

April 15, 2015

The Meeting of the North Caldwell Board of Adjustment was held at Borough Hall, Gould Avenue on Wednesday, April 15, 2015 started at 8:10pm.

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. Schwartz, Mrs. Jenkins, Mr. Ritter, Mr. Shah, Ms. Tanelli

Absent: Mr. Lisa, Mr. Augustitus, Mr. Salan

Also present were Lisa Thompson, Attorney, and Nancy Pravata, Secretary.

## **APPLICATIONS**

### **MATTER OF MR. & MRS. S. WARTSKI, 25 MAPLE DRIVE, BLOCK 1408, LOT 1**

Mr. Jay I. Lazerowitz, Attorney-at-Law from Glen Rock, NJ came forward on behalf of the Applicants. He stated the application is for addition over the existing space and that the footprint of the house will not change.

Mr. Daniel Angel Roma, Principal Architect of Artek Studio, Newark, NJ was sworn in. Mr. Roma presented his credentials to the Board and was accepted as an expert witness. Mr. Roma stated the Applicant is totally renovating the house and building a second floor. The addition on the second floor will be a master bedroom, bathroom, two walk-in closets and laundry room. Mr. Roma noted that the property is an irregular shaped lot. The side yard is already non-conforming. The addition will be on the second floor and will be 550 square feet. The left side is 16.4 feet where 25 feet is required. If you go to the back of the house, the side yard variance is fine. The Applicant is not proposing to increase the foot print of the house and is only building up.

Mr. Wartski was sworn in. Upon questioning from his attorney, Mr. Wartski testified that he purchased the house approximately two months ago. The house had been vacant for over one year. Mr. Wartski stated that he wanted to move back to North Caldwell where he grew up and feels the renovation is necessary for his expanding family.

The meeting was opened to the public without comment.

A motion was made by Mr. Ritter, seconded by Mr. Wangner to accept the application as submitted. A vote was taken with all Board members voting yes.

## **MEMORIALIZATIONS**

### **MATTER OF MR. & MRS. D. PORRECA, 246 SMULL AVENUE, BLOCK 1004, LOT 20**

**MATTER OF KAREN AND DANNY PORRECA**  
**Decided: March 18, 2015**  
**Memorialized: April 15, 2015**

**WHEREAS**, Karen and Danny Porreca (hereinafter collectively referred to as the "Applicant") have 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

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"Board") with regard to property located at 246 Smull Avenue, also known as Lot 20 in Block 1004 in order to construct an in-ground swimming pool. The subject property is located in R2 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 18, 2015 and continued to March 18, 2015; and

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

1. At the February 18, 2015 hearing, Mr. Porreca was sworn in and presented testimony in support of the Application. Mr. Porreca described the proposed swimming pool construction and stated that variance approval is required for the proposed impervious coverage of 35.26% where a maximum coverage of 30% is permitted.
2. Upon questioning from the Board, the Applicant sought an adjournment to provide expert testimony in support of the relief requested.
3. On March 18, 2015, David Newkirk, PE was sworn in and presented his credentials to the Board. Mr. Newkirk was accepted as an expert witness.
4. Mr. Newkirk testified that the plan originally submitted by the Applicant was revised to reduce the impervious coverage variance request. A total of 808 square feet of decking was removed as depicted on the revised plan to reduce the proposed impervious coverage from 35.26% to 32.5%. Mr. Newkirk noted that the existing impervious coverage on the Applicant's property is 29.9%
5. Mr. Newkirk opined that the purpose of maximum impervious coverage limits serves two goals: (1) to limit the intensity of development; and (2) to enhance the management of storm water run-off. To address the storm water concern, dry wells are proposed for the site. Mr. Newkirk further noted that run-off from the site will decrease because a swimming pool captures rain which will not run off the site.

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6. With regard to the intensity of development concern, Mr. Newkirk stated that the proposed swimming pool meets all setback requirements and noted that the proposed swimming pool only covers 5% of the rear yard.
7. Mr. Newkirk further testified that a unique characteristic of the site is that the existing dwelling is a single story home. The 4,200 square foot home has a larger footprint than the same size two story dwelling.
8. Upon questioning from the Board, Mr. Newkirk noted that the driveway covers approximately 3,200 square feet, but cannot be reduced due to the location of the garage.
9. The Applicant requested a waiver from the Borough requirement to add a seepage pit to the site. The Board deferred the decision on the necessity of a seepage pit to the Municipal Engineer. The Applicant agreed to comply with the requirements for a seepage pit as may be mandated by the Municipal Engineer, in his discretion.
10. The hearing was open to the public without comment.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met his 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 the proposed swimming pool plan, as revised by the Applicant to reflect a total impervious coverage of 32.5%, eliminates the potential negative impact to drainage in the area. In addition, the Board agrees to waive any requirement for additional seepage pits, subject to the review and approval of the Municipal Engineer.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the 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 its 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. Therefore, on a motion by Mr. Augustitus to approve the revised plan, subject to review and approval of the seepage pit by the Municipal Engineer, seconded by Mr. Salan, the Board unanimously voted to grant the Application of Karen and Danny Porreca to reflect a total maximum impervious

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coverage of 32.5%. Mr. Augustitus, Mr. Ritter, Ms. Jenkins, Mr. Wangner, Ms. DaSilva, Mr. Schwartz and Mr. Salan voted in favor of the Application. Accordingly, the Application was approved, as revised.

**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 15th day of April 2015, by a majority of the members of the Board present at such meeting and who voted for the action taken on March 18, 2015.

Mr. Wangner moved to accept the resolution with the word "to" added in Paragraph 9 (... before the Municipal Engineer be made ...), seconded by Mrs. Jenkins with all other Board members approving, except Mr. Shah and Ms. Tanelli who abstained.

**MATTER OF MR. MATT LASHER, 40 WHITE OAK DRIVE, BLOCK 602, LOT 4**

**MATTER OF MATT LASHER  
Decided: March 18, 2015  
Memorialized: April 15, 2015**

**WHEREAS**, Matt Lasher (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 40 White Oak Drive, also known as Lot 4 in Block 602 in order to construct a one story addition to the rear of the existing dwelling. 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**, a public hearing was held by this Board on March 18, 2015; and

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

1. The Applicant and Architect John Halsey were sworn in and presented testimony in support of the Application. Mr. Halsey presented his credentials to the Board and was accepted as an expert witness.
2. Mr. Halsey described the Application as a proposed single story addition to the rear of the existing dwelling which will be at ground level, and is needed to provide a recreation area for the Applicant's children. The addition does not present further encroachment into the side yard, however a variance is required from the requirements of the Borough

Code (Section 107-21(D(6))) for side yard setback (17.4 feet proposed where a minimum of 25 feet is required).

3. Mr. Halsey testified that the existing dwelling is not parallel to the side lot line. The north corner of the existing dwelling is 17.4 feet from the side property line. Mr. Halsey stated that due to the orientation of the dwelling relative to the side lot line, the width of the side yard increases toward the rear of the property and the proposed addition will be further from the side property line than the existing dwelling.
4. Mr. Halsey further testified that the configuration of the existing dwelling does not allow the proposed addition to conform to the Borough's setback requirements. Mr. Halsey stated that alternatives to the location of the proposed addition were limited by the existing deck, windows and roof lines. Mr. Halsey testified that if the proposed addition were constructed in accordance with the setback requirements it would be too narrow for practical use.
5. The matter was opened to the public without objection or comment.

The Board, in reviewing the above facts and the materials presented at the hearing, finds that the Applicant has met its 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 the proposed addition will not encroach further into the side yard setback than the existing structure and no other suitable location for the addition would be practical.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the 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 its 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. Therefore, on a motion by Mr. Augustitus, seconded by Mr. Wangner, the Board unanimously voted to grant the Application of Matt Lasher, as submitted, with affirmative votes by Mr. Augustitus, Mr. Wangner, Ms. Jenkins, Ms. DaSilva, Mr. Ritter, Mr. Schwartz and Mr. Salan. Accordingly, the Application was approved as submitted.

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**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 15th day of April 2015, by a majority of the members of the Board present at such meeting and who voted for the action taken on March 18, 2015.

Mr. Ritter moved to accept the resolution with the correction of a typographic error in the first paragraph of Page 1, seconded by Mr. Wangner with all other Board members approving, except Mr. Shah and Ms. Tanelli who abstained.

**MATTER OF MR. WILLIAM FORMOSA, 15 CAMBRIDGE DRIVE, BLOCK 1205, LOT 9**

**MATTER OF WILLIAM FORMOSA  
Decided: March 18, 2015  
Memorialized: April 15, 2015**

**WHEREAS**, William Formosa (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 15 Cambridge Drive, also known as Lot 9 in Block 1205 in order to construct a porch along the front of the existing dwelling. 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**, a public hearing was held by this Board on March 18, 2015 and

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

6. Mr. Formosa and Architect Michael Wozny were sworn in and presented testimony in support of the Application. Mr. Wozny described his credentials and was accepted by the Board as an expert witness.
7. Mr. Wozny stated that the Applicant seeks variance approval from the requirements of the Borough Code for front yard setback (42 feet where a minimum of 50 feet is required).
8. Mr. Wozny testified that the Applicant is improving the existing dwelling to add a fourth bedroom and a dining area. As part of the proposed improvement, the Applicant also seeks to add a front porch for

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aesthetic reasons and to expand the existing foyer. The proposed improvements to the existing dwelling cannot be made to the rear of the home as the use of the rear yard is limited by the existing in-ground swimming pool. Mr. Wozny stated that the existing foyer is approximately four square feet and the only way to expand the foyer is to go into the front yard. Mr. Wozny stated that the proposed expansion of the foyer adds approximately 4.5 feet and the proposed front porch adds approximately 6.5 feet to the front of the dwelling.

9. Mr. Wozny further testified that the property is located along a bend in the road and that the proposed front yard setback encroachment will not be noticeable within the neighborhood.
10. Upon questioning by the Board, Mr. Wozny stated that the proposed front steps encroach an additional 2' 8" into the front yard.
11. The matter was opened to the public without objection or comment.

**NOW, THEREFORE, BE IT RESOLVED** that based on the facts as found above, the Board finds that the 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 his 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. Therefore, on a motion by Mr. Ritter to approve the Application as submitted, with an amendment thereto by Mr. Augustitus to specifically include the encroachment of the front steps, amended motion seconded by Ms. DaSilva, the Board unanimously voted to grant the Application of William Formosa, with affirmative votes by Mr. Ritter, Ms. DaSilva, Ms. Jenkins, Mr. Wangner, Mr. Augustitus, Mr. Schwartz and Mr. Salan. Accordingly, the Application was approved as submitted, including the encroachment of the proposed front steps as depicted on the Applicant's submission.


**IT IS HEREBY CERTIFIED** that this is a true and correct copy of the resolution adopted this 15th day of April, 2015, by a majority of the members of the Board present at such meeting and who voted in this matter at the meeting held on March 18, 2015.

Mr. Wangner moved to approve the resolution as drafted, seconded by Mrs. Jenkins with all other Board members approving.

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There being no further matters to come before the Board, the meeting was adjourned at 8:31pm.

Respectfully Submitted:

  
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Nancy A. Pravata, Board Secretary