

The Regular Meeting of the North Caldwell Zoning Board of Adjustment was held on Wednesday, March 16, 2022 and started at 7:32pm. The meeting was held in person at Borough Hall and virtually due to the COVID-19 pandemic.

Board Chairman Ben Curcio announced that the meeting was held in accordance with the Open Public Meetings Act and that notice of the meeting was provided in accordance with the requirements of Chapter 231, P.L. 1975. He noted that tele/video-conference participation instructions were provided to the public in advance of the meeting.

Chairman Curcio asked Mr. Salan to lead the Pledge of Allegiance.

Roll Call indicated the following Board Members Present:

Chairman Curcio, Mr. Kumar, Mr. Salan, Mr. Sceppaguercio, Mr. Spindler, Mr. Wangner, Ms. Drago, Ms. Hawley-Tsay.

Also present were Lisa Thompson, Esq., Board Attorney; Steve Bolio of Ferriero Engineering as Board Engineer; and Tami Michelotti, Zoning Board Secretary.

Absent: Mr. Roth.

APPLICATIONS

Mr. Martin Pankiewicz and Mrs. Monika Banas, 15 Woodland Avenue (Block 1300, Lot 2)

Mrs. Monika Banas, 15 Woodland Avenue, and Pietro Rosato, 1751 2nd Avenue, New York, New York were sworn in. Mr. Rosato stated that he was appearing as the Applicant's architect and is licensed in New York, New Jersey and Connecticut. He stated that he has received a Bachelor's degree in architecture from NJIT and has appeared before land use boards as an expert witness in the past. The Board accepted Mr. Rosato as an expert witness.

Ms. Hawley-Tsay recused herself from the Application stating a business association with the Applicant.

Mr. Rosato reviewed the proposal for an 826 square foot second floor addition to include a bedroom suite with a bathroom, sitting area and walk-in closet. Also proposed is the addition of a trellis/pergola with dimensions of 15.7 x 13.10 feet to be constructed over an existing deck. He stated that variances were requested for the right side yard, the front yard and the rear yard setbacks. He noted that the second floor addition would be placed over the existing non-conforming first floor. He added that the rear yard variance is for the trellis addition. He confirmed that the current footprint of the home would not be expanded.

Mrs. Banas reviewed the prior variances granted for this property. She noted that the structure was non-conforming when she purchased the property. She noted the side porch and the rear deck were non-compliant with setback requirements. She confirmed that the current variance request is to just build up over what already exists.

Mr. Rosato stated that the lot is an irregular shape which creates the need to encroach into the setbacks. He confirmed that there are no other options to place the addition without expanding the footprint of the existing structure. He confirmed that the shape and style of the home are consistent with the style of the neighboring homes. Mr. Rosato stated that the height of the home is 23.8 feet and would not be increased with the proposed plans.

Mr. Curcio opened the hearing to questions from the public. No one from the public came forward. Mr. Curcio opened the hearing to questions from the Board members. Mr. Bolio referenced the Engineer's review letter from Mr. Ferriero dated February 23, 2022 in which the second floor addition creates no further encroachment into the setbacks that what is currently existing.

Mr. Rosato confirmed that the trellis will be constructed over the existing deck and that no pavers would be added to the deck flooring.

Mr. Salan made a motion to grant the variance application as submitted, seconded by Ms. Drago. Said motion was unanimously approved with seven affirmative votes.

Mr. and Mrs. Randall Jacobs, 5 Hampton Court (Block 2001, Lot 11)

Mr. Evan Jacobs, engineer for the Applicant, was sworn in. He provided his credentials as a professional engineer in the State of New Jersey with a Bachelors and Master's degree in Civil Engineering from NJIT. He

confirmed that he is in good standing and has appeared as a planner and engineer before other boards. The Board members accepted Mr. Jacobs as an expert witness.

Mr. Jacobs described that a pool and patio were permitted and are currently under construction. He stated that the Applicants are proposing an expansion of the patio around the pool. He referred to the “Proposed Pool Site Plan” which was presented virtually. He described the proposed expansion of the paver patio to allow more usable area in addition to the minimal patio border that was initially permitted. He noted that the expansion is modest but will allow for seating around the pool. He noted that the expansion exceeds the allowable impervious coverage for the zone by 3.4%. Mr. Jacobs stated that extra crushed stone would be placed around the dry well (that was installed for the pool installation) to offset the additional impervious coverage created by the patio expansion.

Mr. Jacobs stated that a paved walkway was already removed on the property in order to stay within the lot coverage limits when the Applicants obtained the pool permits. He confirmed that there were no other options to reduce the impervious coverage for the patio expansion. Mr. Jacobs confirmed the proposed impervious coverage would total 33.4%.

Mr. Bolio referred to the Engineer’s review letter from Mr. Ferriero dated February 25, 2022 which confirms the adjusted design of the drywell to account for the additional impervious surface. Mr. Bolio referred to point #5 in the memo which notes that the area of disturbance should be staked out to prevent exceeding the 5,000 square foot disturbance limit. He added that disturbance over 5,000 square feet would require certification from Soil Conservation. Mr. Jacobs confirmed that the contract will not disturb anything over the limit.

Mr. Jacobs stated that the dry well was installed as a requirement of the initial pool and patio permits. He detailed the impervious surfaces that were removed to obtain the pool installation permits which included a walkway through a landscaping bed and the reduction of the front walkway. He requested that both walkways be restored should the variance be approved. He added that a crushed stone dog pen was reduced by half.

Mr. Curcio opened the hearing to questions from the public. No one from the public came forward. Mr. Curcio opened the hearing to questions from the Board members. There were no additional questions or comments.

Mr. Salan made a motion to grant the variance application, seconded by Chairman Curcio. Said motion was unanimously approved with seven affirmative votes.

RESOLUTIONS

Chairman Curcio made a motion to approve the following resolution, seconded by Ms. Drago. Mr. Kumar, Mr. Salan and Mr. Wangner abstained. Said motion was passed with five (5) affirmative votes and three (3) abstentions.

MATTER OF KEVIN JOHANSEN
Decided: February 16, 2022
Memorialized: March 16, 2022

WHEREAS, Kevin Johansen filed an application for variances pursuant to N.J.S.A. 40:55D-70c before the Borough of North Caldwell Zoning Board of Adjustment (the “Board”) with regard to property located at 42 Brookside Terrace also known as Lot 9 in Block 605, in order to construct an open front porch within the front yard setback. The proposed front porch extends towards the street with a proposed setback consistent of 47.11 feet where a minimum of 50 feet is required. The subject property is located in the R1 residential zone; and

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

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

WHEREAS, a public hearing was held by this Board on February 16, 2022; and

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

1. Mr. Kevin Johansen and Mrs. Jaclyn Johansen (hereinafter referred to as the “Applicants”) were sworn in. The Applicants described their proposal, stating that they seek a front yard setback variance to construct an open front porch. The proposed porch is 7 feet wide. Mrs. Johansen described the portico and front porch as part of a larger addition to the home. The second-floor addition to the home complies with all setback requirements.
2. Mr. Johansen stated that the proposed plans would result in a setback of 47 feet, 11 inches where a minimum setback of 50 feet is required.
3. The Applicants stated that there is no other location on the property that could be considered for the front porch, thus the need for the variance relief sought.

4. Referring to the Board Engineer's review letter of February 2, 2022, the Board considered a setback of 47.75 feet variance to account for the curve of the roadway the curb line. As indicated by the Board Engineer, the existing home is not parallel to the front lot line, resulting in an inconsistent setback.
5. Upon review by the Board, it was noted that six (6) sets of plans must be submitted by the Applicants as a condition of an approval. The Applicants confirmed that the required plans will be submitted. The Applicants further acknowledged that they will comply with all other conditions included the Board Engineer's February 2, 2022 review letter.
6. There were further questions from the Board and no members of the public came forward with questions or comments.

NOW, THEREFORE, BE IT RESOLVED that based on the facts as found above, the Board finds that the front yard setback variance relief requested can be granted without substantial negative impact to the intent and purposes of the Zone Plan and Zoning Ordinances of the Borough of North Caldwell and furthermore, the Applicant has sustained the burden of proof that a hardship exists to permit granting the relief requested and that the benefits of granting the relief requested substantially outweigh the detriments in that there is no other location for the front porch. Mr. Wangner made a motion to accept the Application as presented with the stipulation of compliance with all elements in the Engineer's review letter of February 2, 2022. Mr. Spindler seconded the motion. A vote was taken and the motion was approved with six affirmative votes by Mr. Sceppaguercio, Mr. Spindler, Mr. Wangner, Ms. Drago, Ms. Hawley-Tsay and Chairman Curcio.

APPROVAL OF MINUTES

Mr. Spindler made a motion to accept the minutes of the February 16, 2022 Regular meeting, seconded by Ms. Hawley-Tsay. Mr. Kumar and Mr. Salan abstained. Said motion was passed with six (6) affirmative votes and two (2) abstentions.

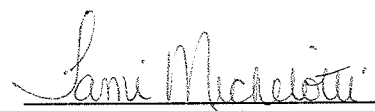
CITIZENS TO BE HEARD

No one from the public came forward.

Mr. Wangner requested guidance from Attorney Thompson regarding motions and the order of roll call. Ms. Thompson provided clarification for the Board.

There being no further matters to come before the Board, Mr. Sceppaguercio made a motion to adjourn the meeting, seconded by Mr. Salan. Said motion passed unanimously. The meeting was adjourned at 8:09p.m.

Respectfully Submitted,



Tami Michelotti

Zoning Board Secretary