

**RESOLUTION
OF THE
CALDWELL ZONING BOARD OF ADJUSTMENT**

RESOLUTION IN THE MATTER OF
THE APPLICATION OF MR. & MRS. MIKE GABRIEL
FOR A VARIANCE AT THE PROPERTY LOCATED AT
17 CHERRY LANE, BLOCK 72.01, LOT 24
APPLICATION NO.: Z21-002

WHEREAS, Mr. and Mrs. Mike Gabriel (the “Applicants”) submitted an application for a variance to the Borough of Caldwell Zoning Board of Adjustment (the “Board”) with respect to premises located at 17 Cherry Lane, Block 72.01, Lot 24 (the “Property”) pursuant to N.J.S. 40:55D-70(c)(1) and 70(c)(2), to permit the construction of a front porch and a two story addition; and

WHEREAS, a hearing on this application was held before the Board on April 7, 2021; and

WHEREAS, the Applicants filed an affidavit with the Board showing compliance with the statutory requirements concerning notice to the affected property owners and of making proper and timely publication of the application in the official newspaper of the Borough of Caldwell; and

WHEREAS, the Board’s Engineer issued a report dated March 1, 2021 (the “Board Engineer’s Report”); and

WHEREAS, the Board makes the following findings of facts and conclusions based upon the evidence submitted to the Board:

1. The Property is located in the RA-Single Family Residence Zone;
2. The existing lot is 7,500 sq. feet and 60 feet wide where the RA Zone requires a lot size of 10,500 sq feet and 75 ft wide.
3. The required frontage is 35 feet and the existing frontage is 34.8 feet, and the proposed frontage is 28.9 feet.
4. Based upon Section 250-8 of The General Regulations of the Caldwell Zoning Ordinances. A front yard variance is required for the front porch as the width of the proposed porch exceeds the limit of three times the projection.

5. The proposed addition and porch will have lot coverage of 54.2% where 50% is required.
6. The Applicants' Architect, Julie Anne Cecere, AIA, P.E., was sworn in and testified as to the specifics of the plans and the basis for the variance request. The architect testified regarding the unique conditions affecting the property, and that the Applicants were seeking a minimal deviation from the land use ordinance. The architect testified that the shape of the lot creates a hardship for the Applicant due to the unique shape of the property. Further the architect testified to the aesthetic and other benefits of the proposed addition and porch.
7. One exhibit was entered into evidence: A-1 Perspective Drawing with a rendition of the proposed construction.
8. No members of the public appeared nor was any opposition to the application offered.
9. On the basis of these findings and the discussion of the Members of the Board present at the hearing, the Board, by a seven (7) to zero (0) vote, determined that the Applicants are suffering a particular hardship due to the characteristics of the subject Property, and that by granting the application, the Board would be benefiting the community and furthering the purposes of the Municipal Land Use Law. The Board concluded that the Applicants had established that the benefits of granting the application outweighed any detriment. In reaching this conclusion, the Members of the Board made the following conclusions of law:
 1. The Applicants' proposed construction, as revised, would enhance the Property and its surrounding neighborhood;
 2. The Applicants' request for this variance, as revised, is reasonable and is not detrimental to the zoning ordinances; and
 3. The proposed construction, as revised, would not be detrimental to the neighboring properties.

4. The Applicants established a hardship that resulted from the unique conditions affecting the Property. Accordingly, the Applicant was deemed to have met the necessary criteria for the approval of a “(c)” variance.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board hereby grants Applicant’s variance application and this approval shall contain the following terms and conditions:

1. The terms of such approval are to be strictly in accordance with the plans and testimony presented to the Board and the Board Engineer’s report;
2. The Applicants shall comply with the revisions proposed during testimony, including making efforts to address the suggestions of the Board and the Board’s Engineer regarding lighting, tree replacement and rain garden installation, where and if applicable.
3. All taxes, fees, escrows, assessments and other monies due to the Borough shall be paid in full;
4. Applicants must obtain the appropriate building permit from the Borough of Caldwell;
5. The landscaping will be shown on the plans; and
6. The Applicants shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the Property, as necessary; and
7. The Applicants shall comply with all rules, regulations, statutes and ordinances of the United States of America, State of New Jersey, County of Essex, and Borough of Caldwell.

THOSE VOTING IN FAVOR OF GRANTING THE APPLICANTS’ APPLICATION FOR VARIANCE REQUESTED TO CONSTRUCT A SINGLE FAMILY DWELLING:

Ms. Buechner, Mr. Vere, Mr. Flack, Mr. Porcello, Mr. Colaizzo, Mr. San George, Chairman Kurus

THOSE VOTING AGAINST GRANTING THE APPLICANTS’ APPLICATION FOR VARIANCE REQUESTED TO CONSTRUCT A SINGLE FAMILY DWELLING:

None

The undersigned, a member of the Caldwell Zoning Board of Adjustment, certifies that the foregoing is a true copy of the Resolution adopted on the ____ day of _____, 2021 to reflect the action taken by said Board on the 7th day of April, 2021.

Board Secretary