the Borough Ordinance. He added that the lot extends back approximately 350 feet on average and is irregularly shaped where the two side property lines converge toward the rear.
4. Mr. Petry stated that the existing ranch style home was constructed in approximately 1960 with a prairie style roof line which is very long and low. Mr. Petry stated that he purchased the property from the original owner.
5. Mr. Petry testified that the existing home is set back 68.6 feet from the street but only 9.06 feet and 8.24 feet on the left and right-side property lines. He further testified that the front setback is in compliance with the 50-foot requirement, but the side setbacks are far short of the 25-foot requirements. He added that the existing lot coverage is only 13.45 percent where 30 percent is permitted.
6. Mr. Petry stated that the plan is to renovate the existing home for their own use. He stated that they have proposed an addition to the rear of the home as depicted on Exhibit A-1 of the submitted plans. The proposed addition measures 50 feet 11 inches by 12 feet 6 inches. He stated that the proposed addition allows for a more sizable kitchen and family room with 9-foot ceilings on the first floor and a vaulted ceiling in the bedroom area. Mr. Petry noted the plans proposes renovations common in newer construction.
7. Mr. Petry added that the proposal includes an addition of a second story in the center portion of the home which will be in compliance with setback requirements. He noted that their goal was to respect the Borough ordinances as much as possible while attempting to create a home that is in keeping with today's standards.
8. Mr. Petry added that the plans also include a 12-foot by 12-foot sunroom. In order to keep the room square, there is a slight encroachment into the setback with no more than 14 inches at its largest dimension and 7.5 square feet in total. Mr. Petry stated that he was able to speak to the neighbor on that side, who encouraged them to build over the garage to make it bigger for a better resale value.

9. Mr. Petry referred the submitted plans and stated that the house is square, but the property lines are skewed. He stated that the second floor is in compliance with the setback requirements and the variance requested for the front elevation will be for a seven on twelve pitched roof. Mr. Petry explained that he located the closest point of the house on either side and established a roofline. He further explained that the roof line of the house to the left is elevation 460.39 and their proposed roof line closest to that house is 435.15 and their highest roof line is proposed at 446.65. He noted that they are seeking a setback variance for the roof line at elevation 435.15 which is about three feet above the neighbor's first floor level. Mr. Petry stated that the closest portion of the house on the right side is the garage where the roof elevation is 438.88. The proposed peak roof will be gabled so that the peak of the roof is furthest away from the property line.
10. Mr. Petry stated that in his opinion the proposed variances for side yard setback could be considered under either the C1 or C2 criteria. The existing home is non-conforming with regard to setbacks, and a reasonable renovation would include raising the ceilings to current standards as well as realigning roof lines to make the home look more current. He opined that under the C1 criteria, the low roof and the location of the existing structure constitute a hardship. He explained that to create a roofline in the center of the house that mimics the remainder of the neighborhood and leaving the prairie style roof on the two ends would look unappealing. He further stated that for the sunroom, he relies on the shape of the property with the converging sidelines as being the hardship. He further stated that the encroachment is minor in nature, no more than 14 inches at its largest dimension and 7.5 square feet in total. Mr. Petry stated his opinion that under the C2 criteria, that the replacement of the existing roofs on the two ends of the home to conform with the proposed roofline in the center of the home is in keeping with the general character of the neighborhood, as shown on the photos that were submitted with the Application. He added that the homes that have been renovated in this area have steeply pitched roofs between seven on twelve and twelve on twelve. He stated that he believes that the proposed roof follows this theme and is in keeping with other homes in the neighborhood.
11. Mr. Petry further testified that his proposal provides a desirable visual environment. He added that the proposal provides adequate light, air and open space and the project is seeking slightly more than half of the coverage that is allowed by Borough Code. The roof design is sensitive to the neighbors as it relates to the homes that exist. He further

testified that any perceived detriment associated with the variances would be very minor in nature and the roof lines on both ends of the house are lower, especially on the right side pitched away from the neighbor so that the peak portion is well outside of the required setback.

12. Mr. Petry testified that with regard to the negative criteria, there is little in the Application that could be considered a potential detriment to the public good by granting the requested variances. He added that the existing corner of the sunroom is well outside of the setback and is only an encroachment where it meets the existing building. He stated that the room cannot be made smaller and still fit furniture. He further stated that this setback encroachment cannot be seen from the street and the adjacent neighbor has not expressed an issue with it. Mr. Petry added that the roofs will be barely noticeable from the street and the proposal is only for a portion of what will be raised, therefore he felt that there is little impact to the public. He further added that in his opinion, there is no substantial detriment associated with the granting of the variances requested.
13. Mr. Petry stated that the intent of the Zoning Ordinance is to protect against over development. This proposal complies with the majority of the requirements of the Ordinance and respects the neighbor's property and privacy. He stated that the proposal is in keeping with the intent of the Ordinance.
14. The matter was opened to the Board for questions or comments.
15. Mr. Ritter stated that he did not see any problems and felt that it was a nice design and appreciated that the Applicant was not knocking down the structure to build something larger.
16. Mr. Wangner asked if the retaining walls located on the garage side were his. Mr. Petry stated that the survey shows that the walls are over the property line and the neighbor on the left has planted grass on to 40 feet of his property. He stated that the neighbor's wall is on his property and a sliver of his driveway is on the neighbor's property which he intends to address. He further stated he will try and work with his neighbor to find a solution.
17. Mr. Wangner asked how close the proposed sunroom is to the existing retaining wall. Mr. Petry stated that a small portion of the proposed sunroom encroaches only 14 inches into the setback.
18. Mr. Wangner opened the hearing to the public without comment.

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The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met the 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 shape of the existing lot and location of the existing home create a hardship, and that the proposed addition is in keeping with the neighborhood and will enhance the home.

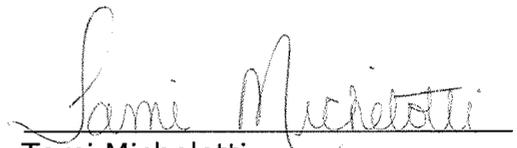
**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant 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. Mr. Michelotti made a motion to accept the Application as submitted. Mr. Floria-Callori seconded the motion. A vote was taken, and the Application was approved with six affirmative votes by Mr. Michelotti, Mr. Floria-Callori, Mrs. Jenkins, Mr. Ritter, Mr. Roth, and Mr. Wangner.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 28th day of November 2018, by a majority of the members of the Board present at such meeting and who voted for the action taken on October 17, 2018.

**ALL THOSE IN FAVOR:** Mrs. Jenkins, Mr. Roth, Mr. Ritter, Mr. Michelotti, Mr. Wangner  
**ALL THOSE OPPOSED:** --  
**ABSTAIN:** Mr. Augustitus, Mr. Angelo, Mr. Salan  
**ABSENT:** Mr. Floria-Callori

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 8:13 p.m.

Respectfully Submitted,

  
Tami Michelotti  
Zoning Board Secretary