

**Borough of Caldwell
Zoning Board of Adjustment
July 5, 2017**

A Public Meeting of the Board of Adjustment of the Borough of Caldwell was held on July 5, 2017 at 7:09P.M.in the Municipal Building, 1 Provost Square, Caldwell, New Jersey. Mr. Kurus opened the meeting and read the opening statement.

ROLL CALL: Mr. Vere, Mr. Piazza, Mr. Kurus and Mr. Colaizzo

ABSENT: Mr. San George, Ms. Buechner and Ms. Shufro

ABSENT AT ROLL CALL: Mr. Alonso

STATEMENT OF COMPLIANCE

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF MINUTES:

The public minutes of June 7, 2017 were approved
Mr. Colaizzo abstained.

7:11PM Recess

7:30PM Roll Call

Mr. Vere, Mr. Piazza, Mr. Kurus, Mr. Colaizzo and Mr. Alonso

NEW BUSINESS:

**Application Z17-015, Abracadabra Properties, LLC, 73 Bloomfield Avenue, Block 8,
Lot 16**

Ms. Rosemary Stone-Dougherty representing the applicant we were here in November, 2016 along with the Engineer Mrs. D'Amico regarding additional parking for a site plan for 73 Bloomfield Avenue. In the interim her client is going to make some changes and improvement to the property and we in front of the Board of Adjustment this evening to ask for, in her argument, a D3 Variance for the residential second floor/apartment. Because of the residential use we have two additional C variances that are required as per the ordinance that are mentioned in the letter of denial that was issued by the zoning official. The front line setback is 12.5 feet where 25 feet is required and a side line setback of 8 feet where 15 feet is required when you have a mixed use structure. These variances were not needed when they went in front of the Planning Board because at that point in time we were just talking about the overall main purpose of the building which was my client's medical use and at that time the upstairs was vacant it was never abandoned it was just vacant and unfortunately it did not come into the for front when they were in front of

the Planning Board. So at this time this evening they will have Mr. Novak will be testifying as the Architect and as the planner.

Mr. Cosgrove advised Ms. Dougherty that there are five members present tonight and it's a D variance requiring five (5) votes. He has discussed this with the Board and you are going to provide testimony and then you can make the decision at the end whether you want to go to a vote tonight or adjourn and come back at another meeting and at the conclusion of your presentation you can let the Board know what your decision is. Secondly, as discussed our Chairman Mr. Kurus is a patient of the doctor and he has gone through it with Mr. Kurus and he doesn't believe he has a conflict and he believes he can be fair and impartial and he just wants to make them aware of that and have it on the record.

Ms. Dougherty responded that they are satisfied with that and they believe Mr. Kurus will be fair and impartial.

Mr. Gerard Novak is sworn in and qualified as the Architect and a fact witness.

Mr. Novak gave a summation:

- He has the opportunity to see the property and has met with the applicant on several times.
- He has reviewed the Resolution that was adopted by the Planning Board in November, 2016.
- There was work started in the basement and it needed an architectural drawing prepared and he became involved in that to expand medical business in the basement.
- The first floor offices have a building permit and have been occupied.
- There was in need of a secondary egress out of the basement space and the logically place to put that is towards the front of the building.
- On A-1 the photo is showing the 15 foot wide by 4 foot in the front of the building where it would be on the site plan.
- On A-2 it shows more of a construction detail of that drawing and you can see the stairwell and the stairs coming up and a door coming from the front part of the basement up and out to the front yard.
- The top floor is being used as a residential use and he proceeded with this application as it being used as residential. He worked up the parking requirements with the residential use and the new basement use there is still enough parking per the approval from the Planning Board.
- A-3 has the copy of the approved site plan from the Planning Board.
- The C variances that are required under the ordinance are the side and front setbacks.
- From a design perspective there is no other way to put this stairway that is not going to require a variance.
- There is a concrete ramp on the left side of the building and someone else's property on the right side of the building and the rear of the building already has a stairwell.

- A-3 drawing shows foundation planting that the Planning Board approved and he is going to relocate the foundation planting from where the stairwell is to out in front of the stairwell between it and the street.
- All planting will be the same quantity as approved in the Planning Board Resolution except the location will be shifted 4 feet.

Board members had questions on the sign that is preexisting.

Exhibit

A – 1 Photo of area where the stairwell will be located

- In the picture there are the stairs and a concrete slab at the bottom of the stairs going up.
- The sign may need to be situated further to the center of the building not closer to the sidewalk.
- The concrete pad would extend out and you would make a right and then a left and proceed down the stairs into the basement.

Dr. Mazzoccoli was sworn in as the applicant.

Ms. Dougherty asked Mr. Mazzoccoli questions:

- This stairwell is for emergency egress only.
- Dr. Mazzoccoli feels that there is enough space to leave the sign where it is.
- If the sign does need to be relocated it will be the same distance as the road just may need to be moved over.
- Landscaping will work in with the sign as to not cover the sign.
- The foundation of the stairwell will be concrete and an aluminum railing will be added.
- Ice melt will be part of the construction process for the snow.
- The property in question has been in front of the planning board twice once in 2004 and once in 2016 the continuous use of the residential had remained intact and in character. When Dr. Mazzoccoli purchased the property he advised Mr. Novak that the upstairs was mainly used for family traveling from overseas.
- The third floor was a residential use that has existed before this use.
- This property has always been a mixed use property.

Board members discussed the use of the property. The property was purchased in 2007 and the 1st floor was an office and the 2nd floor was residential use. The residential has been 2 bedrooms since 2007.

Mr. England responded that his conversations with Paul Milani, the property has always been residential on the 2nd floor.

Dr. Mazzoccoli testified that when he purchased the property it was a pest control with a residential use on the 2nd floor.

- The first floor is handicap accessible but not the basement.

- The Doctor testified that the basement is for cosmetic use only and the other rooms are for administration.
- Three windows in the basement that face towards the neighboring property.
- Forced hot air system and a fire alarm system will be added.
- Emergency lighting will be per code.

Board Members and Mr. Novak discussed handicap accessibility in the future for the basement.

Mr. England's report is accepted as it is by the applicant.

OPEN TO PUBLIC:

None

Mr. Cosgrove advised the Board that it is an application for a D variance for approving and continued non-conforming use for the 2nd floor residential apartment, 1st floor for business use and the associated C variances which deal with the setback issues on both sides. The first deliberation you are accepting the testimony where you agree with the application that this is a preexisting non-conforming use and then you are voting to approve the expansion of that use. It's a D variance which requires five (5) affirmative votes and the C variances just require majority of the quorum which tonight it would be three (3) members. The Board will be voting on whether the positive criteria was met and the application furthers the concept of the municipal land use law and the local ordinances and the reasons have been met by the applicant to prove that burden with that you can go ahead and approve the application.

Ms. Rosemary Stone-Dougherty gave a brief summation.

Board Members discussed the application.

Mr. Cosgrove discussed the conditions with the Board. The vote for this application would include Mr. England's letter, all representation made by the applicant tonight and it would need to conform to any building codes and it will also be subject to County Planning Board.

Motion to approve the two C variances and the D-2 variance - expansion of non-conforming use by Mr. Alonso, seconded by Mr. Vere.

Mr. Vere yes
 Mr. Piazza yes
 Mr. Kurus yes
 Mr. Colaizzo yes
 Mr. Alonso yes

5-0 Approved

The meeting adjourned at 8:53PM

Respectfully Submitted,

Lisa O'Neill
Zoning Board Secretary