

October 21, 2015

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, October 21, 2015 starting at 8:01pm.

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. Schwartz, Mrs. Jenkins, Mr. Augustitus, Mr. Wangner, Mr. Lisa

Absent: Mr. Ritter, Mr. Shah, Mr. Salan, Ms. Tanelli

Also present were Lisa Thompson, Attorney, and Nancy Pravata, Secretary

## **APPLICATIONS**

### **MATTER OF NAVEEM BALLEM, 70 ROOSEVELT BLVD, BLOCK 504, LOT 3**

The hearing continued with Mr. Peter Pena and Mr. Kevin Robine of Dykstra Walker Engineering presenting testimony.

Mr. Schwartz stated that he did not attend the last meeting, but he listened to the tape and he will participate in the continuation of the hearing on the application.

Mr. Pena explained that last time the Applicant was before the Board their request was for a variance for 40% impervious coverage. After listening to the concerns of the Board, the Applicant is back with a new set of plans. The new plans show the impervious coverage remaining at the current 34%.

Mr. Schwartz asked if the Applicant obtained a copy of the previous variance where the impervious coverage was increased from 30% to 34%. Mr. Pena stated they had not. Mr. Schwartz asked what the hardship is. Mr. Pena stated that the homeowner wants to put in a pool and therefore will be reducing the driveway.

Mr. Robine explained the recharger as a shallow dry well. A barrel cut in half with stone surrounding it. He also explained that rechargers will no longer be necessary since the impervious coverage has been reduced to the 34%.

Mr. Robine explained that there usually is approximately 6 inches of pool space from the rim of the pool and the water to hold water from a rain storm. Mr. Robine explained that if there is runoff, it can be processed through a separation tank where the backwash is collected into a bag and then disposed of.

Mr. Lisa spoke about seepage pits and how they are a requirement of the town. Board Attorney, Lisa Thompson said the approval can be subject to the review of Borough Engineer, Frank Zichelli. Mrs. Jenkins asked if there is a water problem on the property.

Mr. Ballem stated that he has not lived there yet, but there are two swales that he assumes are there to catch the water from Hilltop that is behind him.

The meeting was opened to the public without comment.

Mr. Augustitus moved the variance be granted as proposed based upon the new site plan dated October 5, 2015 with the stipulation the Borough Engineer review the plans for any storm water detention or retention, with no change to the impervious coverage calculations. The motion was seconded by Mr. Lisa. A vote was taken with all members voting yes.

**MATTER OF MR. & MRS. JULES GEFTIC, 21 GLENVIEW ROAD, BLOCK 202, LOT 6**

The Applicant described the proposal. Mr. Schwartz asked how long the Geftics have owned the property. They stated they have owned it since 1985. The Applicant stated they would be going out by 6 feet and 15 feet across. The Applicant testified that the proposed plan does not change the existing setback and would not be going any closer to their neighbors. The Applicant stated that the renovation includes putting a bathroom on the first floor.

The meeting was opened to the public without comment.

Mr. Augustitus made a motion to approve the Application as submitted, seconded by Mr. Lisa. A vote was taken with all others voting yes.

**VREELAND FIVE, LLC, MR. SEAN O'BRIEN – 551 MOUNTAIN AVENUE, BLOCK 1404, LOT 7**

Mr. Sean O'Brien testified on behalf of the Applicant. There was discussion on the Vreeland Five Company with Mr. O'Brien. Mr. O'Brien was asked if he would be purchasing the property to renovate and resell, stating that there could be a possibility moving to the home himself as his brother lives in town. Mr. O'Brien stated the purchase of the property is not subject to the variance. His intention is to fully renovate the property on its existing foundation.

Mr. Ronald Castillo, an engineer/homebuilder since 1999, testified in support of the Application. Mr. Castillo described the proposed renovation and the front yard setback variance. He has built approximately eleven brand new homes. Mr. Castillo stated that one of the changes is that the driveway will be on Pine Terrace.

The matter was opened to the public. Glen Flanagan, 549 Mountain Avenue, was sworn in. Mr. Flanagan stated that he had a few concerns with water run off with a larger home. Mr. O'Brien stated that his understanding is that his obligation is to put in storm retention basins.

Ms. Sylvia Itzhaki and Mr. John Itzhaki, 15 Birch Avenue, were sworn in. Mr. and Mrs. Itzhaki stated that they had lived in the neighborhood for about 10 years, noting that there is a small stream in the back of the home that is filled in. They are concerned with the water levels and the grade of the property if they start building a bigger home.

Mr. Schwartz explained that the Board is here to decide on what the Applicant has presented to them. Their decision is bound by what the Town Council allows and on the impervious coverage and setbacks. Currently, the maximum permitted impervious coverage is 30% and the Applicant is only at 16%.

Mr. Augustitus explained that if the Board did not approve this Application, the Applicant would be able to go to the building department for a permit to demolish the house. The Applicant could then move the house back 10 feet and no notification to the neighbors would be required.

No one else came forward to speak about the property.

Mr. O'Brien stated that he feels that this is an improvement to the neighborhood. If there are problems with the foundation, he will fix the foundation and keep it where it is.

Mr. Augustitus moved to accept the Application as proposed with the stipulation that both the roof area and ground area runoff is addressed as per Town ordinance and codes. The motion was seconded by Mr. Lisa. A vote was taken with all others voting yes.

**MEMORIALIZATIONS**

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**MATTER OF YLLI BILANI**  
**Decided: September 16, 2015**  
**Memorialized: October 21, 2015**

**WHEREAS**, Ylli Bilani (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 18 Brookside Terrace, also known as Lot 10 in Block 505 to construct an addition to the front and side of the existing dwelling. 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 September 16, 2015; and

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

1. The Applicant was sworn in and presented testimony before the Board.
2. The Applicant seeks variance approval from the requirements of the Borough Code for side yard setback (19.50 feet where a minimum of 25 feet is required) and front yard setback (42.50 feet where a minimum of 50 feet is required).
3. The Applicant testified that he seeks to expand the existing kitchen, dining room, bedroom and bathroom to the side and front of his home to provide improved access for his daughter in compliance with ADA requirements.
4. The Applicant further testified that he tried to expand the existing dwelling without requiring varanine approval, however the existing configuration would not allow for expansion of rooms accessed by this daughter, noting that the best way to meet ADA requirements requires expanding to the front and side of the dwelling.
5. The Applicant testified that he is adding an elevator to his home as part of the proposed renovations.
6. Mr. Lewis Cohn, 16 Brookside Terrace, spoke in support of the Application. Mr. Cohn stated that he is the next door neighbor most impacted by the proposed construction. Mr. Cohn stated that it has been his privilege to live next door to the Applicant, noting that the Applicant and his family provide a loving home for their

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profoundly disabled daughter. Mr. Cohn testified that the Applicant's lot is a corner lot, with limitations due to topography as to where an addition could be constructed. Mr. Cohn further testified that extending into the rear yard would not be possible due to the addition constructed by prior owners that prevents ADA compliance. Mr. Cohn noted that as a former Zoning Board member he believes that the Board may grant the relief requested based upon the compelling circumstances presented.

7. Upon deliberation, Mr. Augustitus observed that the Applicant proposal is an excellent layout for ADA compliance.

**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 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. Lisa, the Board unanimously voted to grant the Application of Ylli Bilani, as submitted, with affirmative votes by Mr. Augustitus, Mr. Lisa, Ms. Jenkins, Mr. Wangner, Mr. Ritter and Ms. Tanelli. Accordingly, the Application was approved as submitted.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 21st day of October, 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on September 16, 2015.

Mr. Lisa moved to accept the resolution as drafted, seconded by Mr. Wagner with all other members approving except Mr. Schwartz who abstained.

There being no further matters to come before the Board, the meeting was adjourned at 9:07pm.

Respectfully Submitted:

  
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Nancy A. Pravata, Board Secretary