

April 17, 2019

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, April 17, 2019 starting at 8:11 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, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Curcio, Mr. Tilton

Absent: Mr. Floria-Callori, Mr. Salan

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

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

INSTALLATION OF NEW BOARD MEMBERS

The Oath of Office was administered to Mr. Kenneth Tilton, Alternate Board Member, by Board Attorney, Lisa C. Thompson, Esq. The term of office expires on December 31, 2020.

APPLICATIONS

Mr. Carey Lathrop (Mr. Gerald Novak, Architect), 11 East Greenbrook Road – Block 1303, Lot 16

Mr. Carey Lathrop, owner of the property and Mr. Gerald Novak, Architect were both sworn in.

Mr. Augustitus stated that he had done work for Mr. Lathrop about three years ago and noted that it will not affect his ability to be impartial when reviewing the current Application.

Mrs. Jenkins stated that she is a member of the Historic Commission and noted that since the property is in a historic area, she would be willing to recuse herself if the Applicant wished. She noted that her position on the Historic Commission would not have any impact on her ability to fairly review the Application.

Mr. Gerald Novak stated that he is a registered architect, licensed in New Jersey for forty-five years and is familiar with testifying in front of Zoning Boards. The Board accepted Mr. Novak as an expert witness.

Mr. Novak stated that the property is very unique with limited road frontage which would require several variances. He stated that the Applicant would like to make improvements to the property because it is lacking certain features such as a garage which is a Borough Code requirement. He noted that the Applicant would like to convert the existing barn into a garage. He further noted that there are currently two additional accessory structures on the property which are no longer used. Mr. Novak stated that the Applicant would like to cap the well and remove the structures to create pervious surface. He explained that when leaving the property through the barn, out the back easement there is a crib house which the Applicant proposes to remove and plant grass. He further explained that the Applicant would like to remove the silos on the barn as they are a maintenance issue and use the first floor of the barn for a garage.

Mr. Augustitus asked why the Applicant wants to take down the second silo. Mr. Novak stated that there is a structural issue and a leaking problem. He noted that the silo cannot be seen and stated that there is no benefit to keeping the second silo. Mr. Augustitus asked about the disrepair of the silo. Mr. Novak stated that the silo is aesthetically fine and there were no structural studies done but noted that there are potential maintenance issues.

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Mr. Wangner asked if there are any engineering reports or structural issues with the silos. Mr. Lathrop stated that there are no engineering problems but noted that he had a stucco repair done last year to one of the silos so he is concerned with the ongoing cost to maintain them. He further noted that he currently does not have a use for the silos.

Mrs. Jenkins asked Mr. Lathrop if he put the garage door on. Mr. Lathrop stated that the garage existed when he bought the property and noted that it is difficult to use because of the narrow drive.

Mr. Novak stated the Application includes removing the garage door and asphalt as it is not serving any purpose in that location. He noted that the Applicant is trying to remove unneeded impervious coverage as the Application includes a swimming pool and surrounding patio.

Mrs. Jenkins asked Mr. Lathrop where he currently parks. Mr. Lathrop stated that he parks the car outside on the base of the driveway.

Mr. Roth referred to page A6 and asked Mr. Novak for an explanation of View F and the structure on the left. Mr. Novak explained that the garage door is located out the back rear corner and the neighbor's home is on the left. Mr. Lathrop stated that the driveway is partly on the neighbor's property. Mr. Wangner asked how far apart the buildings are. Mr. Novak stated that the updated survey shows that the driveway comes in nine feet from the property line and noted that with the garage on the rear corner, it is difficult to make the turn at a ninety degree angle. Mr. Lathrop added that there is shrubbery there as well. Mr. Roth asked if there will be any change to the driveway. Mr. Novak stated that the Applicant is proposing to rip up the asphalt including the removal of asphalt on the neighboring property and plant grass if allowed.

Mr. Curcio asked if an easement exists. Mr. Novak stated that there is a legal easement, as shown. Mr. Curcio asked who currently maintains the driveway. Mr. Lathrop stated that it is the neighbor's driveway and noted that it is not maintained well. He added that he only uses it when his other driveway is icy. Mr. Lathrop stated that he does not plow or maintain the driveway. Mr. Novak stated that the house on Mountain Avenue is vacant and for sale and noted that the property owners are not maintaining the driveway. Mr. Curcio asked if the plan is to rip up the paved driveway in between the two buildings. Mr. Novak confirmed that the plan is to remove the pavement between the two buildings and remove the garage doors and asphalt.

Mr. Curcio asked if the maintenance on the stucco is cosmetic or structural. Mr. Novak stated that he has not done a lot of work with masonry on silos but noted that when water gets behind stucco, it will start to deteriorate. He further noted that because the silos are connected to other structures as seen in View F, there could be potential leaks due to the age of the silos. Mr. Curcio asked Mr. Lathrop if he has had any other maintenance issues with the silos aside from the bubbling issue that was originally mentioned. Mr. Lathrop stated that there were no other issues.

Mr. Roth stated that masonry and stucco are not waterproof and asked for an explanation of any waterproofing proposed for the new structure. Mr. Novak stated that the top third of the silo is higher than the other roofs. He explained that when the silo is removed, the overhang and mansard roof would be continued along the back. He further explained that the windows would remain and the masonry would be fixed up to the bottom half where the silo was attached to the building. Ms. Thompson confirmed that Mr. Novak is referring to Exhibit View F.

Mr. Augustitus referred to the satellite photo A3 and asked where the three garage doors would be located. He explained that currently there is landscape buffering near the garage doors on the far right. He asked if this buffering would be removed to gain access to the far right garage door. Mr. Novak referred to the survey and stated that the vegetation is on the other side of the curb and asphalt and confirmed that the curb line would not change. Mr. Augustitus referred to View B on Exhibit A5 and stated that it appears as though it is encroaching significantly on the corner of the barn or garage. Mr. Novak stated that they would only trim lower

branches and noted that they would not remove any vegetation or screening that would affect the neighbors.

Mr. Augustitus stated that he understands that the Applicant is looking to increase the impervious coverage by about three percent by deleting existing impervious coverage in order to gain some but he noted that there is significant existing impervious coverage as it currently stands on the property. Mr. Augustitus mentioned that there have been issues with water runoff in the town lately, and with changes in weather patterns, he asked if there is any other way to reduce the impervious coverage in order to maintain the existing lot coverage. Mr. Novak stated that most coverage is in the driveway. He explained that half of the 220 foot driveway is impervious coverage. Mr. Novak stated that he wanted to make it clear this property is unique and noted that if the structure was being built today, the lot irregularities would make it entitled to a certain amount of variances. He noted that if the variance is granted, the Applicant would have his engineer do a detailed topographic map of all the current drainage. He further noted that the Applicant will follow all drainage requirements and will do what is necessary to redirect water away from neighboring properties. Mr. Augustitus suggested a dry well system but noted that there is not much open area on the property. Mr. Novak stated that a tank or detention pond could be used in the areas where a drywell is not possible. Mr. Wangner stated that drainage information would help inform the Board and help with their decision. He noted that it would be difficult to make a decision without that information. Mr. Novak stated that the information is very technical and an engineer would need to review it. Mr. Augustitus confirmed that the Board would like to see the drainage information prior to making a decision. Mr. Novak stated that he would like the proposed drainage plan to be a condition of the variance granted to prevent going through the expense and time to generate the plan only to have the variance not granted. He explained that if the variance is granted, before the Applicant obtains a building permit, the Borough Engineer would set requirements for the Applicant's engineer to follow. Mr. Wangner stated that it is unlikely that the Board would grant a variance ahead of any drainage plans as these plans would help inform their decision.

Ms. Thompson stated that the Applicant is looking for 45 percent coverage on the lot that currently is at 42 percent which is well over the 30 percent requirement and noted that there is not a lot of room on the property. Mr. Novak stated that there is a drainage issue and an impervious coverage issue. Mr. Augustitus stated that there are two parts to the Application with one part being the impervious coverage and the second part being about runoff that would possibly create disruption to the neighboring properties. Mrs. Jenkins stated that there is also a pump house on the property. Mr. Tilton asked how many wells are in the pump house. Mr. Novak stated that the pump house was designed when the farm was in use and an engineer would have to address that question. Mr. Tilton stated the importance of having a hydrology study done before a decision can be made. Mr. Novak stated that the drainage would be resolved if the variance is granted and noted that if the Applicant does not comply with the Engineer's requirements, he would not receive building permits. Mr. Augustitus stated that Mr. Novak is looking for a variance based on stipulations. Mrs. Jenkins stated that as long as she has been on the Board, information was never presented in this way. She noted that Applicants usually have drainage information up front. Mr. Wangner stated that having this information helps the Board make their decisions.

Mr. Wangner stated that Mr. Novak is looking for a conditional approval. Mr. Novak stated that if the Borough Engineer does not agree with his plans, then permits will not be issued. Mr. Augustitus asked what would be done if the Borough Engineer could not find a solution. Mr. Novak stated that the cost may be high but he is sure that the Engineer would come up with a solution. He explained that if the request is unreasonable, the Applicant would leave the property as is.

Mr. Wangner stated that if the Board decided to consider Mr. Novak's proposal, he noted that the Applicant would have to comply with the thirty percent standard. Mr. Novak stated that they would work with the Engineer to solve any drainage problems. Mr. Roth asked for an explanation of step two and step three if the variance would be granted upon those conditions. Mr. Novak stated that Chuck Stewart would compose a topography drainage study which would cost \$5,000. He explained that Mr. Stewart would work with the Borough Engineer to create a solution. Mr. Roth asked what would happen if Mr. Stewart informed Mr. Novak that

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the drainage on the property is unfavorable. Mr. Novak stated that the variance would be subject to a drainage solution. Mr. Roth asked for an explanation of step three. Mr. Novak stated that Mr. Stewart would then present a letter to the Board stating that he and the Borough Engineer agreed to a reasonable solution to mitigate the existing drainage. He explained that the Applicant would review the solution plan and stated that the Applicant would decide to go forward based on cost.

Mrs. Jenkins asked if the Applicant thought about using any other structure such as the crib house for the garage. Mr. Novak stated that the crib house is only sufficient for one car and noted that it is far from the existing home as seen on A6, View G on the lower right hand corner. Mr. Novak noted that he thought it was an accessory building that was used for the farm in the past. Mr. Lathrop stated that the building is unused today and explained that the brown wood slates are warped and some have fallen off. Mr. Novak added that the building is located behind everything. Mrs. Jenkins asked what the pass through in the barn is used for and asked if Mr. Lathrop currently keeps his cars in there. Mr. Lathrop stated that he uses it for an exit during bad, snowy weather and explained that he normally does not keep his cars in the structure as he stated that it is narrow and all open.

Mr. Augustitus stated that he would like to address the setback issues. He explained that the denial letter states the proposed accessory structure setback is 8.45 feet but he stated that the survey shows 9.19 feet. Mr. Novak stated that the 9.19 feet is the principal accessory structure and noted that it is an existing condition and not changing.

Mr. Augustitus stated that he would like to address the side yard setback for the in ground pool next. He stated that the rear yard setback is 28.8 feet and not changing. Mr. Novak stated that the existing building obtained a variance for 28 feet at the rear. He further stated that the Applicant is looking to put on a second floor and confirmed that it will not encroach any further. Mr. Augustitus clarified that those setbacks are existing.

Mr. Augustitus stated that the primary issue is the side yard setback as related to the pool. Mr. Novak stated that it is the only area where they could put a pool. Mr. Augustitus confirmed his understanding and noted that the other existing setbacks are already non-conforming and stated the proposal includes the addition of the side yard setback.

Mrs. Jenkins asked if there was ever a pool on the property before. Mr. Lathrop stated that the neighbors confirmed a pool in a different area toward the front yard. Mr. Roth asked if there was a tank sweep done before the property was purchased. Mr. Lathrop stated that he does not recall that. He noted that he purchased the property six years ago in March 2013.

Mr. Augustitus referred to SP2 and stated that the setback line of 25 feet is dotted through the corner of the pool. Mr. Novak stated that it is a building setback line. He added that the pool setback line is twenty feet from the rear property line but noted that due to the unique setup of this property, this would be twenty feet from the side yard.

Mr. Wangner stated that the Code Official discussed and settled the front yard/side yard setback issue on June 23, 1999 and noted that the Applicant is looking for relief from that as well. Mr. Novak confirmed that a resolution exists specifying the location of the front, side, and rear yards. Mr. Augustitus explained that the Application was denied for the proposal of the pool in the side yard but noted the uniqueness of the property. Mr. Novak stated that a rear yard does not exist, therefore noted that the side yard would be the best location for the pool.

Mrs. Jenkins asked what the size of the pool would be. Mr. Novak stated that the proposed pool would be twenty by forty feet and noted that this is standard size. Mr. Augustitus stated that the Applicant is limited on property and placement for the pool. Mr. Novak stated that a majority of the impervious coverage is because of the pool. He noted that he feels that the pool should not be treated the same as asphalt.

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Mr. Roth asked if the property was for sale in 2017 or 2018. Mr. Lathrop stated that the property was for sale May through October of 2018 and confirmed that it was his listing agreement. Mr. Roth asked Mr. Lathrop if there is potential for him to resell the property for a higher price after the renovation. Mr. Lathrop confirmed that he would like to sell the house at some point. He added that some of the marketing feedback that he received was related to the garage and interior configuration of the bedrooms. He noted that he would like to make the property more practical for himself as well as others in the future.

Mr. Curcio asked Mr. Novak if his plan has taken into account the preservation of farmstead architectural elements. Mr. Novak stated that the Applicant is not looking to change the existing stone architecture on the current house and noted that he would continue the character but would make substantial improvements and modifications. Mr. Novak added that the principal structure is being marketed like any other new structure on an acre of land in North Caldwell and not as a historical property. Mrs. Jenkins stated that the historical quality of the property is important. Mr. Novak stated that the historical quality is important but not for today's purposes.

Mr. Augustitus explained that the main issue is due to the pool as the other setbacks are pre-existing conditions. He stated that the Board would have to determine what they consider the front and side yard and questioned the necessity of the pool.

Mr. Wangner stated to recap, the Applicant would like to remove accessory structures and remove the silos which he explained would require a variance. He further stated that the Applicant would like a conditional variance based on the Borough Engineer accepting a plan to solve the drainage and impervious surface issues. Mr. Novak confirmed that he has presented everything at this point.

Ms. Thompson asked Mr. Novak about the proposed second floor. Mr. Novak stated that the current home was designed for a sloping site and has five bedrooms on three different levels. He stated that most people would like all bedrooms closer together on the same floor. He explained that his proposal is a more traditional design which would add stairs leading to a second floor that includes all the bedrooms. Mr. Augustitus asked if this renovation would be for resale or for the Applicant to utilize. Mr. Lathrop stated that the current home is not practical for him today and added that it would enhance the value of the home as it would have a more desirable layout.

Mr. Wangner asked how high the extension would be. Mr. Novak stated that the proposed extension would be two stories less than 32 feet which he noted is the average grade to the highest point. He added that this would meet the requirements.

Mr. Tilton asked what the plans are for the existing exercise room on the left side of the drive through. Mr. Lathrop stated that it will not be impacted.

Mr. Novak noted that the plan is to move the master bedroom upstairs and make an entertainment/play room on the first floor as he noted that most people would like an entertainment room in the home rather than in an accessory building. Mr. Novak presented Exhibit A1 and explained the existing floor plan and the proposed floor plan to the Board.

Mr. Wangner asked Mr. Lathrop how long he has lived in the area. Mr. Lathrop stated that he moved to Essex Fells in January 2000.

Mr. Wangner opened the hearing to the public for any questions or comments.

Ms. Anita Garubbo Johnson Sargese, adjacent property owner, was sworn in. She stated that she has been familiar with this property for forty-one years. She asked Mr. Novak if he had any well records. Mr. Novak stated that he does not have any information about the well. Ms. Sargese stated that she called the Environmental Protection Agency and noted that this was the main well that fed all the operations of the Armitage Estate. She added that there is existing copper piping that goes up to the tower of what was the original estate house. She asked if Mr. Novak was aware of the prior pool that existed on the property. She stated that it will likely

interfere with the installation of the new pool. She added that the Robinson family had a poured concrete pool that could not be removed so it was broken up and filled. Mr. Wangner asked what year that was. Ms. Sargese stated that it may have been in the mid-1980s. She stated that she was previously on the Planning Board and asked if the front of the house has changed since 1999. She stated that she would like to know where the pool water was going to drain. Mr. Novak stated that he is unsure and asked if there was a municipal code requirement regarding pool water drainage. Ms. Sargese stated that this is a unique property that she is very familiar with. She stated that the crib building was actually a manure pit and noted that there was a spa in one of the silos.

Mr. Steve Fochman, adjacent property owner from 4 Farmstead Road, was sworn in. Mr. Fochman stated that the existing house is closer to the back of his property than it should be. He asked how much higher the proposed structure would be if it was approved. Mr. Novak stated that the structure would be two stories with a lower pitched roof. Mr. Tilton asked if there would be an increase in elevation. Mr. Novak stated that the peak is now 32 feet and the proposed structure would stay at 32 feet in elevation. Mr. Augustitus stated that there would be more windows where there is currently a roof but noted that the height would stay the same.

Mr. Fochman explained drainage issues around his home after construction was done at 6 Farmstead Road in 2003 and 2004. He explained that the drainage system on all the adjacent properties is part of a massive farm irrigation system which includes wells, huge drainage pipes and valves. He added that the pump house that would be taken out is part of a massive system that these valves and wells are connected to. Mr. Fochman asked if records of this system exist and asked the effect it will have on the adjacent properties if removed. Mr. Novak stated that the Applicant would like to have the engineer look at the existing water piping system and storm drainage. Mr. Augustitus asked Mr. Fochman if his main concern is storm drainage. Mr. Fochman stated that he felt that his property would be unaffected by the proposed project but stated his concern for removing the pump house as he stated that it is part of a large ecosystem and added that it could be a huge problem for the project. Mr. Novak explained that the engineer will look into the water distribution system, determine the problem and come up with a solution. Mr. Curcio asked Mr. Fochman if he is concerned with the negative effects the proposed project will have on his property or any adjacent property. Mr. Fochman stated that he was unsure and noted that the ecosystem runs through all the adjacent properties. Ms. Thompson suggested referring to the ecosystem as an irrigation system. Mr. Roth noted that it would be better defined if a hydrological study was done prior to a decision being made. Ms. Thompson stated that there would be two engineering specialists needed, one for the storm water drainage issues and one for the existing irrigation system. Mr. Novak confirmed the need for the two engineering specialists. Mr. Wangner asked if they will also look into the prior pool situation. Mr. Novak confirmed that it will be looked into and added that a decision would be made how to solve the problem if one was found.

Mrs. Jenkins asked if there is a problem with the water runoff from the cement that exists between the existing garage door and driveway entrance. Mr. Novak stated that the engineer would need to properly design a drainage system.

Ms. Gina Garrubo, from 9 East Greenbrook Road, was sworn in. Ms. Garrubo stated her concern about the proposed renovations to the Applicant's property negatively affecting her property. She stated that she spent \$8000 on a drainage system because Mr. Novak and the town did not consider the water damage that was done to her property from prior renovation project to a neighboring home. Mr. Novak stated that he was the architect, not the engineer for the prior project. He noted that an engineer was not required at that time. He explained that an engineer will design the drainage system for the proposed project according to today's standards. Ms. Garrubo stated her concern about Mr. Fochman's comments about the irrigation system. She explained that her home is downstream and noted that the water drainage through the existing pipes needs to be addressed. She added that the pool water drainage also needs to be looked at. Ms. Garrubo stated that she felt she had been victimized by the town for the prior work that was done on that property and would like the Board to take that into consideration on this matter.

Mr. Augustitus explained that for the comfort of the neighbors and the Board, the study should be done and solutions should be presented to the Board before an

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approval is given. Mr. Novak stated his concern for all the work that would have to be done and all the money that would be spent without knowing if the variances would be granted. He added that they would like the approval to justify spending the money.

Mr. Tom Cronquist, adjacent property owner from 2 Farmstead Road, was sworn in. Mr. Cronquist stated that he was on the Planning Board 15 years ago and noted that the impervious surface rule of 30% was passed during that time. He asked if there is history that the Board uses and enforces this rule. Mr. Wangner stated that all the Boards together recently discussed impervious surface, drainage and runoff issues in a joint meeting. He confirmed that it is a serious issue and noted that they hold the line on that point more than any other issue. He added that this Board has a very good record on sticking to the 30% impervious coverage and noted that often Applicants remove coverage on their properties to conform in order to get the accommodations on the structures.

Mr. Wangner asked if there are any other questions from the public. No one from the public came forward. Ms. Thompson asked if Mr. Novak had any feedback or response to the public comments. Mr. Novak stated that the owner has money to make improvements to the property and will have to spend some of the money to solve the problems. He stated that 75% of the homes in Essex Fells are over the impervious coverage and added that they have serious drainage problems. He explained that it is difficult to solve all the drainage problems that have been occurring over the years, but stated that it is possible to solve some of the problems by mitigating the runoff. Mr. Lathrop would like to devote the money to substantially mitigate the drainage problems.

Mr. Augustitus asked if the impervious coverage would remain the same if the pool and surrounding patio were taken out. Mr. Novak stated that they go from 18,275 square feet of existing impervious coverage to 19,642 square feet. He stated that the pool is 820 square feet and added that the patio around the pool is 1700 square feet, which he noted totals about 2500 square feet. He confirmed that the impervious coverage would be reduced without the pool and the surrounding patio.

Mr. Curcio asked what the square footage is for the silos. Mr. Novak stated that it is 250 square feet for two silos. He explained that the proposal includes pavers in place of the one silo and grass in place of the other silo. Mr. Curcio asked Mr. Novak if saving 125 square feet by removing the silos takes into consideration the historical nature of those silos as it relates to this property originally being a farm as per the initial resolution in 1999. Mr. Novak stated that the property does not meet the Borough Code that states a two car garage is required. Mr. Curcio asked if the exercise room could be used as a garage. Mr. Novak stated that the exercise room cannot be used as a garage because of the grading of the property. Mr. Wangner asked the public how critical it is to them that the historic aspects of the property stay intact as opposed to solving runoff and impervious coverage issues.

Ms. Anita Sargese came forward. She stated that Mr. Lathrop is a nice neighbor and explained that she does not have a problem with the proposed pool but noted that it may be a logistical nightmare for him. She stated that she is concerned with the drainage issues as the previous renovations to the adjacent properties have already caused financial and emotional distress for the neighbors in the past.

Ms. Sargese handed out Exhibit O1 to the Board, copies of a rendering of the Armitage estate by the artist, Lawrence Wilber which depicts all the original structures on the property. Ms. Sargese explained the history of the farm and how intricate the estate was. She stated that she would be heartbroken to see the silos go. She added that Mr. Tim Timpson, who is the neighbor directly behind the barn, is out of town and stated that he wanted to make sure that the farm was represented by the group.

Mr. Wangner asked Ms. Sargese if the water issues are more concerning than the historical aspect. Ms. Sargese stated that the historical aspect is more important to her but noted that she wanted to back up Ms. Garrubo on the water damage that she has incurred from runoff issues.

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Mr. Curcio asked if a survey of the irrigation system was ever done. Ms. Sargese stated that Mr. Timpson may have the plans for the well and added that he would be a great resource as he knows the Armitage estate best.

Mr. Wangner asked if there were any other comments from the public.

Ms. Gina Garrubo stepped forward and stated that it is difficult for her to speak. She explained that she bought her house at a town auction and added that she spent a lot of money to make sure her home fit the historic nature of the structure. She noted that she spent thousands of dollars in legal fees to make sure everything was done perfectly. Ms. Garrubo explained that her property sustained a lot of damage when her cousin built a retaining wall structure almost on her property with no consideration for draining. She added her concern for the drainage issues and stated that she would be sad to see the silos go but stated that it is within Mr. Lathrop's right since he has no deed restriction. She noted that she would have hoped the owner would have had appreciation for the silos.

Mr. Steve Fochman stepped forward. Mr. Fochman stated that his friends had looked at the property to purchase and confirmed that it is an odd property. He explained that they all would like the property values to go up in their neighborhood but stated his concern for the valves and pump houses and potential future drainage problems. He added that they would like to feel comfortable knowing that future drainage problems would be addressed. Mr. Wangner asked if it would be a help to the neighbors if the Applicant presented the study first in an open hearing or, Mr. Augustitus added, would it be acceptable to do it as the Applicant is proposing, where the Board would grant the variance based upon the studies coming through. Mr. Fochman confirmed that they would all feel comfortable seeing the engineer's report and recommendations in another meeting.

Mr. Augustitus asked if the Applicant is willing to break down the project into separate variances and accept aspects of the project separately as he explained that the silos are an issue with the residents and possibly with members on the Board. Mr. Novak stated his concern for incurring the expense to solve the drainage problem that the Applicant did not create and then getting turned down for the variances.

Mr. Roth stated that the cost for the engineering studies is a nominal amount compared to the total renovation budget and added that the studies will put the minds of the public at ease.

Mr. Wangner stated that the request is taking the Board out of their comfort zone and usual process and added that the public is also not comfortable with the request. He stated that the Board is present to serve everyone.

Ms. Garrubo stepped forward and asked what the current drainage problem is as she stated that it was already paid for by her. She stated that the future drainage is the issue. Mr. Augustitus confirmed that future drainage is the concern.

Mr. Wangner suggested to Mr. Novak to have the Board push the vote off to a later meeting to look into the drainage concerns and added that Mr. Timpson would be able to join a later meeting to help answer some of the questions. Mr. Augustitus explained that there are two issues that need to be addressed, the aesthetics of the silos and the drainage. Mr. Novak and Mr. Lathrop agreed to wait another month. Mr. Novak agreed to meet with Paul Ferriero, Borough Engineer, to discuss the situation.

Ms. Thompson stated that the Board will adjourn the meeting to May 22nd, 2019 at 8:00pm, no further notice required.

MEMORIALIZATIONS

MATTER OF Mr./Mrs. DeVescovo, 3 Hamilton Drive South – Block 307, Lot 18 - Side Yard Setback

MATTER OF ANTHONY & TALIA DEL VESCOVO

Decided: March 20, 2019

WHEREAS, Peter T. Ricci, on behalf of the property owners Anthony and Talia DeVescovo, (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 3 Hamilton Drive South, also known as Lot 18 in Block 1307 in order to construct an addition to a pre-existing non-conforming structure. 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 March 20, 2019; and

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

1. Architects Susana Taverna and Peter Ricci were sworn in. Ms. Taverna and Mr. Ricci presented their credentials to the Board and were accepted as expert witnesses.
2. Ms. Taverna described the subject property, stating that the existing dwelling is a typical three-bedroom, single family home. Ms. Taverna testified that the owners seek to add an extension to the back of the dwelling 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 also proposes an addition to the second floor to create four bedrooms. The owners also seek to extend the patio toward the rear of the property.
3. Ms. Taverna further testified that the owners request a side yard setback variance.
4. Mr. Augustitus requested clarification concerning the proposed right yard setback. Ms. Taverna stated that the existing side yard setback is 17.4 feet. The proposed setback is 15.3 feet from the end of the house to the property line and 12.9 feet from the patio canopy.
5. Mr. Floria-Callori requested clarification on the impervious coverage increase set forth in the Zoning Officer’s denial letter. Ms. Taverna explained that the Applicant submitted plans that include the purchase of land from their neighbor to the rear, which

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was approved by the Planning Board last month. Accordingly, the Planning Board approval eliminated the need for an impervious coverage variance.

6. In response to questions from the Board, Mr. Ricci explained that neighbors were selling the back portion of their property. He added that the property was subdivided; one portion was purchased by the Applicant and the other was purchased by the other adjacent neighbor. Mr. Ricci stated that the subject property is landlocked and there are no plans by the owners to develop the site any further. Ms. Taverna added that the pending Application and the Planning Board approval happened simultaneously.
7. Mr. Roth asked if the canopy is an existing structure. Ms. Taverna confirmed that the canopy currently exists, but the proposed plans include moving the canopy closer to the property line.
8. Mr. Ricci testified that there will be no change in the appearance of the property. The owners' proposal is in keeping with the original character of the house.
9. Ms. Taverna testified that the existing 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.
10. Ms. Taverna testified that the existing patio pavers will be removed, and the proposed patio will be installed at the elevation of the new addition. She added that there will not be a step down to the proposed patio. The patio will be covered eliminating the danger from any snow or water on the patio.
11. Mr. Floria-Callori asked if the addition would have an effect on the stream. Ms. Taverna stated that larger gutters would be installed. Mr. Ricci added that by raising the patio, the site elevation will allow for drainage down side yard toward the back of the house. Mr. Ricci further stated that a new retaining wall will be installed in the same location as the existing wall 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 that the proposed addition will have no effect on the runoff and current path of water drainage on the subject property.
12. Mr. Wangner asked what the distance would be from the new addition to the neighbor's house. Mr. Ricci estimated the distance to be about 150 feet, adding that it would be very unlikely for the neighbors to construct an addition on that side of their house because of the close proximity to the stream.

13. Mr. Ricci testified that he was not involved in the renovations to the home completed in 2003, stating that the home has a lot of character and nice finishes and the proposed addition will complement this.
14. Ms. Taverna confirmed that the proposed additional square footage of the basement is 550 square feet, the first floor is 548 square feet, and 246 square feet will be added to the second floor.
15. Mr. Floria-Callori noted that the 2003 Application for the subject property was also related to an encroachment of the right-side setback and requested an explanation of the finality of the future of the current proposal. Mr. Ricci stated that the proposed addition fits into the usable yard very well. He added that the property grade increases toward the rear of the property. It is not logical to build there because of the difficulty in digging out the rock landscape. Mr. Ricci further explained that that the proposed addition follows the existing home. The encroachment increases because the property lines are skewed.
16. Mr. Ricci noted that the proposed addition will not be overpowering and will fit in nicely with the neighborhood.
17. 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 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. Therefore, on a motion by Mr. Augustitus, seconded by Mrs. Jenkins, the Board accepted the Application as proposed with the correction to the letter of denial that the proposed right yard setback should be 12.9 feet (not 17.4 feet). The Board unanimously voted to grant the Application with affirmative votes cast by Mr. Augustitus, Mrs. Jenkins, Mr. Floria-Callori, Mr. Michelotti, Mr. Roth, Mr. Curcio, and Mr. Wangner.

April 17, 2019

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 17th day of April 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on March 20, 2019.

ALL THOSE IN FAVOR: Mr. Augustitus, Mr. Michelotti, Mrs. Jenkins, Mr. Roth, Mr. Wangner, Mr. Curcio

ALL THOSE OPPOSED: --

ABSTAIN: Mr. Tilton

ABSENT: Mr. Floria-Callori, Mr. Salan

APPROVAL OF MINUTES

Mr. Augustitus made a motion to accept the minutes of the Board Meeting of March 20, 2019 with said corrections. The motion was seconded by Mr. Roth. Said motion was passed with six affirmative votes by Mr. Augustitus, Mr. Roth, Mrs. Jenkins, Mr. Michelotti, Mr. Wangner, and Mr. Curcio. Mr. Tilton 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 10:32 p.m.

Respectfully Submitted,


Tami Michelotti
Zoning Board Secretary