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The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, May 22, 2019 starting at 8:06pm.

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, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Curcio, Mr. Tilton  
Absent: Mr. Salan

Also present were Lisa Thompson, Esq., Board Attorney and Diana Ruthman, Administrative Assistant.

Mr. Wangner asked Mrs. Jenkins to lead the Pledge of Allegiance.

### **APPLICATIONS**

#### **Ms. Jennifer Ko (Mr. Daniel D'Agostino, Architect), 6 Wildwood Drive – Block 708, Lot 8**

Ms. Thompson stated that this Application is adjourned to the June 19<sup>th</sup> meeting.

#### **Mr. Carey Lathrop (Mr. Steven Greenberg, Attorney), 11 East Greenbrook Road – Block 1303, Lot 16**

Mr. Steven M. Greenberg, attorney for the Applicant, stepped forward. Mr. Floria-Callori stated that his personal relationship with Mr. Greenberg will not affect his ability to be impartial. Mr. Greenberg stated that during the previous meeting, the Board had questions regarding runoff from the impervious coverage and the proper closure of the well.

Mr. Chuck Stewart, engineer and licensed planner was sworn in. Mr. Stewart stated that he has previously testified before the Board. The Board accepted Mr. Stewart as an expert witness. Mr. Stewart confirmed that he has reviewed the engineering report from Mr. Paul Ferriero, Borough Engineer. Mr. Greenberg stated that there are concerns about the effect of the well closure on the surrounding property owners. Mr. Stewart referred to SP-2 of Mr. Gerald Novak's plans and noted that the upper portion of the property is shown identifying all the structures and driveways. He stated that V-I identifies the pump house. He explained that the intention of the Applicant is to remove the building and permanently decommission the well according to the requirements of the New Jersey Department of Environmental Protection which he noted were outlined in Mr. Ferriero's report. Mr. Stewart added that he did not think decommissioning the existing well would have any effect on the neighboring properties.

Mr. Tilton asked what the depth of the well is. Mr. Stewart stated that he was unsure of the depth of the well. Mr. Augustitus asked for information on what the well was feeding. Mr. Stewart stated that he does not have information on the history of the well but noted that well decommissioning needs to be done in accordance with State law. Mr. Wangner stated that the well not only serviced the homes but also served as irrigation for the farm. Mr. Stewart stated that he is unaware of what the irrigation piping is connected to, but explained that the Applicant's intention is to terminate the well by capping it at the well head. Mr. Floria-Callori asked if the State requirements include removing tributaries feeding from the well. Mr. Ferriero stated that generally the well is sealed and the lines are usually abandoned in place. Mr. Roth asked if there was a search done for any existing well records. Mr. Greenberg stated that there is paperwork and requirements from the State that would be completed by the company that would decommission the well. Mr. Greenberg stated that he spoke to Mr. Al Nelson who he noted is the expert who would decommission the well and he explained that Mr. Nelson stated that the process would have no effect on the neighboring properties. Mr. Roth stated that he would like to see any past maintenance records on the well. Mr. Greenberg noted that Mr. Nelson stated that any past records would not have an effect on the process of decommissioning the well. Mrs. Jenkins stated that this is a special situation given the age of the property and pump house. Mr. Greenberg stated that Mr. Nelson was given all the well facts and noted that according to him,

it would have no effect on properly decommissioning the well. Mr. Wangner asked the name of Mr. Nelson's company. Mr. Greenberg stated Boonton Water Systems, Al Nelson.

Mr. Floria-Callori asked Mr. Stewart if he has ever been involved in projects with drainage studies and topography. Mr. Stewart stated that he has been involved in well decommissioning projects, but noted that they usually do not involve runoff and drainage calculations. Mr. Floria-Callori asked Mr. Stewart if he performed drainage calculations on the Applicant's property. Mr. Stewart stated that he did not.

Mr. Stewart stated that based on Mr. Novak's calculations, the existing impervious coverage is 42.41% and the proposed is 45.59%. He stated that the Application includes the removal of structures and the addition of a pool, patio, and retaining wall. He noted that this would result in a net increase in impervious coverage of 3.2%. Mr. Stewart stated that he will propose a drainage pit to compensate for the additional impervious coverage and noted that the Borough Engineer has also recommended that.

Mr. Augustitus asked if the existing 42% is draining properly. Mr. Stewart stated that he reviewed the report of the Engineer who designed and installed the drywell in the lower parking area in front of the garage. He stated that the owner confirmed that the seepage pit functions properly by adequately collecting the runoff from the driveway area. Mr. Floria-Callori asked for the location of the seepage pit. Mr. Stewart referred to SP-2 and stated that it is located in the driveway. Mr. Augustitus asked if the seepage pit is adequately sized. Mr. Stewart stated that there were drainage calculations prepared, submitted to the Borough and it was adequately sized and installed. Mr. Wangner asked where the seepage pit discharges. Mr. Stewart confirmed that the seepage pit discharges into the ground and noted that it is not connected to the storm drain. He added that the seepage pit was dry when he visited the site after rainfall.

Mr. Wangner asked about the recommendation of additional seepage pits to compensate for the proposed pool. He asked if the additional seepage pits would take into consideration any runoff coming from the house that is not being channeled into the existing drainage pit. Mr. Stewart confirmed that the new seepage pits would collect the leader drains that are currently unconnected to a drainage pit. Mr. Lathrop stated that currently there are no downspouts that feed onto the property. He noted that all the downspouts feed into a drainage pit. He added that another pit was built on the side of the house to accommodate the rear runoff. Mr. Tilton asked if there is a gutter system on the garage. Mr. Lathrop confirmed that the gutters on the garage feed into the parking area drain.

Mr. Floria-Callori asked about the intended topography of the proposed plan including the height of the retaining wall near the proposed pool. Mr. Stewart confirmed that a grading plan would be provided which would include the existing topography and proposed grading. Mr. Ferriero confirmed that he usually would like a grading and drainage plan included with an impervious coverage variance application. Mr. Wangner stated that storm water drainage is a sensitive issue in the Borough.

Mr. Augustitus asked if there was concern about additional seepage pits causing a problem with the existing drainage pit in the parking area. Mr. Stewart stated that soil sampling could be done in the area of the proposed seepage pit to determine this.

Mr. Wangner stated that the Applicant would like a conditional variance but explained that the Board would like to see all designs and proposals in an open hearing to better provide answers to everyone's questions and concerns. He asked Mr. Stewart how long it would take to pull a plan together for Mr. Lathrop. Mr. Stewart stated that it would typically take two to three weeks to put a plan together. Mr. Lathrop stated that this would not be a problem if it makes the Board and public more comfortable, but noted that he originally agreed to comply with all the Engineer's requirements. Mr. Wangner asked Mr. Lathrop if he would like to come back to the Board after the plans are done. Mr. Ferriero stated that the Board needs to determine that the variances do not pose a detriment to the neighbors.

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Mr. Greenberg stated that they would like to discuss the silo removal. Mr. Stewart referred to SP-2 to note the location of each silo. He referred to A-5, View C and stated that the Applicant would like to remove the front silo and utilize this area for a garage. Mr. Stewart stated that the Applicant feels that the silos currently do not serve any purpose and noted that the area has changed over twenty years. He stated that removing the back silo would free up some impervious coverage as it is proposed to be a grass area. He added that removing the front silo would not reduce the impervious coverage as it is proposed to be a garage and driveway. Mr. Stewart stated that the benefits of removing the silos outweigh the detriments. Mr. Curcio asked Mr. Stewart how the historic nature of North Caldwell has changed over the last twenty years. Mr. Stewart stated that this area was a farm twenty years ago but currently many structures are in disrepair.

Mr. Wangner asked where the grate at the bottom of the driveway drains. Mr. Lathrop stated he had this drain connected to the drainage pit when he bought the property. He explained that the water runoff from 6 Farmstead Road would overflow the drain so he had a small rock wall built and had the drain connected to the pit.

Mr. Wangner asked Mr. Stewart if he would be handling all the recommendations in Mr. Ferriero's plan. Mr. Stewart stated that he did not have a problem with any of the recommendations.

Mr. Curcio asked Mr. Lathrop if he would consider modifying the plan to leave in one of the silos for historic purposes. Mr. Lathrop stated that he did consider this, but noted that the back silo would require ongoing maintenance so he stated that his preference is to remove both silos.

Mrs. Jenkins asked if it would be possible to close and expand the pass through to make a three car garage. Mr. Lathrop stated that he uses the pass through to access Mountain Avenue during bad weather. Mr. Wangner noted that the pass through cannot be closed because of the easement.

Mr. Augustitus asked Mr. Lathrop if he would consider leaving the second silo if it became an issue. Mr. Lathrop stated that he would consider it but he reiterated his strong preference to remove it.

Mr. Roth asked Mr. Stewart if he recommends a tank sweep of the property. Mr. Greenberg stated that it was probably done during the property purchase. Mr. Roth stated that the Board would like to see a copy of the report.

Mr. Tilton stated that historically, silos were built to depend on each other structurally. Mr. Stewart stated that he was unaware of this. Mr. Wangner asked who would be handling the demolition. Mr. Lathrop stated that he was not that far into the process yet. Mr. Stewart stated that a demolition plan would be submitted to the Building Department to obtain a permit. Mr. Tilton asked about looking into the depth of the well. Mr. Augustitus noted that the decommissioning of the well would be done according to State requirements.

Mr. Wangner opened the hearing to the public for any questions for the witnesses.

Mr. James Timpson, 3 East Greenbrook Road, was sworn in. Mr. Timpson stated that his property is located to the right of the driveway entrance. He stated that he did not have a problem with decommissioning the well but noted his disapproval for the removal of the pump house building. Mr. Lathrop stated that the pump house has a hole in the ground with a flat, concrete slab and the well.

Mr. Timpson stated that there are two dry wells on the property. Mr. Wangner asked Mr. Stewart if he was aware of the second dry well on the property. Mr. Stewart stated that he was unaware of the second dry well. Mr. Timpson stated that the second dry well is buried closer to the pump house. Mr. Lathrop stated that he was also unaware of the second dry well. Mr. Stewart confirmed to research the connections to the second dry well. Mr. Timpson stated that the silos would be very difficult to take down without disturbing the structures around them.

Ms. Gina Garrubo stepped forward and was still under oath from the previous hearing. Ms. Garrubo asked Mr. Stewart if there would be accommodations from the leader drains for the proposed second story addition, to remove the water to

eliminate the runoff onto her property. Mr. Stewart stated that they will design a plan that follows the recommendations of the Board Engineer.

Mr. Wangner asked if there were any other comments from the public. No one else from the public came forward.

Mr. Ferriero stated that a grading and drainage plan would help resolve many questions. Ms. Thompson stated that the hearing is adjourned to July 24<sup>th</sup> at 8:00pm. She noted that the Applicant will be submitting an Engineering plan that will be available for the public to review at Borough Hall. She added that the Borough Engineer will also review the Applicant's plan.

**Mr. and Mrs. John Leitao, 2 Fairview Drive – Block 1505, Lot 1**  
Side and front yard setback, Impervious coverage

Mr. John Leitao was sworn in. Mr. Leitao stated that he sought variance approval for side and front yard setbacks and impervious coverage. He stated that his proposal includes a small bump out in the back of the home to square off the kitchen. The addition would not encroach on the current side yard setback as it was originally built. Mr. Leitao noted that the property is a corner lot where the side is a second front for the driveway and garages. He added that this proposed addition will encroach onto the setback.

Mr. Floria-Callori noted a conflict in the impervious coverage listed in the denial letter and what is shown on the submitted plans. He asked if there was a change in plans that include a circular driveway. Mr. Leitao confirmed that he is applying for a variance for 41%. Mr. Floria-Callori stated that the Application shows the driveway proposal at 3,450 square feet and noted that the plans show a driveway of 884 square feet. He added that there is a conflict in the impervious coverage calculation as shown on page 11 of the Application.

Mr. Augustitus asked Mr. Leitao what would be done to compensate for the significant overage on the impervious coverage due to the circular driveway. He noted that runoff from impervious coverage is a significant problem in the Borough. He explained that Mr. Leitao should present an engineering plan detailing drainage and added that the circular driveway may need to be reduced. Mr. Leitao stated that timing is an issue for him and noted that the only accommodation would be to add a seepage pit which would require more time. Mr. Leitao stated that the Borough Engineer told him that the water from the leaders and the driveway can run off into the sewer. Mr. Wangner stated that there is a misunderstanding between the impervious coverage issue and water runoff which has become one of the most important issues in the Borough.

Mr. Wangner asked Mr. Leitao if he would like to remove the driveway from the Application. Mr. Leitao confirmed that he would like to remove the driveway as he noted there was nothing he could do to adjust the impervious coverage. Mr. Augustitus asked what the calculation would become. Mr. Floria-Callori referred to the architect's plans which calculate the driveway as 884 square feet with a maximum lot coverage of 27.13%. Mr. Floria-Callori asked if there are any changes to the architect's plans aside from the proposed circular driveway. Mr. Leitao stated there were no changes.

Mr. Roth asked Mr. Leitao if he has an updated survey as he noted that the site plan on the architect's drawings references a survey from 2007. Mr. Leitao stated that he has an updated grading plan. Mr. Roth noted that Mr. Leitao needs a signed and sealed survey from 2018 or 2019 submitted to the Board.

Mr. Curcio asked Mr. Leitao to explain the proposed bump out in the back. Mr. Leitao stated that he would like to bump out the back of the home a few feet to square off the back of the house to extend the kitchen. He noted that this will not encroach on the side yard setback. Mr. Floria-Callori asked what the proposed height of the addition is on the bump out. Mr. Leitao stated that the addition would have eight-foot ceilings. Mr. Floria-Callori asked how tall the entire structure would be. Mr. Leitao stated that the structure from ground to the second floor level will stay at 35 feet. He explained that the second floor already exists but the roof line is low and noted that they are bumping the walls out to the perimeter of the house

which will not change the existing height of the house. Ms. Thompson confirmed that the bump out is one story.

Mr. Augustitus noted discrepancies in impervious coverage calculations on the site plan. Mr. Leitao stated that the architect's plan should be accurate. Ms. Thompson stated that the plans have three different numbers for the footprint of the house. She further stated that the Applicant is not proceeding with the plan that includes the circular driveway. Ms. Thompson stated that the Board is discussing the plans as there is confusion with the numbers. Mr. Wangner stated that the Board is looking at setbacks without the driveway in order to establish an accurate footprint. Ms. Thompson confirmed that the Applicant has withdrawn the driveway plan.

Mr. Floria-Callori asked how the building height is calculated. Ms. Thompson confirmed that it is an average of the highest points. Mr. Floria-Callori asked if the existing height of the building is shown on any of the submitted plans. Mr. Wangner asked Mr. Leitao if there have been any changes to the property since the 2007 survey. Mr. Leitao stated that there have not been any changes. Mr. Floria-Callori stated that he does not have a confidence level of what is being asked for as it relates to what currently exists. Mr. Leitao stated that they are proposing to bump out the back left part of the house. Mr. Augustitus stated that the rear setback maintains the existing line for the garage with the bump out. Mr. Leitao stated that he may pull back the proposed garage addition as well due to the elimination of the circular driveway. Mr. Augustitus explained that the property is currently at 25% impervious coverage and noted that by increasing to 30%, the driveway could possibly be widened to accommodate the three car garage. Ms. Thompson explained that if the Applicant wanted to expand his driveway and stay within 30% impervious coverage, the Applicant would not need to come before the Board for a variance but would still require a permit from the Building Department. Mr. Leitao agreed to withdraw the impervious coverage part of his Application.

Mr. Floria-Callori asked if a variance is needed for building height and for extending a front facing garage. Mr. Wangner stated that the property is on a corner lot which is considered a hardship. Mr. Floria-Callori asked if the highest point of the house is being elevated to exceed the Zoning Code of 32 feet. Mr. Leitao confirmed that existing building height is not being elevated. Mr. Wangner asked Mr. Leitao if there was any grading work done when his house was built. Mr. Leitao stated that the house was built in the 1960s and noted that he was not aware of any grading work that was done. Mr. Leitao stated that he has owned the home for about seven years.

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

Mr. Frank Detrolio, 6 Angela Court, was sworn in. Mr. Detrolio noted that his yard abutts Mr. Leitao's rear yard. He explained that his home sits lower with an approximate 16 foot difference in elevation from Mr. Leitao's home to his. He further explained that during hard rain, water runs down to his property. Mr. Detrolio stated that he would like landscaping planted to alleviate the water runoff. He stated that he would like trees or larger shrubs planted across the back for aesthetics and to address the water runoff.

Mr. Augustitus asked where the leaders currently drain. Mr. Leitao stated that the leaders drain down but noted that he spoke to the Borough Engineer and the plan is to install PVC piping underground to have the leaders drained into the storm drains. Mr. Wangner noted a lack of clarity with regard to leaders draining into storm drains. Ms. Thompson noted that the requirements of the Borough Engineer and Building Department need to be satisfied with regard to capturing the water from the leaders.

Mr. Wangner asked if there were any more questions or comments from the Board. There were no further comments or questions.

Mr. Augustitus made a motion to accept the Application with the following conditions:

1. The Application for the impervious coverage is withdrawn and the impervious coverage will remain as it exists, not to exceed 30%.
2. There is a stipulation that the height of the building shall be calculated correctly and a variance obtained if needed prior to building.

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3. The roof leaders are properly discharged according to Borough Engineer and Building Department requirements.
4. A landscape buffering shall be planted along the rear of the property to help alleviate runoff to the rear neighbor's yard. Mr. Curcio made a suggestion to use Green Giant Arborvitaes.
5. An updated signed and sealed survey shall be submitted.

The motion was seconded by Mr. Michelotti. A vote was taken and the application was approved with the above revisions with affirmative votes by Mr. Augustitus, Mr. Michelotti, Mr. Floria-Callori, Mrs. Jenkins, Mr. Roth, Mr. Curcio, and Mr. Wangner.

**APPROVAL OF MINUTES**

Mr. Augustitus made a motion to accept the minutes of the Board Meeting of April 17, 2019. The motion was seconded by Mr. Floria-Callori. Said motion was passed with seven affirmative votes by Mr. Augustitus, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Curcio, and Mr. Wangner.

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 9:41 p.m.

Respectfully submitted,

  
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Tami Michelotti  
Zoning Board Secretary