

**Borough of Caldwell  
Zoning Board of Adjustment  
April 3, 2019**

A Public Meeting of the Board of Adjustment of the Borough of Caldwell was held on April 3, 2019 at 7:00P.M.in the Municipal Building, 1 Provost Square, Caldwell, New Jersey. Mr. Kurus opened the meeting and read the opening statement.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**OATH OF OFFICE ADMINSTRATED TO:**

Kamil Halal

**STATEMENT OF COMPLIANCE**

**ROLL CALL:** Mr. San George, Mr. Vere, Mr. Piazza, Mr. Kurus, Mr. Colaizzo, Mr. Flack, Ms. Shufro and Mr. Halal

**ABSENT:** Ms. Buechner

**APPROVAL OF MINUTES:**

The Public Minutes of January 2, 2019 were approved.  
Mr. Colaizzo & Mr. Halal abstained.

**OLD BUSINESS:**

Mr. Cosgrove advised the Board that after the conclusion of tonight we will need to take about 15 minutes to go into executive session on a pending litigation for RIA.

**NEW BUSINESS:**

**Application Z18-004**, Mr. Gregory & Kathleen Ziegler, 17 Elizabeth Street, Block 43, Lot 8  
Variance Relief

Gregory & Kathleen Ziegler were sworn in as the applicant.

Mr. Gregory Ziegler gave a summation:

- They are requesting a variance for a front yard setback for a one story addition that will include a bedroom, bathroom and a laundry room.
- They have lived there for 32 years.
- The stairs are becoming an issue and they would like to have a one floor living situation.
- They want to live on the 1<sup>st</sup> floor of the house.
- The addition will be 27.6' from the street.
- It will be tucked in further than the rest of the house which is only 18.9' from the street.
- It is in line with the current homes in the surrounding area.
- They are asking for an approval of this request.
- In regards to Mr. England's report the first item was a scaling measurement and the Architect has revised that and had submitted new plans.
- The roof leaders will be discharged onto Elizabeth Street in the direction per Mr. England's suggestion.

- The proposed contour lines will remain the same. Mr. England responded that he did receive additional information on the contour lines.
- They will not be placing a fence and currently there are 6 to 8 ten foot arborvitaes that provide a border between their property and the neighbors.
- There will be two lights on the exit door that will be lighting the sidewalk. There will be no spot lights.

Mr. San George asked the applicant, in the proposed addition the front yard setback will actually be greater than the current front yard setback for the existing structure and Mr. Ziegler responded that it is 18.9' and they are bringing it back to 27.6' and it will be tucked in.

Mr. Kurus asked if the style of the house will be the same and Mr. Ziegler responded yes everything will be the same.

Mr. Kurus asked why the setback is 27.6' and not something that is a 35' setback in terms of the requirements which you have going inside the addition and Mr. Ziegler responded that with the roofing line in the back area it just wouldn't be able to attach in an appropriate way. They moved it back as far as they could and they looked at other alternatives and this is what the architect recommended.

**OPEN TO THE PUBLIC:**

None

Mr. Cosgrove advised the Board that they will be voting on an approval for an application and it would be based on the hardship application under N.J.S. 40:55D-70c(1) the terms as testified by the applicant and the entirety of Mr. England's review letter which will be incorporated in the Resolution. By voting yes, you would be in agreement that the applicant has prove that there is a hardship related to the property resulting from unique conditions, the shape of the lot, and that the applicant has proven that this application can be granted without substantial detriment to the public good, and will not contrary to the intent and purpose of the Zoning Plan.

Motion to approve application Z18-004, Mr. & Mrs. Ziegler, 17 Elizabeth Street, by Mr. Piazza, seconded by Mr. Flack.

Mr. San George	yes
Mr. Vere	yes
Mr. Piazza	yes
Mr. Kurus	yes
Mr. Colaizzo	yes
Mr. Flack	yes
Ms. Shufro	yes
Mr. Halal	yes

Approved 8 -0

**7:15PM Bob Colaizzo recused himself.**

**Application Z19-001**, Justine Bassman & Alexandro Nunez, 10 Hatfield Street, Block 6, Lot 13  
Variance Relief

Mr. Schwartz is the attorney representing the applicants Justine Bassman and Alexandro Nunez for 10 Hatfield Street which is a corner lot with Linwood Terrace. The lot is 7800 sq. ft. which is

previously a multi-family dwelling in a single family residential zone. The applicant wants to build a single family home where they can live with their family. He will have Justine testify to explain why they intend to buy this property and what they intend to do with it. James Watson will testify as the Engineer and Planner and will testify on the front yard variances that are required.

Justine Bassman & Alex Nunez was sworn in as the applicants.

Mrs. Bassman gave a summation:

- Mrs. Bassman is married to Alex Nunez and they have one child.
- Currently they live in Montclair and they are under contract to purchase 10 Hatfield Street.
- They have always had a dream of building their own home.
- They want to be in Essex County.
- They are excited to be a part of this community and to raise their family here.
- They have searched three years to find this lot.
- We are under contract in contingent on the variance.
- The property previously was a three family dwelling.
- There was a fire in this home.
- They have been under contract with this house a long time.
- There have been revisions done to the house in regards to Mr. England's comments.
- The house is a single family with a detached garage.
- There is a share driveway and they met with their neighbor and entered into an official easement agreement with him that essentially dictates continued sharing of the driveway and maintenance and repairs to the driveway.
- This was not in place previously.
- The width of the driveway is 14 feet and it comes in from Hatfield Street.
- The neighbor's house is a multi-family dwelling with parking in the rear.
- The garage will conform to the setbacks of the ordinance.
- The driveway coming in from Linwood Terrace will be eliminated.
- Eliminating the driveway on Linwood will enable the applicant to have more of a backyard.
- Discussion on the size and style of the house to match the corner lot.
- There will be 2 ½ floors.
- 4 Bedrooms and 3 Baths.
- The house will be kept in the building envelope except for the variances condition of two front yards.
- If the Board approves this application the applicant will not come any closer to the front lot line on either Linwood or Hatfield without coming back to the Board.

Mr. Piazza responded that you mentioned you will be using the house across the street as a site guide line to line up the placement of the house is that in line with houses that are on your side of the street. It looks like that the proposed dwelling sits closer to Hatfield than some of the existing homes. Mr. Schwartz responded that he would prefer that the professionals answer that question.

Board Members asked questions to Mrs. Bassman:

- There are no preexisting nonconforming variances on this property according to Mr. Schwartz.
- The plan for the basement is to have an exercise room and also a guest suit in the basement.
- They are not planning to conduct a Yoga studio.
- There will be windows in the suit but there are no doors in that bedroom.

- There is no service entrance it is a back door. It will be a mud room into the kitchen.
- The proposed sketch is the style we are interested in.
- It's a 2 ½ story home.
- We will be conforming to the code.
- They are not sure where the mechanical equipment will be. Mr. England suggested ground level screened by the neighbors.
- The house is a more modern approach but they haven't finalized the design yet.
- The row of trees along Linwood and the back yard property will be staying.
- The reason for the front yard setback is enabling the applicants to have more of a backyard and they matched the corner lot that is directly across the street on the corner lot.
- The rectangle style gives them more of an open living plan and also more of a backyard.

**OPEN TO PUBLIC:**

**Mr. Colaizzo, 7 Hatfield Street**, asked about setbacks and was asked to wait for the planner.

**Ms. Alyson Greenstein, 25 Linwood Terrace**, the style of the house is very much different than the surrounding area.

**CLOSED TO PUBLIC**

Mr. James Watson was sworn in and qualified as the Planner.

Mr. Watson gave a summation:

- He reviewed the plans and the engineer's letter.
- As well as the Borough Ordinance and the reexamination plan.
- He went over the site plan for the Board.
- This property is in an RA Zone Residential Zone.
- He discussed the common driveway.
- They are looking for a relief of a front yard setback along Hatfield which is 17 feet to the covered porch and 14 feet from Linwood which is to the side of the house covered porch.
- A proposed detach garage in the back and will be serviced through the common driveway.
- The curb cut will stay the same. The width is 17 feet wide.
- Paved area from the back of the house to the framed garage is about 63 feet and 40 feet wide.
- The garage is a two car garage. There is enough room to back out of the garage there is 24 feet.
- Discussion continued on the parking area.

**OPEN TO PUBLIC:**

None

Mr. Watson continued his testimony as the Planner.

**Exhibit**

A -1 Front yard setback

- Four intersections were looked at. Erwin and Hatfield, Linwood and Hatfield, Mountain and Hatfield and then they went down to the back of Linwood where it intersects Elm Street and they looked at the four lots surrounding that intersection as well.

- He measured offsets to the buildings are the numbers on the exhibit in yellow.
- There are 20 places on the corner lots where you may have a variance situation. Of those 20 setbacks 17 of them do not apply.
- 5% of the corner lots have some sort of setback violations.
- The proposal tonight has 17 feet for the front setback and on the side of Linwood they are proposing 14 feet.
- They are asking for an additional 2 feet on Linwood and about 5 – 5 ½ feet on Hatfield.
- They are applying for a C1 & C2 Variance.
- Zoning ordinance requires 10,500 and the existing lot is 7,800 square feet.
- He gave the negative and positive criteria.
- The applicant will cooperate with the engineer with a landscaping plan.
- They will comply with all ordinances.
- 35% total impervious coverage.

Mr. England is satisfied with Mr. Watson's testimony and he has addressed all the comments and there will be a resolution in compliance with a portion of this when he does get a plot plan he needs to see more detail.

Mr. San George and Mr. Piazza have homes on the exhibit but are not in the 200' radius of the property.

Mr. San George asked Mr. Watson as a professional planner to what extent does a Board of Adjustment allow to consider the design being modern in comparing with other designs in the neighborhood and Mr. Watson responded usually nothing unless you have an ordinance in place with specific design requirements.

Board Members discussed the character and style of the home.

Board Members discussed the easement contract and the parking in the driveway.

**OPEN TO PUBLIC:**

**Bob Colaizzo, 7 Hatfield Street**, he asked about the house that was lining up with this house. There will be more mass closer to the street than the one on the other corner.

**Virginia Kroll, 18 Linwood Terrace**, you mention that it is not a cookie cutter neighborhood but it really is there are a group houses that were built in a certain era and they look like a community. She feels the house will not fit in the neighborhood.

Mr. England advised the Board that Mr. Watson's qualification was as a Surveyor and a Planner and none of his testimony has been classified as Engineering.

**OPEN TO PUBLIC FOR ANY COMMENTS TO THE APPLICATION:**

**Virginia Kroll, 18 Linwood Terrace**, there is a feel in the neighborhood and all the houses don't match different sizes and roof shapes and from the same era. This lot is small and it's on a top of a hill the design is beautiful but it doesn't belong in that spot.

**Tom Kroll, 18 Linwood Terrace**, he spoke about the variance and the 55 foot setback is put in for a reason and then all of a sudden we have non-compliance and they ask for a variance.

**Amy Bennett, 20 Linwood Terrace**, the neighborhood meshes together as a community and that rendering will stand out in the neighborhood. As a property owner she has serious concerns on how the structure is going to affect the feel of our neighborhood and our future property values.

**Alyson Greenstein, 25 Linwood Terrace**, she spoke about the streetscape of the property. The proposed home, design and shape has a much more commercial and industrial feel to the neighborhood and she has concerns on how this will affect her property value.

## **CLOSED TO PUBLIC**

**Mr. Schwartz gave a summation.**

Board members discussed the application.

Mr. Cosgrove advised the Board

**9:54PM Recess**

**10:04PM Roll Call**

Mr. San George, Mr. Vere, Mr. Piazza, Mr. Kurus, Mr. Flack, Ms. Shufro and Mr. Halal

Mr. Schwartz had the opportunity to speak to his clients and they are hearing what the Board said they really want to put up a structure that they don't start on the wrong foot with their neighbors but they still want a modern structure opposed to what is out there right now. What they can do is take in consideration changes in coloring, style and materials that will allow a modern style to be more compatible with the character of the neighborhood. They have heard loud and clear what the Board and the neighbors have said they still want a modern structure but they are willing to compromise on the materials and color design in order to be more compatible.

Mr. England responded that if there is an issue or uncertain that something the Board did not want to consider they would have to come back to the Board.

Mr. Cosgrove advised the Board on the conditions which will include all the representations made here tonight which would be including but not limited too that the form of the easement agreement would be recorded. There will be no additional variances except the two front yard variances. It will be used for residential purposes only. The applicant will comply with all safety regulations and other building requirements regarding the Basement. They will conform to code with regards to any other building being done and any mechanical will be screened from neighbors. It will be strictly used as a single family home. Any trees removed will be replaced. The drainage plans will be approved by Mr. England. Mr. England's letter will be incorporated into the resolution. The applicant will insure compliance with the public safety report. The applicant will agree to coordinate with the Borough regarding landscaping and submit a landscaping plan to be reviewed by Mr. England. The two easements will not encroach further than what is shown on the drawings. The schedule A that was referenced by the planner will become part of the easement. The applicant has agreed to review and coordinate with Mr. England and seek his input with colors, materials and design. With those conditions if there were a motion to approve it would be approve the application with all those conditions you would be agreeing that the applicant has established a C bulk variance either a hardship or a flexible C variance regarding the special reasons as testified too by the planner.

Mr. San George made a motion to approve Application Z19-001 Justine Bassman & Alexandro Nunez with all conditions, seconded by Mr. Piazza

Mr. San George	yes
Mr. Vere	yes
Mr. Piazza	yes
Mr. Kurus	yes
Mr. Flack	no
Ms. Shufro	yes
Mr. Halal	yes

Approved 6 - 1

**10:16PM** Motion made to move to Executive Session

**Mr. Kurus** read the following statement: BE IT HEREBY RESOLVED in accordance with the provisions of N.J.S.A. 10:12 and 13, the public shall be excluded from the Executive Session of the Governing Body which is being held for the discussion of the following subject matters: 1. Pending or anticipated litigation or contract negotiation; 2. Personnel matters; 3. This Executive Session shall continue for an indefinite period of time and upon termination of the Executive Session, the Governing Body may choose to resume the public portion of the meeting. The discussion, which shall be conducted in closed session, shall be disclosed upon termination of litigation or contractual matter, upon resolution of the personnel matter with consent of said person or persons and as provided by N.J.S.A. 4-12 but in no case later than two (2) years from this date. These minutes shall be available as soon as the matter is resolved or not later than two years hence. The Executive Session will be discussion of Litigation RIA Holding.

Mr. Piazza made a motion to go into Open Public, seconded by.

The meeting adjourned at 10:22PM

Respectfully Submitted

Lisa O'Neill  
Zoning Board Secretary