

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, September 16, 2020 starting at 8:05pm.

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. Salan, Mr. Floria-Callori, Mrs. Jenkins, Mr. Roth, Mr. Sceppaguercio, Mr. Rentzis and Chairman Wangner. Absent: Mr. Curcio, Mr. Michelotti

Also present were Lisa Thompson, Esq., Board Attorney; Paul Ferriero, Board Engineer; and Tami Michelotti, Zoning Board Secretary.

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

APPLICATIONS

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

Ms. Thompson stated that the variance Application would be adjourned to the September 16, 2020 meeting at the request of the Applicant. Ms. Thompson stated that no further notice is required.

Mr. and Mrs. David Arluna – 9 Colony Drive

Side and Rear Yard Setbacks, Impervious Lot Coverage

Mr. David Arluna was sworn in and presented his request for a rear and side yard variance and a lot coverage variance for the installation of a shed. He explained that adherence to the 15-foot setback requirements would place the shed toward the middle of his yard. He explained that he would like the shed closer to the side of the lot. Mr. Arluna described the shed as a standard 8 x 10 structure with a front-facing door which would be used for storage of yard equipment and toys. He described the property as approximately 11,000 square feet, 80 feet wide and 150 feet in depth. He explained that his children play in the center of the yard.

Chairman Wangner opened the meeting to the Board for any questions or comments. Mr. Roth stated that his property has a similar yard with a shed that is in compliance with the zoning ordinance. He stated that he does not see a hardship in this case. Mr. Floria-Callori asked for additional justification for the variance in addition to the play area. Mr. Arluna stated that due to his lot size he does not have much space for his children. He added that trees along the side would obstruct view of the proposed shed by the neighbors. Mr. Floria-Callori referred to the survey and asked if hemlock trees are located along the rear property line. Mr. Arluna confirmed that hemlocks are located along the rear property line and along both sides of the property. Mr. Floria-Callori asked where the yard equipment and toys are currently being stored. Mr. Arluna stated that the items are stored under a tarp in the yard and in the garage. Mr. Floria-Callori asked if removing the tarp would create an aesthetic improvement. Mr. Arluna confirmed that his wife and the neighbors would be happy not seeing the tarp over the equipment.

Mrs. Jenkins stated that she visited the property today and asked how long the pavers have been there. Mr. Arluna stated that the pavers were there when he moved in 6 years ago. Mr. Salan asked if the fence belongs to Mr. Arluna and if it was installed prior to him moving there. Mr. Arluna confirmed that the fence is his and was already installed when he moved in. He noted that the neighbor on the left has a fence on their side as well. Mr. Salan asked if Mr. Arluna had any options other than the shed to which Mr. Arluna did not. Mr. Rentzis did not have any comments or questions for the Applicant. Mr. Sceppaguercio stated that he drove by the property and noted that the trees along the back and side of the property provide good coverage. He added that placing the shed near the side-yard was logical due to the lot size.

Chairman Wangner opened the meeting to the public for any questions or comments. There were no questions or comments from the public.

Mr. Wangner asked Mr. Arluna if removing some impervious surface on the lot could bring the total lot coverage closer to compliance. Mr. Arluna stated that he does not believe he could reduce the lot coverage at this time. Mr. Floria-Callori asked who prepared the impervious coverage calculations and what the current coverage is. Mr. Arluna stated that he prepared the calculations himself and clarified that the shed would increase the coverage by .01% with the existing lot coverage at 39%. Mrs. Jenkins asked if the cement under the children's playset could be removed. Mr. Arluna stated that he would consider that as an option but noted his preference to maintain the existing pavers.

Mr. Floria-Callori made a motion to approve the Application as submitted with the stipulation that the cement pad under the playset is removed to offset the impervious coverage. Mr. Sceppaguercio asked how much of a problem will the cement pad be to remove. Mr. Arluna stated that it is about 80 square feet with stone underneath. Mr. Sceppaguercio expressed concern for removing the cement pad for only a .01% difference. Mr. Floria-Callori stated his concern with the series of improvements on the property that have increased the total lot coverage over time for which variances were not granted. He explained that he was looking for a way to reduce the impact of the impervious. Mr. Floria-Callori suggested that a variance should be sought for the entire 10% overage that happened over time as noted in the Engineer's letter.

Mr. Sceppaguercio sought clarification from Ms. Thompson regarding a new motion to allow the playground's cement pad to remain. Ms. Thompson explained that he could request that Mr. Floria-Callori amend his motion but noted that a "no" vote would translate into voting against the entire Application for the shed.

Mr. Ferriero explained that the Application is for a relatively de minimis increase of impervious coverage of .01% but noted the issue of the pre-existing conditions that accumulate to nearly 10% over the permitted coverage.

Mr. Sceppaguercio requested to amend Mr. Floria-Callori's motion. Mr. Floria-Callori rescinded his motion. Mr. Sceppaguercio made a motion to approve the Application as submitted, seconded by Mr. Salan. Mr. Floria-Callori sought clarification from Ms. Thompson regarding the approval of this variance request encompassing the preexisting impervious coverage. Ms. Thompson stated that the Board has noted this concern which will be noted in the Resolution that the impervious coverage overage as a preexisting non-conforming condition. Mr. Floria-Callori stated his affirmative vote on the condition that the existing impervious coverage is noted as a pre-existing non-conforming condition. A vote was taken and the motion was approved with six affirmative votes by Mr. Sceppaguercio, Mr. Salan, Mr. Floria-Callori, Mrs. Jenkins, Mr. Rentzis, and Chairman Wangner. Mr. Roth voted No.

Mr. and Mrs. John Leitao – 2 Fairview Drive

Impervious Lot Coverage

Mr. John Leitao was sworn in and explained his Application for a circular driveway to allow for ease of access to his home's front entrance. He added that his proposal is consistent with the neighborhood. He stated that he needs additional parking for his family and confirmed that the addition of the circular driveway would increase the property's impervious coverage by 5%. Chairman Wangner asked if a garage currently exists and if it could be used for parking cars. Mr. Leitao stated that they have a one car garage that is used for storage because the house only has half of a basement and minimal storage. Mr. Leitao stated that they currently have 5 cars but noted they will soon have 7 as his daughter is getting a car and his mom is moving into their home.

Chairman Wangner asked if Mr. Leitao consulted with his Engineer on how to remediate the additional runoff that the driveway may cause. Mr. Leitao stated that there are two seepage tanks proposed to catch the runoff. He explained that there will be two French drains at the end of each apron to catch the water runoff from the property and roof leaders. Chairman Wangner asked Mr. Leitao if he read the Township Engineer's report. Mr. Leitao stated that he was familiar with the report and explained that the roof overhang was already approved in a variance hearing before the Board last year. He noted that

the rear patio approved in the prior variance application had not yet been built but will be reduced to allow for the driveway.

Mr. Ferriero reviewed his report dated September 9, 2020 and noted that he was not present for the prior Application. He explained that the current proposal shows a covered patio at the rear of the property with a proposed overhang. He stated that he reviewed the Board of Adjustment file from the prior Application and noted that the covered porch was approved as part of an extension of the building. Mr. Ferriero noted inconsistency between the proposed plans vs. what elements exist today as described in parts 1 and 2 of his report. He added that the proposed patio seems to be a reconfiguration of the irregular shaped patio and reflects a slight reduction in size.

Mr. Ferriero referred to item number 3 on the letter and explained that a north arrow is needed on the plans in order to properly reference different parts of the property. Mr. Ferriero referred to item number 4 on the letter and explained that the plan shows a fence and shed that extend over the property line. Mr. Leitao stated that the fence and shed were there when they purchased the property and explained there were never any complaints from the neighbors.

Chairman Wangner asked Mr. Leitao how long he has been living there. Mr. Leitao stated that he has been living there since 2013. Chairman Wangner asked Mr. Leitao if he considered reducing the impact of the impervious coverage by eliminating the shed or reducing the patio. Mr. Leitao noted that he could eliminate a shed but explained that the patio was already reduced from the original size. He stated that the covered patio was already constructed and cannot be changed.

Mr. Floria-Callori stated that the plans do not show the status of the property and noted that the impervious coverage calculations do not match what is on the actual site. He noted difficulty in determining the impact the shed removal on the impervious coverage percentage. Mr. Leitao stated that the plan shows what is already on site. He explained that the proposed patio that is on the plan is not built yet and the covered patio is already built. He added that the one car garage and overhang currently exist. Mr. Floria-Callori asked what the current impervious coverage is on the property. He noted that the plans specify the impervious coverage at 22% and questioned if this was before the improvements were completed. Chairman Wangner communicated that the plans state that the proposed lot coverage is 35.45% and asked for the current coverage. Mr. Leitao explained that he is seeking a 5.5% increase where the current lot coverage is about 29%. Mr. Ferriero noted inconsistency in the lot coverage calculations between the grading plan and the zoning table in the application.

Chairman Wangner suggested that Mr. Leitao appear with his engineer to provide testimony to allow the Board a better understanding of the Application. Mr. Leitao expressed concern in waiting another month to include his engineer in the next meeting. Mr. Wangner asked Mr. Ferriero if he was able to clarify the lot coverage discrepancy. Mr. Ferriero stated that the Board's concern with the inconsistency is also identified in his report. He explained that if the covered patio currently exists, it should be included in the existing coverage calculation and would be more than 22.48%.

Ms. Thompson noted that she understands the Applicant's time constraints. She stated that the Board has to review and decide on the information that is presented. She explained that if the information presented is confusing to the Board, they have the right to ask for clarification from the Applicant's engineer. Mr. Leitao asked if there would be another hearing upon clarification by his engineer. Chairman Wangner suggested that Mr. Leitao clarify the inconsistencies and return before the Board with his engineer. Ms. Thompson explained that an adjournment to the October 21st meeting would not require any further notice. She added that any new documents need to be submitted no later than 10 days before the next meeting.

Mr. Floria-Callori stated that the Applicant is considering this as one Application, where a previously granted variance was already approved. He explained that the Applicant needs to seek a variance for anything in excess to what was already granted. He added that clarification is needed in order for the Board to accurately consider the driveway variance.

Ms. Thompson stated that the Applicant's engineer should address the Board's questions as well as the comments and concerns that were set forth in Mr. Ferriero's report. Mr. Ferriero noted that there are several comments in his letter that relate to modifications or details of the plans that require a response. Mr. Leitao agreed to return before the Board at the next meeting. Chairman Wangner noted that the meeting is adjourned to October 21, 2020.

Mr. and Mrs. Adam Winters – 207 Smull Avenue

Solid Fence Facing Street

Mr. and Mrs. Adam Winters were sworn in. Mr. Winters explained the proposal to install a five-foot solid privacy fence in their backyard. He added that the property is on the corner of Smull Avenue and Winding Way where one side of the fence would face Winding Way. He referred to the plans and explained that the zoning ordinance prevents the installation of the fence closer to the road (facing Winding Way) than the nearest corner of their house. He referred to the graphics submitted which depict a conforming solid fence and the proposed solid fence. He added that a conforming fence cuts the yard in half to maintain parallelism to Winding Way and adhere to the proper setback. Mr. Winters further added that the shape of the yard is odd and not favorable. He stated that they would lose a lot of the yard that they intended to capture within the fence. He explained that they would like the fence for privacy, to keep the animals out, and to maximize enjoyment of their yard. He noted the drastic difference between a fence installation that complies with the ordinance versus their proposal.

Chairman Wangner asked about the primary uses of the yard. Mr. Winters stated that they purchased the home a year ago and added that they would like to use the yard with their young daughter and enjoy privacy outdoors. Mrs. Winters stated that the property is exposed on all sides and added that the fence would provide safety for their daughter and future children. She further added that they love the property but would like to enjoy a backyard instead of two front yards of their corner-lot property.

Chairman Wangner asked if the backyard is landscaped around the perimeter. Mr. Winters stated that there are trees on the south and west property lines that would disguise the fence from the neighbors but currently there is no landscaping on the Winding Way side. Mr. Sceppaguercio asked how close the fence would be to the street. Mr. Winters stated that it would not be any closer than the town's right of way which is about 12 feet. He noted that there will be a 12-foot section of landscaped grass in between the road and the fence along Winding Way. Mr. Sceppaguercio asked if the blue spruce depicted on the plans would be on the inside or outside of the fence. Mrs. Winters stated that it would be inside of the fence right at the tree. Mr. Floria-Callori referred to the plan of the proposed solid fence and noted that it does not seem to be 12 feet from the curb line. Mr. Ferriero stated that the curb is generally about 10 feet from the right of way line and the comment was that it would be 12 feet from the curb line. Mr. Floria-Callori questioned if the fence would be a foot from the property line and asked for the current fence setback code. Mr. Winters stated that he believes that the setback is 45 feet from the front property line. Mr. Floria-Callori asked what the setback is from the side property line. Mr. Winters expressed that it was not clear but noted that it could not encroach closer than the nearest portion of the home itself. He noted that their home is 4 feet away from the property line.

Mr. Floria-Callori asked about the rear property along the westerly line of the property as shown on the survey. Mr. Winters stated that it is brush and some trees and confirmed there are no retaining walls. Mr. Floria-Callori expressed his concern with the fence being installed across a drainage easement. Mr. Ferriero stated that there are two areas of concern relative to

the fence in the rear yard. He stated that the first concern is the easement and explained that even if the Board were to approve the Application, the Governing Body is the ultimate deciding authority to authorize a fence in the easement. He suggested that it be a condition of the Application approval. He suggested that gates or an opening in the fence be considered so the Borough could access the easement for maintenance. He noted that this should be addressed as part of the final design of the fence. Mrs. Winters stated that they planned to install a gate in the back on the Winding Way side. Mr. Ferriero explained that the municipality should not have the additional burden of removing the fence or any other obstruction for easement access. Mr. Floria-Callori asked for a description of the easement area. Mr. Winters stated that the easement is not noticeable as is a grassy area with trees on the south side of the property. Mrs. Winters added that without the survey, the area is unrecognizable.

Mr. Floria-Callori stated his concern about the sight obstruction and safety issues of constructing a solid fence on a corner. Mr. Ferriero stated that the sight obstruction is an engineering concern as well. He explained that the fence must not obstruct the line of sight at the intersection. He suggested that, upon Board approval, he would meet with the Applicants in the field to determine where the fence should be placed to prevent sight obstruction. Mr. Winters referred to the proposed plan and stated that the fence is depicted 65 feet away from the corner where the code prohibits a fence within 25 feet from a corner. He added that the fence is set back from Smull Road and is farther away from the corner than Smull Road is from the house. He further explained that Winding Way slopes downhill from Smull to the back of their lot so it would be easy to see over the fence. Chairman Wangner asked how tall the fence would be. Mr. Winters stated that it would be a standard five-foot fence.

Chairman Wangner asked the Board if they had any questions or comments. Mrs. Jenkins noted that the street is called Smull Avenue and not Smull Road as shown on the survey. Mr. Salan referred to page 14 of the Application and asked if the photos depicted existing fences in town and if they were on a corner lot. Mr. Winters stated that Figure 4 is a similar corner lot within view of their own home. Mrs. Winters stated that the other photos are front yard facing fences. Mr. Floria-Callori referred to the denial letter on page 19 of the Application and stated that the reason for denial is that the fence is facing the street and the requirement that the fence must be 50% open. Mr. Winters stated that they prefer a solid fence. He added a mandatory 45-foot setback for a solid fence would result in the loss of half of what they consider their backyard. He stated this as a hardship and noted that an open fence would not deter deer.

Chairman Wangner opened the hearing to the public for any comments or questions. No one from the public came forward.

Mr. Floria-Callori stated that a solid fence on that corner will be visually jarring to people that are accustomed to having an open corner. He noted that he believes it will be a dramatic change if the fence is erected. Chairman Wangner asked the Board for opinions regarding gates in the drainage easement. Mr. Floria-Callori stated he was preparing a motion to encompass his concerns related to the easement as it relates to limiting the fence installation to the edge of the drainage easement. He added that this solution would alleviate the need to seek municipal approval. Mr. Rentzis asked how long the proposed fence will be from Smull Avenue to Winding Way.

Mr. Adam Weinstein from Best Gate and Fence, 1275 Bloomfield Avenue Fairfield, NJ was sworn in. Mr. Weinstein stated that the length of the fence is 170 feet from the front-facing corner at Winding Way to the end of the fence line near the drainage easement. Chairman

Wangner asked how wide the fence will be in the area of the drainage easement. Mr. Weinstein answered that it would be 88 feet along the easement and 103 feet up the south side to the driveway retaining wall. He confirmed that the fence is a five-foot solid fence around the perimeter of the property. Chairman Wangner asked about the size of the gates that would be required if the fence is placed over the drainage easement. Mr. Weinstein stated that the gate size would be dependent upon the end of the fence line. He noted that the easement is 15-feet wide. Chairman Wangner asked Mr. Ferriero if the far northern corner of the easement would allow for a gate. Mr. Ferriero acknowledged that the corner of the fence would fall in the easement. He stated that the required width of an opening is ten feet and that two gates can be installed together for a width of ten feet. Mr. Floria-Callori stated that enclosed yard with the fence installed as proposed would be approximately 17,000 square feet. He continued that if the fence is installed to exclude the easement line, the enclosed yard would be approximately 15,000 square feet.

Mr. Rentzis asked Mr. Weinstein if a five-foot fence would actually deter deer. Mr. Weinstein stated that generally there is a significant deterrence of deer based on customers' testimony after their fences have been installed. Mr. Rentzis asked Mr. and Mrs. Winters if they considered using trees instead of a solid fence. Mr. Winters stated that it was considered and Mrs. Winters added that the trees are not sufficient in keeping out the animals. She added that they could install landscaping outside of the fence if requested.

Chairman Wangner asked if there were any more questions for Mr. Weinstein. There were no more questions.

Mr. Floria-Callori made a motion subject to the following conditions:

1. The fence along the northerly property line complies with the side-yard setback requirements for fences.
2. The fence conforms to the town Engineer's determination of a safe sight line at the corner of Smull Avenue and Winding Way.
3. The fence terminates before it enters the easement area.
4. A reasonable effort is made to landscape along the outside of the fence.

Mr. Winters noted that he believes the code states a 45 foot setback. Mr. Floria-Callori clarified that he is referring to the applicable side-yard setback. Mr. Ferreiro stated that the ordinance does not specify a required setback from the side or rear yards. He added that the setback issue relates to the front yard installation of a solid fence versus an open fence.

Mr. Floria-Callori clarified his motion to state:

1. The fence location along Winding Way provides for landscape buffer on the outside of the fence.
2. The fence location conforms to the Engineer's discrimination of a safe sight line along the corner of Smull Avenue and Winding Way.
3. Opposed to what is shown on the plans, the fence terminates before it enters the drainage easement area.

Mrs. Winters stated that they sent letters to the Fire Department and Police Department alerting them of the proposed fence and noted that the Police Department did not see any safety concerns with where the fence is located. Mr. Floria-Callori expressed his appreciation for the consideration but noted concern for municipal maintenance of that area for whatever purposes the municipality deems fit. He noted his reference to the easterly side of the property where the drainage easement is located and added that the town may or may not need access.

He added that the town could require that the fence be removed in order to access the easement. He explained that avoiding that situation would benefit all parties. Mrs. Winters stated that they do not have a problem putting in whatever gates are needed and noted that they would rather get the fence torn down than not have it at all.

Mr. Floria-Callori stated that his motion stands. Mr. Roth seconded the motion. A vote was taken and the motion was approved with five affirmative votes by Mr. Floria-Callori, Mr. Roth, Mrs. Jenkins, Mr. Sceppaguercio, and Mr. Rentzis. Mr. Salan and Chairman Wangner voted no.

MEMORIALIZATIONS

Mr. Jack Corradino – 5 Vale Place, Block 800, Lot 13

Rear Yard Setback Variance, Lot Coverage

MATTER OF JACK CORRADINO

Decided: August 19, 2020

Memorialized: September 16, 2020

WHEREAS, Jack Corradino (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 5 Vale Place, also known as Lot 13 in Block 800 (the “Property”) in order to construct a new 2.5 story frame building addition to an existing 2.5 story frame dwelling requiring variance relief for rear yard setback exceeding maximum impervious coverage requirements contrary to Section 107-21D(5) and 107-21D(9) of the North Caldwell Borough Code. The subject property is located in 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, due to the Covid-19 pandemic, virtual public hearings were held by this Board on April 22, 2020, May 20, 2020, and August 19, 2020; and

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

1. Mr. John Veteri, Esq., attorney for the Applicant, stated that the Applicant is seeking approval to construct an addition to the residence located at 5 Vale Place. Mr. Veteri further stated that a subdivision of the property was approved in 1985 and the home was constructed in 1994. The Applicant purchased the home in 2014 and subsequently made interior renovations. Mr. Veteri noted that some exterior improvements were completed in 2016 for which permits were obtained.
2. Mr. Veteri described the variance relief requested as rear yard setback of 47.67 feet where 50 feet is required and maximum lot coverage of 33.9% where 30% is the maximum allowed. He noted that the existing lot coverage is 32.9%.
3. Mr. Frank Troia, architect for the Applicant, was sworn in, presented his credentials and was by the Board as an expert witness.
4. Mr. Troia presented electronic architectural plans for the video conference participants. Mr. Troia referred to Sheet A000 to explain the existing property and the proposed plans for a two-story, one-bay garage addition and a second-story addition over the existing one-story garage. He added that a driveway extension was planned to allow vehicle access to the new proposed garage. He referred to Sheet A100 as the existing dwelling without the proposed modifications and explained the layout of the existing living space. Mr. Troia referred to sheet A201, a layout of the first floor proposed design. He explained that the proposal includes a portico at the front entrance which does not need a variance. He added that the proposed addition for the third garage bay at the rear right side of the home requires a variance. He stated that the proposal was based on the minimum width and depth that is needed for a car to properly maneuver and fit in the garage. He explained that it is necessary to extend the addition to the dwelling because of an existing chimney. Mr. Troia referred to Sheet A202 depicting the second floor plan which would include an

entertainment/recreation space over the existing two- car garage as well as a new space over the proposed third garage bay which would connect to the existing dwelling through a staircase. He referred to Sheet A203, the attic plan which would be utilized for a study/loft overlooking the space below on the second-floor plan. He added that this space will also have a rear walkout terrace overlooking the backyard.

5. Mr. Troia referred to sheet A500 showing the proposed elevations and modifications to the existing house which he noted are inspired by an English manor Tudor-style structure. He further noted that the materials proposed will match the existing stone and stucco and added that the structure will comply with the overall building height restrictions. He referred to Drawing #2 and explained the additions noted that the rear of the home would be seamless to align with the existing dwelling.
6. Mr. Troia referred to the animation video labeled as Exhibit A1. Mr. Troia explained the content of the animation video and noted that Mr. Corradino owns three cars and also uses the garages for storage. He added that three-car garages are customary in the neighborhood and good for the resale value of the home.
7. Upon questioning from the Board seeking clarification if there was any work done at the property in the past that required Planning or Zoning Board approval, Mr. Veteri stated that the work that was previously done did not include any additions to the home. He added that he requested permit history from the Borough which included a deck and hot tub installation in 1998 and a pool installation in 2000. He stated that the Applicant purchased the house and obtained permits in 2016 for the removal of decks and retaining walls and for the installation of a patio, new retaining walls, the pergola, walkway, fence, and the upper deck that was shown on the animation exhibit. The Applicant does not have any knowledge previous Planning Board applications.
8. In response to a comment by the Borough Engineer regarding the progression of existing lot coverage to 32.9 percent, Mr. Veteri stated no changes have been made within the last seven years. He added that decks installed in 1998 may have exceeded current lot coverage standards which may have been different in 1998, but that permits were obtained.
9. Mr. Troia stated that the construction project would take approximately four to five months depending on the weather and the COVID-19 related Stay at Home order currently in effect. The Applicant was reminded by the Board that if approved, contractors were to be conscious and courteous of the neighbors on this family-friendly cul-de-sac.
10. Mr. Troia referred to sheet A201 showing the dimensions of the proposal and noted that the Applicant is reducing the addition to the minimum space required. He added that garages are typically not designed with a depth less than 22 feet but he focused on adherence to the setback requirements as much as possible. He noted that the minimum RSIS parking requirements of 18 feet by 9 feet must be maintained. He added that the depth is dictated by the existing chimney and proposed stairs. Mr. Troia stated that the Applicant considered moving the rear wall to avoid a variance while maintaining the 18 foot width needed. He explained that the garage width would result in a width of 10 feet which does not allow for ease in pulling in a car and opening the doors.
11. Upon questioning from the Board, it was explained that garage depths of 25 feet are typical in a home such as the Applicant's and the minimum depth to make the project worthwhile would be 18 feet. Mr. Troia stated that in order to conform to the rear yard setback, the Applicant would have to remove approximately four (4) feet which would bring the exterior dimension of the garage to 10 feet. He stated that doing so would make the addition look less cohesive with the existing home and further explained that reducing the addition would eliminate the rear yard setback variance but noted that it would not reduce the impervious coverage because the area would still be used as a driveway.
12. In response to questions from the Board if any other solutions were possible to reduce the impervious coverage, Mr. Troia stated that the standard back-out space for a car in a single family dwelling is 30 feet which they already reduced to 24 feet.
13. In response to questions from the Board, concerning possible removal of the existing shed to reduce impervious coverage, Mr. Troia stated that the Applicant would like to maintain and keep the shed so that the extra garage could be used for his third vehicle.
14. In response to questions from the Board, Mr. Troia stated that the proposed parapets and spire are decorative and added that they would be constructed of lumber and

wood studs and would not create any livable space. Mr. Troia stated that the top of the spire is 4.5 feet above the existing ridge on the higher parapet and is purely a decorative feature. He added that decorative elements such as spires and parapets are typically allowed to exceed the building heights up to five to six feet. Mr. Veteri stated that he understood the Borough code to allow for spires. After review of the code, the Board Attorney and Borough Engineer confirmed that a height variance was not necessary as chimneys, spires, and similar projections are not included in calculating the building height according to the Borough Code.

15. Jerry Ehrlich, 1 Vale Place, was sworn in. Mr. Ehrlich stated that the proposed plans would add significant size onto what is now the smallest house in the neighborhood. He expressed concern that the increased lot coverage would cause damage to others in the neighborhood. Mr. Ehrlich stated that rainwater travels down the hill through 5 Vale Place and 3 Vale Place and then onto his property at 1 Vale Place. He explained that he installed an eight (8) inch pipe at a cost over \$10,000 which still does not prevent mud and stones from overflowing down the hill. He recommended that a third party verify the impervious coverage percent as he suggested that it is currently over 33 percent. He suggested that a canal be created for the flow of water to enter the street instead of onto his property and the neighboring properties. Mr. Ehrlich added that he has replaced his pool water often because of the runoff which has been costly. Mr. Ehrlich stated that the overhangs on the structure add to the impervious coverage. Mr. Troia stated that the proposal does not include any new overhangs, just a relocation and noted that the modifications will be contained into a roof leader. Mr. Ehrlich requested that the Board ensure that the lot coverage be reduced back to 30 percent.
16. Alan Katz, 39 Willow Brook Drive, was sworn in. Mr. Katz asked if the dog run near the shed that was added in 2016 is included in the impervious coverage. He noted that it did not exist before the construction in 2016. He added that the dog run allows the Applicant's dogs to be outside all hours of the night. In response, the Chairman explained that if the material used for the dog run is impervious, it would need to be added to the lot coverage percentage. Mr. Troia stated that the material is probably mulch or gravel which is permeable. Mr. Katz stated that it has a roof and is covered.
17. Michael and Lori Etkin, 3 Vale Place, were sworn in. Mr. Etkin asked about permitted hours of construction. It was suggested they obtain the specific permitted hours from the Borough's Building Department. Mr. Etkin expressed concern for the storm water runoff and noted that the problem has been exacerbated since the construction of Mr. Corradino's pool. In response to the resident's questions, Mr. Troia stated that he does not believe there will be any blasting involved as he noted that this only would happen if bedrock exists. He stated that there may be some minimal noise to break up the existing driveway slabs but noted that the work will comply with the Building Department rules. Mr. Troia stated that the 319 square foot proposed addition would require only an excavator for a couple of days to dig the foundation. The proposed addition is slab on grade. The type of large equipment required for the previous pool construction in 2016 is far more extensive than the construction proposed with this addition and confirmed that this proposal will have less disruption than the pool construction.
18. Mr. Etkin stated that there is a large significant fence around the entire property with a gate to the driveway. He detailed several incidents with Mr. Corradino's large dogs getting loose and attacking his wife and small dog which he noted led to a court hearing. He stated that he is extremely concerned that during the construction, portions of the fence may need to be removed which could allow the dogs to get out onto neighboring properties. Mr. Troia stated that they should not have to take down any portion of the fence as all the construction vehicles should enter the property through the gate and agreed that it would be best for the Applicant to keep the gate closed to keep the dogs from getting out of the property. Mr. Etkin stated that consideration for the neighbors is a concern and added that the fence was not shown on the virtual video or plans. Mr. Troia stated that the fence was not modeled in the animation because it was not part of the architecture that they were creating. He noted that the fence is shown on Sheet A00 which is the site plan.
19. In response to questions from the Board, Mr. Veteri stated that the shed is included in the impervious coverage calculations on the existing and proposed plans, but the dog run does not seem to be included in the impervious calculations. Mr. Ehrlich noted that he believed the surface of the dog run is AstroTurf which is impervious material.

20. The Applicant's Engineer, Jeff Egerian, PE was sworn in, presented his credentials to the Board and was accepted as an expert witness.
21. Mr. Egerian referred to the Borough Engineer Paul Ferreiro's April 15, 2020th letter and stated that the net increase in the impervious coverage related to the proposed addition and driveway expansion will be 1,113 square feet over what is permitted. He noted that Mr. Ferreiro suggested designing a storm water management system based on the 1,113 square feet. Mr. Egerian explained that three (3) inches of rain equates to 278 cubic feet which can be routed and stored in a 1,000 gallon seepage tank. He stated that if the Board grants the variances, his office will prepare a storm water detention plan and grading plan, both of which will require permits. He explained that a seepage tank of that volume will accommodate the increase in the impervious area and will rout and store water underground. Mr. Egerian explained that no adjacent properties would be negatively impacted by this improvement. He stated that water from heavy rain would be rerouted and detained on the property thereby mitigating any negative impact on the adjacent properties.
22. Mr. Veteri stated that the Applicant will base the storm water standards on the impervious coverage increase from 30 percent to the proposed 33 percent. He noted that the increase in coverage over the years could not be tracked. Mr. Egerian confirmed that the drywell will be designed for 1,113 square feet which includes the excess over the 30 percent impervious surface. Mr. Egerian stated there will be an improvement to the existing inlet with the new drainage system.
23. Mr. Egerian stated that a topographical survey had been considered but was not yet modeled and offered to provide the topographic survey and grading plan with the permit application as well as a storm water detention permit application. He explained the topographic survey would be utilized when preparing grading plan.
24. Mr. Egerian confirmed that the dog run was not included in the impervious coverage calculations. He further stated that the dog run has a synthetic turf floor which is classified as an impervious surface by the Borough. Mr. Egerian further stated that it appears that there is a tarp over the two fences for the dog run, but not a physical roof structure.
25. Borough Engineer Paul Ferreiro stated that an overhang is part of the horizontal projection of a building and should be considered an impervious surface. He added that the AstroTurf surface of the dog run is impervious and needs to be included in the design calculations of the drywell. He noted that a new lot coverage calculation is needed to reflect the dog run. Mr. Egerian stated that the dog run is 479 square feet which brings the total coverage to 10,107 square feet. He stated that the new lot coverage including the dog run would total 35.6 percent. Mr. Ferreiro stated that the new variance request will be for 35.6 percent. In response to questions from the Board, Mr. Ferreiro stated that he has not been to the subject property, but he reviewed photographs of the property. He stated that he will review the topographic survey once it is completed to see where the best location for storm water collection should be.
26. In response to questions from the Board, Mr. Egerian stated that there will be an erosion control plan in place to ensure that runoff and silt does not leave the property. Mr. Egerian further stated that he will consider and explore the overall roof area of the home and the dog run, explaining that the drainage plan will be a function of the volume and will be based on the criteria of three (3) inches of rain. He added that it will all be designed on a drainage plan and confirmed that the overhangs will be measured and included in the impervious area.
27. In response to questions from the Board, Mr. Ferreiro stated that overhangs are horizontal projection and would factor into the impervious coverage calculation. Mr. Egerian confirmed that the overhangs will be measured and included in the calculation. Mr. Egerian stated that the dog run is fully fenced by a chain link fence with a gate and natural slats.
28. The hearing was adjourned to allow the Applicant's professional to address the public and Board comments. The hearing was adjourned to the Board's May 20, 2020 without further notice required.
29. At the continuation of the public hearing, Mr. Veteri provided an update regarding drainage concerns and information regarding the effect of the roof overhangs on lot coverage, stating that the Application has a revised lot coverage request of 34.78%. He confirmed that the side-yard setback distance remained unchanged but noted the distance from the patio to the rear yard setback is 49.2 feet where 50 feet are required.

30. Mr. Troia stated that the revised proposed square footage calculation is 9,873 square feet or 34.78% lot coverage. He added that there is an increase of 245 square feet from calculations presented at the last meeting due to the inclusion of the roof overhangs. Mr. Troia referred to Sheet A000 for the updated coverage calculations. Mr. Troia stated that the dog run is not included as the tarp and turf have been removed to ensure a fully pervious area. Mr. Veteri referred to Mr. Ferriero's secondary review correspondence and stated that the testimony answers questions #1 and #2. He added that the variance now sought is for 34.78% lot coverage where 30% is the maximum permitted in this zone. Mr. Veteri stated that Mr. Egerian will address the drywell calculations, noting that the proposed well will accommodate the increase of 1,113 feet in impervious coverage.
31. Mr. Egerian stated that he reviewed the pool, patio and upper patio with respect to lot coverage and the storm water management system. He stated that he was able to obtain the engineer's drawings and added that the plans include two seepage tanks were sized in accordance with the storm water management criteria of the Borough. He stated that the plan provides adequate storage for the impervious area around the pool and the patio. He added that the storm water runoff from the patio area is being managed in a way that is consistent with Borough requirements and added that there is no detrimental impact to the adjacent properties. He stated the proposed garage addition and the storm water plan were revised to include the roof overhangs and noted that the net increase in impervious coverage is 1,358 square feet. He described that the capacity for storage is approximately 340 cubic feet and the drywell detail on the provided plan is 285 feet. He added that this project will have no impact on the neighboring properties as storm water will be rerouted underground.
32. In response to questions from the Board, Mr. Egerian stated the drains are typically installed as required by permit at that time of construction. He added that he has picture evidence of the seepage pits being installed. Mr. Egerian noted that he could not testify to the condition of the existing functionality but noted that he would assume that it is working satisfactory since the project was rather recent.
33. In response to questions from the Board, Mr. Egerian stated that the seepage pit volumes were correct on the plans and that the proposed seepage pit will be located directly behind the driveway with the same elevation as the existing driveway.
34. Mr. Ferriero explained his May 15, 2020 report, stating that the existing drywells can be inspected for their functionality when the new work is being completed if the Application is approved. Mr. Ferriero stated that if the Board approves the Application, he would recommend proper functioning of the existing drywells be a condition of the approval. He recommended that the total volume of storm water storage on the site, including the drywells that have been installed in addition to the proposed drywells, manage runoff in relationship to the increased lot coverage. He noted that the permitted coverage is 8,515 square feet, the proposed is 9,873 square feet, and the difference should be managed by the combination of existing and new drywells on the site. Mr. Ferriero stated that three (3) inches per square foot is required by ordinance as in common among other municipalities.
35. In response to questions from the Board, Mr. Veteri stated that the Applicant is not opposed to making the property accessible to the Board and will provide dates.
36. In response to questions from the Board, Mr. Veteri stated the pool permits were closed out and added that if any permits are still open that the Applicant will make sure they are closed out as soon as possible. Mr. Ferriero stated that location of the inlets and the areas that are tributary to those drywells are more important. He stated that he will review the drywells to ensure they are properly located.
37. In response to questions from the Board, Mr. Veteri stated that the Applicant uses the shed for lawn mowers and gasoline that he does not want to keep in the garage. The shed is newly erected, and the Applicant would like to maintain it. Mr. Veteri stated that the Applicant is willing to add landscaping as screening for the shed.
38. In response to questions from the Board, Mr. Troia stated that the stone fountain in the front yard is not included in the impervious coverage calculation as it is considered a landscape feature exempt from lot coverage calculation.
39. Michael and Lori Etkin, 3 Vale Place were sworn in. Mr. Etkin stated that he is Mr. Corradino's next-door neighbor. He requested clarity regarding the installation of drainage remedies when the pool was renovated. Mr. Egerian stated that according to the engineering plans for the pool renovation project, seepage tanks were installed in

accordance with the drainage requirements. Mr. Egerian offered that a stipulation of Application approval, an inspection can be done to verify that the operation of the existing system is functional. Mr. Etkin stated that after a significant rainfall since the pool renovation, his property suffered costly flood damage in their basement for the first time after 25 years of living there. He stated that storm water entered the upside of the property and requested that conditions be mandated to correct this issue if the Application is approved. Mr. Veteri asked if the flood occurred on August 11, 2018 which was a unique flood for many. Mr. Veteri stated that the public's concerns are noted and taken seriously. He added that the Applicant may not be able to solve all issues but that no new issues will result from the proposed plans.

40. Mrs. Etkin explained that their insurance claim was denied after an adjuster identified the point of water entry into their basement as the Applicant's pool which overflowed. She stated that they never had a drop of water in their basement before that time and added that they have since installed a sump pump. Mr. Etkin stated that he appreciates the severity of that storm and noted his satisfaction that drainage issues are treated seriously. Mr. Etkin stated that they have not experienced any similar issues since installing a sump pump. He added that the water flow down his property onto Mr. Ehrlich's property has been a constant problem that needs to be addressed. He stated that changes to the Applicant's property contribute to increased water flow onto his property. Mr. Ferriero stated that he was not aware of those issues and noted the need to check the functionality of the existing drywells.
41. Jerry Ehrlich, 1 Vale Place stated that his property floods with every rainfall. He explained that he installed an eight (8) inch pipe with a grate to collect the water and bring it to the street at a cost of over \$10,000. Mr. Ehrlich introduced photos to present to the Board during his testimony. He referred to Photo 01 taken one-month prior which depicted the level of water and mud around his filter and heater which were recently replaced. He explained Photo 02 which showed the northern side of his backyard where the water flows from the Corradino property through the Etkin's property and onto his. He noted that the metal grate in the photo is a catch basin which gets clogged with mud and makes the pipe nearly impossible to clear. Mr. Ehrlich referred to Photo 03 and 04 depicting the flow of water from Mr. Etkin's yard. Mr. Ehrlich stated that his yard has been this way for the last three to four years as shown in Photo 04. Mr. Ehrlich stated that he has lived at 1 Vale Place for almost 28 years and drainage had not been an issue until the Applicant's construction. Mr. Ehrlich explained that the previous owner's pool was smaller and closer to the house without the large deck. Mr. Ehrlich referred to Photos 05, 06, 07 and 08 to explain the water flow situation on his property.
42. In response to Mr. Ehrlich's comments, Mr. Ferriero stated that he would inspect the site to review to ensure proper functioning of storm water detention.
43. Board members commented, stating that the drainage concerns should be a condition of any approval and that any motion should have stringent conditions and oversight by the Borough Engineer to reduce any impact that development has on neighboring sites. The Chairman suggested that the Board and the Borough Engineer visit the property and review the impact on the neighboring properties prior to a vote.
44. Mr. Veteri stated that the Applicant would cooperate with the Board's requests, noting recent historic drainage problems as well as significant slopes in the area. He added the Applicant will accommodate site visits by the Board and Borough Engineer and requested that the hearing be adjourned to the following month.
45. With the testimony complete, the hearing was closed and adjourned. The Board will have an opportunity to deliberate based on what is viewed during the site visit.
46. At the commencement of the continuation of the public hearing on August 19, 2020, Mrs. Jenkins, Mr. Floria-Callori, and Chairman Wangner confirmed they had visited the site.
47. The Borough Engineer's August 12, 2020 report was provided for consideration by Board. The hearing was opened for public comment only with regard to the Engineer's report.
48. Jerry Ehrlich, 1 Vale Place, expressed his disagreement with the Engineer's Report and requested corrective action regarding drainage issues on his property. He stated that since moving into his home in 2001, he had not sustained significant storm water damage until changes were made to the property at 5 Vale Place. He stated that the water runoff from 5 Vale Place needs to be rerouted into the street instead of onto his property and the neighboring properties.

49. Steven Bolio, PE from Ferriero Engineering reviewed Mr. Ferriero's Report, referring to the topographical map included with the Report. Mr. Bolio explained that the drainage area is approximately 20 acres. He noted that analysis of the area determined that only half of the Applicant's property drains across the rear of the property. He explained that 1.7% of the drainage area goes towards Mr. Ehrlich's property from the Applicant's property. Mr. Bolio added that Mr. Ferriero's report indicated that the Applicant's proposal would have a nominal impact on runoff and noted that the installation of a drywell is recommended to store any additional runoff. The Report confirms that the drywell proposed will be adequate to accept any additional runoff and will be an improvement to existing conditions. Mr. Ehrlich expressed his disagreement that the 20 acre area drains onto his property as stated in the Engineer's report. He stated that he would seek a third-party professional review.
50. Mr. Veteri stated that he had nothing new to present and added that Mr. Egerian's analysis was similar to the analysis presented by the Borough Engineer. He noted that adding the new drywell would result in an overall improvement.
51. In response to questions from the Board, Mr. Egerian referred to the site plans and explained the location of the proposed drywell. Mr. Egerian confirmed that the proposed drainage improvements properly anticipate runoff and effectively handle water discharge. Mr. Egerian stated that he has no objections to the Borough Engineer's report.
52. Mr. Veteri added that the Mr. Ehrlich and the Applicant's properties are not adjacent and noted that there is one property in between the two properties. In response to questions from the Board concerning the right of neighbors, the Board Attorney stated that the Board does not have enforcement power but noted that conditions can be put into the resolution and any problems could be addressed to the Borough Engineer.
53. Board members comments that the proposed plan presents step forward to improve the storm water runoff issues in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the proposed set back and impervious coverage variances 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 his burden of proof that a hardship exists due to the existing conditions on the lot that the benefits of granting the relief requested substantially outweigh the detriments as the proposed storm water drainage system presents an improvement to existing conditions. Mr. Floria-Callori made a motion to accept the plans with the following conditions, (1) the Applicant shall ensure that the existing drywell is functioning properly and shall submit documentation to the Borough Engineer that the existing storm water drainage system is function properly; and (2) that the Applicant shall submit plans for the Borough Engineer's approval for the proposed drywell with respect to storm water runoff to neighboring properties. The maximum total impervious coverage of 34.78 percent will be permitted. The motion was seconded by Mr. Curcio. A vote was taken and the motion was approved with seven affirmative votes by Mr. Floria-Callori, Mr. Curcio, Mr. Salan, Mrs. Jenkins, Mr. Michelotti, Mr. Sceppaguercio and Chairman Wangner.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 16th day of September 2020, by a majority of the members of the Board present at such meeting and who voted for the action taken on August 19, 2020.

ALL THOSE IN FAVOR: Mrs. Jenkins, Mr. Salan, Mr. Floria-Callori, Mr. Sceppaguercio, Chairman Wangner

ALL THOSE OPPOSED: --

ABSTAIN: Mr. Roth, Mr. Rentzis

ABSENT: Mr. Curcio, Mr. Michelotti

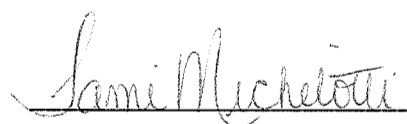
APPROVAL OF MINUTES

Mrs. Jenkins made a motion to accept the minutes of the Board Meeting of August 19, 2020. The motion was seconded by Mr. Salan. Said motion passed with seven affirmative votes.

Mr. Winters asked to re-address the Board and asked if the fence installation as granted could proceed if it does not encroach into the drainage easement. Chairman Wangner stated that the motion states that the fence should end at the edge of the easement. Mrs. Winters asked for further clarification on what is approved. Chairman Wangner explained that a fence is allowed up to the edge of the easement but no fence is allowed on top of the easement. Mrs. Winters stated that the easement was not mentioned in the denial letter when they submitted the Application. Mr. Floria-Callori suggested contacting the code enforcement official to see if a variance is needed for encroachment into the easement. Mr. Ferriero confirmed that no relief variance is required and added that it is not zoning ordinance standard. He explained that the Municipality has rights to the easement and the fence over that easement is considered an encroachment. He added that the Governing Body would oversee permission for such a request. Chairman Wangner stated that the Applicant should seek approval from the Governing Body. Mr. Ferriero agreed. Chairman Wangner asked Mr. and Mrs. Winters if they were aware that an easement existed on their property. Mr. Winters acknowledged his understanding of the easement and that the plans submitted to the Zoning Officer depict the easement. Mr. Floria-Callori explained that approval for the easement encroachment is to be sought from the Governing Body. Ms. Thompson confirmed that the Board cannot grant approval for such a request regarding easement encroachment. She noted that there is no variance needed for the encroachment so there is no need to return to the Board. Chairman Wangner confirmed that Mr. and Mrs. Winters have one more step which is to seek approval from the town to put the fence onto the drainage easement as proposed.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by the Board. Said motion passed unanimously. The meeting was adjourned at 9:39p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary