

The Regular Meetings of the North Caldwell Zoning Board of Adjustment were held on Tuesday, August 16, 2023 and started at 7:38pm. The meeting was held in-person and via tele/video-conference.

Vice Chairperson Laura Drago called the meeting to order and announced that the meeting was held in accordance with the Open Public Meetings Act and that notice of the meeting was provided in accordance with the requirements of Chapter 231, P.L. 1975. She noted that tele/video-conference participation instructions were provided to the public in advance of the meeting.

Roll Call indicated the following Board Members present: Ms. Hawley-Tsay, Mr. Salan, Mr. Paulo, and Vice Chairperson Drago. Also present were Lisa Thompson, Esq., Board Attorney, and Tami Michelotti, Zoning Board Secretary.

Absent: Chairman Curcio, Mr. Kumar, Mr. Spindler, Mr. Wangner, Ms. Zurlo.

Vice Chairperson Drago led the Pledge of Allegiance.

APPLICATIONS

Mr. and Mrs. Neil Boyle, 13 Hamilton Drive East (Block 1400, Lot 7) – Lot Coverage Variance
Mrs. Jennifer Boyle, property owner, and Ms. Julie Anne Cecere, architect, were sworn in. Ms. Thompson noted the Ms. Cecere had been accepted by the Board for previous applications as a qualified expert. The Board confirmed Ms. Cecere as a qualified expert.

Ms. Cecere stated that the Applicant sought a variance for impervious coverage where 30% is permitted and 30.8% is requested. She added that the proposal meets both C1 and C2 criteria. Regarding C1 criteria, Ms. Cecere stated that the lot is substandard in size as noted on Sheet A1 of the Application documents. She added that a drywell would be added due to the 760 square foot addition. She noted the approximate location of the drywell and the calculations for stormwater retention. Ms. Cecere addressed the rear elevation. She stated that the addition would be set on piers with lattice between the piers and crushed stone would be added under the deck. She confirmed that no slab would result under the deck nor under the addition. She acknowledged the Board Engineer's request for a signature line on the plans to which she agreed.

Ms. Cecere noted that the substandard lot exists as 21,513 square feet where 21,875 is required. She added that the non-conforming structure has an 8.2 foot setback on the right side. She confirmed that the proposed addition would not encroach any further on the setback.

Ms. Cecere described the existing home as having a living area with a raised home office on the first floor. She noted that the topography slopes down from the street to the rear yard which creates a partial walkout basement with windows. She described the existing difficulty in accessing the rear yard from the first floor. She reviewed how the proposed addition would improve access to the yard and deck from the living room and proposed family room. Ms. Cecere noted that a lift would be added to the deck to provide access for the Boyle's special-need child to the yard, thereby improving his quality of life. Ms. Cecere described the cumbersome access from the garage to the basement. She added that the existing covered deck in the rear is dilapidated and dangerous. She presented a rendering of the proposed addition to remedy the deck.

Ms. Cecere stated that the majority of the proposed addition is located behind the existing home and would not be seen from the front of the property with the exception of new dormers over the existing garage. She noted that the structure is a ranch-style home with a raised floor to the family room. She added that the roof is not raised, causing limited height of the family room. Ms. Cecere stated that the proposed plan would allow for the family room to have full height, natural lighting, and greater functionality while improving the curb appeal of the home.

Ms. Cecere described other homes in the neighborhood as varying in size, with some similar to the Boyle's home with respect to gable-facing roof lines. She added that the proposed plan is appropriate in character with the neighborhood and would not be overbuilt. She summarized that the benefits of the proposed plans outweighed any detriments with no ill effects on the neighbors.

Ms. Cecere stated that access to the deck would be possible from both the family room and the dining room under the proposed plan. She noted that the proposal would bring the home up to current day standards of living where the family room on the main level with access to the

deck. She added that the access to the outdoor deck would also provide opportunity for healthy outdoor living.

Ms. Cecere presented the opportunity for approving the application under a C1 or a C2 variance, where there are no detriments.

Ms. Hawley-Tsay requested a description of the current porch/deck. Ms. Cecere stated that a small door from the dilapidated porch leads down to the yard. From there, stairs lead down to the garage or to the basement or to a door leading outside.

Ms. Drago asked if the addition would provide for a resident with special needs to have compliant use of the yard and to exit the home easily in case of an emergency. Ms. Boyle agreed and noted that currently the only exit is through the front door or by carrying her child down the rear stairs. She confirmed that the proposed plan would provide an additional ADA-compliant exit with flush thresholds in the doorways for wheelchair access.

Mr. Paulo asked if the wheelchair lift would encroach on the 25-foot setback. Ms. Cecere confirmed that the setback would be 23-feet but that it is not increasing the current setback as the lift is within the existing non-conformity.

Mr. Salan asked if any adjustments could be made to the proposed plan or the existing conditions to decrease the lot coverage to the maximum allowed. Ms. Cecere stated that the circular driveway has a ramp to the front door, preventing any decrease in the driveway coverage. In order to ensure compliance with the Borough ordinance, Ms. Cecere noted that the deck would need to be decreased by half which would limit the maneuverability of the resident's wheelchair. She added that a table and chairs and hot tub for the Boyle's child would also not be accommodated with the decreased deck size. She conveyed the Applicant's desire to positively impact their son's quality of life without overbuilding.

Mr. Salan asked about the placement of the garage. Ms. Cecere stated that it was under the home to the side.

Mr. Paulo asked about the space under the family room. Ms. Cecere stated that the space between the first floor and the ground would be crushed stone under the piers.

Hearing no questions from the public and no further questions from the Board, Ms. Drago called for a motion.

Mr. Salan made a motion to accept the Application as presented. Ms. Hawley-Tsay seconded the motion. A vote was taken and the motion was approved with four (4) affirmative votes from Mr. Salan, Ms. Hawley-Tsay, Mr. Paulo and Ms. Drago.

RESOLUTIONS

Wang/Lu, 7 Harvest Lane (Block 104, Lot 23)

MATTER OF PING WANG and XIAOJIA LU

Decided: July 19, 2023

Memorialized: August 16, 2023

WHEREAS, Ping Wang and Xiaojia Lu 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 7 Harvest Lane also known as Lot 23 in Block 104, in order to construct a deck outside of an existing sliding glass door within the rear yard setback. The proposed deck will extend into the rear yard requiring a variance for a 28 foot setback where a minimum of 40 feet is required and for maximum impervious coverage where 36.7% exists, and 38.8% is proposed. The subject property is located in the R8 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 July 19, 2023; and

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

1. The Applicants Ping Wang and Xiaojia Lu were sworn in.

2. Mr. Lu presented photos of the current status of the second floor sliding door. The door is currently blocked by a wood construction stud barrier. Ms. Wang stated the deck was needed as a safer alternative to the wooden barrier and to offer another point of exit from the second floor. Mr. Lu stated that when they purchased their home, the site developer, (Pulte Homes), communicated to them that decks were left to the home buyers to design and add. Ms. Wang added that homes built during Phase I were offered deck construction at an additional fee, but buyers of Phase II and Phase III were not provided the opportunity to add decks.
3. Mr. Lu confirmed that the proposed deck construction will allow for stormwater to pass through the decking to the ground and that there would be no changes made to the ground below the deck. The 2-foot by 4-foot slab outside of the basement door would remain and the rest of the rear yard is grass.
4. Ms. Wang confirmed the existing sliding door is in the kitchen. She noted that there is no other option for placement of the deck.
5. Ms. Wang stated that the proposed deck would be 40-feet from the rear property line, and confirmed that stormwater runoff travels down toward the retaining wall of the detention basin lot to the rear of the home. It was noted that the Board Engineer's report confirmed that there is no need for additional stormwater design for the property as the proposed deck will be less than 500 square feet.
6. Ms. Wang confirmed that the deck will be a balcony as stairs would not be constructed from the deck to the ground.
7. In response to questions from the Board, Mr. Lu confirmed the existing impervious coverage is 36.7% and the proposed impervious coverage is 38.8%. Mr. Lu also confirmed that there were no neighbors to the rear of his property as the property abuts open space / detention basin property.
8. The hearing was opened to comment from the public. Mr. John Zurlo, 16 Skyline Drive, asked why the variance hearing for the deck was scheduled before the Zoning Board of Adjustment and not the Planning Board as was done in the past for some other neighbors in this community. The Board Attorney explained that applications submitted during the development phase were under the jurisdiction of the Planning Board. The Board Attorney added that once the project was no longer deemed to be a redevelopment zone, the jurisdiction for variances changed to the Zoning Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the rear yard setback and impervious coverage 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. The Applicant has sustained the burden of proof that a hardship exists to permit granting the relief requested rear yard setback and impervious coverage variances and that the benefits of granting the relief requested substantially outweigh the detriments in that the home was constructed with an unusable sliding door without a deck that is potentially unsafe and is unsightly, and the rear yard abuts existing open space / detention basin. Mr. Spindler made a motion to accept the Application as presented. Ms. Hawley-Tsay seconded the motion. A vote was taken and the motion was approved with five affirmative votes from Mr. Spindler, Ms. Hawley-Tsay, Mr. Wangner, Ms. Zurlo and Ms. Drago.

Ms. Hawley-Tsay made a motion to approve the resolution, seconded by Ms. Drago. Mr. Salan and Mr. Paulo abstained. Said motion passed with two (2) affirmative votes and two (2) abstentions.

Guo/Wu, 5 Harvest Lane (Block 104, Lot 24)

MATTER OF JIAN GUO and XIAOTOA WU

Decided: July 19, 2023

Memorialized: August 16, 2023

WHEREAS, Jian Guo and Xiaotoa Wu 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 5 Harvest Lane also known as Lot 24 in Block 104, in order to construct a deck outside of the dining room area with an existing sliding glass door. The proposed deck will extend into the rear yard requiring variances for a 28 foot setback where a minimum of 40 feet is required and for maximum impervious coverage where 36.7% exists, 38.8% is proposed and 35% is permitted. The subject property is located in the R8 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 July 19, 2023; and

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

9. Mr. Xiaotao Wu and Ms. Jian Guo were sworn in. Mr. Wu confirmed his application is for rear yard setback and impervious coverage variances to construct a deck on the rear of his home. Mr. Wu described the proposed plan to install a deck from the second floor of the rear of the home for which a rear-yard setback variance is requested.
10. Mr. Wu described the application, noting that the builder installed a sliding door on the second floor of the rear of the home, but the door opens to a wood stud barrier. Mr. Wu stated that the wooden barrier presents a negative impact as to safety and appearance.
11. In response to questions from the Board, Mr. Wu confirmed that currently there is only exit from the second floor which is through the front door of the home.
12. Mr. Wu confirmed the impervious coverage calculations (36.7% existing and 38.8% proposed). The current impervious lot coverage is a pre-existing, non-conforming condition.
13. Mr. Wu explained that a stone step exists on the ground level which is surrounded by grass. He estimated the height of the deck to be 10-feet from the ground.
14. Mr. Wu described the rear of the yard and noted that the rear property line of the home does not abut any neighbors, only an open space / detention basin area.
15. Mr. Wu confirmed the size of the proposed deck as 12-feet by 15-feet which will be constructed with wood and composite materials. He stated that the deck platform would allow for stormwater to drain through to the ground below.
16. Mr. Wu added that neighbors in the development have decks, some of which are much larger and were completed by different contractors.
17. The hearing was opened to the public without comment.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the rear yard setback and impervious 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. 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 for rear yard setback and impervious coverage variances substantially outweigh the detriments in that the home was constructed with an unusable sliding door without a deck that is potentially unsafe and is unsightly, and the rear yard abuts existing open space / detention basin. Mr. Spindler made a motion to accept the Application as presented. Ms. Hawley-Tsay seconded the motion. A vote was taken and the motion was approved with five affirmative votes from Mr. Spindler, Ms. Hawley-Tsay, Mr. Wangner, Ms. Zurlo and Ms. Drago.

Ms. Hawley-Tsay made a motion to approve the resolution, seconded by Ms. Drago. Mr. Salan and Mr. Paulo abstained. Said motion passed with two (2) affirmative votes and two (2) abstentions.

Approval of Minutes

Ms. Hawley-Tsay made a motion to approve the July 19, 2023 meeting minutes, seconded by Ms. Drago. Mr. Salan and Mr. Paulo. Said motion passed with two (2) affirmative votes Ms. Hawley-Tsay and Ms. Drago.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by Mr. Paulo. Said motion passed unanimously. The meeting was adjourned at 8:01p.m.

Respectfully Submitted,


Tami Michelotti
Zoning Board Secretary