

The Meeting of the North Caldwell Board of Adjustment was held on Wednesday, April 21, 2021 and started at 8:02pm. The meeting was held virtually due to the COVID-19 pandemic.

Chairman Roth 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. He noted that tele/video-conference participation instructions were provided to the public in advance of the meeting.

Board Members Present: Mr. Curcio, Mrs. Jenkins, Mr. Michelotti, Mr. Sceppaguercio, Mr. Kumar, Mr. Spindler and Chairman Roth. Absent: Mr. Salan, Mr. Wangner.

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

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

### **APPLICATIONS**

#### **Mr. and Mrs. Michael Nicastro – 49 Ferndale Road, Block 102, Lot 23**

Left Side Yard Setback, Right Side Yard Setback

Mr. and Mrs. Nicastro were sworn in and provided an overview of their Application. Mr. Nicastro explained that a proposed pool installation creates a setback issue due to the narrow width of their property.

Mrs. Jenkins asked Mr. Nicastro about the size of the proposed pool. Mr. Nicastro stated that the pool will be a mountain lake shape and will measure 18 feet by 32 feet. Mr. Sceppaguercio requested confirmation that the pool would follow the same setback as the house. Mrs. Nicastro explained that their lot is narrow and deep, similar to the neighboring properties, where the required 20-foot side-yard setback causes the need for a variance.

Chairman Roth asked Mr. Ferriero about the construction status of detention basins at The Reserve. Mr. Ferriero stated that two out of three basins are complete with the last being 90% complete. Chairman Roth asked if there was an underground water study done for that area. Mr. Ferriero stated that there was a preliminary study was done regarding the geology and water tables. Mr. Roth asked if there is a concern for a higher water table that would be an issue once excavation begins on the property. Mr. Ferriero stated that the geology of the property follows the slope of the ground and consists of soil on the surface with bedrock underneath. He explained that the water will generally run over the top of the rock and surface at the stream behind the property. He added that the proposed pool would be 6 feet at the deep end which would require 8 feet of excavation.

Chairman Roth asked Mr. Ferriero to review his letter to Mr. and Mrs. Nicastro dated April 12, 2021. Mr. Ferriero verified that the pool location and grading were signed and sealed by the design engineer. Mr. Ferriero stated that a topographic survey is needed which could be submitted as a condition of Board approval. Mr. Ferriero confirmed that the list of property owners within 200 feet had been submitted. Mr. Ferriero reviewed the stormwater system design of the Applicant's engineer. He noted a discrepancy in calculations but added that there is sufficient volume in the system to work effectively including the additional area that was not included. Mr. Ferriero explained that the stream at the rear of the property is regulated by the Department of Environmental Protection and noted the following considerations:

1. The flood plain associated with the stream: Mr. Ferriero stated his opinion that the proposed plan sits high enough above the stream that there would not be any flood plain issues.
2. The wetlands vegetation: Mr. Ferriero explained that any wetlands vegetation around the stream required identification. He noted the potential buffer zone of 150 feet. He

added that a permit from the state would be required for encroachment into the wetlands.

3. The riparian zone: Mr. Ferriero explained that the Department of Environmental Protection regulates the riparian zone which is an area of vegetation that comes off the bank of the stream which can extend from 50 feet to 300 feet from the top of the bank. He noted that if it is up to 300 feet, the proposed plans would be encompassed in the riparian zone which would NJDEP permits.

Mr. Curcio asked Mr. Ferriero if he would be comfortable with the Board granting a conditional approval based on getting the Department of Environmental Protection determination. Mr. Ferriero agreed that DEP approval could be a condition of the Board's approval as wetlands approvals are beyond the Board's authority. Mr. Curcio stated that the condition should specify that construction could not start until the approval from the Department of Environmental Protection is obtained.

Mrs. Jenkins asked if there were any others in the neighborhood that went through this same process. Mr. Ferriero stated that he did not know but noted that he has not seen any permit applications in this neighborhood since he has been in town. Mrs. Nicastro stated that there is a newly installed pool located at a house on the corner of Mountain Avenue and Ferndale Road and noted that the stream runs through that area as well.

Chairman Roth confirmed that the signed, sealed plans and the 200' list were submitted to the Board secretary. Chairman Roth stated that he visited the property and noted that there are new steps leading from the deck to the rear of the yard. Mr. Nicastro explained that the original steps were very steep so he and a carpenter replaced them.

Mr. Spindler asked if there is a concern with water runoff to the properties on either side. Mr. Ferriero stated that the existing topography slopes to the southwest which would be maintained under the proposed plan. Mr. Ferriero explained that the Borough Ordinance requires the design of a stormwater management system to capture runoff in order to mitigate those increases in flow. He confirmed that the plans were been designed according to those standards. Mr. Spindler asked if the water will run into the storm drains and then flow underground. Mr. Ferriero stated that the water will recharge into the ground and any excessive flow would over flow onto the ground and head to the southwest toward the stream.

Mr. Curcio summarized the hardship presented to the Board as the exceptionally narrow property on which a pool cannot be installed to meet the side yard setback requirements. Mr. Curcio added that the proposed placement of the pool is a similar setback as the existing structure. Mr. Nicastro noted that the pool allows for a greater setback than the house.

Chairman Roth asked if there were any other questions or comments from the Board. Hearing none, Ms. Thompson opened the meeting to the public for any question or comments.

Mr. Al Paolo, resident at 51 Ferndale Road, explained that the pool installed on Glenview Road at the Zurlo residence is consistent with this application. He added that the Nicastro's are a great family couple and stated that he had no objections to their pool. He further added that the proposed plan is an improvement to the neighborhood and he encouraged the Board to approve the Application. Mr. Paolo concluded that during his 25 year residence, water runoff naturally goes into the stream with no flooding issues on their side of the street.

Mr. Donald Theobald from 54 Ferndale Road explained that the lots in their neighborhood are approximately 50 foot wide but deep. He stated his support for the installation of the pool.

Mr. Curcio made a motion to accept the Application with the following conditions:

1. A copy of the topographic survey be submitted.
2. A permit from the Department of Environmental Protection or a certification of the Applicant's engineer be provided regarding the riparian zone and wetlands delineation.

Mr. Ferriero stated that no formal permit needs to be issued by the Department of Environmental Protection. He explained that it would be sufficient for a qualified expert to submit a letter stating that there may or may not be permits required based on their understanding of the regulations.

Mrs. Jenkins seconded the motion. A vote was taken and the motion was approved with seven affirmative votes by Mr. Curcio, Mrs. Jenkins, Mr. Michelotti, Mr. Sceppaguercio, Mr. Kumar, Mr. Spindler, and Chairman Roth.

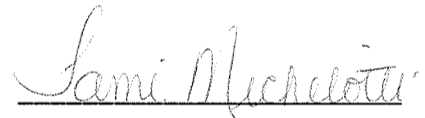
Ms. Thompson confirmed to Mrs. Nicastro that they will be getting directions in writing on what to ask the expert and Department of Environmental Protection.

#### **APPROVAL OF MINUTES**

Mr. Curcio made a motion to accept the minutes of the Board Meeting of February 17, 2021. The motion was seconded by Mr. Sceppaguercio. Said motion was passed with seven affirmative votes by Mr. Curcio, Mr. Sceppaguercio, Mrs. Jenkins, Mr. Michelotti, Mr. Kumar, Mr. Spindler, and Chairman Roth.

There being no further matters to come before the Board, Mr. Sceppaguercio made a motion to adjourn the meeting, seconded by Mr. Spindler. Said motion passed unanimously. The meeting was adjourned at 8:34p.m.

Respectfully Submitted,



Tami Michelotti  
Zoning Board Secretary