

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, December 18, 2019 starting at 8:07pm.

Chairman Wangner announced that 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. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Salan, Mr. Curcio, Mr. Tilton, Mr. Wangner.

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

Chairman Wangner asked Mr. Michelotti to lead the Pledge of Allegiance.

APPLICATIONS

Mr. Anthony Aulita – 3 Hillside Avenue, Block 15, Lot 2103

Chairman Wangner announced that Mr. Aulita's impervious coverage variance was adjourned to the January 15, 2020 meeting at the request of the Applicant.

Ms. Renee Paladino – 711-713 Main Street, Block 2103, Lot 7

Mr. Robert Gaccione, Applicant's attorney from Gaccione and Pomaco, P.C., 524 Union Avenue, Belleville, NJ 07109 stated that Ms. Paladino is the owner of 711-713 Main Street in North Caldwell, New Jersey. He noted that the Application seeks modification of a prior approval allowing an expansion of a restaurant. The prior variance was granted on the condition that parking would be permitted at the vehicle service station across the street. Mr. Gaccione explained that the property has been used as a restaurant/tavern for many years, where an increase in seating and hours of operation were approved by the Board in 1995. Mr. Gaccione added that in 1998, the restaurant operators sought to again increase the hours of operation and submitted an agreement regarding the parking situation. He stated that the Board again approved an application to expand the seating in the restaurant subject to a letter of permission from nearby business owner, Joe Garamella, acknowledging and authorizing the restaurant to use his lot for parking. He stated that Mr. Garamella is no longer the owner and noted that the current owner of the property will not respond to any of his client's efforts to continue the parking arrangement.

Mr. Gaccione stated that the present Application seeks to modify the prior approval to allow a restaurant to operate without the street parking and reduce the previous approved 60 seats to 50 seats. He noted that the property is located in an R-2 zone and stated that the use as a restaurant is a pre-existing, non-conforming use granted by the Board.

Mr. Floria-Callori noted that his professional relationship with Mr. Gaccione will not affect his ability to be impartial.

Mr. Glenn Paladino, 32 Anita Drive, East Hanover, New Jersey was sworn in. Mr. Paladino stated that his wife is the owner of 711-713 Main Street and confirmed that taxes on the property are paid to North Caldwell. He noted that a small portion of the property is located in Little Falls. He explained that they would like to lease the property as a restaurant but noted that he was unsuccessful with his efforts in obtaining a lease for parking from the owners of the property formerly owned by Mr. Garamella. He added that he was also unsuccessful in his efforts to obtain parking rights from the property owned by Mr. Joseph Kalyoussef. Mr. Paladino explained that the proposed restaurant would be a traditional, small, sit-down and/or walk up that would likely draw local traffic and Uber drop-offs/pick-ups. He anticipated that the restaurant would have a small evening and lunch crowd with take-out services for which the ten (10) minute drop-off zone on Hillside Avenue would be utilized for pickup and delivery. He noted that there is interest in leasing the property for a pizzeria/restaurant but stated that he cannot reach an agreement without an approval from the Board.

Mr. Paladino confirmed that take-out service is a possibility at this location. Mr. Curcio asked Mr. Paladino if there were any other efforts to obtain parking such as the condominium complex behind Mavis Service Center. Mr. Paladino stated that he did not contact the condo association. He added that he contemplated the factory parking across the street but that the lack of maintenance of those properties would be hazardous to the potential customers. He, therefore, did not contact the factories. Mr. Curcio asked if there was any consideration given to valet parking. Mr. Paladino stated that he considered this and attempted to contact Mavis for the valet-parked cars but noted that there was a concern on where the customers would be able to drop off the car to the valet.

Mr. Wangner asked Mr. Paladino if he had an investment interest in the business. Mr. Paladino stated that he is strictly the landlord. Mr. Paladino confirmed the intention to provide delivery services. Mr. Paladino stated that the property is currently set up as a restaurant and that there is interest in the property as a restaurant. Mr. Roth suggested that revisions to an initial business model may be just as successful. Mr. Paladino agreed and explained that he spoke with developers to gauge interest in putting residential units but he noted that there is not enough square footage for parking. Mr. Paladino acknowledged that a professional services business could be a possibility but added that the property had been a restaurant for 50 years. Mr. Paladino offered that employees would park on the public street. Mr. Gaccione noted that a traffic expert was present as was an architect to provide testimony on site conditions. There were no other questions or comments from the Board for Mr. Paladino.

Mr. Scott Abromowicz, Architect from 25 Kingsley Street West Orange, NJ was sworn in. Mr. Abromowicz stated that he has been an Architect since 1987, graduated from the Pratt Institute in Brooklyn, New York with a Bachelor's Degree in Architecture and a Master's Degree in Urban Design and noted that he is a Licensed Planner in New Jersey. The Board accepted Mr. Abromowicz as an expert witness.

Mr. Abromowicz referred to Exhibit A-1, a series of nine photos of the area surrounding the property. He stated that photo #1 depicted 711 Main Street with commercial buildings on either side, with photos #2 and #3 showing the same from different angles. Mr. Abromowicz confirmed that the photos were taken by him that day. He explained that photo #4 showed the driveway and the residence on the second floor above the property, photo #5 showed a view from the rear of the property, and photo #6 showed a view of the parking garage for the residence. He described photos #7 through #9 as the interior view of the existing seating. Mr. Floria-Callori asked who utilizes the driveway that was referred to in the photos. Mr. Abromowicz stated that the driveway is used for restaurant deliveries and for the residence. Mr. Paladino confirmed that the driveway was used for restaurant deliveries. Mr. Abromowicz referred to the site plan review and explained the layout of the restaurant which he noted includes 50 seats as permitted according to building code. He added that no other alterations to the structure are planned. Mr. Ferriero asked if the 50 seats that are permissible under the codes only require one exit. Mr. Abromowicz explained that there are three (3) exits and noted that the front exit is ADA compliant. Mr. Ferriero questioned if all the exits need to be ADA compliant. Mr. Abromowicz stated that only one exit is required to be ADA compliant. Mr. Roth asked for clarification on the requirement of ADA compliance for pre-existing exits. Mr. Abromowicz explained that only one exit is required to be ADA compliant and noted that the front exit fills that requirement. Mr. Floria-Callori asked if deliveries will be processed through the rear exit with stairs. Mr. Abromowicz stated the deliveries would be done through either entrance way depending on what was being delivered.

Mr. Joseph Staigar, Traffic Engineer from 245 Main Street Chester, NJ was sworn in. Mr. Staigar stated that he graduated from New Jersey Institute of Technology with a Bachelor's and Master's Degree in Civil Engineering and added that he is an Adjunct Professor of Traffic Engineering at New Jersey Institute of Technology. He stated that he has appeared before planning boards and zoning boards in

Essex County on over 200 occasions. He added that he has been accepted as an expert in the field of traffic and parking planning on every occasion. The Board accepted Mr. Joseph Staigar as an expert witness.

Mr. Staigar stated that he reviewed the proposal for the re-occupation of the existing building for the proposed restaurant use. He explained that the proposed restaurant is in an R-2 zone for which a use variance and parking variance are sought. He noted that the Borough Code includes restaurants as permitted businesses in Office Zones. He noted that the Borough requires Office Zones to have one (1) parking space for every 180 square feet. He noted that the proposed restaurant has about 1800 square feet available, for which would 10 parking spaces would be required if the site was located in an office zone. Mr. Staigar stated that the Applicant made sincere attempts to secure parking but was unsuccessful, whereby the alternative is street parking. He explained that they conducted parking surveys on the evenings of Friday, May 17, 2019 and Saturday, May 18, 2019 which were representative of typical days with normal operating conditions. He noted that the two (2) nearest streets are Park Avenue and Hillside Avenue. Mr. Staigar noted that Hillside Avenue has restrictions including 10-minute parking spaces and permit-parking only. He added that parking on both sides of Park Place is difficult because it is narrow, only 9 of 18 possible parking spots were factored into the potential parking space calculation. Mr. Staigar explained that parking is permitted on the east side of Clarence Avenue, the south side of Cherry Street, and on the north side of Mozart Street. He summarized that there would be 21 potential vacant spaces on a typical Friday evening and 22 potential vacant spaces on a typical Saturday, each within walking distance to the proposed restaurant. He added that Uber and other ride-sharing services would account for about 10% to 15% of patrons. Mr. Staigar noted that the proposed table alignment plan is tight, making it unlikely that 50 seats would be filled simultaneously. Mr. Staigar anticipates that the restaurant would need only 15 to 17 parking spaces compared to the study results showing the availability of 21 spaces on Fridays and 22 spaces on Saturdays on the surrounding public streets. He added that they would approach the Borough's Mayor and Council to ask for permit parking for the employees on Friday and Saturday nights. Mr. Staigar stated that there is sufficient parking on public streets within walking distance to the proposed restaurant. Mr. Staigar stated that the lunch crowd for the restaurant would coincide with the other businesses in the area but noted that there would not be a parking demand in the evening because those businesses would be closed. He explained that residents are typically not home during the day so parking requirements for the residential properties are diminished during this time. He added that the study was concentrated during peak weekend evening hours.

Mr. Staigar stated that he reviewed Mr. Ferriero's report and agreed that Hillside and Park Avenues are dead-end streets that would require the use of a driveway to make a K-turn. He further stated that valet parking seemed to be an option but that there is no alternative to parking other than on the streets. He added that there would be a low volume of traffic generated by the restaurant and noted that it would have a low impact on traffic in the area. Mr. Staigar concluded and stated that the main concern for the proposed restaurant is parking.

Mr. Augustitus asked how many employees would typically work at this type of restaurant. Mr. Paladino anticipated a total of five (5) employees: a chef, two (2) wait staff members, and two (2) dishwashers. Mr. Augustitus noted a potential of four (4) to five (5) employee vehicles, plus take-out service vehicles and delivery service vehicles. He noted his concern that the traffic flow on this dangerous, busy street will be increased. Mr. Staigar stated that the four(4), 10-minute only parking spaces on Hillside Avenue would be appropriate for the takeout and delivery service and noted potential for permitted spaces for the employees on Hillside Avenue. Mr. Floria-Callori stated his concern about the ability to obtain permits on Hillside Avenue and the effect it will have on the residents that depend on those permits to park their cars and those of their visitors. Mr. Staigar stated that according to the study, he saw minimal parking being used on Hillside during the time period from

6:00pm to 9:00pm on the Friday and Saturday night evaluated. Mr. Floria-Callori stated his concern for the safety impacts that parking on the surrounding streets will have for people crossing Main Street. Mr. Staigar confirmed that he had not consulted the Township of Little Falls to discuss parking.

Mr. Staiger anticipated approximately three (3) to five (5) trips per hour for food delivery services. He affirmed that existing traffic flow was considered and noted that the proposed business would not have significant business during peak hours of 7:00am to 9:00am and 4:00pm to 6:00pm. Mr. Roth noted that the parking allocation may not be sufficient for a 50-seat restaurant plus staff.

Mr. Gaccione asked Mr. Paladino if he was familiar with employees in the restaurant business to which Mr. Paladino offered that in his line of business, many employees will walk or utilize Uber, carpools, bicycles and walk.

Mr. Staiger stated that he did not anticipate needing parking spaces on the permit-only street (Hillside) but would likely request permits from the Borough Council. He anticipated parking on Park Avenue and the streets in Little Falls.

Mr. Salan noted the risk to pedestrians crossing Main Street and asked if the Applicant was aware of any accidents. Mr. Staiger noted that he was not aware of any accidents. Mr. Augustitus reiterated the dangerous intersection and the high rate of speed of vehicles traveling down Grandview Ave. Mr. Staiger offered that Uber pick-ups could be designated by the patron to pick-up and drop-off on the side streets instead of at the restaurant's front door on Main Street.

Mr. Curcio asked how Mr. Staiger planned to limit parking on Park Place to only one side of the street due to the narrow nature of the street. Mr. Staiger stated that the Borough Council would have to address it by designating the street to be one-side parking only. Mr. Curcio noted the Applicant's intended shift of responsibility on the Borough to make the change which would impact the residents of Park Place.

Mr. Wangner opened the meeting to the public at this time.

Jody Lazarski – 4 Hillside Avenue, North Caldwell

Ms. Lazarski stated that she was involved in the installation of permit parking on Hillside Avenue in order to ensure safety of the neighborhood children. She noted the potential for increased traffic, K-turns on the side streets, patrons blocking the residents' driveways and increased trash and intoxicated patrons of the proposed restaurant. She added that the parking permits issued per household on Hillside Avenue are needed to accommodate each home's residents and their visitors. She confirmed that each household is provided one permit per vehicle per household and that the street is full many weekends and especially on holidays and during residents' events.

Ms. Lazarski offered that deliveries through the driveway would be difficult as the resident of the building uses the driveway and may be blocked in or out during a delivery. Mr. Staiger offered that the delivery driver would move the truck if necessary. Ms. Lazarski noted that the parking area behind the building is full with not much area to maneuver. Mr. Staiger noted that most deliveries would be mid-morning and mid-afternoon but may occur in the evening. Mr. Ferriero stated clarified that food/product supply delivery addressed by Mr. Staiger was different than Ms. Lazarski's concern regarding deliveries of prepared food to customers. Mr. Staiger noted that the prepared food deliveries would utilize the 10-minute parking spaces on Hillside Avenue.

April Hill – 39 Cherry Street, Little Falls

Ms. Hill inquired if the Application would be heard by the Little Falls Board of Adjustment as there is potential impact to Little Falls residents. Board Attorney Thompson noted that the streets on both towns are considered public parking.

George Karvas – 711 Main Street, Little Falls

Mr. Karvas stated that he has lived at his residence for 30 years which falls in both North Caldwell and Little Falls. He stated that he has witnessed several accidents in the area, especially between the high traffic hours of 4:00pm to 7:00pm. He stated his knowledge of the food service distribution industry which commonly makes deliveries between 6:00am to 8:00pm. Mr. Staiger offered that the restaurant owner may be able to stipulate the permitted hours of deliveries and offered that it could be a condition of the variance approval.

Mr. Karvas stated that many residents must move their cars to other streets when guests are expected, which would be impacted by restaurant patrons parking.

Chairman Wangner opened the hearing to any other questions for the witnesses and experts. Hearing none, he opened the hearing for comments from the public.

April Hill – 39 Cherry Street, Little Falls

Ms. Hill stated that she lives on the corner of Cherry and Clarence where cars park on both sides of the street. He noted that she has no driveway and relies on street parking. She stated that she does not agree with the estimate of 21 available parking spots in the neighborhood.

Ms. Hill added that she has lived in her home for 30 years and only visited the prior restaurant at the site in question because it was too difficult and dangerous to cross Main Street. She added that she is not opposed to a business at the site but would prefer a use that did not need street parking. She added that her street does not have curbing and that non-residents already park on her grass. She confirmed for the Board that her property is not in a flood zone.

Razier Mazzo – 3 Clarence Avenue, Little Falls

Mr. Mazzo stated that parking on Park Place is common practice. He added that without dual size parking, guests of the residents could not be accommodated. He added that employees of the former restaurant would often park on his street.

Wendy Rossiter – 8 Hillside Avenue, North Caldwell

Ms. Rossiter stated that she has lived on Hillside Avenue for 3-1/2 years during which time she enjoyed patronizing the former restaurant at the Applicant's property. He stated that she and her spouse need permits to park on their street to allow their guests to park in their driveway. She noted the difficulty turning around on the street and parking when snow is present. She added that the street is steep. Ms. Rossiter noted that these factors would make parking by restaurant patrons and employees not acceptable to residents.

Mr. Gaccione requested a brief recess which was granted by the Board at 9:32pm. The meeting was called back to order at 9:40pm.

Mr. Gaccione stated that the Applicant is aware of the Board' and public's concerns. He asked the Board for an adjournment to address those concerns before returning for a final vote. The Board granted the adjournment to the next meeting which was tentatively scheduled for January 15, 2020 at 8:00pm with no further notice required.

MEMORIALIZATIONS

Mr. & Mrs. Vincent D'Alessandro – 15 Colony Drive, Block 1403, Lot 26

MATTER OF VINCENT and KAREN D'ALESSANDRO

Decided: November 13, 2019

Memorialized: December 18, 2019

WHEREAS, Vincent and Karen D'Alessandro (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 15 Colony Drive also known as Lot 26 in Block 1403 in order to install a 8 foot by 12 foot pre-fabricated shed in the rear yard of the existing home. The subject property is located in the R2 residential zone; and

WHEREAS, variances for the proposed shed are required for side yard setback (3 feet proposed where 15 feet required; rear yard setback (4 feet proposed where 15 feet required); and impervious lot coverage (32.15% proposed where maximum of 30% permitted); 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 November 13, 2019; and

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

1. Vincent D'Alessandro and Karen D'Alessandro were sworn in.
2. Mr. D'Alessandro explained the application, stating that they propose to install a shed in the rear of the property.
3. Mr. D'Alessandro explained that variances are required for side and rear yard setbacks and lot coverage. Mr. D'Alessandro further explained that the request for relief is related to the unusual shape of the property. Mr. D'Alessandro stated that the location of the proposed shed is the most viable, noting that they have a garage in the back of the home with a long driveway. He added that there is a temporary shed at the end of the driveway that they would like to remove to allow better utilization of the garage and driveway.
4. Upon questioning from the Board, Mr. D'Alessandro stated that the proposed location is the flattest area on the property and is the least visible to the neighbors. Mr. D'Alessandro further

stated that sheds in the neighborhood are normally located in the corner of a property. Mr. D'Alessandro testified that trees line the left side of the property and there is a fence at the rear of the property which will limit visibility and not be distracting for his neighbors.

5. Mr. D'Alessandro testified that his neighbor's shed is located in the center of the property approximately three to four feet from the rear property line.
6. In response to questions from the Board, Mr. D'Alessandro stated that he confirmed that his neighbors are content with the proposed location of the shed.
7. Mr. D'Alessandro testified that he prepared the impervious coverage calculations and noted that he did not include the temporary shed in the calculations because it is located on the driveway.
8. When asked if the size of the shed could be reduced, Mr. D'Alessandro explained that a smaller shed would still require a variance as it would be over the 30% requirement.
9. 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 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 the proposed shed is in keeping with the neighborhood and will not be a detriment to the neighbors, and is in the most viable location on the existing lot.

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. Salan made a motion to accept the Application as submitted. Mrs. Jenkins seconded the motion. A vote was taken, and the Application was approved with six affirmative votes by Mr. Salan, Mrs. Jenkins, Mr. Augustitus, Mr. Floria-Callori, Mr. Michelotti, Mr. Roth, and Mr. Curcio.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 18th day of December 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on November 13, 2019.

ALL THOSE IN FAVOR: Mr. Augustitus, Mr. Curcio, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Salan

MINUTES

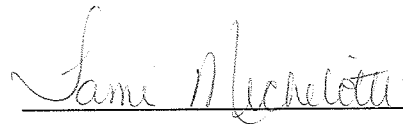
Mr. Augustitus made a motion to accept the minutes of the Board Meeting of November 13, 2019. The motion was seconded by Mr. Curcio. Said motion was passed with six affirmative votes by Mr. Augustitus, Mr. Curcio, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, and Mr. Salan. Mr. Wangner abstained.

PROPOSED MEETING SCHEDULE FOR 2020

Board Secretary, Ms. Michelotti, offered a proposed meeting schedule for 2020 for the Board's review. Mr. Salan made a motion to approve the schedule, seconded by Mr. Curcio. Said motion was passed with seven affirmative votes from Mr. Salan, Mr. Curcio, Mr. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, and Mr. Wangner.

There being no further matters to come before the Board, Mr. Augustitus made a motion to adjourn the meeting, seconded by Mr. Floria-Callori. Said motion passed unanimously. The meeting was adjourned at 9:47 p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary