

**Borough of Caldwell  
Zoning Board of Adjustment  
October 4, 2017**

A Public Meeting of the Board of Adjustment of the Borough of Caldwell was held on October 4, 2017 at 7:09P.M.in the Municipal Building, 1 Provost Square, Caldwell, New Jersey. Mr. Piazza opened the meeting and read the opening statement.

**ROLL CALL:** Mr. San George, Mr. Vere, Mr. Piazza and Mr. Colaizzo

**ABSENT:** Mr. Kurus, Mr. Alonso, Ms. Buechner and Ms. Shufro

**STATEMENT OF COMPLIANCE**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**APPROVAL OF MINUTES:**

The public minutes of September 6, 2017 were approved  
Mr. San George abstained.

**RESOLUTION:**

**Application Z17-016**, RIA Holdings, LLC, 55-57 Bloomfield Avenue, Block 8, Lot 18 & 18.03.

Preliminary Site Plan Approval, Final Site Plan Approval and Variance Relief

Motion to approve Resolution for application Z17-016 Mr. Vere, seconded by Mr. Colaizzo.

Mr. San George	Abstain
Mr. Vere	Yes
Mr. Piazza	Yes
Mr. Colaizzo	Yes

Approved 3-0

**NEW BUSINESS:**

**Application Z17-018**, Eric & Teresa Akersten, 67 Westville Avenue, Block 51, Lot 19.  
Variance Relief (Hardship)

Mr. & Mrs. Akersten were sworn in as the applicant.  
Julie Ann Cecere was sworn in and qualified as the Architect.

Ms. Cecere gave a summation:

- They are in front of the Board for a front yard variance.
- The property is located on a corner lot and the lot itself is substandard in size.

- It is in a RA Zone and the required lot size is 10,500 sq. ft. and the existing lot size is 6,909 sq. ft.
- It is substantially smaller which is contributing to the hardship.
- The existing front yard setback is 11.48 ft.
- They are proposing an addition to what is actually the rear of the home.

**Exhibit**

A-1 Rendering and Photos

- Ms. Cecere showed the Board what portion of the lot that can be built on.
- The property has two fronts.
- 1 story addition is being proposed and it is 31 sq. ft.
- The addition is about 5 ft. x 6 ft. which is in the back of the home.
- The addition continues the existing shed roof.
- The intention is to extend this portion of the house to align with existing corner of the back of the house.
- The intention is to match the existing siding as closely as possible.
- It is not encroaching on any of the setbacks it is just extending off the back of the house.
- It will greatly improve the interior of the house.
- This addition will help renovate interior space to have a better flow.
- Relocate bathroom that is currently off the kitchen.
- New kitchen.
- This will increase the value of the home.
- Benefit the existing floor plan and a benefit to the users.
- It will not block any of the street lines from Westville or Gould.
- The benefits out way the detriment of meeting this front yard setback variance.

Mr. Piazza asked about the lighting plan and is there any external lighting added to this addition and Ms. Cecere responded that there will be a light on the rear wall similar to the existing light. It will just be moved over better to accommodate the new location of the back door.

No comments from the Engineer or the Attorney.

OPEN TO PUBLIC:

None

Mr. Cosgrove advised the Board that this is an application for a hardship variance relief under N.J.S. 40:55D-70c(1) specifically front yard setback and two variances are required for a front yard setback. The testimony presented would satisfy the Board as to the positive and negative criteria and it is for a C variance so it would require a majority of the quorum to pass the resolution. The resolution would incorporate the Engineers letter and comments and any representation made tonight.

Motion to approve application Z17-018 by Mr. Vere, seconded by Mr. Colaizzo.

Mr. San George      yes  
Mr. Vere            yes  
Mr. Piazza          yes  
Mr. Colaizzo        yes

**Approved 4-0**

**Application Z17-019**, Landmark Real Estate Developers II, Inc, 21 Kirkwood Place, Block 17, Lot 4. Variance Relief (Hardship)

Mr. Gaccione, Gaccione, Pomaco represents the applicant Landmark Real Estate Developers II, Inc. His client is the owner of an isolated lot at 21 Kirkwood Place the lot has a total of 2126 sq. ft. and therefore a number of bulk variances are required before my client is able to erect a one family home on the property. The Engineer will review each of those variances. The subject property is in an RA Zone and the proposed single family home is a permitted use. The witnesses you will hear from are Susana Tavera, Architect and Chuck Stewart as the Engineer and Planner. Ms. Tavera will discuss the existing site and the proposed new home. She will also review how it relates to the adjacent structure and the proposed access agreement with the adjacent property owner. Mr. Stewart will review the location of the property and how it was previously used. Mr. Stewart will have on record the list of bulk variances; he will discuss the site details and review the proposed easement which will allow the adjacent property owner to access to her property to allow her to park a vehicle on her own property. The landscaping and drainage will be discussed and he will review the unavailability of the adjacent property and the lack of a buyer on this parcel for fair market value.

Mr. Jack Dusinberre asked to be on the record as representing Rita Anna Brady from 19 Kirkwood Place whose side yard directly abuts the subject property.

Ms. Tavera was sworn in and qualified as the Architect.

Ms. Tavera gave a summation:

- The existing site is empty.
- Overgrown with grass and weeds.
- The applicant wants to build a 1 family house Kitchen, Dining Room and Living Room on the 1<sup>st</sup>. floor and two bedrooms and two bathrooms on the 2<sup>nd</sup> floor and a basement.

**Exhibit**

A-1    Rendering of the one family house proposed on this site.

- View from Personette.
- Materials that will be used is stone, cedar material, hardy board (red)
- There has been a change that we are proposing to push the garage towards the house and attach to the rear of the home.

- There has been a verbal agreement that we would be allowed access to work on the home.
- The adjacent property owner would be allowed on that easement.
- The plans that were submitted showed the house at 16 ft. wide along Kirkwood and now they are proposing to diminish that down to 15 ft. wide since the house was originally 6 inches off the property line.
- We are now 1 ½ feet off the property line.
- The square footage of the footprint was 1,010 sq. ft.
- The change is reduced by 952 sq. ft. is the new footprint.
- The original plan was a basement Bedroom with a window well and now they will be removed since the garage is up against the house.

Board members discussed the front door access which is on Personette Street and the current address is on Kirkwood. The architectural is Tudor style. The house is an empty lot now but the house was similar to what is next door.

No comments from the Engineer or the Attorney.

#### **OPEN TO PUBLIC**

Hilda Moore, 23 Personette Street asked if the driveway will be directly in front of her house and she has a problem with that being this way.

#### **CLOSED TO PUBLIC**

Mr. San George asked if Ms. Tavera knew the footprint of 19 Kirkwood and Ms. Tavera responded she did not but the Engineer has a survey of the property.

Mr. Chuck Stewart was sworn in and qualified as an Engineer and a Planner.

Mr. Piazza asked Mr. Cosgrove that since they are representing Mr. Stewart as a planner should we talk about hiring a planner for the Board and Mr. Cosgrove responded that it's the Boards choice but you can hear his testimony and make that determination.

Mr. Stewart gave a summation:

#### **Exhibit**

A – 2 Personette and Kirkwood color version

- Property in question is Block 17, Lot 4 also known as 21 Kirkwood Place.
- It is located on the corner of Kirkwood Place and Personette Street.

#### **Exhibit**

A – 3 1965 Survey, Valente & Sullivan, Inc. Survey of the existing property and the dwelling that was on that property before.

- 22 x 100 or 2,126 sq. ft. .05 acres

- The property is a little wider in the front and little narrow in the back. As you go down Personette it's 22 sq. ft. and on Kirkwood its 20 sq. ft. in the back.
- There was an existing two (2) Story frame dwelling with a one (1) story section located behind it down the Personette Street side of the house.
- The existing footprint is approximately 818 sq. ft.
- It was situated about 21 ft. back off of Kirkwood.
- Two (2) feet off the easterly property line and approximately 2 feet in the back off of Personette Street.
- Property is located in the R-A Zone.
- The existing building coverage, when there was a dwelling on it, was about 38% of the property with an impervious coverage of about 44%.

### **Exhibit**

A - 4 Survey, G.C. Stewart Associates December 1993. A survey of 19 Kirkwood Place

- All lots are 22 x 100.
- Immediately to the East all have existing 2 story frame dwellings located on those properties.
- 19 Kirkwood Place is similar to our lot it's about a 16 feet wide.
- The existing house that was on our property was also 16 feet wide.
- The proposal is to build a new 2 story home.
- There is no available property adjacent to this parcel that can be purchased by the owner.
- No one has made an offer of market value to purchase this property from the owner.
- The property slopes from the adjacent lot 5.01 down towards Personette.
- It goes up about 4 to 5 feet of the neighbor's property down to Personette Street. Then it slopes Northward from Kirkwood down Personette.
- There is an existing inlet located right opposite the old Knights of Columbus and it discharges out to the ditch that runs behind the lots that front on Personette Street.

Mr. Gaccione asked Mr. Stewart that in regards to the proposed easement to give access to 19 Kirkwood to allow for a parking spot in the rear of her property can you explain where that would be. Mr. Stewart responded that referring to A-2 the adjacent property on Kirkwood lot 5.01 is requesting to come in off of Personette Street and come across an easement which is across the back of our lot basically where the garage is right now. Moving the garage to the house it will leave approximately 10 feet to come in off of Personette Street come across our property to get to the adjacent lot. There is an existing pole that will need to be moved.

### **Exhibit**

A - 5 Survey 17 Kirkwood, Lot 5

- Similar lot size with a similar dwelling.
- 50 x 16 feet house.
- Situated 14' back off the site line of Kirkwood.
- They are creating a situation that was previously on that lot.
- Three single family homes on 22 x 100 foot lots.

- They are going to clear the lot and construct a home.
- Propose foundation plantings around the front of the house.
- Add a tree front corner.
- Three (3) existing street trees on Personette will remain.
- One (1) Parking space with Garage.

### Exhibit

A - 6 – Mr. Staiger’s Traffic Impact Assessment study

- Kirkwood & Personette Street has a very light volume and a low speed Roadways.
- One Trip per hour during peak hours.
- The proposed application will have no negative impact on traffic conditions.
- There is sufficient on street parking.
- More than sufficient site distance for safe operations of the driveway and surrounding roads.
- Mr. Stewart reviewed the bulk variances they are in the RA Zone and the minimum lot area is 10,500 sq. ft. and the existing lot is 2,126 sq. ft.
- Minimum lot width is 75ft. and they are at 22.13 ft.
- Minimum yard setback 35ft. and they are proposing 3.1ft.

Mr. Piazza asked Mr. Stewart isn’t this corner lot that technically has two front yards and two rear yards. Mr. Stewart responded that he called out the smaller frontage for the variance 3.1ft where on Kirkwood we are 15ft. which still doesn’t comply.

- Side Yard is 10ft.
- Rear Yard is 1/2ft. The rear yard has changed to 1 1/2ft.
- A person has the right to redevelop their property regardless of their size and to grant the variances associated with that lot.
- The plan is to put a trench grade along the property line between the houses and tire the liter drains in so there is no water issue between the homes.
- Utilities are on Kirkwood and they will be tying into those existing utilities.
- He will be preparing an amendment plan showing access easement for the benefit of 19 Kirkwood.
- He is familiar with the construction maintenance easement that will be entered into between the owner of 19 Kirkwood and this property.
- This will provide about 4.5 feet between the two buildings.
- If the Board approves this application any documentation will be submitted to Mr. England for his approval.

Board members discussed the application with Mr. Stewart:

- 19 Kirkwood right now has no access for parking.
- Current application cannot park on the easement.
- Garage will now be attached to the house.
- The easement is strictly for 19 Kirkwood.
- From the face of the garage to the right away line is 1ft and another 10ft to the curb. 11ft to back out of driveway.

Mr. Gaccione testified that since there was a question about the garage and backing out into the street his client should this application be approved and be conditioned on removing the garage would not be upset with that. His preference is a garage but it is not something that he wouldn't go ahead with if he didn't get it.

- The height meets the zoning requirements. 2 ½ stories is allowed in an RA and this building is 2 stories. It's about 30 feet high.
- The house that was there previously was torn down because it was a condition of disrepair and unsafe and was removed by the town.

Mr. Piazza asked Mr. Cosgrove if pre-existing conditions on this property still apply considering that it was removed five years ago and never rebuilt and Mr. Cosgrove responded that it wouldn't be a footprint if that's what you are referencing and he doesn't believe there is a requirement because there was something there before that you have to do it again. Mr. Gaccione responded that we are not seeking approval based on a partial destruction and having the right to rebuild. They are seeking a variance and the discussion with regard to what was there is part of our basis is for explaining why we think a variance should be granted certainly not saying we have a right based on the demolition. They are trying to point out the consistency of what had been there and we have an isolated lot case.

Mr. Piazza asked Mr. Stewart based on the size and shape of this lot if you feel that this is an appropriate location for a home to go up on this site. It's a really small lot. Mr. Stewart said he absolutely it is. It is consistent with the other lots immediately adjacent and it's an empty vacant lot that has been sitting there for a long time. He feels that the architectural design is very nice and it will certainly improve the neighborhood going forward.

#### OPEN TO PUBLIC:

Mr. Dusinberre representing the owner of 19 Kirkwood Place, this zone provides for 10,500 sq. lot if you had a conforming lot how would this proposed dwelling square off on a conforming lot in terms of compliance and size. Mr. Stewart responded that it would be a small house on a conforming lot because you are allowed building coverage in an RA Zone 25% which would be a 2600sq. ft. house that's permitted on a conforming lot. Mr. Dusinberre continued with the 1 ½ ft. along the sideline with his client it wouldn't be enough room by itself and Mr. Stewart responded no. Mr. Dusinberre asked Mr. Stewart as a planner do you think that there is a need for off street parking in Caldwell and Mr. Stewart responded yes.

Mr. Dusinberre testified that he is representing a client who is next door and does recognize what the facts have been and what the realities are today is willing as Mr. Gaccione has so correctly stated to come to an agreement with a neighbor.

Hilda Moore, 23 Personette Street is there any way that the driveway cannot be directly across from my driveway. Mr. Stewart responded that it is very similar to have this and it's a quiet area.

#### CLOSED TO PUBLIC

OPEN TO PUBLIC FOR COMMENTS

Mr. Dusingberre testified that his client has heard the testimony tonight she is here and she has advised me that she understands the agreement. There will be written receptacle construction and maintenance agreement for the common sideline. There will be an access easement allowing for pedestrian vehicles to come and go across the subject property but not block or leave a vehicle on that easement. It is only used to get to the back of his client's property. We urge you to approve it and they think in light of what the applicant proposed the design of the house that it is suited for the site.

Ms. Moore, 23 Personette asked about how long the home will take to be built and Mr. Gaccione responded about four months.

Mr. Gaccione gave a brief summation.

Board members discussed the application.

Mr. Cosgrove advised the Board Members that this is a hardship variance N.J.Ss 40:55D-70c(1) and variance relief N.J.S. 40:55D-70c(2) the list of variances are attached to the application. The applicant has made several amendments to that application so the resolution would be to approve the application as amended incorporating all the conditions that were put forth tonight specifically the easements referenced access easement between the building and egress and ingress in the back. The applicant will need to submit the proposed easements to himself and Mr. England for review. The amendment site plan would be submitted to Mr. England and conditioned on everything in Mr. England's letter and all necessary building approvals from the Borough of Caldwell.

Motion to approve application Z17-019 with the conditions as stated by Mr. Colaizzo, seconded by Mr. Vere.

Mr. San George        yes  
Mr. Vere                yes  
Mr. Piazza             yes  
Mr. Colaizzo            yes

Approved 4-0

The meeting adjourned at 8:45PM

Respectfully Submitted,

Lisa O'Neill  
Zoning Board Secretary