

The Regular Meeting of the North Caldwell Zoning Board of Adjustment was held on Wednesday, June 15, 2022 and started at 7:37pm. 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 Ms. Hawley-Tsay to lead the Pledge of Allegiance.

Roll Call indicated the following Board Members present: Chairman Curcio, Mr. Salan, Mr. Spindler, Ms. Drago, Ms. Hawley-Tsay.

Also present were Lisa Thompson, Esq., Board Attorney, and Tami Michelotti, Zoning Board Secretary. Absent: Mr. Roth, Mr. Sceppaguercio, Mr. Wangner, Mr. Kumar.

APPLICATIONS

Mr. and Mrs. Solorio, 9 Hilltop Drive (Block 106, Lot 17) – Rear Yard Setback Variance

This application was carried from the May meeting which was cancelled. No re-notice was required as stated by Board Attorney Lisa Thompson.

Applicant, Aleyda Solorio, owner of 9 Hilltop Drive was present with J. Michael Petry, Professional Engineer, Planner and Architect at 155 Passaic Avenue in Fairfield. Both parties were sworn in. Ms. Thompson stated that only five (5) Board members were present to cast a vote on the Application. Mr. Petry stated his agreement to proceed with the hearing. Mr. Petry noted that he had appeared before the North Caldwell Planning and Zoning Boards. He stated that he recently represented residents from The Reserve at North Caldwell who requested variances for decks before the Planning Board. Mr. Petry noted that the Planning Board acquiesced jurisdiction of such applications to the Zoning Board as the development was no longer a redevelopment zone. The Board found Mr. Petry to be an expert witness.

Mr. Petry shared the plot plan for the subject property which is part of the Hilltop development. He stated that Pulte Homes' construction at The Reserve at North Caldwell did not include decks. He noted that purchasers of the properties were referred to the Borough of North Caldwell to obtain permits for the addition of decks. He noted that Ms. Solorio's lot abuts a detention basin which was created as a separate lot by the developer instead of as an easement. This designation causes a setback hardship for the Applicant. Mr. Petry stated that lots to the left of the Solorios are deeper as they do not border the detention basin. He confirmed the setback from the rear of the house to the property line is 45 feet. He noted that the distance from the Applicant's property line to the nearest home is 165 feet; however, the setback is significantly less to the detention basin property line.

Mr. Petry confirmed that a rear-yard setback variance was sought for the construction of a deck on the rear of the structure. He exhibited the sliding glass door in the living room of the main level with a Juliet balcony and railing. He stated that the proposed deck would be 23.5 feet wide by 15 feet deep at the main level of the home and would align with the existing doors and windows. A staircase would be constructed from the deck down to the yard level.

Mr. Petry noted that the northwest corner of the property has a drainage easement connecting to the detention basin. He stated that the proposed dimensions for the deck and stairs were adjusted to remain under the maximum 35% impervious coverage for this zone. He noted that homes in the development with deeper lots have constructed more elaborate decks, whereas the proposal for the Solorios home was more modest and the setback is greater than the structure next door. He stated that the Applicant desired a homogenous enhancement.

Mr. Petry noted the C1 criteria regarding the detention basin "lot" and shallow rear yard setback create a hardship. He added that the house designed with a sliding door anticipates a deck and currently creates a safety hazard. Mr. Petry reviewed C2 criteria where the deck will advance the general welfare by creating more usable exterior space for safer outdoor visiting. He added that the proposal keeps within the overall pattern of the community and creates a desirable visual continuity of the development's homes. He noted the modest deck size, appropriate placement and alignment with

other decks in the vicinity. Finally, Mr. Petry stated that the deck will provide for light, air and open space. He confirmed that the overall size would keep within the impervious coverage allotment and would allow for more infiltration than a patio. He noted no detriments to the proposal.

Mr. Petry summarized the deck placement as more than four (4) times the setback from the nearest developed lot where over 160 feet would be between the nearest homes on Glenview and Ferndale Roads. Therefore, he saw no impact on the public good if the variance were to be approved. He added that the proposal remains within the maximum impervious coverage requirements and generates less impervious coverage than would trigger stormwater management solutions. Mr. Petry offered that the proposal meets the intents and purpose of the Borough's zoning ordinance and provides significant separation from the neighbors. He noted that the detention basin does not need a setback and there is no impact on the zoning ordinance.

Chairman Curcio opened the hearing for questions from the Board. He requested confirmation of the proposed impervious coverage percentage which Mr. Petry stated is 34.8%, which is 16.5 square feet less than the maximum permitted coverage. There were no further questions from the Board.

Chairman Curcio opened the hearing for questions from the public. No one from the public came forward.

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

Mr. Wing Cho, 9 Fern Avenue (Block 2109, Lot 7) – Front Yard Setback Variance

Mr. Cho and his wife, Yiwen Chen, were sworn in. Mr. Cho described the lot, noting its small size and front yard setback of 30 feet where 20 feet is proposed for the expansion of the front steps, platform and overhang. He stated that he has a permit to widen the platform but that a variance is needed for the setback encroachment of the proposed overhang. Mr. Cho stated that the front of the home faces south and the overhang would be similar to those in the neighborhood. Mrs. Chen explained that the overhang would provide protection from the rain and was something they desired when they purchased the home. She noted that the proposed overhang was part of their plan when repairing the stairs. Mr. Cho confirmed that his contractor completed the variance application and plans on his behalf but he was unable to attend.

Chairman Curcio referred to previous variance resolutions from 1987 which Mr. Cho stated were from the property subdivision before his home was constructed in 2006. The Board discussed the pre-existing front yard setback of 20 feet where 30 feet is required.

Mr. Cho confirmed that the front stairs would not be expanded forward toward the front-yard setback but would just be widened. He stated that the current stairs were crumbling and were in need of repair. He added that the platform would be widened from six (6) feet to ten (10) feet and that the proposed overhang would cover the platform only and not the full staircase. Mr. Cho stated that the overhang would be similar to other homes in the neighborhood with two (2) eight (8) inch square columns on the corners, simple trim, one exterior light hanging from the overhang, shingles to match the roof of the house, white trim and white railings. Mrs. Chen noted that the roofline would be angled for a peak similar to the roof.

Chairman Curcio opened the hearing to questions from the Board. Mrs. Drago asked about the extent of the repairs to the stairs. Mr. Cho noted that stormwater enters through the front door and window that were not installed properly. The stated that the repairs, platform expansion and overhang addition were part of one project. Mr. Curcio addressed issues raised in the Engineer's Review memo from June 14, 2022. Mr. Cho confirmed that the placement of the footings would result in a 10'6" setback instead of 11 feet. He confirmed that the overhang would only extend over the platform and would not cover the full staircase. Mr. Cho agreed to resubmit the updated impervious coverage calculation to include the 175 square feet created by the overhang. He confirmed that prior approvals for the substandard lot were already addressed.

Chairman Curcio opened the hearing to questions from the public. No one from the public came forward.

Ms. Hawley-Tsay made a motion to grant the variance application, seconded by Mrs. Drago. Said motion was unanimously approved with five affirmative votes.

Mr. and Mrs. Davenport, 222 Smull Avenue (Block 903, Lot 7) - Variance Application Dismissal

Ms. Michelotti confirmed the Applicants' decision not to pursue the application that was submitted over 12 months ago. Mr. Salan made a motion to dismiss the application without prejudice, seconded by Mr. Spindler. Said motion was unanimously approved with five affirmative votes.

RESOLUTIONS

Ms. Jamie Berman, 50 Ferndale Road (Block 101, Lot 18)

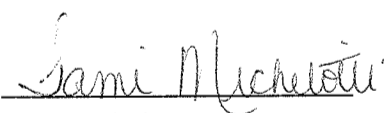
Ms. Thompson reminded the Board members of the variance approval's condition of a meeting with the Applicant's neighbors to find a mutually-agreeable stormwater flow solution as part of the construction. She stated that the meeting occurred with the Board Engineer, the Applicant, the Applicant's architect and the neighbors and that the results will be reflected in the resolution once she receives them. She anticipated a resolution for the next meeting.

APPROVAL OF MINUTES

Mr. Spindler made a motion to accept the minutes of the April 13, 2022 Regular meeting, seconded by Ms. Hawley-Tsay. Mr. Salan abstained. Said motion was passed with four affirmative votes and one abstention.

There being no further matters to come before the Board, Mr. Salan made a motion to adjourn the meeting, seconded by Mr. Spindler. Said motion passed unanimously. The meeting was adjourned at 8:27p.m.

Respectfully Submitted,



Tami Michelotti
Zoning Board Secretary