

WEST CALDWELL BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES

March 27, 2014

A Public Meeting of the Board of Adjustment of the Township of West Caldwell was held on March 27, 2014 at 7:30 P.M. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Chairman Backfisch opened the meeting and read the opening statement.

ROLL CALL

Members Present: Mr. Dolan, Mr. Adriaenssens, Mr. Rankin, Chairman Backfisch, Mrs. Canale, Mr. McDonnell and Mr. Shannon

Members Absent: Mr. Malia

Advisors Present: Larry I. Wiener, Esq., Tamara E. Bross and Glenn Carter.

APPROVAL OF MINUTES

Minutes will be carried.

HEARINGS

1. **#Z14-01, John Jr. and Jennifer Fierro, 91 Annin Road, Block 604 Lot 3, R-2 Zone**
Seeks N.J.S.A. 40:55D-70C variances to construct an open porch, rear addition and patio. The applicant has proposed a rear addition and patio with a side yard setback of 18.05' whereas a minimum of 37'6"(30% of required 125' lot width) is required. Section 20-54 schedule of district regulations- side yard setback-note 4. The proposed 37'7" open porch has a front yard setback of 37'2" whereas a minimum of 40' is required. Section 20-5.4C2 schedule of district regulations- front yard setback.

Mr. Rankin recused himself from hearing this application.

Ms. Bross said this application had been properly noticed. The evidence marking list A-1 to A-9 and B-1 to B-3 was entered into the record.

Mr. John Fierro was sworn in as the Applicant and Julianne Cecere was sworn in and accepted as an expert in architecture. Ms. Cecere testified to the following:

- This home is an extended cape and is one of two homes on this block.
- There is an existing nonconforming side yard setback and the applicant wishes to take the rear addition straight back from existing footprint.
- The existing placement of the home is what is creating need for side yard variance as the home cannot be moved or additional property purchased
- The current front landing does not function as a front porch and the plan proposes to widen and use the space as a proper front open porch.
- Requesting that Board grant applicant variance to enhance property value and usage.

Photos recently taken by Ms. Cecere will be marked A-10, a color rendition of plans will be marked A-11 with additional plans marked A-12.

No members of the Public had any questions.

Mr. Adriaenssens made a motion to close the meeting and seconded by Mr. Shannon.

Discussion took place about the application by Board members.

The hearing was closed and Mr. Adriaenssens made a motion to approve the application Z14-01 for a front and side yard setback variance based on the following the testimony:

WHEREAS, John & Jennifer Fierro have applied to the Board of Adjustment, Township of West Caldwell for permission to construct an addition requiring dimensional variance relief for premises located at 91 Annin Road and known as Block 604, Lot 3 on the Tax Map of the Township of West Caldwell which premises are in a “R-2” Zone;

WHEREAS, the Board, after carefully considering the evidence presented by the applicant and having conducted a public hearing has made the following factual findings:

1. The applicants are the owners and occupants of the single-family home on site.
2. The applicant’s proposal was to construct an open porch, rear addition, and patio onto the existing home.
3. Applicant received a letter of denial dated 12/6/12 from John Bock, the Zoning Officer.
4. The Board received a memorandum from Frank Russo, Township Engineer’s Office dated 1/22/14.
5. Prior to the public hearing, the following exhibits were pre-marked and, with the consent of the applicant, entered as part of the record in the within matter.
6. Said exhibits were marked A-1 through A-9 and B-1 through B-3. A copy of same is attached to this resolution. During the public hearing, exhibits A-10, photoboard; A-11, colorized set; A-12, plans were also marked into evidence.
7. The applicant submitted the following documents:
 - a. Site Plan, Zoning analysis, First Floor Plan and Elevations, prepared by Julie Anne Cecere Architect, consisting of one (1) sheet, dated 5/4/11 revised through 11/27/12.
8. The applicant’s architect, Julie Anne Cecere, was sworn and testified as an expert in the area of residential architecture. Ms. Cecere reviewed the scope of the property and reviewed the plans that were submitted with the application. She noted the existing internal infrastructure as well as the location of the house, itself, presented challenges in designing a reasonable upgrade of this home consistent with the zoning ordinance.
9. As noted, the applicant’s proposal requires a side yard setback variance (the applicant was proposing just over 18’ where 37’6” are required and a front yard setback variance, as the open porch requires a front yard setback of 40’, the existing is 37’7” - same would be reduced 5” to 37’2”.)
10. Ms. Cecere indicated that the front yard setback relief for the open porch was clearly *de minimis*. The side yard setback was obviously more substantial. She noted that the side yard relief was merely modestly extending an existing condition. She also noted the distance to the neighboring property from the side yard was about 75’.

WHEREAS, the Board has determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of West Caldwell for the following reasons:

1. The Board finds the testimony of the applicant's expert witness to be credible and competent. The re-design of this home will provide a much needed upgrade and increase the functionality, curb appeal, and utility of this house. It would provide an opportunity for an intelligent re-adaptation of an older home to make same more compatible with present day amenities.
2. The front yard relief is clearly *de minimis*. The side yard relief, while certainly more intense, is in reality also minimal. It continues an existing condition. Since the adjacent property to the south is significantly set back from the common boundary, this continued deviation and the introduction of a small amount of additional mass will have no impact on the neighbor.
3. The location of the house, the shape of the lot, the topography, and internal infrastructure all constitute hardships peculiar to the premises.
4. The re-adaptation of this existing resource will have a positive impact on the neighborhood and be consistent with the intent and purpose of the Master Plan and Municipal Land Use Law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township West Caldwell on the 8th day May, 2014 that the application be granted subject, however, to the following conditions:

1. House and addition to be sized and constructed as depicted on the drawing submitted with the application. Front yard setback to be no less than 37'2"; side yard setback to be 18.05' as proposed.
- 2.

Mr. Shannon seconded the motion. The motion was approved by a vote of 6-0.

Mr. Rankin returned to the dais.

2. #Z14-02, Martin and Mayda Kale, 76 Park Street, Block 2304, Lot 12, R-4 Zone Seeks N.J.S.A. 40:55D-70.C variance to construct a portico / open canopy over front stoop. The proposed addition will create the need for the following variances: 1) The proposed open canopy/portico has a 5.5' projection into the required front yard whereas a maximum of a 4 foot projection is allowed. (ordinance section 20-5.4c2)

Ms. Bross said this application had been properly noticed. The evidence marking list A-1 to A-7 and B-1 to B-3 was entered into the record.

Mrs. Mayda Kale was sworn in as the Applicant and Alan Ozarow Esq. introduced himself as representing the Applicant. He stated the following:

- Application for front yard setback to add an open portico over the stone landing at the front door of the Kale home.
- This will add to the value of the home and will be much more pleasing to the eye.
- There are other like canopy/portico fronts to homes in the immediate neighborhood
- There is not any negative criteria to consider with this application

An additional photo packet was distributed and marked A-8 to show neighboring homes with like portico fronts.

Mrs. Kale testified to the following:

- She is requesting the variance because her permit to do the work was denied
- She wants to make her home more attractive and give shelter from the weather.
- She asked the neighbor to recommend who did the work at their home.

Ms. Canale made a motion to close the meeting and Mr. Rankin seconded. Discussion was held by the Board members.

The hearing was closed and Mr. Rankin made a motion to approve application Z14-02 based on the following testimony:

WHEREAS, Mayda & Martin Kale have applied to the Board of Adjustment, Township of West Caldwell for permission to construct an addition requiring dimensional variance relief for premises located at 76 Park Street and known as Block 2304, Lot 12 on the Tax Map of the Township of West Caldwell which premises are in a “R-4” Zone;

WHEREAS, the Board, after carefully considering the evidence presented by the applicant and having conducted a public hearing has made the following factual findings:

1. Alan Ozarow, Esquire represented the applicants.
2. The applicants are the owners and occupants of the single-family home on site.
3. Applicant received a letter of denial dated 10/22/13 from John Bock, the Zoning Officer.
4. Prior to the public hearing, the following exhibits were pre-marked and, with the consent of the applicant, entered as part of the record in the within matter.
5. Said exhibits were marked A-1 through A-7 and B-1 through B-3. A copy of same is attached to this resolution.
6. In addition, during the course of the public hearing, the applicant introduced a series of photographs which were marked A-8 in evidence.
7. The applicant was proposing to construct an overhang over their existing front stoop. The location of the overhang was depicted on a drawing attached to the application. It would be approximately 7.5’ wide and come out 5.5’ towards the front yard. Since the Township ordinance permits only a 4’ projection, the applicant needs a variance for the additional 1.5’.
8. The applicant stated the purpose and need for increasing the size of the overhang was so that it would extend beyond the existing stoop. The existing overhang does not provide adequate protection from the elements (the winter of 2014 re-confirmed that need).

WHEREAS, the Board has determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of West Caldwell for the following reasons:

1. The Board finds the applicant’s request to be a *de minimis* deviation from the zoning ordinance. The need for the variance is caused by the location of the existing infrastructure on-site. The benefit to the property owner of providing a safer entryway and a more aesthetic and balanced architectural amenity clearly outweighs any detriment to the zoning ordinance, zoning scheme, and the Master Plan.
2. The applicant’s proposal was similar to other such front overhangs in the neighborhood. The diminution of the front yard, in all likelihood, would be imperceptible.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township West Caldwell on the 8th day of May 2014 that the approval of the within application be granted subject, however, to the following conditions:

1. The new overhang is to be constructed and located as depicted on the drawings attached to the application. Same shall be approximately 7.5' wide and project 5.5' as requested.

Mr. Dolan seconded the motion. The motion was approved by the vote of 7-0.

3. **#Z14-03, Michael Bocu, 121 Central Avenue, Block 503, Lot 5, R-4 Zone**
Seeks N.J.S.A. 40:55D-70.C variance to construct a front entry and front porch addition. The proposed front entry and front porch addition as proposed has a front yard setback of 24' whereas a minimum front yard setback of 30' is required.
(Ordinance section 20- 18c)

Mr. Bocu was sworn in as the Applicant represented by Neil Aydin Esq. Ms. Bross confirmed that proper notice was served for above application. During the course of testimony Mr. Bocu stated that the home on the property is a noncertified two-family residence. As a result of that conversation the Applicant agreed to withdraw the application without prejudice and return at a later date.

INVITATION FOR PUBLIC DISCUSSION

There were no comments and/or discussion from the Public.

ADJOURNMENT

The meeting was adjourned at 8:16 PM.

Respectfully Submitted,

Tamara E. Bross, Board of Adjustment, Secretary