

**ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF WEST CALDWELL
ESSEX COUNTY, NEW JERSEY**

**DRAFT
PUBLIC MEETING AGENDA
August 8, 2024**

OPENING STATEMENT

ROLL CALL

PLEDGE OF ALLEGIANCE

MINUTES

Minutes of the July 11, 2024 Public Meeting

RESOLUTIONS

1. **Appointment of J. Michael Petry, PE, PP, AIA of Petry Engineering, LLC– Independent Expert.**
2. **ZB24-08 Jennifer Barszcz, 46 Richard Avenue, Block 1808, Lot 9 (R-4 Zone)** Applicant seeks N.J.S.A (c)(1) variance for a proposed second story addition, rear addition, and rear yard patio.

1. Minimum Front Yard Setback (Second Floor Addition)

Pursuant to Section 20-9.5, the R-4 Zone requires a minimum front yard setback of 40 feet. Subject property has existing front setback of 15 feet where 14 feet is proposed.

2. Minimum Side Yard Setback (Second Floor Addition)

Pursuant to Section 20-9.5, the R-4 Zone requires a minimum side yard setback of 10 feet. Subject property has existing side setback of 6.67 feet.

3. Minimum Front Setback (Front Portico)

Pursuant to Section 20-9.5, the R-4 Zone requires a minimum front yard setback of 40 feet. Applicant proposes a front setback of 10 feet to the front steps.

Pursuant to Section 20-5.4c, open porches, balconies or terraces less than fifteen (15) feet wide may extend not more than two (2) feet into the nonconforming front yard. Variance relief is required to permit the front setback of 11 feet to the front portico roof, where 13 feet is required.

4. Minimum Front Setback (Front Steps)

Pursuant to Section 20-9.5, the R-4 Zone requires a minimum front yard setback of 40 feet. Applicant proposes a front setback of 5 feet to the front steps.

Pursuant to Section 20-5.4c, open steps, stairways, front door, open canopies, and overhead awnings may extend not more than four (4) feet into the nonconforming front yard. In no event shall any part of a principal building be located within five feet of any property line.

Variance relief is required to permit the front setback of 5 feet to the steps, where 11 feet

is required.

Proposed rear addition and rear patio are both conforming to the required setbacks.

Approved with conditions.

HEARINGS

1. **ZB23-22 West Caldwell Commons LLC, 875 Bloomfield Avenue, Block 1504, Lot 1, B-2 Zone** Applicant is proposing to develop a 1-story, 1,991 square foot fast food restaurant with a drive-thru in the existing parking lot, as a pad site.

1. Site Plan Approval Required

Pursuant to Section 18A-9.1 of the Township Code and the Municipal Land Use Law (N.J.S.A. 40:55D-37), approval of site plans by resolution of the Planning Board, or waiver thereof, shall be required as a condition for the issuance of a permit for any development, including the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, and any use or change in the use of any building or other structure, or land or extension of use of land.

2. Use Variance Relief Required

The subject property is situated within the B-2 Planned Shopping Center, which permits the retail sale, display or rental on the premises of commodities or services predominately to the ultimate consumer within a single structure, pursuant to Section 20-11.1. A second principal building is permitted provided that the total square floor area of the second structure does not exceed 5,000 square feet. The B-2 District contains the Essex Mall shopping center and one additional principal building occupied by the PNC Bank. While fast-food restaurants are permitted conditional uses in the B-2 District, this does not permit more than two principal structures. Therefore, D(1) use variance approval from the Zoning Board of Adjustment is required to permit a third principal structure in the B-2 District.

3. Conditional Use Variance Relief Required

Fast-food restaurants are a permitted conditional use in the B-2 District. The application does not conform to all of the conditional use requirements for fast-food restaurants pursuant to Section 20-17.25. D(3) conditional use variance approval is required from the Board of Adjustment for each deviation from the conditional use requirements.

3. Redevelopment Plan

The property is situated within the RAO Rehabilitation Area Overlay Zone pursuant to the Redevelopment Plan for the Bloomfield Avenue Area in Need of Rehabilitation, adopted on March 6, 2018. In accordance with Section 6.1 of the Redevelopment Plan, planned shopping centers on 15 acres or greater may consist of one or more principal structures. Restaurants, cafes, luncheonettes and delicatessens are permitted, excluding curb service establishments and drive-through facilities but not excluding walk-up services and outdoor dining. Therefore, the Redevelopment Plan permits more than two principal structures but does not permit fast-food restaurants with drive-through facilities.

In accordance with Section 7.1 of the Redevelopment Plan (paragraph f under Review Procedures), neither the Planning Board nor the Zoning Board of Adjustment shall grant any deviations from the use provisions of the Redevelopment Plan. Any proposed changes to the Redevelopment Plan involving specific permitted or conditionally permitted land uses shall be in the form of an amendment to the Redevelopment Plan adopted by the Mayor and Council, in accordance with the procedures set forth in the Local Redevelopment and Housing Law,
N.J.S.A. 40A:12A-1 et seq.

4. Conclusion

The applicant has three options:

- A) Submit an application to the Zoning Board of Adjustment for use variance and conditional use variance relief and site plan approval from the B-2 Zone District requirements; or
- B) Submit an application to the Planning Board for site plan approval under the RAO District, which must be compliant with the fast-food restaurant conditional use requirements; or
- C) Request the Township Council to amend the Redevelopment Plan to modify the fast-food restaurant conditional use requirements.

INVITATION FOR PUBLIC COMMENT

ADJOURNMENT