WEST CALDWELL BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES

July 7, 2016

A Public Meeting of the Board of Adjustment of the Township of West Caldwell was held on July 7, 2016 at 7:32 P.M. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Acting Chairman Dolan opened the meeting and read the opening statement.

ROLL CALL

Members Present: Mr. Dolan, Mr. Adriaenssens, Mr. Rankin, Mr. Shannon, Mr. Schott

Members Absent: Chairman Backfisch, Mr. Malia, Mr. McDonnell

Advisors Present: Larry I. Wiener, Esq., Daniel Bloch, Zoning Official/Planner, Lynda Korfmann

APPROVAL OF MINUTES

The Minutes of the June 9, 2016 Public Meeting were approved by the Board members present who were entitled to vote on the Minutes.

The Minutes of the June 29, 2016 Public Meeting were approved by the Board members present who were entitled to vote on the Minutes.

MEMORIALIZATION OF RESOLUTIONS:

The Board of Adjustment unanimously approved the memorialization of the Resolution for application Z15-27 Patrick Carr & Teresa Carr, 13 Marshall Street, Block 301, Lot 8, R-4 Zone District.

HEARINGS

1. ZB16-11 Anthony Pomponio, 43 Dalewood Road, Block 2700, Lot 33, R-3 Zone District
Applicant seeks N.J.S.A. 40:55-70C variance to construct a two and one-half car garage on existing pavement which new garage will be attached to and extend along the left side of the existing home. Variance is required for lot coverage (Section 20-5.4). Existing lot coverage is approximately 6,004 SF (34.3%) and proposed lot coverage is approximately 6.070 SF (34.7%).

The Applicant was sworn in. The Board Secretary confirmed that service of notice was proper. Evidence markings were confirmed as accurate.

- The Applicant explained his application.
- He explained that the new garage would be built on existing paved area in the rear of the house. He referred to Exhibits A-6 and A-7.
- The variance needed is for coverage.
- The existing pavement is 27 feet in length and the new garage is proposed at 30 feet in length. That additional length increases the lot coverage by .5%.
- The existing garage will remain as a storage area, as it currently is used.

The Board asked questions of the Applicant.

- Mr. Dolan inquired if there would be any impact or reduced light, air or open space or negative impact on the neighbors. The Applicant responded in the negative.
- Mr. Adriaenssens asked if the second floor window over looking the existing garage in the rear of the existing home is an egress window and if it will be effected by the construction. The Applicant responded that he was uncertain if the window is egress or if it will be disturbed by the proposed addition since he has not retained an architect yet.
- Mr. Wiener suggested that a condition of any approval include a provision that the siding on the proposed garage match the existing conditions.

The Acting Chairman asked if the public had any questions or comments for the Applicant. No one responded.

Motion by Mr. Shannon, seconded by Mr. Adriaenssens to close the meeting.

Each Board member reviewed the application and provided comments. Mr. Shannon noted that the current lot coverage is 34.3% and the proposed construction will increase the lot coverage to 34.7%. He stated that he notes no issues with the proposed work provided the Applicant complies with the conditions suggested by the Township professionals. Mr. Rankin agreed.

Motion was made by Mr. Schott to approve application as presented subject to the conditions articulated and seconded by Mr. Rankin. The motion was approved by a vote of 5-0.

2. <u>ZB16-13 Steven Nienstadt and Cheri Nienstadt, 71 Richard Avenue, Block 1807, Lot 12, R-4 Zone District</u>

Applicant seeks N.J.S.A. 40:55-70C variance to install a new above-ground swimming pool with a deck extension to surround a portion of the new pool. The Applicant proposes (a) to install the pool and deck with a side yard set back of 8.0 feet, whereas a minimum of 10.0 feet is required (Section 20-5.4); and (b) the new above-ground pool is to be set 9.0 feet from the principal building and the new deck to be set 4.0 feet from the principal building, whereas 15.0 feet is required (Section 20-19.4.b.5).

The Applicant was sworn in. The Board Secretary confirmed that service of notice was proper. Evidence markings were confirmed as accurate.

- The Applicant explained the application.
- There was an existing above-ground pool in the rear yard when the Applicant purchased the property. They removed the old pool and installed a new one. They visited the construction office to obtain a permit for a deck and learned they were supposed to have obtain approval to remove and install the new pool.
- The variances needed are for the distance from the house to the pool where 9.0 feet is proposed, where 15.0 feet is required and for the distance from the deck to the side yard where 8.0 feet is proposed, where 10.0 feet is required.
- The Applicant testified that they moved the pool closed to the house because the trees in the rear yard from the neighbor's property shield the sun. Also, by moving it closer to their home, they will be able to connect to the existing deck to make it more accessible.

The Board asked questions of the Applicant.

- Mr. Rankin confirmed that the new pool already was installed 9.0 feet from the side yard. Also, he inquired if the old pool had a deck, but only on one side. The Applicant confirmed that information.
- Mr. Adriaenssens confirmed that the new pool has been installed since April, 2016.

- Mr. Wiener asked Mr. Bloch if the construction code official has evaluated the variance issues from a construction code standpoint. The Applicant responded that Mr. McLoughlin has visited the site and inspected the pool and advised them on what actions need to be taken to make it code compliant.
- Mr. Schott asked if the proposed new deck will be attached to the existing deck, subject to building code requirements, to make it easier and safer to access the pool. The Applicant responded in the affirmative.
- Mr. Dolan stated that he believes that there will be no impact to air, light or space of the neighbor since the pool and deck have been moved farther away from the side yard of the neighbor. Also he noted that the new pool and deck look nicer – deck much improved and the pool safer. The Applicant agreed and said that there will be railing around the entire pool higher privacy fence in one area. He added that the only access to the pool will be from the deck and noted that Mr. McLoughlin did not evaluate the proposed deck.
- Mr. Bloch inquired if the proposed privacy fence is intended to be installed on top of the deck and if so, then a variance will be required because no fence may exceed 6.0 feet in height from the ground. The proposed privacy fence appears to be mounted on top of the elevated deck. The Applicant agreed to remove the privacy fence from the design.

NOTE: A break in the meeting occurred from 8:05 to 8:07 pm.

- The Applicant agreed that only a railing would be installed on the deck around the pool.

The Acting Chairman asked if the public had any questions or comments for the Applicant. No one responded.

Motion by Mr. Shannon, seconded by Mr. Schott to close the meeting.

Each Board member reviewed the application and comments were provided. Mr. Schott acknowledged two variances were needed due to two yard incringements which he deemed to be de minimus. He added that the proposed set back from the main structure seems to enhance the property and help the neighbor. He believes that it meets the criteria for granting a variance. Mr. Shannon agreed, as did Mr. Rankin and Mr. Adriaenssens.

Motion was made by Mr. Rankin to approve application as presented subject to the conditions articulated and seconded by Mr. Adriaennsens. The motion was approved by a vote of 5-0.

3. <u>ZB16-12 Leonard Kulesa and Elizabeth Kulesa, 3 DeCamp Court, Block 2500, Lot 28, R-4 Zone District</u>

Applicant seeks N.J.S.A. 40:55-70C variance to install a new inground swimming pool. A variance is required for lot coverage (Section 20-5.4). The existing lot coverage is approximately 3,150 SF (30%) and the proposed lot coverage is approximately 4,367 SF (41.6%).

Mr. Shannon recused himself from this hearing as he was within the 200 foot notice area.

The Applicant was sworn in. The Board Secretary confirmed that service of notice was proper. Evidence markings were confirmed as accurate and additional exhibits were provided by the Applicant and marked into evidence.

- The Applicant provided four additional exhibits which were marked A-8, A-9, A-10 and A-11. The Applicant explained what each new exhibit was in detail.

- The Applicant then explained the application and the need for a variance for impervious coverage.
- There will be excavations for the new pool and new ground contours. The existing retaining wall on the one side will be extended.
- The pool equipment shall be installed about 13 feet from the side yard (whereas 10 feet is required). There should be no impact on the neighbor with the placement of this equipment as it is adjacent to their laundry room and garage area.
- The equipment being proposed is energy efficient. A heat pump also is proposed
- The pool shall have 2 LED lights – one on each end.
- The path to the pool shall have solar powered lights just to light the path.
- The playset will be relocated.
- The pool meets all setback requirements.
- There is a 54" aluminum fence with 2 gates that self-close and latch which will be to code.
- The existing 6 foot chain link fence will be removed on the side where the extending retaining wall is to be placed. A 2 foot fence will be installed on top of the new retaining wall. Along the rear of the property and the other side there will be a new 6 foot vinyl fence that ties back into the house at about the chimney.
- Two-thirds of the rear of the property will be vegetative. The code (Section 20-19.1.h) allows not more than 70% coverage in the rear yard and the proposed pool meets this criteria.
- The proposed work is no substantial detriment to the public good.
- GC Stewart was at the site for 2 hours to view the topography.
- The existing slope of the property is 9.33 and it will be reduced to 6.67. This change in slope will be made using the fill from the pool excavation.
- Lights should not be visible from the neighboring yards.
- Referral made to the US Department of Agriculture exhibits briefly. Mr. Wiener clarified that this information is general and not specific to the property. The Applicant agreed no soil samples had been taken to confirm any soil properties. The Applicant stated water does not pond or puddle on his property in a rain storm.
- He added that directly behind his house is unimproved space from a neighbor's yard.
- Mr. Rankin asked Mr. Bloch about the impervious calculation and he responded that it was done by GC Stewart and that it did include the raised deck. The Applicant advised that there is soil under the deck. The surface of the pool water also was included in the calculation.
- Mr. Schott inquired about the play set relocation. Discussion ensued concerning code requirements of 5.0 feet for a play set from a side yard as it is an accessory structure. Also, discussion had concerning its proximity to the pool (currently 12.0 feet from the pool). A possible additional variance may be needed for the play set location.
- Mr. Dolan inquired if the canopy of the hot tub ever will be enclosed and the Applicant responded in the negative. He also asked if the grading on the property and the water runoff condition for the neighbors being improved by the slope design. The Applicant stated that he thinks so.
- Mr. Bloch noted that any approval should include a condition that the grading plan should be reviewed and approved by the municipal engineer before construction is to begin to confirm no drainage system is needed. The Applicant added that there is a net zero on the soil importation and it was noted that the engineer should confirm and evaluate this information as well.
- Mr. Dolan also asked where the pool will drain if the Applicant seeks to empty it. The Applicant stated into a laundry tub in the basement of the house.

The Acting Chairman asked if the public had any questions or comments for the Applicant. The following individuals appeared and provided testimony.

- Patrick Attilio, 1 DeCamp Court. He was sworn in and commented that as the next door neighbor, he saw professionals on site and thinks that the proposed work will be attractive and have no impact on his property.
- Jim Maioriello, 6 DeCamp Court. He was sworn in and commented that he lives across the street from the Applicant and that he believes that the Applicant is acting in the best interest of the neighborhood. He believes the plans are good and is comfortable with the proposed work.
- Michael Shannon, 149 Runnymede Road. He was sworn in and commented that living 2 houses down and across the street – somewhat downhill from the Applicant, he thinks the design is good and is not concerned about runoff water.

Motion by Mr. Adriaenssens, seconded by Mr. Schott to close the meeting.

Each Board member reviewed the application and comments were provided. Mr. Schott stated that he thought the application was well thought out to consider the neighbors and minimize the impact. The Township expert provided good input regarding the engineer review. Mr. Rankin agreed with the comments and said be believes the proposed work will benefit the property and the neighborhood. And the benefits outweigh the detriments. Mr. Adriaensens commented that GC Stewart is a fine professional. Mr. Dolan agreed and recognized that the Applicant had done his homework to minimize the impact to neighbors. Any approval should include a condition that Township engineer should review the runoff and drainage.

Motion was made by Mr. Adriaenssens to approve application as presented subject to the conditions articulated and seconded by Mr. Rankin. The motion was approved by a vote of 4-0.

INVITATION FOR PUBLIC DISCUSSION

There was no public discussion.

ADJOURNMENT

The meeting adjourned at 8:54 p.m. on motion of Mr. Adriaenssens, seconded by Mr. Rankin.

Respectfully submitted,

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Lynda Korfmann
Secretary to the Board of Adjustment