

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, March 12, 2012 at 7:00 p.m. with Chairman Edward Data presiding. After a salute to the flag, Mr. Data read the Open Public Meetings Act.

BOARD MEMBERS PRESENT:

Ms. Kinback, Mr. Giardina, Ms. Robortaccio, Ms. Dargel, Mr. Grossman, Mr. Data

BOARD MEMBERS ARRIVED LATE:

Mr. Wetzel 7:03 p.m.

Ms. Darling 7:05 p.m.

Mr. Damato 7:15 p.m.

PROFESSIONAL STAFF:

Mr. John Hansen, P.E. (excused)

Mr. Russell Stern, P.P.

Mr. Larry Wiener, Esq.

Mr. Erik Brachman, Zoning Officer

Minutes of 02/13/12

Ms. Dargel made a motion to approve the minutes of February 13, 2012, Ms. Robortaccio seconded. Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Kinback, yes; Mr. Grossman, yes; Mr. Data, yes.

RESOLUTIONS:

ZBA-10-010 LaRoy, Use Variance & Site Plan Approval for property located at Ledgewood Landing Shipping Port Road, Landing, Block 10101, Lot 18, 19 & 20, in a B-1A zone.

In the matter of LaRoy Self Storage

Case No. ZBA-10-010

**RESOLUTION OF FINDINGS AND CONCLUSIONS
BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
RESOLUTION**

Approved: February 13, 2012

Memorialized: March 12, 2012

WHEREAS, LaRoy Self Storage has applied to the Board of Adjustment, Township of Roxbury for permission to construct a self storage facility requiring D3 variance relief, associated relief for steep slopes, design waivers, and site plan approval for premises located at Shippenport Road and Ledgewood Landing Road and known as Block 10101, Lots 18, 19, 19.01, and 20 on the Tax Map of the Township of Roxbury which premises are in a “B-1A” Zone; said proposal required relief from Section 13-7.3512D of the Roxbury Township Land Use Ordinance; and

WHEREAS, the Board, after carefully considering the evidence presented by the applicant and having conducted a public hearing has made the following factual findings:

1. Paul Nussbaum, Esquire represented the applicant.
2. The applicant is a proposed operator of a self storage facility.
3. The instant property involves four (4) unimproved lots totaling approximately 11.7 acres located in the B-1/A Limited Business District.
4. The Board received memorandums from:

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- a. Russell Stern, Township Planner, dated 11/3/10, 12/17/10, 3/8/11, 1/23/12
- b. Michael Kobylarz, Township Engineer, dated 9/24/10, 11/2/10, 3/14/11, 1/23/12
- c. John Hansen, Board Engineer, dated 11/2/10, 3/10/11, 1/25/12
- d. Harold K. Maltz, PE, PP of Hamal Associates, the Board's Traffic Consultant, dated 2/9/12

5. The Board received the following documents:

Prepared by Dykstra Walker Design Group– dated 10/3/08, revised 3/24/10, 3/3/11, 5/31/11

- Sheet 1, Title Sheet
- Sheet 2, Boundary and Topographic Survey Plan
- Sheet 3, Site Layout Plan
- Sheet 4, Grading Plan
- Sheet 5, Utility Plan
- Sheet 6, Soil Erosion and Sediment Control Plan
- Sheet 7, Slope Analysis Plan
- Sheet 8, Earthwork Analysis Plan
- Sheet 9, Truck Circulation Plan, dated 3/3/11
- Sheet 10, Lighting Plan
- Sheet 11, NJDEP Permitting Plan
- Sheet 12, Profiles
- Sheet 13, Existing Drainage Area Map
- Sheet 14, Proposed Drainage Area Map
- Sheet 15, Inlet Drainage Area Map
- Sheet 16, Construction Notes and Details
- Sheet 17, Construction Notes and Details
- Sheet 18, Construction Notes and Details

Prepared by Dykstra Walker Design Group

- Sheet 1 of 1, Tree Removal Plan, dated 1/14/09
- Environmental Impact Statement, dated October 3, 2008, revised 5/31/11

Prepared by Chapin Architectural Services, P.A. – dated 10/20/08, revised 3/4/11

- Sheet A-1, First Floor Plan
- Sheet A-2, Second Floor Plan
- Sheet A-3, Third Floor Plan
- Sheet A-4, Concept Elevations
- Sheet 5, Roof Plan

Prepared by Joseph Staigar Engineering, LLC

- Traffic Impact Analysis, dated June 3, 2008

Prepared by Fullerton Landscape Architects

- Sheet 1 of 1, Grading and Planting Plan, dated 12/12/08

6. The site is wooded and contains exceptional resource value of wetlands as well as various scattered areas of steep slopes. The property is situated on the north side of Shippenport Road between the Conrail Erie Lackawanna Railroad to the east and Ledgewood Landing

Road to the west. The Shippenport Road/Ledgewood Landing Road/Route 80 jug handle is located to the southwest. The Shippenport Road railroad overpass is situated to the southeast corner of the tract.

7. To the east beyond the railroad line is the former Arminio industrial building zoned PO/R Planned Office Residential District. To the south across from Shippenport Road is unimproved wooded land zoned OS Open Space. To the west across from Ledgewood Landing Road is unimproved land associated with the jug handle. To the northwest of the property are residential improved properties and to the north is unimproved land associated with the McNear quarry.
8. The applicant intends to merge all of the subject properties (Lots 18, 19, 19.01, and 20) into one parcel and is requesting “D” variances and preliminary major site plan approvals to develop the site with a 3-story self-storage facility of approximately 75,000 square feet. There would be a one bedroom manager’s apartment located on the first floor. The applicant has provided 18 striped parking spaces (8 of which are banked) in the front yard and 22 unmarked spaces along the rear building elevation. Due to the topography of the property, the first floor access is provided at the front of the building and the second story access at the rear. The applicant is proposing two internal elevators to service the building. As proposed, 21 storage units would have direct access by overhead doors along the rear building elevation. The site would be serviced by public water and a private septic system.

As proposed, impervious coverage is approximately 11.2% (50% permitted) and the floor area ratio is 0.147 (0.15 permitted).

9. The use, itself, is a permitted conditional use in the B-1/A District. Both a self storage facility and an apartment comply with the use permitted, however, the applicant does not comply with the additional conditional use criteria, therefore, it requires “D3” variance relief as the property does not have direct highway access (13-7.3512A) and the applicant is proposing a 3-story structure whereas a maximum 2-story structure is permitted (13-7.3512D).
10. As noted, the applicant requires a “D3” conditional use variance for not meeting the conditions of a conditional use. In addition, the applicant requires additional relief from section 13-7.818 exceeding permissible limits of steep slope disturbance:

<u>Steep slope category</u>	<u>Area</u>	<u>Maximum area of allowable disturbance</u>	<u>Proposed area of disturbance</u>	<u>Maximum percentage of disturbance allowed</u>	<u>Proposed percentage of disturbance</u>
15-19.99%	40,092 s.f.	14,032 s.f.	7,125 s.f. 7,598 s.f.	35%	17.8% 19.0%
20-24.99%	30,555 s.f.	4,583 s.f.	2,119 s.f. 2,150 s.f.	15%	6.9% 7.0%
25%+	57,808 s.f.	1,734 s.f.	4,339 s.f.* 4,122 s.f.*	3%	7.5%* 7.1%*

*Variance required

11. The applicant requires a variance from Section 13-7.2403L, as a parking setback of 5’ is required from the rear building elevation.

12. In addition, during the course of the public hearing, it was determined that the applicant would change the design of the triangular landscaped area by the main entrance to the facility to utilize mountable curbs. Same is a design waiver.
13. A design waiver is necessary from Section 13-8.701B, to satisfy the minimum parking requirement. Parking calculations shall be revised to include parking for the office/store at 1 per 250 square feet.
14. A design waiver is necessary from Section 13-8.702K which requires striped parking spaces.
15. A design waiver is necessary from Section 13-8.702N, as 9-foot wide curbed planting end islands are not provided at the ends of the unmarked parking spaces at the rear of the building.
16. A design waiver is necessary from Section 13-8.610A, as a sidewalk is not provided along the road frontage.
17. The matter was continued at the 5/9/11 public hearing.
18. The applicant introduced the testimony of its architect, Kellen Chapin. Mr. Chapin marked exhibit A-1 which was an amended concept elevation, A-2/A-3 which were samples of the proposed dryvit treatment for the exterior of the subject premises. Mr. Chapin reviewed the general architectural details of the building and stated that he had raised the parapet in the front so as to screen the rooftop mechanical equipment. He further stated his design for the building had placed much of the mechanical equipment within the building and that there were to be no large "boxcar" type units on the roof. He opined that same would not be readily visible from various locations off-site. (Subsequently, the applicant's engineer, Mark Walker, confirmed that, in his opinion, it would only be a momentary view of the roof of the structure from off-site.)
19. Mr. Chapin testified that a great deal of time and effort was spent in designing an aesthetic building that would be energy efficient and balanced from an architectural standpoint.
20. Mark Walker, the applicant's project engineer, was recalled and testified as to the various changes and developments that had taken place since the last public hearing. Both Mr. Walker and Mr. Chapin reviewed and went through the various reports of the professional staff.
21. The matter was continued to the 2/13/12 public hearing.
22. Susan Reed, Esquire represented the applicant at the 2/13/12 public hearing.
23. Mark Walker and Kellen Chapin were recalled by the applicant.
24. Mr. Walker and Mr. Chapin reviewed the outstanding conditions and latest reports from the Board's professional staff. They agreed to address those outstanding conditions as noted below. In addition, Mr. Chapin presented an exhibit that was marked A-4 that depicted the proposed monument sign for the building.

WHEREAS, the Board has determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Roxbury for the following reasons:

1. The Board finds that this particular site is uniquely suited for the within application. The use, itself, is permitted under the Township zoning ordinance. It is a conditional use and the applicant's deviation from those standards is that it does not comply with Section 13-7.3512A of the Self-Storage Facilities conditional use standards. The ordinance requires the facility to have direct access to a highway. The instant application actually provides direct access to Shippenport Road which is a local street. As noted by the applicant, the subject property comes as close to direct access as possible without directly accessing a highway. The Board noting the case of Coventry Square v. Westwood Zoning Board of Adjustment finds that this

deviation from the conditional use standards does not arise to the level that would make this an inappropriate site for a self storage facility. As noted in the conditions below and, in particular, relating to the architectural treatment and color palate and landscaping, the Board believes the conditions mitigate the deviation from the standards of the conditional use in accordance with the standards laid out in Coventry Square v. Westwood Zoning Board of Adjustment.

2. The Board also notes some of the possible conforming uses that could be located on the site. Those uses would certainly involve a significant intensity of use. A self storage facility clearly has a limited impact. There are very few employees; there is a limited amount of activity on-site; and a very low traffic count. This particular site is well suited to a low intensity use such as that proposed by the applicant.
3. The utilization of an on-site apartment in this type of facility is also a customary and ancillary use of the premises. Having an on-site presence will provide an added level of supervision; maintenance; and security.
4. The Board notes the other relief requested including the parking; variance relief; and design waiver relief; finds same to be inherent to the relief granted for the conditional use.
5. The Board finds that this proposal will have an insubstantial negative impact. It is clear that other conforming uses would have the potential to be much more significant in their impact particularly in terms of vehicular traffic; commercial traffic; lighting; and intensity of use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of February, 2012 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by Ordinance.
2. Outdoor storage is prohibited under the conditional use standards of a self storage facility.
3. The manager's unit/apartment shall only be occupied by an employee of the facility.
4. All off-street parking areas shall be used exclusively for parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking area (Section 13-8.702S).
5. A banked trash/recycling enclosure shall be located so it could be constructed, if needed, in the future. Same shall be approved by the Zoning Officer.
6. The site shall recycle all mandated material as required by the Morris County Solid Waste Management plan.
7. The architectural and engineering drawings shall note that rooftop mechanical equipment shall be architecturally screened in a manner compatible with the building architecture (Section 13.8.706A).
8. Wall sign shall utilize individual bronze back lighted letters as depicted on the sign detail (sheet 16). Sign shall not exceed the five feet sign height as approved and shall be backlit. Final design plan is to be reviewed and approved by the Township Planner.
9. Applicant shall comply with Section 13-7.812 regarding communication antennas/satellite dish antennas.
10. Applicant shall comply with comments contained in the Township Fire Official's review letter dated 10/12/10 and same shall be reviewed and approved by the Township Fire Official.
11. Application shall be reviewed and approved by the Township Engineer and compliance with the 9/24/10 letter from Melanie Michetti to Eugenia Wiss with subsequent memos.
12. A Developer's Agreement is required.

13. The septic system design approval for the commercial and residential use shall be obtained from the Township Health Department.
14. Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer.
15. As applicable, applicant shall pay a mandatory development fee in accordance with Section 13-7.829.
16. The application and drawings shall be amended to include Lot 19.01.
17. All lots shall be merged and lot numbers shall be subject to the approval of the Tax Assessor.
18. Subject to the review and/or approval of all other governmental agencies with joint and/or concurrent jurisdiction over the within application and, in particular, the Morris County Soil Conservation District and the Morris County Planning Board, the New Jersey Department of Environmental Protection, and New Jersey Department of Transportation.
19. The limits of pavement saw cutting shall be shown on the plan.
20. The appropriate pavement markings for a yield intersection on the new roadway shall be added to the plan. Same to be reviewed and approved by the Board Engineer.
21. The limit of curb removal shall be dimensioned so construction can be confirmed in the field. Same to be reviewed and approved by the Board Engineer.
22. New road section shall include a minimum width dimension of 18 feet. Same to be reviewed and approved by the Board Engineer.
23. Plans shall show the proposed traffic island curbed with landscaping in the center. Same shall be reviewed and approved by the Board Engineer.
24. A permit or letter of no interest from NJ Transit is required for the proposed utility extension under the railroad overpass.
25. A new directional sign for the proposed facility shall be mounted in the right-of-way facing west. Same shall be reviewed and approved by the Board Engineer.
26. Guiderail along ramp S-C shall be modified to allow for site entrance. Appropriate guiderail end treatment details shall be provided on the plans and reviewed and approved by the Board Engineer.
27. Structural calculations shall be provided for retaining walls greater than 4 feet in height. Boulder walls are not permitted for any retaining walls greater than 4 feet. Same to be reviewed and approved by the Township Engineer prior to the issuance of permits.
28. Applicant shall re-configure Inlet #7 by designing a custom inlet to provide the appropriate calculations and piping configuration for the review and approval of the Board's Engineer.
29. The proposed westerly curb line, at the exit drive, shall require relocation due to conflict with the existing utility pole. A minimum separation distance between the proposed curb and existing pole is 1.5 feet. Same shall be shown on the plans.
30. Plans shall be certified by the Morris County Soil Conservation District.
31. The limit of disturbance shall be staked by a licensed surveyor and orange construction fence shall be installed prior to any tree clearing or land disturbance on site.
32. Hours of operation for the site lighting shall be provided in note #3 of the lighting plans.
33. The isolux lines should be consistent with the proposed mounting elevation for the building mounted light fixtures. The lighting graphics and details previously submitted on 8.5" x 11" sheets must be added to the site plan set.
34. An electronic copy of the plans shall be provided in compatible CAD format.
35. Health Department approval is required for the proposed subsurface disposal system.

36. Applicant shall revise the plans to address the comments from Melanie Michetti, PE, CME, dated 1/23/12.
37. Approval is required from the Morris County Planning Board.
38. Applicant shall revise the plans to address the comments from Ptl. Gregg Prendergast, dated 9/24/10.
39. Applicant shall revise the plans to address the comments from Michael Pellek, dated 10/12/10.
40. Off-tract contribution requirement to be determined by the Township Engineer.
41. Lots 18, 19, and 20 shall be merged.
42. A final landscaping plan shall be provided and reviewed and approved by the Township Planner. Comments as contained in the Township Planner 12/17/10 report shall be addressed.
43. All informal or abandoned or dilapidated structures on-site shall be removed. This shall be field confirmed by the applicant.
44. There shall be no auctions of any kind on-site.
45. The final color palate and architectural detail for the building shall be reviewed and approved by the Township Planner. The Board notes that this particular condition was essential to the approval of the application to mitigate any negative impact associated with this particular building not truly fronting on a highway. The plan submitted to the Board suggested a “subdued” earth tone neutral non-garish color treatment. There shall be no substantive change in color and signage on the facility without approval from the Board.
46. A pedestal sign, which was marked A-4 on 2/13/12, shall be constructed as depicted and the color palate in detail for the sign shall be reviewed and approved by the Municipal Planner.
47. A monument sign shall be constructed to incorporate decorative stone. Dimensioned and labeled monument sign and wall sign details shall be provided on the engineering drawings. Same shall be reviewed and approved by the Municipal Planner.
48. As noted in the Planner’s report, the applicant will grant a conservation easement covering some or all the undisturbed areas of the site. The applicant has requested deferring the implementation of the conservation easement (which is a condition of approval) until the applicant has received the necessary DEP permits.
49. Applicant shall provide details of the gate keypad. This will be provided prior to construction and shall be a condition precedent to the issuance of a zoning permit.
50. Decorative wall lights and security/emergency lights shall be depicted on the architectural elevations and color manufacturer’s catalog cuts provided. Height of the decorative wall and light bulb intensity shall be provided on the drawings. Decorative light shall be 43 inches tall with two 21-watt bulbs.
51. Color manufacturer’s catalog cuts shall be provided for freestanding, wall mounted and security lights.
52. Architectural and engineering drawings shall note the rooftop mechanical equipment to be architecturally screened in a manner compatible with the building architecture.
53. Revised architectural elevations and floor plans shall be provided and be consistent with architectural renderings presented at the Spring 2011 Zoning Board hearing. General building colors shall be labeled and garage door color shall match or compliment wall color.

54. Tree Removal/Replacement Calculations on the Tree Removal Plan shall indicate a total of 42 replacement trees are required. A tree removal permit is required prior to tree removal.
55. The Soil Movement Permit is approved. If the receiving site for the soil changes to a location in the Township that has not been pre-approved, then additional information will be required at the direction of the Township Engineer prior to construction.
56. Proposed parking along the front of the facility to show eight (8) parking stalls as “banked”. A footnote should be added to the zoning schedule clarifying that the impervious coverage number includes the “banked” stalls. Banked parking spaces shall be landscaped as required by ordinance. Banked parking shall be constructed where deemed necessary by the Zoning Officer.
57. A permit or letter of no interest from NJ Transit is required for the proposed utility extension under the railroad overpass.
58. Yield traffic markings shall be shown perpendicular to the vehicle direction of travel.
59. A Township Right-of-Way Excavation Permit will be required for all work within the right-of-way.
60. Additional grades and top and bottom wall elevations shall be provided for the Stormwater Management Basin Area. Grass pavers shall be provided along the basin access driveway. A detail for the proposed access driveway to the detention basin shall be provided on the plans.
61. The following note shall be added to the Water Main Installation Notes – “11. The contractor shall coordinate the proposed connection to the existing 16” water main with the Township Water Department”.
62. Applicant shall provide a profile for the proposed water main.
63. Applicant shall provide a concrete curb detail on the plans.
64. Revisions are required to the following details on Sheet 15 “Construction Notes & Details”
Comments are reiterated as follows.
 - a. Trench Backfill/Restoration detail
 - i. A Trench Backfill/Restoration detail shall be provided on the plans for the water main installation. The detail shall depict ¾” clean stone from 6” beneath the pipe to 6” above the top of pipe. The remaining trench shall be backfilled with dense graded aggregate compacted in 12” lifts. The trench restoration shall include 6” thick compacted dense graded aggregate subbase, 4” thick bituminous stabilized base course, Mix I-2 and 2” thick bituminous concrete surface course, Mix I-5.
 - b. Typical Thrust Block Installation detail
 - i. The Typical Thrust Block Installation detail shall be revised to include a thrust block schedule and the note “Plastic sheeting shall be placed around the water main prior to the placement of the thrust block.”
 - c. Typical “End of Line” detail
 - i. The Typical “End of Line” detail shall be revised to specify a “full body mechanical joint cap or plug”. The detail shall also be revised to specify 6” thick (min.) ¾” clean stone bedding beneath the gate valve in lieu of the concrete anchor block.
 - d. Typical Valve Installation. The detail shall be revised as follows.
 - i. The detail shall specify the Mueller Model No. A-2360-20 resilient wedge gate valve with mechanical joint ends with Mega-Lug retainer glands.
 - ii. The valve shall be installed on a 6” thick (min.) ¾” clean stone bedding.
 - iii. The detail shall specify a telescopic adjustable 5¼” 2-piece slip type valve box, Tyler Series 6855.
 - e. Typical Fire Hydrant Installation. The detail shall be revised as follows.

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- i. Fire hydrants shall be Mueller Catalog No. A-423, 5 ¼” Centurion Hydrant.
 - ii. The detail shall be revised to specify “(1) 5” integrally installed Storz connection facing street” in lieu of the “(1) 4½” pumper nozzle”.
 - iii. The detail shall specify National Fire Standard Threads for the hose nozzles.
 - iv. The hydrant gate valve shall be connected to a swivel gland assembly which in turn will be connected to a MJ x MJ x Swivel Tee with Mega-Lug accessories as detailed on the drawings. The MJ x MJ x Swivel Tee shall be Catalog No 5-625 as manufactured by Tyler Pipe, or accepted equal. The hydrant shall be suitably restrain rod to the isolation valve and the valve shall be restrained rod to the water main tee.
 - v. The hydrant shall have a 250-psi working pressure and a 500-psi shop test pressure rating. The hydrant shall be enamel painted in accordance with the local Fire Department color code.
 - vi. The limits of the “6 cu. ft stone” shall be shown on the detail.
 - vii. The following notes shall be provided for the fire hydrant detail.
 1. The Contractor shall furnish and install all hydrant extensions to meet existing field conditions. The new hydrant “Bury Line” shall be flush with existing grade. Hydrant must be firmly supported underground all around the standpipe since the proper working of the safety breakable section depends on the unyielding support of the ground standpipe. Solid ground support shall be at ground level line mark of the hydrant barrel, resulting in the centerline of hose and steamer nozzles being sixteen (16) inches to eighteen (18) inches above ground level.
 2. The back side of the hydrant opposite the pipe connection shall be firmly braced against the vertical face of the trench by means of a poured concrete thrust block or other means approved by the Engineer to prevent the fittings from blowing off the line. Bracing shall be installed so as not to interfere with hydrant drains.
 3. When the hydrant is ready for service, it shall be opened and closed to see that all parts are in working condition. After closing the hydrant, the standpipe interior shall be inspected to make sure of proper drainage.
 4. The Contractor shall lube the cap threads with thread grease prior to painting.
 5. The hydrant shall be enamel painted in accordance with the local Fire Department color code. The main barrel shall be painted with “Red” industrial paint. The bonnet and caps painted with “Bright Yellow” industrial paint. The paint used shall be Conlux, Benjamin Moore or accepted equal.
 6. The hydrant oil reservoir shall be checked prior to placing the hydrant into service
65. The triangular landscaped area by the main entrance to the facility shall be revised to specify mountable curbing.
66. The appropriate deed restriction shall be filed to clarify maintenance responsibility of the stormwater management system. The applicant’s engineer to consult with the Board Engineer regarding the language of the deed restriction.
67. The details of any proposed exterior lighting for doorways, garages, facades, and signs shall be consistent between the architectural plans and the site plans.
68. The building height calculation shall be revised to comply with the ordinance definition.
69. The height of the proposed mechanical equipment shall be dimensioned on the plans.

Ms. Robortaccio made a motion to approve this resolution, Ms. Dargel seconded.

Roll call: Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Grossman, yes; Mr. Data, yes

ZBA-12-003 Ferraris C Variance for property located at 38 Honeyman Drive, Succasunna, Block 3003, Lot 9 in a R-3 zone.

In the matter of Deborah & Joseph Ferraris
Case No. ZBA-12-003

**RESOLUTION OF FINDINGS AND CONCLUSIONS
BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
RESOLUTION**

Approved: February 13, 2012
Memorialized: March 12, 2012

WHEREAS, Deborah & Joseph Ferraris have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring dimensional variance relief for premises located at 38 Honeyman Drive and known as Block 3003, Lot 9 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D5a of the Roxbury Township Land Use Ordinance; and

WHEREAS, the Board, after carefully considering the evidence presented by the applicant and having conducted a public hearing has made the following factual findings:

The applicants are the owners and occupants of the single-family home on site.

1. The applicants were proposing a major renovation/addition and above ground pool with deck.
2. Applicants received a letter of denial dated 1/17/12 from Erik Brachman, the Zoning Officer.
3. As noted by Mr. Brachman, the applicants needed the following relief:
 - a. Rear yard setback to the area of the addition would be reduced to 31’ and 11’ to the pool deck. The requirement for the R-3 zone for rear yard setback is 35’, thus the applicant would be in violation of rear yard setback triggering the relief sought herein.
4. The applicants provided numerous exhibits:
 - b. B-1 house photo of rear
 - c. B-2 “pan” shot of rear
 - d. B-3 aerial of neighborhood
 - e. C-1 key map with exhibits (10 photos)
5. The conforming building envelope of the premises was very small and narrow. The property was located on a corner lot with two front yards.
6. The applicants stated the location of their proposed pool was consistent with other homes in their neighborhood.
7. No one appeared in opposition to the within application.

WHEREAS, the Board has determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Roxbury for the following reasons:

1. The Board finds the applicant’s property to have numerous eccentricities and hardships. It is shaped like a trapezoid; it is shallow; the location of the existing infrastructure limits any potential conforming addition; and the conforming building envelope is irregular and quite small.
2. Had this been an interior lot and not a corner lot, the addition could probably have been developed without need for a variance.
3. The proposed relief for the main addition is *de minimis*. The relief for an above ground swimming pool and associated pool decking provides for a reasonable opportunity for a normal rear yard amenity and the type of amenity that will have limited impact on any adjoining property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of February 2012 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by Ordinance.
2. Addition to be sized and located as depicted on the plans submitted with the application.
3. Rear yard relief to the main addition to be no less than 31' and to the pool deck no less than 11', as requested.

Ms. Dargel made a motion to approve the resolution, Ms. Robortaccio seconded.

Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Mr. Grossman, yes; Mr. Data, yes.

APPLICATIONS:

Mr. Data made note that the Lupinacci application (ZBA 12-010) will be carried to April 9, 2012 with no further notice. **Bulk Variance for property located at 12 Jessica Lane, Succasunna, Block 4401, Lot 9 in a R-2.5 zone, ZBA-12-010 Lupinacci.**

ZBA-12-007 Jurgensen, C Variances for property located at 19 South Dell Avenue, Kenvil, Block 2609, Lot 6 in a R-4 zone.

David Scott Jurgensen, 19 South Dell Avenue, Kenvil, New Jersey was sworn in and stated due to the front yard set back and the property being a corner lot he is before the Board to add a second level to his home and enclose an existing side entrance way, also change direction of the steps to face the driveway. The side entrance will be used as a mud room. Currently the existing home has a 17.44 set back; the change will make it a 16.44 set back. There was a discussion on the footprint of the house and the changes requested would allow for more living space on the first floor. Open to the Public: No one stepped forward. Closed to the Public.

Ms. Robortaccio made a motion to approve this application, Ms. Kinback seconded.

Roll call: Ms. Robortaccio, yes; Ms. Kinback, yes; Mr. Giardina, yes; Ms. Dargel, yes;

Mr. Grossman, yes; Mr. Data, yes.

ZBA-12-001 Fink, Variance for Non Conforming Use for property located at 280 Emmans Road, Flanders, Block 4101, Lot 6 in a R-1 zone.

Fokkelien Fink, 280 Emmans Road, Flanders & Mr. Edward Dunne, Esq., Valentino & Dunne 410 Route 10 West, Ledgewood were sworn in Mr. Dunne gave a brief explanation of the application stating they are applying for consideration in the interpretation of the Zoning Board as to permit a kitchen to be placed into the ground level of their split level home; which has three living levels. The main purpose of the ground level alteration is to enable a live in health care and home aide to have a single floor to care for Mr. Fink who has suffered seven disabling strokes; is 100% disabled and in need of twenty four hour supervision and care. The lower level where the health aide would care for Mr. Fink has a full bathroom, two additional rooms and a 8 X 8 foot kitchenette. It is the only level of the home where constant supervision of Mr. Fink would be maintained, It is not practical to have to move Mr. Fink up to the main level for eating and back down to the lower level for bathing and sleeping. There was a discussion on an additional driveway and a separate entrance to the right side of the house which is not intended to be a separate apartment. Exhibit A-1 shows - #1- front view of the house; #2- driveway from the house; #3- standing in front of the property by the main road; #4- view from Emmans Road to the South; #5- shows the front of the house & the ramp; #6- view of the street corner from Emmans Road from the left side of the house; #7- view of the staircase with the

chair lift to the main level of house; #8 shows the lower level bathroom with a shower that needs to be made more accessible. There will not be a change to the appearance of the outside of the home. Mr. Fink has permanent immobility due to his medical conditions. He is wheelchair bound and should not be left alone at anytime due to his seizures and severe aphasia. Exhibit A-2 explains the five emergency calls to Roxbury Township police for assistance. Exhibit A-3 is two letters: #1 from Advocare, stating that Mr. Fink requires twenty four hour care and #2 from the Kessler Institute for Rehabilitation which explains that Mr. Fink is not progressing with his therapies and his current deficits are considered permanent. There was a discussion is on the kitchen being necessary in the lower level of the house and it becoming a two family structure.

Mrs. Fink explained she is sixty two years old, her husband is sixty nine years old and they need help. The only way he will be able to use the lower level as a living area is with the help of a health aide who will be there 24 hours a day seven days a week. Mr. Fink having to move from the lower level of the house to the upper level at times is very hard on the family.

Open to the public. No one stepped forward. Closed to the public

Mr. Wiener explained this application is a B interpretation of the first instance, alternatively depending on the outcome we may migrate it to a D-1 variance in essence so the Board understands Mr. Dunne's intention is that what's going to be described to the Board is actually a use that complies with the Municipal Ordinance.

Mrs. Fink stated that she married her husband Steven, February 27, 1969 and they built their home in 1979, thirty two years ago. The house is a contemporary two level. There was a discussion on the rooms in the house, the lower level use of the house; and the entrance to the house. On June 9, 2010 Steven suffered a severe stroke, leaving him unable to speak and the right side of his body is paralyzed. There was a discussion on how Mr. Fink enters the house and exactly what appliances will be in the kitchen. When Mrs. Fink is at home Mr. Fink will spend time upstairs with her. There was a discussion on the health aides living quarters.

Open to the Public; No one stepped forward. Closed to the Public.

Mr. Dunne requested to make a closing statement: He felt that this is a very deserving case which has been presented to the Board. This family has a need for special care and did not think that any Zoning Board or Town can say to a person; you can not have a kitchen downstairs to take care of an ailing family member. There was a discussion that this single family dwelling would in a future time be used as a multi family home. Mr. Stern explained the difference between a single family and multi family dwelling.

Mr. Damato made a motion to deny the interpretation of this application. Ms. Robertaccio seconded. Roll call: Mr. Damato, yes; Ms. Robertaccio, yes; Ms. Kinback, yes; Mr. Giardina, yes; Ms. Dargel, no; Mr. Grossman, yes; Mr. Data, yes.

Mr. Damato made a motion to deny the application for a D Variance. Ms. Robertaccio seconded. Roll call: Mr. Damato, yes; Ms. Robertaccio, yes; Ms. Kinback, yes; Mr. Giardina, yes; Ms. Dargel, no; Mr. Grossman, yes; Mr. Data, yes.

Application denied.

ZBA-12-005 Moran, Variances for property located at 5 Yellow Barn Avenue, Landing, Block 11601, Lot 41 in a R-3 zone.

David Zimmerman, P. P., 21 Western Avenue Morristown, N J.

Alfred Stewart, P.E., 148 East Main Street Rockaway, NJ.

Donald Dyrness, Spectrum Construction, 700 Route 46, Succasunna, NJ.

Dennis Moran, Applicant, 11 Starling Road, Randolph, NJ. Everyone was sworn in.

Mr. Moran noted that Mrs. Sherry Moran is a co-owner of the property and aware of the application. Professional Planner, Mr. Zimmerman gave a brief interdiction of each person here to represent the applicant and presented exhibit A-1 dated 03/12/2012 a panoramic photo of the view of 5 Yellow Barn Avenue and adjacent properties. Mr. Dennis Moran stated that he purchased the property in 2006 from Mr. Chaplin. It is a single family residential house the proposed development will involve an addition and renovation to the existing principal structure. The foundation and first floor walls are to remain along the lake side, also, north and south side of the dwelling. The development of an attached garage and paved driveway along the property frontage on Yellow Barn Avenue will be pursuant to the terms of a recorded easement, a small portion of the existing drive/ramp along the southern side yard of the property which encroaches onto the neighboring lot in no way will be modified. When the property was purchased their attorney questioned if all items on the property were built with permits, and they were told yes. There was a discussion on the garage when it was built and who built it, on impervious coverage, the garage across the street from the house and the gravel behind it which is at the base of the attached school grounds.

Open to the Public; No one stepped forward. Closed to the Public.

Mr. Stewart, Professional Engineer on this project reviewed the existing conditions on the plan showing the location of the property:

1. Lot width – existing non conforming condition of 55.11' - 100' required.
2. Lot frontage –existing non conforming condition of 55.11' – 90' required.
3. Rear yard –existing non conforming condition of 12.3' – 35' required.
4. Accessory buildings max- existing non conforming condition (3) accessory buildings, shed, detached garage and boathouse.
5. Total ground area of all accessory buildings shall not exceed 50% of principal dwelling – non conforming condition of 61.83%.
6. 10' side yard setback for piers/docks – existing non conforming condition of encroaching on adjacent property.
7. 21' min. setback between piers/docks - existing non conforming condition of 10.8 feet and 14.9
8. One dock /pier or walk per lot – existing non conforming condition of three.
9. Length of a pier shall not extend beyond pier head line 50 feet – existing non conforming condition of 58.8 feet and 63.0.
10. No combination of piers, docks or boathouse shall occupy more than 15% of water lot area within the pier head line – existing non conforming condition of 32.3%.
11. Lake Buffer – existing non conforming condition of 19.3'.

Exhibit A-2 shows the impervious coverage will be reduced by 4.64%, the existing is 59.1% without the road and 65.8% with the roadway, the proposed is 58.16% without the roadway and 64.86% with the roadway. Planting and landscape stone will surround the detached garage to reduce run off from rain and prevent flooding.

There was a discussion on the gravel being removed and no vegetation to prevent flooding. A List of the variances requested:

1. Side yard – existing non conforming condition of 5.8'- 10' required, proposed increase to 7.0'
2. Impervious coverage – existing non conforming condition of 65.8%, 25% required.
3. Building coverage- existing non conforming condition of 18.9%, 15.0' required, 21.9% proposed.

Discussion on what is to be stored in the 10' X 10' steel shed behind the garage.

Right now the house is being used as a vacation house, Mr. Moran is looking to retire and settle into the house full time.

There is a lakeside concrete ramp that encroaches the adjacent property as stated in the Zoning Officers denial letter dated 01/27/2012. Mr. Moran stated that there is legal easement for that and it is a legal encroachment. There was a discussion on the metes and bounds, description of the existing stone drive and concrete ramp that overlap onto Lot 40, Block 11801, and the agreement confirming the easement rights to the property. Mr. Wiener explained that it is the applicants responsibility to establish when the docks were constructed and if they were conforming.

Open to the Public; No one stepped forward. Closed to the Public.

Mr. Stern questioned Mr. Stewart about the issues of the docks in reference to the variances that may be needed for them. Mr. Moran felt that he did all he could when the property was purchased to make sure everything was legally done with permits The applicant understands he must establish the burden of proof in reference to the docks and he would like the docks to remain as they are. The Township Ordinance allows lakefront homes a dock, this property has three docks. The applicant requested to be able to come back at another meeting to discuss the dock matter.

Mr. Wiener clarified two ways for the applicant to verify or make a case for this matter;

1. Establish when the docks were constructed and if they were conforming.
2. Or apply for a variance and state why the applicant believes it would be an appropriate variance for this property.

Mr. Dyrness reviewed Exhibit A-4, photos of the existing house on the lake and also a rendering of the proposed plans for the house. The improvements to the house result in a significant aesthetic appearance of the home and character with the other homes along this portion of the Landing lakefront which have already been expanded from the homes first constructed. The proposal is consistent with the prevailing and common setbacks in the portion of the R-3 zone. The first level floor plan will remain the same there will be a brand new second floor that will have two bedrooms, two bathrooms and an office, between the two floors is the attached one car garage. The elevation of the garage is one foot higher than Yellow Barn Avenue and there will be landscaped retaining walls. 88% of the existing foundation will be kept in place and the first floor walls will remain along lakeside to the north and south side of the dwelling as shown on exhibit A-5. Mr. Stern stated that to be clear for the record the wall between the garage and he existing dwelling should not be considered as a wall to remain, because if it has to come down you will need to request a waiver (variance) for the set back relating to the existing wall; just in case it comes down or there is a need during

construction to rebuild a wall. Construction should take four months they will work 7am to 5 pm six days a week. There was a discussion on the grading by the garage and front yard which will ease the flow of rain water to help prevent flooding. There was discussion on the items that will be needed at the next meeting.

Open to the Public:

Mr. Shawn Orr, 4 Yellow Barn Avenue, Landing, has lived at this location prior to the Morans purchasing their property and stated that the docks were there prior to their purchase of the property. In 2004 he rented at 4 Yellow Barn Avenue prior to purchasing of the property.

Mr. Walter Clark, 3 Yellow Barn Avenue, Landing, for the past 17 years he lived at this location and wanted to voice his support for Dennis Moran who has always been a kind, helpful neighbor and is just trying to improve the neighborhood.

Mr. Richard Blackwell, 6 Yellow Barn Avenue, Landing, has looked at the plans for this addition and feels it will be a nice improvement to the neighborhood and hopes this Board lets him go ahead with his plans.

Mr. David Doyle, 15 Yellow Barn Avenue, Landing, had seen the plans and agrees it will be a beautiful house in the neighborhood, what they propose is actually decreasing there impervious coverage which is important and the fact that Mr. Moran wants to add a garage and keep his car off the road is a good idea.

Ms. Kimberly Schultz, 7 Yellow Barn, Landing, added support. The plans look amazing and will certainly improve the neighborhood and the extra dock is an asset to the property.

Mr. Joseph Kayser, 8 Yellow Barn Avenue, Landing, agreed with everyone else, Mr. Moran has done a great job with his property the docks are no problem to any of his neighbors. They really don't have any run off problem.

Mr. Curtis Mulch, 1 Yellow Barn Avenue, Landing, has owned his property for the past ten years and agrees with everyone else. When he purchased his property in 2002 there were three docks. Those docks have been there for a long time.

Mr. Durante, 9 Yellow Barn Avenue, Landing, There are thirteen houses on the street; it is a neighborhood in itself. Yellow Barn Avenue is a very narrow street two cars can not pass each other on the street so the more off street parking we can get the better. The boat house and the docks fit in like a glove; the property looks right just as it is.

There was a discussion on the length of the pier and the pier head line and where it begins. The Board will review the documentation on the easement for the dock that encroaches on the neighbor's property. All the engineers' reviews will be discussed at the next meeting. This application is carried to April 9th with no further notice.

The Board requested a five minute break at 9:30 p.m.

ZBA-12-009 Dougherty, Variances for property located at 15 Cottage Avenue, Landing, Block 11906, Lot 4 in a R-3 zone.

Everyone was sworn in.

Edward Dougherty Jr. 15 Cottage Avenue, Landing, NJ.

Ms. Maria Tomaszewski 15 Cottage Avenue, Landing, NJ. fiancé of Mr. Dougherty.

Michael Bengis, Architect, A.I.A., 35 Northwestern Way, Hopatcong, NJ.

Alfred A. Stewart, Jr. P.E., 25 Pine Street, Suite 7, Rockaway, NJ.

Mr. Dougherty stated that he had moved into his house seventeen years ago. The house was built in 1923 and from what he knows there were four additions made to this 24 by 24 house. It has no

insulation down stairs and the place is just falling apart. One of the walls in the basement is a dirt wall so whenever it rains the basement fills up with water. Between the much needed repair and mold in the house it is in desperate need of a makeover and he really wants to be able to rebuild it. They will basically tear down the existing building and rebuild it more centered on the property with a wrap around porch. As shown on the plan the dotted line is how the house stands now and the bold line shows how it would be rebuilt. This will decrease the current north side yard setback from .5 feet to 7 feet from the property line. There was a discussion on the driveway easement and the location of the stairs coming off the porch.

The new footprint of the house will be 26' by 30'. The house is now at 1233 square feet it will not go more than 1500 square feet. The location of the sewer pump and ejector was noted to be right off the porch and if the grinder needs to be relocated it will be at the applicant's expense. The Board has not yet received the Township Engineer, Ms. Michetti report. There will be a basement, first floor and second floor with a spiral staircase to the attic that would lead to the copal that looks out to the lake area. There was a discussion on the easement, layout of the garage and how the neighbor is able to get around the driveway. It is a Town ordinance that new homes be built with a garage and they are trying to be in compliance.

Open to the Public:

Ms. Claire MacBride, 17 Cottage Avenue, Landing, The neighbor to the right of Mr. Dougherty's property, shares the driveway. A major concern is the cyclone fence that is up now and on her property by two to three feet. Also, with the driveway now coming down to the garage will this affect the rain water drainage, will it divert more rain water runoff onto her property.

There was a discussion on street storm drain that travels through the yards into the lake, the berm around the property and the effort to divert rain water run off.

Mr. Dougherty explained he does intend to add another drain in his driveway. And has no problem with relocating the fence so it will not be an issue.

No one else stepped forward. Closed to the public.

There was more discussion on the impervious coverage, the size of the house and porch size which wraps around the house and if there any way of cutting back on the size of the porch. In rebuilding the house will it be possible to correct the water problem on the property without creating more water problems for the neighbor? The new impervious coverage will mean more flooding and this is a concern for the Board. The catch basins alone are unable to stop the flooding; more gutters and drains will be put into place to help defeat this problem. Mr. Bengis will alter the porch and get a updated set of plans to show the gutters and drainage around the house for the next meeting. Mr. Stewart will also reconsider the problem with flooding what can be done to alleviate the problem. The Township Engineer's report will be reviewed at the next meeting. The plan is to raise the basement by three feet so the actual height of the house needs to be on the plans. This application is carried to April 9th with no further notice.

Motion to adjourn the meeting was made at 10:25 p.m.

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

Dolores Tardive, Board Secretary

March 12, 2012