

On Monday, May 11th, 2020 a regular meeting of the Roxbury Township Zoning Board of Adjustment, originally scheduled to take place at 7:00 pm in the Council Room of the Municipal Building, was instead held remotely via Zoom. The meeting was open to the public via alternate means to provide the ability to listen and the opportunity to be heard during the public portions of the meeting by calling the following teleconference line: 1-929-205-6099 (“Welcome to Zoom”), entering Meeting ID: 97352241000#, Participant ID: # and Password: 017881#. All applications of those applicants who were to appear before the Zoning Board of Adjustment on the aforementioned date were available online via our Township website at [www.roxburynj.us](http://www.roxburynj.us). The purpose of the Regular Zoning Board Meeting was to conduct routine business.

**BOARD MEMBERS PRESENT**

Ms. Houtz, Mr. Overman Mr. Klein, Mr. D’Amato, Dr. Kennedy, Ms. Robortaccio, Ms. Dargel, and Mr. Fuery

ABSENT: None

**PROFESSIONAL STAFF**

Mr. Russell Stern, P.P.

Mr. Larry Wiener, Esq.

Ms. Alyse Hubbard, Esq.

**MINUTES OF MARCH 9, 2020 MEETING**

Ms. Robortaccio made a motion to approve the minutes of March 9, 2020, Mr. Overman seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. Overman, yes; Ms. Houtz, yes; Mr. Klein, yes; Mr. D’Amato, yes; Dr. Kennedy, yes; Ms. Dargel, yes. *March 9, 2020 meeting minutes Approved.*

**RESOLUTIONS:**

**ZBA-20-002 FLGX NJ, LLC**, Final Major Site Plan, for property located at Mt. Arlington Road, Ledgewood, Block 8801, Lot 14 in an OR-5 zone. *Approved and Memorialized*

In the matter of FLGX NJ, LLC  
Case No. ZBA-20-002

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

Approved: March 9, 2020  
Memorialized: May 11, 2020

**WHEREAS**, FLGX NJ, LLC has applied to the Board of Adjustment, Township of Roxbury for Final Major Site Plan approval for premises located at Mt. Arlington Road and known as Block 8801, Lot 14 on the Tax Map of the Township of Roxbury which premises are in a “OR-5” Zone;

**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. Joshua Gorsky, Esquire represented the Applicant.
2. On February 5, 2018, the Applicant previously received amended preliminary site plan approval which was memorialized on February 28, 2018.
3. The Applicant is the present owner of the subject premises.
4. Applicant submitted a Final As-Built Survey, consisting of three (3) sheets, prepared by Careaga Engineering, dated 1/17/20.
5. The Applicant also submitted:

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- a. Comparison Report from Jeffrey J. Careaga, PE, dated 1/22/20
  - b. Morris County Soil Conservation District Final Report of Compliance dated 10/21/29
  - c. Morris County Planning Board Report dated 1/16/18
6. The Board received memorandums from:
- a. Russell Stern, Township Planner, dated 2/26/20
  - b. Mark Denisiuk, Board Engineer, dated 3/2/20
  - c. Michael Pellek, Fire Official, dated 3/8/20
7. During the course, of the public hearing, the Applicant's engineer, Jeffrey Careaga, provided a substantial portion of the testimony. The focus of Mr. Careaga's testimony was on the engineering aspects related to the property. He also went over the two memorandums that were provided to the Board from Mr. Stern, Township Planner and Mr. Denisiuk, Township Engineer. During Mr. Careaga's testimony, he indicated that the items set forth in Mr. Denisiuk's report and Mr. Stern's report would be addressed and put in compliance as necessary. Although, not required to notice members of the public, under the MLUL, the Applicant did so. Several members of the public came to the meeting and asked questions directed to Mr. Careaga as well as Michael Kaufman, one of the principals of FLGX.
8. The Board notes that the Applicant previously received preliminary site plan approval. This application is for final major site plan approval which is consistent with the preliminary approval received by the Applicant.
9. The Board finds the Applicant (noting the conditions below) has satisfied and met the burden of proof for final major site plan approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 9th day of March, 2020 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. All conditions of approval contained in the 2012 and 2018 resolutions remain applicable.

Pursuant to the February 28, 2018 Resolution:

Condition 1 – Applicant shall pay all fees, sureties and escrows required by ordinance.

Condition 4b – Applicant shall confirm that the entry gate includes the Fire Department's specific Knox pad lock for emergency vehicles to gain access afterhours or when the business is closed.

Condition 4c – The site shall be registered as a life hazard use by the Fire Prevention Bureau and also will be subject to licensing and inspection by the State of New Jersey amusements and rides as well as local enforcement and inspection.

Condition 4d – Prior to opening, the applicant shall consult with the Fire Official and establish a time when first responders can be given a tour of the site to understand the operation and any unique situations that first responders need to be aware of.

Condition 6a – The site shall operate with a "No Tolerance Policy."

Condition 6b – No restaurant is permitted on site.

Condition 6c – Food limited to vending machine items with picnic tables at appropriate locations.

Condition 6l – Benches and/or seats will be provided on the decks.

Pursuant to the December 10, 2012 Resolution:

Condition 3 – Hours of operation shall be 8:00 AM to 9:00 PM.

Condition 7 – Applicant shall use all efforts including website information to direct traffic to approach the site from Route 80 to Howard Boulevard to Mt. Arlington Road and to exit the site from Mt. Arlington Road making a right turn on Howard Boulevard and then proceeding to either Route 46 or the Route 10 system to return home.

Condition 10 – The applicant is encouraged to obtain a Route 80 way-finding sign to direct motorists to the site via Howard Boulevard.

Condition 17 - Installation of black factory finished traffic sign posts.

Condition 18 – Applicant shall install a traffic sign warning motorists of the site driveway by Howard Boulevard.

Condition 33 – Outlet structures and headwalls shall be provided with a stone veneer.

Condition 36 – The applicant shall provide wood chip paths or other materials appropriate to preserve tree health between adventure stations.

Condition 43 – Decorative trash receptacles shall be provided at the building entrances and deck area.

Condition 44 – Picnic tables shall be provided on the deck (optional per 2018 Resolution).

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Condition 47 – Applicant shall pay a mandatory development fee in accordance with Section 13-7.829 (full payment prior to issuance of a TCO).

Condition 48 – Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer.

Condition 50 – Applicant shall obtain approval from the Morris County Soil Conservation District.

Condition 52 – Applicant shall obtain applicable State permits/approvals.

Condition 56 – In accordance with the Health Department, all trash dumpsters shall be “bear proof.”

3. In addition, the following items are required as a condition of approval:

- Confirm installation of guiderail reflectors
- Stabilize soil beneath sea containers as directed by the Board Engineer
- Stabilize erosion by northwest corner of Welcome Center
- Provide deck seating and trash receptacles
- Install “FLGX Adventure Course Driveway Entrance 100 Feet” sign along Ledgewood Mt. Arlington Road
- Install “Stop” sign located adjacent to parking space #80.
- Set traffic signs plum
- Complete installation of outlet structure C-11 screen
- Provide stone veneer on outlet structures
- Complete installation of landscaping and replace dead and marginal plants.
- Remove exposed wood forms from concrete foundations
- Remove vegetative debris from paths and mulch/woodchip
- Remove trailer from parking lot
- Remove construction dumpster, materials, safety cones and debris from the property
- Remove silt fence upon approval from MCSCD

4. The following site improvement items need to be completed:

- Clean up/remove construction materials, building supplies, and debris from the site
- Clean catch basin inlets, including ladder rungs, of debris and sediment
- Raise manhole B-1 casting/cover in landscaped area to grade and clean debris
- Guide railing to be installed per site plan details (All bolts through railings into posts, reflectors installed, etc.)
- All protruding conduit stubs to be cut flush to grade or removed
- OCS B-6 and trash screen located within the lower infiltration basin must be repaired/replaced.
- All protruding conduit to be cut flush to grade or removed
- Install low flow channels in catch basins throughout site
- OCS C-11 located in detention basin to have low flow channel installed
- OCS C-11 trash screen located in detention basin to be repaired
- Flared end section to be installed in detention basin
- Leader drain cleanouts to be cut flush to grade
- OCS D-1A located in water quality basin to have low flow channel installed
- All retaining wall cap blocks to be installed and secure
- Construction trailers to be removed from parking lot
- Construction dumpster to be removed from parking lot
- All stop signs to be installed in parking area
- All disturbed areas to have topsoil/seed/hay installed for stabilization
- Refuse enclosure to be installed
- Broken/cracked sidewalk panels at ADA compliant parking spaces to be repaired
- Trash receptacles to be installed
- Picnic tables/benches to be installed
- Route 80 wayfaring sign to be installed for directing traffic to site via Howard Blvd
- The entry gate shall include a fire department’s specific knox pad lock
- Traffic sign warning motorists of the driveway by Howard Blvd to be installed
- Outlet control structures and headwalls shall have a stone veneer installed

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- Remove all temporary soil erosion and sediment control measures after final compliance by the Soil Conservation District.
- 5. Applicant shall provide Health Department approval of the septic system.
- 6. On-site lighting to be field inspected (and adjusted, if needed) at night to ensure that lighting does not spill over onto any adjoining property.
- 7. All landscaping to be reviewed and approved by the Township Planner and to confirm installation of same. Landscape installation to be completed no later than June 30, 2020.
- 8. Applicant shall provide a final compliance letter from the Morris County Soil Conservation District.
- 9. The Township Engineer, Michael Kobylarz, shall review and approve the As-Built survey prior to a Certificate of Occupancy being issued.
- 10. As-built stage storage volumes for the detention basins, along with a comparison to the design volumes, must be provided for review. Emergency spillway and top of berm elevations shall be included.
- 11. An as-built zoning table shall be provided on the as-built plan.
- 12. The as-built survey indicates that the retaining wall, along the upper part of the driveway, is in excess of six (6) feet in height in some areas. The approved grading plan indicates a maximum of four (4) feet was proposed. Applicant shall provide confirmation that structural stability calculations or certifications have been approved by the Township.
- 13. The site, excluding rides, can obtain a temporary Certificate of Occupancy upon satisfaction of conditions. The rides shall obtain State Permits.

Mr. D'Amato made a motion to memorialize the resolution, Dr. Kennedy seconded.

*Roll call:* Mr. D'Amato, yes; Dr. Kennedy, yes; Mr. Overman, yes; Mr. Klein, yes; Ms. Robortaccio, yes; Mr. Fuery, yes; Ms. Dargel, yes.

**ZBA-19-027 ANDRUTCHUK**, Variance relief for property located at 13 King Road, Landing, Block 11909, Lot 3 in an R-2 zone. *Approved and Memorialized*

In the matter of Andrij and Polina Andrutchuk  
Case No. ZBA-19-027

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

Approved: March 9, 2020  
Memorialized: May 11, 2020

**WHEREAS**, Andrij and Polina Andrutchuk have applied to the Board of Adjustment, Township of Roxbury for permission to construct a new single family home requiring variance relief for premises located at 13 King Road and known as Block 11909, Lot 4 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Sections 13-7.819, 13-7.810.1B, 13-7.1301D8, 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. The Applicants are the contract purchasers of the subject property. The property is presently improved with a one family home, swimming pool, and other existing structures.
2. The owner of the subject property consented to the within application.
3. The Applicants were proposing to redevelop the existing property. The existing home and other structures would be razed and replaced with a new home and other improvements.
4. Applicant submitted plans prepared by Margaret Petersen, architect, Petersen Associates Architecture, Planning & Design dated August 18, 2019 consisting of three (3) sheets. Applicant also presented a copy of a survey showing existing site conditions and a colorized rendering depicting the general layout of the existing and proposed infrastructure.
5. Applicants received a letter of denial dated August 28, 2019 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:

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<i>Section</i>	<i>Permitted</i>	<i>Existing</i>	<i>Proposed</i>
13-17.819 Stream, Lake and Pond Buffers.	50 Feet	(House) 37 Feet	(House) 47.04 Feet
13-7.819 Stream, Lake and Pond Buffers.	50 Feet	(House) 37 Feet	(Deck) 35.35 Feet
13-7.810.1B	No accessory building shall be permitted in a front yard.	Shed and in-ground pool	21 feet by 30 feet detached garage
13-7.1301D8 Building Coverage	15%	unknown	19%
13-7.1301D8 (Lot ) Impervious Coverage	25%	unknown	38.9%

6. The Board received a memorandum from Michael Kobylarz, Township Engineer, dated October 15, 2019.
7. The Board received a letter from the Lake Hopatcong Commission dated October 15, 2019.
8. In addition, the Applicant provided overall landscape plan prepared by Edward Clark Licensed Landscape Architect dated November 4, 2019 consisting of two (2) sheets. Sheet L-1 designated as Overall Landscape Plan and Sheet L-2 Landscape Plan.
9. The Applicant also submitted a five (5) page Lot Grading Plan prepared by Ryan L. Smith PE dated February 27, 2020. Sheet L-3 Lot Grading Plan, Sheet L-4 Existing Conditions Plan and Demolition Plan, Sheet L-5 Soil Erosion & Sediment Control Details, Sheet L-6 Stormwater Detail Sheet, Sheet L-7 Construction Detail Sheet.
10. Mr. Andrutchuk was present and testified at the March 9, 2020 public hearing. He noted the Board had asked, during the first public hearing, whether or not the existing powerline could be moved. Mr. Andrutchuk stated that he had investigated the situation with Jersey Central Power and Light. He was subsequently advised that the powerlines would not be moved. They had been located there for many years and the power company had no desire to move them.
11. During the public hearing, testimony was provided and discussed relative to the Lot Grading Plan and the enhanced information provided to the Board.

**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. This application was originally presented in October 2019 and then, ultimately, a final public hearing on March 9, 2020.
2. During the time, from its inception, until its completion, the application went through a thorough vetting, by the Board, as a result of concerns expressed by the Board, the Lake Hopatcong Commission, and Township Professionals.
3. The ultimate work product presented by the Applicant is truly worthy of approval.
4. The redevelopment and enhancement, of this lakefront property, is consistent with the intent and purpose and goals of the Master Plan.
5. The Applicant's plans showed a sensitivity to the challenges and care necessary in developing sensitive lake front property.
6. As expressed, by the Applicant's neighbor, during public comment, he is totally in favor of the Applicant's plans.
7. The Board reiterates that this was a well thought out project and will be an aesthetic upgrade as well as providing for enhanced on-site drainage techniques and overall compatibility with the goals of being sensitive to the proximity to Lake Hopatcong.

**THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 9th day of March, 2020 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. Applicant shall comply with the conditions set forth in Mr. Kobylarz's October 15, 2019 memorandum.
3. Applicant is to locate the proposed pump chamber in the field and same must be depicted on the architectural plans to confirm the proposed dwelling will not disturb/damage the chamber.

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4. The shut-off on the water service line shall be field located and depicted on the plans to ensure it is not damaged.
5. The first-floor elevations of the proposed home and garage shall be depicted. Proposed grades, around the new home and garage, shall be provided to confirm positive drainage around each structure.
6. The house shall be constructed and located in accordance with the Lot Grading Plan dated February 27, 2020 consisting of five (5) sheets.
7. In addition, the Applicant's landscape architectural plans dated October 4, 2019 shall be implemented as depicted. Those plans shall be submitted to the review and approval of the Township Planner, Russell Stern.
8. The final architectural plan, for the detached garage, shall be reviewed and approved by the Township Planner, Russell Stern, to ensure consistency of the architectural tribute of the main home.
9. Prior to the issuance of a construction permit, there should be a site stakeout, as recommended by the Township Engineer and, at the option, of the Township Engineer, a pre-construction site meeting.

Mr. D'Amato made a motion to memorialize the resolution, Ms. Robortaccio seconded.

*Roll call:* Mr. D'Amato, yes; Ms. Robortaccio, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes.

**ZBA-20-001 ARTEAGA**, Variance relief for property located at 12 Kadel Drive, Succasunna, Block 3003, Lot 2 in an R-3 zone. *Approved and Memorialized*

In the matter of Julie & Joseph Arteaga  
Case No. ZBA-20-001

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

Approved: March 9, 2020

Memorialized: May 11, 2020

**WHEREAS**, Julie & Joseph Arteaga have applied to the Board of Adjustment, Township of Roxbury for permission to construct an in-ground swimming pool and patio requiring variance relief for premises located at 12 Kadel Drive and known as Block 3003, Lot 2 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Section 13-1301D8 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. The Applicants are the owners and occupants of the subject premises.
2. The Applicants are proposing to construct an in-ground swimming pool
3. Applicants submitted a Pool Location and Grading Plan prepared by David J. Egarian, PE, dated October 21, 2019 consisting of one (1) sheet.
4. Applicants received a letter of denial dated March 4, 2020 and a revised letter dated March 10, 2020 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:

<b><u>Section</u></b>	<b><u>Permitted</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>
13-7.1301D8 Impervious coverage	Twenty-five (25%)	22%	29.43%

5. The Applicant stated the purpose of the swimming pool would be to provide an area for outdoor entertainment along with exercise as part of a health regiment the Applicant was going through

**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:

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1. The Board finds the testimony of the Applicant to be competent and credible.
2. The Applicant's proposal would result in an aesthetic enhancement of the existing property. Same would be consistent with a pattern of upgrading the housing stock within this area of the Township.
3. The relief from the impervious coverage requirements do not result in a substantial negative impact on the zone plan and zoning scheme.
4. The benefit to permitting the Applicant's enhancement of the property and the reutilization and aesthetic upgrade of the property, outweigh any perceived detriment.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 9th day of March, 2020 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. Pool to be built and located as depicted on the drawing submitted with the application. Impervious coverage to be no less than 29.43%, as proposed.

Mr. Klein made a motion to memorialize the resolution, Mr. D'Amato seconded.

*Roll call:* Mr. Klein, yes; Mr. D'Amato, yes; Mr. Overman, yes; Ms. Robortaccio, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes.

**ZBA-18-011 SANCHEZ**, Soil Moving Permit for property located at 5 Crystal Court, Ledgewood, Block 9603, Lot 8.01 in a B-2 zone. *Approved and Memorialized*

**ROXBURY TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MAJOR SOIL REMOVAL/RELOCATION PERMIT**

Pursuant to Chapter XVII of the General Ordinances of the Township of Roxbury, Article 17-1 et.seq. (the "Ordinance"), the Roxbury Township Zoning Board of Adjustment (the "Board"), having conducted a public hearing with public notice pursuant to the Ordinance, does hereby grant to the Applicant identified herein a Major Soil Permit, subject to the terms and conditions enumerated herein below.

1. Applicant/Permittee: Tony & Andrea Sanchez
2. Application Number: ZBA-18-011
3. Property Identification: 5 Crystal Court - Block 9603, Lot 8.01
4. Amended Site Plan Approval Date(s): December 10, 2018
5. Major Soil Permit Approval Date: October 8, 2015
6. Effective Date: December 10, 2018
7. Findings of Fact:
  - a. The Board has received an Application consistent with the requirements of Ordinance Section 17-6, and the Applicant has paid the application fee pursuant to ordinance Section 17-7.1.
  - b. Proof of adequate notice of this Application, pursuant to Ordinance Section 17-6.5, has been furnished to the Board.
  - c. A public hearing was conducted in accordance with the Ordinance and with opportunity for comment by interested members of the public on the following dates: May 11, 2020.
  - d. In granting this Permit, the Board has considered the factors enumerated in Section 17-6.6 of the Ordinance. The Board has received and considered the following documents in connection with this Application: (1) soil moving application undated ; (2) soil movements stockpile plan revised to March 10, 2020; (3) earthwork calculations by Wunner Engineering Associates dated 12/21/17, revised 8/6/18, 10/31/19; 1/31/2020; 3/10/2020 and reports of the Zoning Board Engineer, Mark S. Denisiuk, dated November 30, 2018..
  - e. The Board has made the following additional findings of fact:
    - i. The Applicant intends to export 2,142cubic yards (c.y.) of soil.
    - ii. The Applicant proposes to relocate within the site 129c.y. of soil.
    - iii. The Applicant intends to export fill to Crystal Court, Route 426 West out of Roxbury.
    - iv. The route of truck travel from Applicant's site to the disposal site will be: Crystal Court, Route 46 West out of Roxbury.

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- v. The Applicant has agreed to comply with the recommendations contained in the report of the Zoning Board of Adjustment's Engineer dated November 30, 2018.
  - vi. Pursuant to Section 17-9d of the Ordinance, the Board finds that circumstances warrant the restriction of the hours of soil moving operations to 8:00 a.m. to 4:00 p.m. on weekdays and 8:00 a.m. to 12:00 noon on Saturdays (with such operations prohibited on Sundays and legal holidays).
  - vii. Pursuant to Section 17-17 of the Ordinance, the Board finds that strict application of the following Ordinance provisions would impose hardship and hereby grants waivers with respect thereto;
8. Conditions of Approval: This Permit is granted subject to the following terms and conditions:
- a. Applicant shall post a performance guarantee, consistent with the requirements of Ordinance Section 17-8, in an amount indicated in Subparagraph H.5 below, as determined by the Board Engineer based on quantity of soil moved at the rate of \$0.50 cents per cubic yard of material moved.
  - b. This Permit shall remain valid for a term of one year from the Effective Date specified in Paragraph 6 hereinabove, subject to extension thereafter in accordance with Ordinance Section 17-9c.
  - c. The Applicant shall pay the engineering review and inspection fees as required in Ordinance Section 17-7.3.
  - d. This approval shall not become effective until: (i) Applicant has paid all outstanding property taxes and assessment due or delinquent as of the date hereof; and (ii) all conditions of the December 10, 2018 approval fulfilled to the satisfaction of the Board Engineer.
  - e. Applicant shall comply with (i) "Hours of Operation" established pursuant to Ordinance Section 17-9d; (ii) "General Terms and Conditions of Operation" stipulated in Section 17-10; (iii) "Topsoil Restrictions", pursuant to Section 17-11; (iv) "Depth of Excavation; pursuant to Section 17-12; and (v) "Final Grades", pursuant to Section 17-13.
  - f. Applicant grants to the Township Engineer and/or his duly authorized agents, the right of entry to the property to conduct inspections to determine compliance with this Permit.
  - g. This approval is subject to all outside agency review, as may have jurisdiction over this matter.
  - h. This Permit is subject to the following additional terms and conditions:
    - i. All excess fill will be exported from Applicants site from Crystal Court, Route 46 West, out of Roxbury.
    - ii. The route of truck travel from Applicant's site to the disposal site shall be: Crystal Court, Route 46 West, out of Roxbury.
    - iii. The Erosion Control Plan shall be modified to indicate the following note: "Notwithstanding the approved Erosion and Sediment Control Plan, the Applicant shall implement all measures needed to satisfactorily control erosion, dust, and sediment transport as may be reasonably determined by the Township Engineer during construction".
    - iv. Applicant shall post fees as follows: Soil Moving Fee: \$110.00.
    - v. Per Section 17-8 of the Ordinance, Applicant shall post a performance bond in the amount of \$2,000.00.
    - vi. Applicant shall place hay bales on the site to supplement planned silt fencing for erosion control to the satisfaction of the Township Engineer.
    - vii. In accordance with Ordinance Section 17-6.1(t), the Applicant shall stake out interior improvements with appropriate cut sheets to the satisfaction of the Township Engineer.
    - viii. Applicant shall participate in a pre-construction meeting, during which, traffic control will be coordinated with the Police Department. Applicant shall be responsible for all costs associated with traffic control including, but not limited to, Police Officers.

The undersigned does hereby certify that the foregoing is an accurate recitation of the action taken by the Zoning Board on the approval date designated hereinabove.

Mr. D'Amato made a motion to memorialize the resolution, Mr. Klein seconded.

*Roll call:* Mr. D'Amato, yes; Mr. Klein, yes; Mr. Overman, yes; Ms. Robortaccio, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes.

**APPLICATIONS:**

**ZBA-19-005 NATIONAL EXPRESS BUS.** Minor Site Plan, for property located at 3 Howard Place, Ledgewood, Block 8901, Lot 11 in an OR-5 zone. *Requested to be carried thru January 31, 2021,*

Dr. Kennedy made a motion that the applicant National Express Bus be carried to the September 14th, 2020 Zoning Board meeting with a re-notice, Ms. Robortaccio seconded.

*Roll call:* Dr. Kennedy, yes; Ms. Robortaccio, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. D'Amato, yes; Mr. Fuery, yes; Ms. Dargel, yes.

**ZBA-17-012 KINGTOWN DIESEL.** Amended Preliminary Site Plan, "D" Variance for property located at 1470 Route 46 East, Ledgewood, Block 9302, Lot 3 in a B-2 zone. *Requested to be carried thru June 30, 2020.*

Ms. Robortaccio made a motion that the applicant Kingtown Diesel be carried to the June 8th, 2020 Zoning Board meeting, Mr. Klein seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. D'Amato, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes.

**ZBA-20-004 PIERSON.** Variance relief for property located at 29 Sunset Lane, Landing, Block 11904, Lot 5 in an R-3 zone.

Greg Pierson and Stephanie Pierson of 29 Sunset Lane, Landing, NJ were sworn in by Ms. Dargel.

Mr. Pierson testified that he and his wife would like to put a deck on the lakefront side of their property to use for entertainment as well as ease for their elderly parents to view the lake (*the home presently has several stairs down to the lawn area*). The Pierson's plan on making the property their retirement home and the property is in need of a lot of improvements and they would like to start by adding a deck.

Ms. Dargel stated that the Zoning Officer wrote two reports of the application one on 03/05/2020 and then a revision was made on 03/17/2020. Mr. Stern noted that the report was then revised again on 05/06/2020.

Mr. Stern asked the Pierson's to verify the dimension of their proposed deck as 14 ft. x 28 ft. with a 4 ft. x 4 ft. platform for the stair landing. Mr. Pierson confirmed the dimension.

Mr. Stern stated that the revisions that transpired between the first zoning permit denial and the last one was a verification of the deck size which is 14 ft. 28 ft. with a 4 ft. x 4 ft. stair landing platform. Mr. Stern further noted that the distance from the 4 ft. x 4 ft. platform to the lake is 28 ft., where the ordinance requires 50 feet. Mr. Stern let the Pierson's know that another variance which is similar in nature is required. The additional variance is a (rear yard set-back variance) a 35 ft. set-back is required, where the applicant only has a 28 ft. setback.

Dr. Kennedy asked the Piersons why the drawings are showing the deck as 26 ft. x 14 ft. Mr. Pierson re-examined the drawings and stated that Dr. Kennedy was correct. Mr. Pierson was confusing the length of the house which is 28 ft. with the length of the deck, he further corrected for the record that the deck dimensions are 26 ft. x 14 ft. with a 4 ft. x 4ft. landing for the stairs.

Mr. Stern stated that if the Board approved the application, the Pierson's would have to provide the Construction Department drawings with the proper dimensions.

Mr. D'Amato asked Mr. Stern what the distance was from the existing deck to the bulk head. Mr. Stern replied 42 feet and that the dimension is also confirmed in Mr. Potere's denial letter.

Ms. Houtz asked if the existing deck on the lake front of the house will be removed. Mr. Pierson replied yes; that the existing deck is just an access deck at this time and will be removed and the street front deck will remain. Mr. Klein asked if the Pierson's received the letter from the Lake Hopatcong Commission dated April 28, 2020. Mr. Pierson replied yes.

Ms. Dargel made a motion to open up the public portion for comments.

None were made.

Ms. Dargel motioned to close public portion.

Mr. D'Amato made a motion to approve plans for a 26 ft. x 14 ft. deck with a 4 ft. x 4 ft. landing, noting that the Lake Hopatcong Commission has no objection to the application. Ms. Robertaccio seconded. Roll call: Mr. D'Amato, yes; Ms. Robertaccio, yes; Ms. Houtz, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes. *Application approved*

**ZBA-20-003 GILFILLAN,** Variance relief for property located at 28 Kingsland Road, Landing, Block 11002, Lot 7 in an R-3 zone.

Sean Gilfillan and Victoria Gilfillan of 41 Fay Avenue, Stanhope, NJ were sworn in by Ms. Dargel. Ms. Dargel asked what the relationship between Sean and Victoria Gilfillan to Robert and Judith Gilfillan (the applicant). Sean stated he is Robert and Judith Gilfillan's oldest son and Victoria is their daughter-in-law.

Mr. Gilfillan went on to testify that due to severe storm damage to the 28 Kingsland Road, Landing residence, he and his wife would like to rebuild the home and reside there.

Mr. Gilfillan introduced Ken Fox as his Architect for the project. Ms. Dargel then swore in Mr. Fox of Fox Architectural Design, PC located at 546 Rt. 10, Ledgewood, NJ. Mr. Fox further stated that his license as an Architect and Planner are current.

Mr. Fox testified to the following about the property: it is a cul-de-sac property in a neighborhood of lakefront homes. The home has a long driveway that goes down to the house and has a turn around, the house is located downward and Lake Hopatcong is beyond the house. He further testified that there are two sheds on the property nearer to the street, one of which is presently over the property line and will be removed. He also noted that the driveway is a mix of gravel and pavement.

Mr. Fox stated that he wanted to correct one number of the submittal document which has the existing impervious coverage shown at 24.44% with the actual number being 30.74 as an existing condition.

Mr. Fox referred the Board to Gilfillan Exhibit #8 (photos 1 thru 9) which showed the two sheds discussed earlier, the entrance to the driveway and its material, the grade of the property (mostly flat), as well as the steps down to the lake.

Mr. Fox then referred the Board to Gilfillan Exhibit # 9 (photos 10 thru 18) showing the conditions of the property looking up from the dock to home. The photos showed two small retaining walls, noting the lower wall will remain and be rebuilt and that the basement will be at that elevation. Mr. Fox pointed out that the blue tarp in the photo is located where the tree has damaged the home.

Mr. Fox further referred the Board to Gilfillan Exhibit # 10 (photos 19 thru 26) showing photos of the tree damage to the home.

Mr. Fox referred to Gilfillan Exhibit # 5 which were site plans and architectural drawings. Mr. Fox testified that the home will consist of an open floor plan with 3 bedrooms, 2 bathrooms, and an office. The lakefront side of the home will have a deck and that the home will be narrow as it is on a narrow lot, noting, that the house is conforming to lot. Mr. Fox stated even though the proposed garage requires a variance, the structure is attractive and blends in nicely to the property. It will have decorative dormers.

Mr. Fox went on to discuss Gilfillan Exhibit #7 which were the site plans show a significant shortening of the driveway and instead of attaching a garage to the home, the applicant is proposing a detached garage. The drawing shows a gravel driveway at the location of the garage, but, applicant would like to change the material to pavers since they do not receive the added benefit of deduction of impervious coverage. (*making the proposed impervious coverage 24.85%*). Mr. Gilfillan would like to make the area between the house and the lake pervious which includes grass and some existing vegetative material. The proposed house is slightly moved back away from the lake approximately 10 feet making the proposed deck in the same place that the old house was making it 34.4 feet from the lakefront. House was made a little larger than original footprint, but only towards Kingsland Rd side. The east side of house has a 8.6 ft. set-back and the west side has a 12.8 setback.

Ms. Robortaccio asked a question regarding the impervious coverage. She wanted confirmation that the existing was 30.74 ft. and the proposed is 24.85 ft. Mr. Fox confirmed the calculations. He noted that on the original plan he did not account for deduction of a 75% coverage on driveway which lowered impervious cover percentage to 30.74.

Mr. Overman asked about the garage dormers and if a plan was submitted for the inside of the garage or was it an empty space. Mr. Fox replied garage has no stairs and is just for storage and in no way was going to be converted into apartment. Mr. Overman then asked if the footprint of the garage exceeds the footprint of the principal structure. Mr. Fox replied no, but it does exceed the zoning requirement for an accessory building to be less than half of the principal building. Mr. Overman asked if the applicant proposed a two car garage it would be less of a variance and why did they not do that to be more in conformance. Mr. Fox replied that the applicant could build three car garage with its footprint if it was attached it to the house, and so by detaching it we minimize the impervious coverage on the lot, rather than extending the driveway. We thought it was more important or beneficial to keep the impervious coverage down by putting the garage up by Kingsland Road end of the property. Detached garages around Kingsland Road are very common. He further noted that the two sheds are being removed from the property and garage will be used for storage as a replacement to the sheds. The size of the garage fits within the impervious coverage and impervious coverage is the biggest detriment to an applicant. We felt with its location it fits well due to the fact it is a narrow lot down by the principal house.

Dr. Kennedy asked about the apron to the garage and its downward slope. He asked if it would create a problem for the property next door. Mr. Stern replied if the Board looks toward an approval of the application, he recommends the Township Engineer review the application for grading, grinder pumps, and possible easement. Mr. Fox said applicant is maintaining similar grading plans as prior home, but had no objection to the Township Engineer reviewing the plans.

Mr. Fuery asked Mr. Fox if there is a change to the elevation of the home. Mr. Fox replied a basement will be added and in general is slightly lower than existing home.

Dr. Kennedy asked what type of sanitary system is being used on the property. Mr. Fox replied is sewer and a relocation of the grinder pump will take place. Mr. Stern reaffirmed this should be part of the Township Engineer's review.

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Mr. Fox closed his testimony with while he understands the accessory building is a greater size than normal he has placed it on the property in such a way that it is set off of Kingsland Road in a wooded area, in addition it is an attractive building that ties in architecturally with the home. The principal home is beautifully sized on the lot and will add to the beauty of the area.

Dr. Kennedy asked if the applicant has reviewed the Lake Hopatcong Commission report. Mr. Fox replied yes and noted the four suggestions made. He stated the applicant will use filter fabric and sediment fencing toward the lake while under construction to keep all debris from entering the lake. In addition the grass area between the home and lake will allow for all storm water to drain above grade. Finally, the landscaping plan will include a non-invasive species and native plants.

Dr. Kennedy asked if a new lawn needs to be established. Mr. Fox replied yes, new lawn will be established by using the recommended fertilizers per the Lake Hopatcong Commission.

Ms. Dargel asked if the sandy area between the firepit and the retaining wall will be remaining or will grass be planted? Mr. Fox replied yes grass will be planted and the applicant will make sure it is graded properly for storm water run-off.

Ms. Houtz asked if the existing three larger trees on the property will be remaining. Mr. Fox replied yes.

Ms. Dargel asked the applicant why he is proposing a three car garage. Mr. Gilfillan replied that he would like to use the garage for storage of his lawnmower and power tools and in addition, his hobby is working on cars.

Ms. Dargel then asked if he would be running a business out of the garage. Mr. Gilfillan replied no he runs his automotive business out of a building in Kenvil, NJ.

Ms. Dargel made a motion to open up the public portion for comments.  
None were made.

Ms. Dargel motioned to close the public portion.

Ms. Robortaccio made a motion to approve the application based on the testimony made by the applicant and the architect be included in the resolution, and that the application is reviewed by the Township Engineer. In addition, the firepit be removed, the gravel driveway be replaced by a paver driveway. Mr. D'Amato seconded.

Mr. Stern added that the applicant will correct the impervious coverage calculations, will agree to engineering review of the grinder pump location, as well as any needed easements, and soil erosion. In addition, the landscaping plan will include non-evasive species, native plants, and follow the recommended fertilization by the Lake Hopatcong Commission.

Ms. Dargel asked Ms. Robortaccio if she is willing to amend her motion to include Mr. Stern's additional requirements. Ms. Robortaccio replied yes. Mr. D'Amato replied yes.

Roll call: Ms. Robortaccio, yes; Mr. D'Amato, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Fuery, yes; Dr. Kennedy, yes; Ms. Dargel, yes. *Application approved*

OLD BUSINESS:

None

Motion to adjourn 9:00 pm

Township of Roxbury  
Board of Adjustment  
May 11, 2020

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY  
*Tracy Osetec, Board Secretary*  
*May 11, 2020*