

September 18, 2019

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, September 18, 2019 starting at 8:02pm.

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. Wangner, Mr. Augustitus, Mrs. Jenkins, Mr. Floria-Callori, Mr. Michelotti, Mr. Roth, Mr. Salan, Mr. Curcio

Absent: Mr. Tilton

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. Carey Lathrop – 11 East Greenbrook Road, Block 1303, Lot 16

This Application is adjourned until the October 23rd meeting at the request of Mr. Steven Greenberg, Attorney for the Applicant. No further notice is required.

Ms. Hena Singh – 580 Mountain Avenue, Block 801, Lot 6

Ms. JulieAnne Cecere, Architect was sworn in and accepted by the Board as an expert witness.

Ms. Cecere presented Exhibit A1 to the Board and stated that the Application is for a C1 side yard setback variance. She explained that the lot is large but out of proportion. She added that the property is very skinny and long, going back 701.58 feet. Ms. Cecere stated that the narrow property is a hardship and added that the existing home is non-conforming on both sides but stated that the Application is for the right side yard setback only. She explained that the Application includes stepping the proposed second floor in from the first floor to create a more favorable side yard setback to the second floor. She added that the proposed second floor addition is 20 feet 10 inches in from the property line. Ms. Cecere referred to Exhibit A1 and explained that due to the shape of the lot and positioning of the building on the lot, the setback line is on an angle which she stated would cause only a triangular portion of the building to be over the setback line. She further stated that 48 square feet would be encroaching over the setback line. Ms. Cecere added that the opposite corner also encroaches on the setback line and stated that this is a pre-existing non-conformity.

Ms. Cecere presented Exhibit A2, a photo board showing the home and the neighbor's home which would be directly affected. She noted that the neighbor's driveway and landscaping would act as a buffer between the proposed addition and their home. She added that the neighbors in the back and on the opposite side will not be affected by the addition. She further added that the addition will not be visible from the street or have any negative impact on the neighborhood. Ms. Cecere presented Exhibit A3, which she explained shows that the addition would be keeping in character with the rest of the home. She stated that the Application meets the criteria for both a C1 Variance as well as a C2 Variance.

Mr. Augustitus noted that there will not be any further encroachment on the setback with the proposed addition.

Mr. Curcio asked when the photos were taken. Ms. Cecere stated that the photos were taken two days ago.

Mr. Roth asked if the addition is for family members since he noted that there are queen sized beds in the rooms. Ms. Cecere stated that the addition is for the Applicant's children.

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

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

Mr. Augustitus made a motion to accept the Application as proposed with a note stating that the left side of the property is also non-conforming and included in the variance and the Application is subject to the engineering report. The motion was seconded by Mr. Salan. A vote was taken and the application was unanimously approved with affirmative votes by Mr. Augustitus, Mr. Salan, Mr. Floria-Callori, Mrs. Jenkins, Mr. Michelotti, Mr. Roth, Mr. Wangner, and Mr. Curcio.

MEMORIALIZATIONS

Nancy McVey, 34 Ferndale Road – Block 101, Lot 11

**MATTER OF NANCY McVEY
Decided: August 21, 2019
Memorialized: September 18, 2019**

WHEREAS, Nancy McVey (hereinafter referred to as the “Applicant”) has filed an application for a variance 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 34 Ferndale Road, also known as Lot 11 in Block 101 in order to construct a one-story addition to a pre-existing non-conforming structure. The subject property is located in the R-2 Cluster residential zone; and

WHEREAS, all owners of property located within 200 feet of the subject premises were properly notified according to law; and

WHEREAS, the jurisdiction and powers of this Board have been properly invoked and exercised pursuant to Statute; and

WHEREAS, a public hearing was held by this Board on August 21, 2019; and

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

1. Michael and Nancy McVey were sworn in.
2. Ms. McVey testified that they have lived in North Caldwell for over 33 years. She explained that her existing home does not comply with the current side yard setbacks. She further explained that a deck was built off the back of the house in 1988 which required a variance.
3. Ms. McVey described the Application, stating that they intend to demolish the existing deck and build a room in the same footprint. The proposed addition will be a single story. Ms. McVey stated that the addition will be used as a bonus room or second family room.
4. Ms. McVey confirmed that the proposed left side setback is 11.79 feet, as stated in the revised zoning denial letter.
5. Ms. McVey testified that the neighbor’s dwelling on the left side is as close to the joint property line as the existing dwelling, noting that the lots run deep in her neighborhood, but the homes are close together. Ms. McVey further testified that her property is 180 feet deep and the proposed addition would be 102.7 feet from the rear property line. Ms. McVey stated that most of the other homes in the neighborhood extend further into the rear yard than her home.
6. Ms. McVey stated that the addition will not be visible from the street.
7. Mr. Dan Gallagher, 36 Ferndale Road and next-door neighbor of the Applicant arrived after the meeting was closed to the public. The public portion of the hearing was re-opened and Mr. Gallagher was sworn in.

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8. Mr. Gallagher stated that he does not oppose to the proposed addition which will face his property. Mr. Gallagher further stated that he hopes the Board approves the Application.
9. The hearing was closed to the public without further comment.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met her burden under the Municipal Land Use Law and that the variance requested may be granted without detriment to the zoning ordinance or the master plan as there is pre-existing non-conforming side yard setback; the proposed improvements do not encroach further into the side yard than the existing deck; and the proposed improvements are in keeping with the neighborhood.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the side yard setback variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant has sustained her 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. On a motion by Mr. Augustitus seconded by Mr. Roth, the Application was unanimously approved as proposed with the corrected side yard setback of 11.79 feet. Affirmative votes were cast by Mr. Augustitus, Mr. Roth, Mrs. Jenkins, Mr. Michelotti, Mr. Wangner, Mr. Curcio, and Mr. Tilton.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 18th day of September 2019, by a majority of the members of the Board present at such meeting and who voted for the action taken on August 21, 2019.

Ms. Maria Pereira, 707 Main Street – Block 2103, Lot 9

MATTER OF MARIA PEREIRA
Decided: August 21, 2019
Memorialized: September 18, 2019

WHEREAS, Maria Pereira (hereinafter referred to as the “Applicant”) has filed an application before the North Caldwell Zoning Board of Adjustment (the “Board”) for variance approval to permit use of first floor retail space as a tutoring office pursuant to N.J.S.A. 40:55D-70d with regard to certain real property located at 707 Main Street, also known as Lot 9 in Block 2103 (the “Property”). The subject property is located in R-2 Residential District; and

WHEREAS, all owners of property located within 200 feet of the Property 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 August 21, 2019; and

WHEREAS, testimony in support of the Application was presented by the Applicant, proposed tenant Eyleen Faust (the “Tenant”) and Architect Gerald Novak; and

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

1. The Applicant, Tenant, and Gerald Novak, Architect were sworn in. Mr. Novak was accepted by the Board as an expert witness.

2. Mr. Novak stated that the Application involves renting the space previously occupied by a bathtub re-glazing company to a new tenant for use as a tutoring office for school aged children. The Applicant's building located on the corner of Main Street and Hillside Avenue.

3. Mr. Novak stated that the Board is aware of the parking issue and drop-off zone associated with the Applicant's building. He stated that parking was not an issue with the previous tenant and noted that the proposed use will be less intense in comparison. Mr. Novak further stated that the Applicant has made improvements to the building's available on-site parking by working with her current tenants. Mr. Novak explained that it was assumed that there were six parking spaces occupied by the residential tenants in the Application for the previous tenant. He further explained that the current residential tenants' parking spaces are vacant during the day and added that the Applicant would like to make these spaces available during the day for use by the Tenant.

4. The Applicant testified that the residential tenants primarily use the on-site parking spaces at night, after work. The Applicant further testified that the residential parking spots are not included in the lease agreements for the residential tenants. The Applicant stated that the Tenant will be using the space on weekends for her classes and only for two to three hours during the week. The Applicant explained that the Tenant will be designated a parking spot in the lot and children will be dropped off in the drop-off zone located on Hillside Avenue. The Applicant testified that the parking spots on Hillside Avenue are not filled during the day. The Applicant further stated that there are seven parking spots on-site total with four or five being used by residents, leaving two spare spots.

5. The Tenant testified that she would be by herself in the office most of the time but at times she may be accompanied by one other person who may or may not have a car.

6. The Tenant explained that she provides tutoring off-site at Grandview School during the week after 3:00pm. She further explained that she would use the office space on Saturdays to tutor four to five children for an hour class. She noted that there would be 2 classes per day on Saturdays and confirmed that parents typically drop off the children for the class. The Tenant testified that the office space would be used for classes from approximately 9:00am to 1:00pm on Saturdays.

7. The Tenant explained that she will meet the children outside and escort them into the building. The children are 1st to 5th graders between the ages of six and eleven. Mr. Novak noted that the intersection near the location is busy making it difficult to drive above the 25 miles per hour.

8. The Tenant stated that she is not proposing a façade sign and will most likely have a paper sign in the window.

9. Mr. Novak stated that he will submit an updated survey to the Board.

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10. The hearing was opened to the public without any questions or comments.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the Applicant has sustained her burden of proof and that the use variance relief requested can be granted as the Applicant has demonstrated special reasons as the proposed use is an appropriate use of the structure and there will be limited parking or traffic impact. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Michelotti, the Board hereby grants the Application of Maria Pereira with the stipulation that the Applicant submit an updated survey. Mr. Augustitus, Mr. Michelotti, Mrs. Jenkins, Mr. Roth, Mr. Wangner, Mr. Curcio, and Mr. Tilton voted in favor of the Application.

IT IS HEREBY CERTIFIED that this is a true and correct copy of the resolution adopted this 18th day of September, 2019, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on August 21, 2019.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by Mr. Floria-Callori. Said motion passed unanimously. The meeting was adjourned at 8:21 p.m.

Respectfully Submitted,


Tami Michelotti
Zoning Board Secretary