

**Borough of Caldwell
Zoning Board of Adjustment
June 2, 2021
Meeting Minutes**

A Public Meeting of the Board of Adjustment of the Borough of Caldwell was held on June 2, 2021 at 7:00pm via electronically, using Zoom Meetings. Mr. San George opened the meeting and read the opening statement.

STATEMENT OF COMPLIANCE

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL: Mr. Vere, Ms. Buechner, Mr. Flack, Mr. San George, Mr. Porcello, and Mr. Halal. Mr. Cosgrove and Mr. Beckmeyer were also present.

ABSENT: Mr. Kurus

APPROVAL OF MINUTES:

The Public Minutes of May 5, 2021 were approved. Mr. Porcello abstained.

APPROVAL OF INVOICE:

Ashenfelter, Trembulak, McDonough, Golia & Trevenen, Invoice dated May 7, 2021 for Application Z20-002, Jose and Ashley Rosario, 81 Park Avenue in the amount of \$300.00
All Board Members voted in the affirmative.

NEW BUSINESS:

Application Z21-003, Jim and Karen Esposito, 21 Birkendene Road, Block 72, Lot 19
Amendment to a previously granted Zoning Board Approval (2019)

Mr. Cosgrove swore in Mr. Jim Esposito and his architect, Ms. Julie Anne Cecere.
The Board accepted Ms. Cecere's qualifications.

Ms. Cecere, architect, offered a brief summation:

- Ms. Cecere entered **Exhibit A, Document T1 entitled "Plans, Elevations and Perspectives"** and **Exhibit B, Property Survey.**
- Ms. Cecere stated that the house was already under construction for an addition that was granted by the Zoning Board in 2019, which included a first- floor deck with a covered roof. The first- floor deck has already been built. Ms. Cecere informed the Board that the Applicants made a recent adjustment to their plans by shrinking the size of the second -floor deck to align with the house and that new revised plans could be submitted to reflect those changes. The Applicants would still require relief for a side yard setback and were requesting a C2 Variance to allow them to maximize the mountain views from the back of their residence.
- The second- floor deck would be for the benefit of the family only; access would be by the bedroom areas of the house. Ms. Cecere stated that there would be no negative impact on the neighbors; no noise or privacy issues. The second deck would be integrated with the rest of the architecture of the residence.

- In response to Mr. Beckmeyer's Report, Ms. Cecere stated that no further grading was done on the property, however, the homeowners did realize that the retaining wall did go over the property line. The contractor will be pulling the wall back. The roof liters are tied into an underground detention system. With regard to lighting, Ms. Cecere referred to the circles indicated on **Exhibit A**. The plan calls for typical residential lights which will be directed upon the property for safety purposes on pathways.

Mr. Vere asked if there were any safeguards within the Borough's Ordinances that prevents homeowners from conducting themselves in an inappropriate manner?

Mr. Cosgrove stated that the Board is not an enforcement body.

Mr. Halal inquired if the foundation for the already constructed first floor deck was designed for one or two stories.

Ms. Cecere stated that the foundation could accommodate either one or two stories.

Mr. Porcello asked if the run-off from the second- floor deck would deposit into the same detention system.

Ms. Cecere answered in the affirmative.

Several Board Members inquired about the lighting indicated on the plans (two spotlights).

Mr. Porcello stated that spotlights would not be effective in illuminating the backyard and suggested that the lights be moved to a different location, away from the neighboring properties.

Mr. Flack asked if it is typical for the Board to approve a change without seeing new plans.

Mr. Cosgrove stated that it does not happen often, but the Board could make it a condition or ask the Applicant to reappear before the Board.

Mr. Beckmeyer stated that the ornamental lighting on the second -floor deck would be too intrusive, and that he would prefer the homeowner use under rail lighting for the deck. Mr. Beckmeyer stated to the Board that he could go on site with a light meter before issuance of a Certificate of Occupancy. He inquired if the only entrance now for the second- floor deck would be a door from the bedroom above the garage?

Mr. Esposito stated that there would be a door along the hallway by the bathroom and a door from the bedroom over the garage leading to the second -floor deck.

Mr. San George summarized some of the changes the Board had discussed with regard to the Application:

- Elimination of the second-floor deck along the master bedroom side.
- Elimination of spotlights on the second-floor deck and utilization of under rail lighting instead.
- Moving of the retaining wall onto the applicant's property.
- Elimination of the door from the master bedroom.

Cross-examination of Architect's Testimony: **(Open to Public)**

1. **Jason and Danielle Curcio, 19 Birkendene Road** stated that the plans don't accurately give a perception of the fact that the first floor is over 6 ft above ground level. They expressed their concern that the second -floor deck will be much higher than indicated on the plans. They stated that their property is adjacent to the Esposito's and they feel that the pillar columns and the fire pit will infringe on their privacy. In addition, they stated that there is a balcony on the third floor that is not indicated on the submitted plans. The Curcios asked why the renderings do not show the depth, height, and slope of the property?

Ms. Cecere responded that the elevations were done prior to final grading. She added that the third story has a balcony that has already been approved.

2. **Sandy Brown, 13 Birkendene Road** asked the square footage of the first and second floor decks and notified the Board Members that she did not remember being notified of the first time the homeowners appeared before the Zoning Board.

Ms. Cecere stated that she did not have the exact square footage of both decks, but that if given a few minutes, she could calculate them or send them to the Deputy Clerks after the meeting.

Mr. Flack inquired about the gas fireplace planned for backyard, which the vent is close to the second- floor deck.

Mr. Beckmeyer stated that often, ventless gas is used. He also indicated that when looking at the plans of the proposed fireplace, in comparison to the left-side elevation, the footprint is larger than shown on the elevations.

Ms. Cecere indicated that the fireplace is out in the open and the specifications from the manufacturer will be met.

Mr. Beckmeyer stated that the Building Department and Plumbing Inspector would have to approve the fireplace installation.

3. **Jason and Danielle Curcio, 19 Birkendene Road** asked for clarification on the square footage of the first and second floor decks.

Ms. Cecere stated that the second- floor deck is approximately 8 ft. higher than the first deck.

Ms. Curcio stated that the Esposito's already have the first- floor deck and third floor balconies to enjoy the mountain views in the backyard. They expressed their concern that the newly built first floor deck already seems intrusive.

Mr. Flack asked why the third floor was not indicated on the submitted plans.

Ms. Cecere stated that the third floor is finished attic space with a walk out balcony, with no bedrooms or A/C and heat.

Mr. San George asked what the difference in height was from the height from grade with the roof and the height from grade to the deck.

Ms. Cecere stated that the grade has been raised quite substantially.
Mr. San George asked for a brief recess at 8:20pm to allow time for Ms. Cecere to do some calculations.

At 8:30pm, the Board reconvened. All Board Members were present upon roll call. Mr. Cosgrove and Mr. Beckmeyer were present.

Ms. Cecere informed the Board and the public that the first -floor deck was 846 square ft. and the proposed second floor deck would be 489 square ft.

After discussing the application with her client during the recess, the Espositos had offered to eliminate the gas fireplace and to diminish the second -floor deck to half of it's original proposed size. In addition, Ms. Cecere explained that she did not include attic plans since it had no bearing on this application. She informed the Board that the property slopes from the street to the backyard, so the height will vary depending on where in the backyard one measures. By pulling the deck back in size, there will be less of a height differential. There is currently a 2.25 ft difference in grade from the front to the back of the deck.

- 4. **Jason and Danielle Curcio, 19 Birkendene Road** asked to submit their pictures of the backyards of both their property and their view to the Esposito's backyard, entered as **Exhibit C** for the Board.

General Comments **(Open to the Public):**

- 1. **Jason Czaja, 23 Birkendene Road** indicated that he would have voiced his concerns about the first deck if he had known that the homeowner's intention was to apply to the Board for a large second level deck.
- 2. **Andy and Madeline Brown, 13 Birkendene Road** stated that they feel that the proposal to add a second- floor deck is inconsiderate and detrimental to the neighbors. Ms. Brown indicated that the already built first-floor deck is highly visible when driving on the street and is massive enough to look like a launching pad.

The Board Members deliberated.

There were no Board Members that made a motion to approve the Application.

Mr. Vere made a motion to deny Application Z21-003, seconded by Mr. Porcello.

Mr. Vere	yes
Ms. Buechner	yes
Mr. Flack	yes
Mr. San George	yes
Mr. Porcello	yes
Mr. Halal	yes

6-0-0 Application not approved.

Mr. Flack made a motion to adjourn the meeting, seconded by Mr. Vere.

The meeting adjourned at 9:28pm.

Respectfully Submitted
Kim Conlon
Zoning Board Secretary

