

**MINUTES OF THE BOROUGH OF NORTH CALDWELL PLANNING BOARD
REGULAR MEETING HELD FEBRUARY 11, 2019**

Chairman Brower called the meeting to order at 8:00 p.m., lead the salute of the flag and requested a roll call:

ROLL CALL

PRESENT: Chairman Brower, Mayor Alessi, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Mr. Barba

ABSENT: Ms. Nathans

Others present: Mr. Dusinberre, Esq., Attorney

ADEQUATE NOTICE of this meeting of the Borough of North Caldwell Planning Board was given as follows: Notice was sent to The Progress and the Star Ledger and Notice was filed with the office of the Borough Clerk.

APPROVAL OF MINUTES

A motion was made by Mr. Fishbone to approve the minutes of the January 21, 2019 Reorganization Meeting of the North Caldwell Planning Board and a second made by Mr. Campbell.

Upon roll call:

AYES: Chairman Brower, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Mayor Alessi, Mr. Barba

ABSENT: Ms. Nathans

A motion was made by Mayor Alessi to approve the minutes of the February 4, 2019 Conference Meeting of the North Caldwell Planning Board and a second made by Mr. Fishbone.

Upon roll call:

AYES: Chairman Brower, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Mayor Alessi, Mr. Barba

ABSENT: Ms. Nathans

APPLICATIONS

Chairman Brower explained the procedure to be followed for the hearing of applications before the Planning Board.

APPLICATION FOR AMENDED PRELIMINARY AND FINAL MAJOR SUBDIVISION

70 Grandview Avenue, LLC,
Amended Preliminary and Final Major Subdivision
Block 1903, Lot 2

Mr. Michael S. Rubin, Esq. of the Law Office of Michael S. Rubin, LLC, Caldwell, New Jersey entered an appearance as Counsel on behalf of the applicant, 70 Grandview Ave., LLC.

Mr. Rubin acknowledged receipt of an 8 page review letter prepared on behalf of the Planning Board by Ferriero Engineering, Inc. He noted the letter identified corrections that need to be made to the applicant's submission and suggested a meeting be scheduled with Ferriero Engineering, Inc. to review the letter. Mr. Rubin requested an adjournment of the application to the March 11, 2019 regular meeting of the Planning Board in order to provide time to make corrections to the application submittals.

Chairman Brower thanked Mr. Rubin for requesting the adjournment so that a proper presentation can be made to the Planning Board.

Mr. Dusinberre noted that the proof of publication for the application is in order.

Mr. Dusinberre advised the Board and the public that the matter will be adjourned until the March 11, 2019 meeting and that no new notice to the public is required.

Mr. Rubin addressed members of the public in attendance, advising his telephone number is on the notice they received and he offered to take calls with questions.

Mr. Bright of 58 Grandview Avenue, North Caldwell and other residents advised they did not receive timely notice for a previous hearing (7/9/18) on the subject subdivision.

Mr. Dusinberre explained the Municipal Land Use Law requirements concerning proper notice.

Several members of the public requested a copy of the Ferriero Engineering, Inc. review letter. They were advised it will be available at Borough Hall, but an OPRA request must be submitted to receive a copy.

APPLICATION FOR PRELIMINARY AND FINAL MAJOR SUBDIVISION

J. Michael & Nancy S. Petry
8 Hamilton Drive West
Major Subdivision and Renovation Plan
Block 1902, Lots 2 & 3, Block 1307, Lot 18

This is an application to subdivide a portion of 8 Hamilton Drive East (Block 1902, Lot 2) and add sections of the subdivided parcel to 10 Hamilton Drive West (Block 1902, Lot 3) and 3 Hamilton Drive South (Block 1307, Lot 18). The applicants, Mr. and Mrs. Petry, intend to renovate the existing dwelling at 8 Hamilton Drive West and live there.

Mr. J. Michael Petry and Mrs. Nancy S. Petry, both of 8 Hamilton Drive West, North Caldwell, New Jersey entered an appearance as applicants and witnesses.

Mr. and Mrs. Petry were sworn in as witnesses by Mr. Dusinberre.

Mr. Petry advised the Board that he will provide testimony as a lay person, a professional engineer, a professional planner and a licensed registered architect.

Mr. Dusinberre noted that Mr. Petry has previously been accepted by the Planning Board as a professional witness in all of the above capacities. The Board agreed and accepted Mr. Petry as a professional witness.

Mr. Petry displayed sheet S-3, *Steep Slope Map* of the subdivision plans. Mr. Petry described the three lots that are the subject of the application; 8 Hamilton Drive East (Block 1902, Lot 2), 10 Hamilton Drive West (Block 1902, Lot 3) and 3 Hamilton Drive South (Block 1307, Lot 18). He also provided a history of the house at 8 Hamilton Drive West and of his ownership of the house.

Mr. Petry discussed the setbacks for the existing house at 8 Hamilton Drive West and encroachment onto the property by walls constructed at 10 Hamilton Drive West.

Mr. Petry noted that the property owners of 10 Hamilton Drive West and 3 Hamilton Drive South both maintain the rear section of the yard of 8 Hamilton Drive West and that access to this portion of the property from the front of Hamilton Drive West is difficult due to steep slopes.

Mr. Petry explained to the Board that he previously appeared before the North Caldwell Zoning Board of Adjustment for side yard setback relief associated with a previous renovation design for 8 Hamilton West and was granted the relief he sought (memorialized 11/28/18). He further explained that the ultimate cost for the proposed renovations were prohibitive and have since been abandoned.

Mr. Petry advised the Board that he intended to sell the property at 8 Hamilton Drive West but was approached by the neighbors at 10 Hamilton Drive West (Rudman) and 3 Hamilton Drive South (Del Vecovo) to purchase a portion of the rear yard that each has historically maintained and utilized.

Mr. Petry testified that 10 Hamilton Drive West and 3 Hamilton Drive South are currently noncompliant with the Borough's impervious coverage standard, but the proposed subdivision will correct this condition.

Mr. Petry displayed Exhibit A-1, sheet S-4, *Grading Plot Plan* of the subdivision plans. The exhibit has been colorized to highlight the portion of 8 Hamilton Drive West to remain after subdivision. Mr. Petry described the exhibit noting the existing improvements on the 3 lots in question.

Mr. Petry displayed Exhibit A-2, sheet A-1, *First Floor Plan* of the subdivision plans. The exhibit has been colorized with the existing and proposed side yard setbacks identified.

Mr. Petry testified that he intends to maintain the remaining portion of 8 Hamilton Drive West as wooded and to renovate the house in a manner that conforms to neighborhood aesthetics.

Mr. Petry discussed the variances requested for the proposed subdivision, all of which are associated with 8 Hamilton Drive West.

1. Lot area within the first 175' of depth is 18,831 s.f. vs. a required 21,875 s.f.
2. Lot area amended for steep slopes is 22,215 s.f. vs. a required 27,059.4 s.f.
3. Side yard setbacks are 8.24' and 11.2' vs. a required 25.0'.

Mr. Petry testified the variances can be approved using either the C(1) or the C(2) criteria.

The lot area deficiency within the first 175' of depth is negligible and is necessary to ensure that improvements associated with 10 Hamilton Drive West are not located on the property of 8 Hamilton Drive West. The encroachment of the retaining walls is the hardship.

In regard to the deficiency in the minimum lot area adjusted for steep slopes, the steep slopes are the hardship. The steep slope in the middle of 8 Hamilton Drive West makes access to the rear of the property inaccessible. The rear of the property is however, easily accessible from the abutting property owners.

The side yard setbacks for the house on 8 Hamilton Drive West are currently deficient; it is these deficient setbacks that create the hardship. A reasonable addition to the house cannot be made without further increasing the setback deficiency. The irregular shape of the lot is also a hardship.

The proposed renovations will bring the house into conformance with the aesthetics of the neighborhood. The proposal promotes a desired visible environment and provides adequate light, air and open space.

Any perceived detriments associated with the variance requests are nonexistent or minor. The proposed renovations will be an improvement to the neighborhood. The proposed subdivision will prevent overdevelopment of the properties involved.

Mr. Dusinberre asked if approving the application will bring the two properties adjacent to 8 Hamilton Drive West into conformity with the Borough lot coverage requirement. Mr. Petry responded that it would.

Mr. Barba asked if the proposed angle of the proposed side lot line between 8 and 10 Hamilton Drive West is necessary to place the retaining walls associated with 10 Hamilton Drive West entirely on this property. Mr. Petry responded in the affirmative. Mr. Barba also questioned the positioning of the proposed garage addition and Mr. Petry advised the proposed garage will be positioned to conform to Borough requirements.

Chairman Brower inquired if existing steep slopes on 8 Hamilton Drive West affect the adjoining properties. Mr. Petry responded they do not and the proposed subdivision will make the adjoining lots compliant with the Borough steep slope lot size modification requirement.

Mr. Dusinberre asked about the position of the house on 10 Hamilton Drive West in relation to 8 Hamilton Drive West. Mr. Petry advised that the elevation difference between the houses will prevent occupants of each home from seeing each other.

Mr. David Rudman of 8 Hamilton Drive West, North Caldwell, New Jersey entered an appearance as an applicant and witness and was sworn in by Mr. Dusinberre.

Mr. Rudman testified that he has no issues with the Petry's proposed renovations to the house on 8 Hamilton Drive West.

The meeting was opened to the public to question the applicants on their testimony.

No members of the public stood to be heard.

Chairman Brower opened the meeting to the public for comment.

Melinda Dela Pena of 1 Hamilton Drive East rose to be heard and was sworn in by Mr. Dusinberre. Ms. Dela Pena commented that she attended the meeting to listen and learn and to determine how the application might affect her property. She asked what the plans are for the wooded areas on the subject lots. Mr. Petry advised he intends to maintain most of the trees on 8 Hamilton Drive West and he believes the same for the other lots.

Dr. Spinelli commented that it is rare to see three property owners come together for a generous reason rather than selfish and the proposal benefits the Borough.

Dr. Spinelli made a motion to approve the application for the following reasons:

1. The application overcomes the burden of proof for variance requirements for minimum lot area within the first 175' of lot depth.
2. The application overcomes the burden of proof for variance requirements for steep slope adjusted lot area.
3. The application overcomes the burden of proof for variances for side yard setbacks.
4. Approving the application will not prevent the surrounding property owners from using their properties as they currently do.
5. Approving the application will not present a hardship for surrounding property owners.
6. Approving the application will not adversely affect local traffic patterns.
7. Approving the application is in keeping with good zoning and planning practices.
8. The adjacent property owners have maintained the rear of 8 Hamilton Drive West and will continue to do so.
9. The retaining walls associated with 10 Hamilton Drive West will now be located on the property of 10 Hamilton Drive West.
10. Approving the application will bring the two adjacent properties into conformance for lot coverage.
11. The application is in keeping with the intent of the Borough's master plan.

A second was made by Mr. Campbell.

Upon roll call:

AYES: Chairman Brower, Mr. Campbell, Mr. Rees, Dr. Spinelli, Mr. Fishbone, Mr. Zichelli, Mayor Alessi, Mr. Barba

ABSENT: Ms. Nathans

CITIZENS TO BE HEARD

Chairman Brower opened the meeting for citizens to be heard. There were no comments from the public.

ADJOURMENT

Chairman Brower requested a motion to adjourn at 9:05 pm. A motion was made by Mayor Alessi and seconded by Mr. Fishbone. All members voted in the affirmative.

Frank Zichelli
Planning Board Secretary