

On Monday, March 08, 2021 a regular remote 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: 82552693887#, Participant ID: # and Password: 140262#. 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 is to conduct routine business.

**BOARD MEMBERS PRESENT**

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

*ABSENT: Mr. Furey, Mr. Frequenza*

**PROFESSIONAL STAFF**

Mr. Russell Stern, P.P.  
Ms. Alyse Hubbard, Esq.

**MINUTES OF FEBRUARY 8, 2021 MEETING**

Ms. Robortaccio made a motion to approve the minutes of the February 08, 2021 meeting, Ms. Dargel seconded.  
*Roll call:* Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Overman, yes, Mr. Klein, yes;  
Mr. D’Amato, yes; Dr. Kennedy, yes;

**RESOLUTIONS:**

**ZBA-20-005 DOONAN.** Minor Subdivision “D” Variance for property located at 31 Eyland Avenue, Succasunna, Block 3708, Lot 14 in an R-3 zone.

Ms. Robortaccio made a motion to memorialize the resolution, Ms. Dargel seconded.  
*Roll call:* Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. D’Amato, yes; Dr. Kennedy, yes.

*In the matter of John Doonan*  
Case No. ZBA-20-005

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

Approved: January 11, 2021  
Memorialized: March 8, 2021

**WHEREAS**, John Doonan has applied to the Board of Adjustment of the Township of Roxbury seeking a Minor Subdivision requiring use variance relief for premises located at 31 Eyland Avenue and known as Block 3708, Lot 14 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal requires relief from Sections 13-7.3502, 13-7.1301D2(a), 13-7.1301D3(a), 13-7.1301D8, 13-8.202D and 13-8.602A 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. Ronald Heymann, Esquire represented the Applicant.

2. The Applicant is the owner of the subject property and is proposing a minor subdivision, which will create a flag lot and required a Use Variance, as flag lots are not permitted in the R-3 Zone. Additionally, the Applicant is seeking variance relief related to minimum lot width, minimum lot frontage, maximum impervious coverage, as well as design waivers.
3. The Applicant submitted the following documents:
  - Prepared by Wunner Engineering Associates dated 2/19/20, revised 8/27/20
  - Sheet 1, Cover Sheet
  - Sheet 2, Existing Conditions Map – Boundary and Topographic Survey
  - Sheet 3, Minor Subdivision Map
  - Sheet 4, Grading Plan
  - Sheet 5, Soil Erosion & Sediment Control Notes and Detail Sheet
  - Sheet 6, Construction Detail Sheet
4. The Applicant submitted additional documents:
  - a. Stormwater Management report with Drainage Area Map, prepared by Wunner Engineering Associates, dated 8/25/20.
  - b. Property Deed
  - c. Tree Removal Permit Application, undated
  - d. Application for Soil Erosion and Sediment Control Plan Certification, dated 4/23/20
  - e. Morris County Planning Board application, dated 4/23/20
  - f. Health Department well search letter, dated 8/10/20
  - g. Wetlands Letter prepared by Wunner Engineering Associates, dated 4/26/20
  - h. Roxbury Township Sanitary Sewer Availability letter, dated 7/23/20
  - i. New Jersey American Water Will Serve Letter, dated 8/19/20
5. The Board received the following memorandums:
  - a. Russell Stern, Township Planner, dated 12/8/20
  - b. Mark Denisiuk, Board Engineer, dated 11/30/20
  - c. Michael Kobylarz, Township Engineer, dated 7/23/20
  - d. Kenneth Fox, Historic Advisory Committee, dated 6/11/20
  - e. Morris County Planning Board, dated 5/8/20
6. The Applicant will need relief from the following variances and waivers:

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- a. Variance – A “D1” variance is necessary from Section 13-7.3502, which does not permit flag lots in the R-3 District. Pursuant to the Municipal Land Use Law (NJSA 40:55D-70d), as a “D1” variance application, the applicant must address the positive criteria and demonstrate that there are “special reasons” in support of the variance request.
  - b. Variance – A “C” variance is necessary from Section 13-7.1301D2(a), which requires a minimum lot width of 100 feet. The rear/flag lot (Lot 14.02) is proposed at a 44.05 feet lot width and the remaining parcel (Lot 14.01) at a 65.49 feet lot width.
  - c. Variance – A “C” variance is necessary from Section 13-7.1301D3(a), which requires a minimum lot frontage of 90 feet. The rear/flag Lot (Lot 14.02) is proposed at a 44.32 feet lot frontage and the remaining parcel (Lot 14.01) at a 65.49 feet lot frontage. *During the course of the hearing, lot frontage was reduced to 40 feet.*
  - d. Variance – A “C” variance is necessary from Section 13-7.1301D8, which establishes a maximum impervious coverage of 25% of lot area. Lot 14.01, containing the existing dwelling, garage, barn and driveway, will have an impervious coverage of 44.634%.
  - e. Design Waiver – A design waiver is necessary from Section 13-8.202D, which prohibits a residential subdivision directly accessing an arterial road.
  - f. Design Waiver – A design waiver is necessary from Section 13-8.602A for insufficient pavement and right-of-way widths along Eyland Avenue.
  - g. Design Waiver – A design waiver is necessary from Section 13-8.612F, residential driveways shall be set back a minimum of five (5) feet from the side and rear property lines.
  - h. Design Waiver – A design waiver is necessary from Section 13-8.202G, flag lots are prohibited except as permitted as a conditional use in the R-R, RR-5 and R-1 Districts, property is located in the R-3 Zone.
7. The application is under the jurisdiction of the Zoning Board as a flag lot is not permitted in the R-3 zone and therefore requires a ‘D1’ variance.
  8. A duly noticed public hearing occurred on January 11, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19:

N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

9. The subject property encompasses 89,512 square feet (2.055 acres), excluding land located within the road right-of-way. The parcel is located in the R-3 Residence District (min. 15,000 SF lot size) and within the Township’s Historic District. The site is developed with a 2½ story dwelling, garage and barn situated near Eyland Avenue. Existing impervious coverage including all structures and paving is 10.01% (25% permitted). Building coverage is 3.179% (15% permitted).
10. The existing barn and garage are nonconforming as they exceed an area greater than 50% of the principal building footprint. It is also noted that the existing driveway is at a 0.4 foot setback from the side property line while a 5 foot setback is required.
11. The property is similarly surrounded by R-3 zoned land that is developed with single family dwellings.
12. The Applicant seeks minor subdivision and ‘D1’ use variance approval with ‘C’ variances to create an additional lot for the construction of a single-family dwelling. The new rear parcel will encompass 70,339.6± square feet in a flag lot configuration with access to Eyland Avenue by a 44.32 foot wide pole (90 foot road frontage required). The new dwelling will be located to the rear of the property and serviced by public water, sewer, and underground electric. The existing dwelling, garage and barn will be situated on a new Lot 14.01 encompassing 19,072.4± square feet. An area of 2,748± square feet of Eyland Avenue right-of-way will be dedicated to the Township for road purposes.
13. John Doonan presented sworn testimony in support of the application. He has lived in Roxbury for 53 years and wishes to subdivide his property. The Applicant proposes to construct a new home on the newly created lot and sell the existing dwelling. The Applicant does not have architectural plans for the newly proposed dwelling but intends to build something that is consistent with the decorum of the neighborhood, which will be reviewed by the Historic Advisory Committee. Applicant agreed that there would be no further subdivision of the property permitted.
14. John R. Dusinberre, Esq. entered an appearance on behalf of Tyler and Jennilee Curran, the Applicants neighbors. Mr. Dusinberre questioned Mr. Doonan to confirm that the construction would have minimal impact on the Zoning Ordinance. Mr. Dusinberre stated that conceptually, a single-family home behind the Curran’s home was “not an unwelcome use.”

15. Nicholas Wunner, PE was accepted as a professional engineer and presented sworn testimony regarding the plans he prepared. The subject property is a 2.18 acre lot that is relatively flat. The lot is primarily open, with some wooded areas. The flag configuration will allow for each lot to have a separate driveway.
16. The witness reviewed the report by the Board's Engineer, Mark Denisiuk, PE, noting that a design waiver was needed for the required 66' right of way, where only a 50' right-of-way is proposed. There will be a 2,748 square foot right-of-way dedication for any road improvements. A 40 foot of pavement width is required, whereas the application proposes 29.14 feet of pavement, requiring a waiver. An additional waiver is sought for the driveway setback, as 5 feet is required, and 0.4 feet is proposed.
17. Corner markers are not required for a minor subdivision. A stormwater maintenance manual will be submitted and referenced in the Deed.
18. The building coverage on the existing property is 3.179% and the impervious coverage is 10.01% to the sideline after dedication. On proposed Lot 14.02, building coverage is 2.73% and impervious coverage is 10.986%, both conforming in the zone.
19. On the proposed lot 14.01, the building coverage will be 14.921%, which is conforming, and the impervious coverage will be 44.643%, requiring variance relief as the maximum impervious coverage permitted is 25%. It was noted that the barn and associated driveway contribute to the impervious coverage, but since the property is located in the Historic District, the barn could not be removed without the approval of the Historic Advisory Committee. Although it is old, the barn is fully functional and adds value to the property. At the suggestion of the Board, the Applicant agreed to move the lot line back 35 feet on proposed Lot 14.01 to reduce the impervious coverage to around 42%.
20. A spruce tree will be removed to install underground utility lines for the proposed new dwelling that will run through the driveway. The frontage for proposed Lot 14.01 will be 65 feet and proposed Lot 14.02 will be 40 feet, both requiring variance relief. Mr. Wunner testified that the width of the proposed Lot 14.02 is consistent with the neighboring lots. There was extensive questioning of Mr. Wunner by Mr. Dusiherre regarding lot frontage and driveway width.
21. Jessica Caldwell, PP, was accepted as a professional planner and presented sworn testimony to the Board. An aerial photo of the property and surrounding area was marked A-1 for identification. The photo showed the size of the subject lot in comparison to the surrounding lots. The subject property already has a flag configuration and is 6 times the required lot area in the zone. Ms. Caldwell noted that the Applicant could

seek a multi-lot subdivision, instead of the proposed 2 lot subdivision. If the subdivision is approved, the lots will still be larger than the surrounding lots.

22. Ms. Caldwell set forth the positive and negative criteria for requesting a use variance for a flag lot. The site is particularly suited for the use, as the lot is oversized for the zone and after subdivision, Lot 14.02 will be 4 times the required lot area. The proposed lot will have its own access driveway and, but for lot frontage, is a conforming lot. Purpose E of the Municipal Land Use Law is met, as the proposed development promotes the establishment of the appropriate population, densities and will contribute to the wellbeing of person, neighborhoods, communities, regions, and preservation of the environment. The surrounding area is fully developed; this would be essentially the only new development that would need the accommodation and the density is less than is proposed in the Master Plan. Purpose G is met, providing sufficient space and appropriate locations for a variety of uses; the proposed use is residential and is consistent with the surrounding neighborhood. Purpose I, to promote a desirable visual environment, is also satisfied as the proposal will be visually appealing and compatible to the neighborhood. Further, the proposal will involve the coordination of public and private procedures and activities to shape land development with the view of lessening the cost of development and the efficient use of land. The proposed development will utilize an existing parcel, largely as it is already developed, maintaining the pre-existing historic structures. There is ample space for the additional dwelling and the single-family home is permitted in the zone in a viable location.
23. In regard to the negative criteria needed for the D variance, Ms. Caldwell testified that there would be no substantial detriment to the public good or zoning scheme. The proposed site will be well buffered by the existing trees and the proposed landscaping. The lots will be larger than what is required in the zone. The subject property is unique and it is unlikely to be replicated, which will not result in a negative impact on the Master Plan or municipal zoning. The Applicant worked to minimize the variances and prevent further subdivision. Paragraph 2.2 of Mr. Stern's report, states that, in other zones where flag lots are permitted, the setbacks must be doubled. Ms. Caldwell noted that the concern the ordinance attempts to address is limiting the development capacity on the property. In response to a question from Mr. Dusingberre, if the staff width and impervious coverage were reduced, it would not change Ms. Caldwell's planning testimony.
24. It was noted that the Historic Advisory Committee made recommendations to the Applicant; the hope is the Applicant complies with the Committee recommendations.

25. Elizabeth Osterhoudt of 10 West Street, the lot in the rear of the subject property, came forward with questions about the impact of the application on her property. Mr. Wunner noted that there would be a wooded buffer between the two lots. Ms. Osterhoudt challenged the planning testimony and Mr. Wunner responded that the rear of the property is vacant and the Applicant has the right to develop the property appropriately.
26. A discussion ensued among the Board noting that the Applicant could develop the property in a more intensive residential manner without Board approval and this configuration was a better alternative.
27. The meeting was open to the public for comments and Mr. Dusinger noted that this application is better than some alternatives but urged the Board to impose conditions on the approval, including a 5 foot reduction in the flag staff width. Mr. Wunner noted that a 4.32 foot reduction of the flag staff would not impact anything and the Applicant agreed to the reduction.

**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 Roxby for the following reasons:

1. The Board found the witness testimony to be competent and credible. Relief was granted from Section 13-7.3502, pursuant to N.J.S.A 40:55D-70D(1), approving a flag lot in the R-3 Zoning District. The Applicant's Planner was able to establish the positive and negative criteria required and the four elements of proof set forth in *Medici*.
2. First, the site is particularly suited for the use because the lot is oversized for the zone and will exceed the required lot area once subdivided. Both lots will have residential homes, as permitted in the zone, with their own driveway.
3. Additionally, the proposed development will meet several of the special reasons set forth in the Municipal Land Use Law, namely
  - a. Purpose E, as the proposed development promotes the establishment of the appropriate population, densities and will contribute to the wellbeing of person, neighborhoods, communities, regions, and preservation of the environment. The surrounding area is fully developed, leaving only this site that would need the accommodation of a flag lot. Additionally, the density is less than is proposed in the Master Plan and Zoning.

- b. Purpose G, by providing sufficient space and appropriate locations for a variety of uses. The proposed development will result in two residential homes that are similar to the surrounding neighborhood.
  - c. Purpose I, by promoting a desirable visual environment. The proposal will be visually appealing and compatible to the neighborhood. Further, the proposal will involve the coordination of public and private procedures and activities to shape land development with the view of lessening the cost of development and the efficient use of land. The proposed development will utilize an existing parcel and maintain the pre-existing historic structures. The subject property is largely underdeveloped with ample space for the additional dwelling. The single-family home is permitted in the zone in a viable location.
4. Ms. Caldwell established that there would be no substantial detriment to the public good. The proposed site will be well buffered by the existing trees and the proposed landscaping. The lots will be larger than what is required in the zone.
  5. Finally, the subject property is unique and it is unlikely to not be replicated, having no negative impact on the Master Plan or municipal zoning. The Applicant worked to minimize the variances and prevent further subdivision.
  6. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Section of the municipal zoning ordinance.
    - a. Section 13-7.1301D2(a), which requires a minimum lot width of 100 feet. Lot width will be reduced to 40 feet for Proposed Lot 14.02 and the remaining lot width of 65.49 feet will be increased to approximately 68.54 feet for Proposed Lot 14.01.
    - b. Section 13-7.1301D3(a), which requires a minimum lot frontage of 90 feet. Lot frontage of 40 feet is approved for Proposed Lot 14.02 and lot frontage of approximately 69.81 is approved for Proposed Lot 14.01.
    - c. Section 13-7.1301D8, which establishes a maximum impervious coverage of 25% of lot area. Impervious coverage of 44.634% is approved but will be further reduced by the increase in the lot depth by 35 feet for Proposed Lot 14.01.
  7. The following Design Waivers can be granted as they are reasonable and the property meets the requirements of the ordinance.

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- a. Section 13-8.202D, which prohibits a residential subdivision directly accessing an arterial road. The subdivision is approved on Eyland Avenue, an arterial road.
- b. Section 13-8.602A for insufficient pavement and right-of-way widths along Eyland Avenue. A 66 foot right-of-way is required and 50 feet is approved.
- c. Section 13-8.612F, residential driveways shall be set back a minimum of five (5) feet from the side and rear property lines and 0.4 feet is approved.
- d. Section 13-8.202G, flag lots are prohibited except as permitted as a conditional use in the R-R, RR-5 and R-1 Districts, a flag lot is approved in the R-3 Zone.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 11<sup>th</sup> day of January 2021 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. This approval is subject to the approval of all other governmental agencies and/or subdivisions thereof with joint and/or concurrent jurisdiction including, but not limited to, Morris County Soil Conservation District and Morris County Planning Board.
3. Applicant shall note that building plans are subject to review by the Historic Advisory Committee prior to the issuance of building permits.
4. Applicant shall dedicate Eyland Avenue right-of-way to the Township and subject to the review and approval by the Township Engineer.
5. Applicant shall submit minor subdivision deeds for review and approval by the Board Engineer and Board Attorney.
6. Pursuant to Section 13-8.500, electric, telephone and cable television lines shall be installed underground. General note #12 shall be revised to reflect same.
7. Damaged fence along the rear of Lot 11 and 12 shall be removed or replaced if owned by the Applicant.
8. The Applicant shall comply with Section 13-11, Tree Conservation, and obtain a tree removal permit prior to the removal of any tree with a caliper of six inches or greater.
9. Applicant shall specify the proposed dwelling on Lot 14.02 will contain a garage.
10. Pursuant to Section 13-8.612C, the proposed driveway on Lot 14.02 shall be noted as paved.
11. Lot numbers shall be verified by the Township Tax Assessor.

12. Applicant shall comply with Section 13-2.402A, Lot Line Revision Fee, prior to the filing of minor subdivision deeds.
13. In accordance with Section 13-8.501E, capacity allocation shall be obtained from Director of Public Works/Township Engineer and authorized by the Governing Body, as applicable.
14. In accordance with Sections 13-4.6 and 13-4.7, as applicable, the Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer.
15. The Applicant shall provide a mandatory affordable housing development fee in accordance with Section 13-7.829 for the construction of the new dwelling on Lot 14.02.
16. The aggregate setback of both side yards shall be shown pursuant to Section 13-7.1301D.6(a).
17. General note #9 shall be revised to be consistent with the Health Departments well search letter.
18. Lot descriptions and closure calculation for each lot shall be submitted to the Board's Engineer for review and approval.
19. Pursuant to Section 13-8.202H, the minor subdivision plan shall note that for each building lot, the rear principal building, exclusive of attached decks, must be located not less than eight (8) feet from the rear yard setback line along at least half the width of the rear setback line, in order to allow adequate space for the addition of decks attached to the principal building without encroaching upon the rear yard setback.
20. Monuments shall be provided in according with R.S. 46:23-9.11.
21. The detailed grading and drainage plans shall be submitted to the municipal engineer for review and approval prior to the issuance of a building permit.
22. Sign distance lines shall be shown for the driveways, including any required tree removal to maintain clear sight lines.
23. All overhead utility lines serving Proposed Lot 14.01 that cross Proposed Lot 14.02 shall be relocated, or a utility easement shall be provided.
24. A proposed utility pole to service Proposed Lot 14.02, proposed to cross Eyland Avenue, shall be shown on the plans.
25. Applicant shall obtain certification from the Morris County Soil Conservation District.
26. The drywell construction shall be added to the sequence of construction. The proposed measures for protecting the drywells from siltation during construction shall be noted on the plans.

27. The location of the proposed stabilized construction access shall be depicted on the plans.
28. All proposed sanitary sewer water, driveway apron, and road opening details shall be subject to review and approval by the Township Engineer.
29. The Minor Subdivision Deeds for the new lot and the remainder lot, as well as the subdivision plat, shall each contain a notation stating that in the event that future disturbance of Lot 14.01 and Lot 14.02 when aggregated with lot disturbance permitted pursuant to this applications results in the total lot disturbance exceeding one (1) acre or new impervious cover exceeding 0.25 acres, the lot will be classified as a "Major Development" under the New Jersey Stormwater Management Rule, N.J.A.C. 7:8-1.1 et seq. or any successor regulation, and the Township Ordinance, and will require the submission of a stormwater management plan for new disturbance or impervious coverage on the site that is subject to the Rules.
30. A Maintenance Manual shall be provided for the proposed drywells and referenced in the Deed.
31. A compatible electronic CAD file shall be provided for review.
32. Cut and fill calculations supporting the amount of soil being moved shall be included.
33. An as-built survey shall be provided prior to the issuance of a certificate of occupancy.
34. The flag staff shall be narrowed to 40 feet and the new driveway shall not be more than 12 feet wide and the setbacks a minimum of 10 feet from Lot 13. The additional footage shall remain on the original lot.
35. The rear lot line for proposed Lot 14.01 shall be extended back 35 feet into proposed Lot 14.02.
36. Pursuant to Section 13-7.3502B, the flag lot and remainder lot shall be deed restricted from further subdivision and shall be limited to the development of a single family dwelling. A note shall be added to the plans reflecting same. The Deed Restrictions shall be included in the Subdivision Deeds and recorded with the County Clerk's Office.

**ZBA-20-018 VERIZON**, Use Variance for property located at 130 Route 10, Block 3701, Lot 2 in a B-2 and R-3 zone.

Mr. Overmann made a motion to memorialize the resolution, Mr. Klein seconded.

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

*In the matter of Verizon*  
Case No. ZBA-20-018

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

Approved: February 8, 2021  
Memorialized: March 8, 2021

**WHEREAS**, Verizon has applied to the Board of Adjustment, Township of Roxbury for permission to construct a 428 square foot 1-story building addition to house a new generator requiring variance relief for premises located at 130 Route 10 and known as Block 3701, Lot 2 on the Tax Map of the Township of Roxbury which premises are in a “B-2 & R-3” Zone; said proposal required relief from Sections 13-7.2502D7, 13-8.706A, 13-8.809B, 13-8.608A, 13-8.703A, 13-8.707C, 13-8.806.2A 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. Richard L. Schneider, Esquire represented the Applicant.
2. The Applicant submitted Site Plans with building drawings prepared by Frank Colasurdo, architect, dated June 12, 2020, last revised October 12, 2020 consisting of eight (8) sheets.
3. The Board received the following memorandums:
  - a. Russell Stern, Township Planner, dated February 5, 2021
  - b. Mark Denisiuk, Board Engineer, dated February 1, 2021
  - c. Michael Kobylarz, Township Engineer, dated February 5, 2021
  - d. Morris County Planning Board dated September 4, 2020 (no comments)
  - e. Historic Advisory Committee, dated January 15, 2021 (no comments)
  - f. Health Department, dated January 15, 2021 (no comments)
  - g. Prior deeds to the property dated 1934 and 1961.
4. The subject property encompasses 52,849 square feet. It is presented improved with a single story 11,604.62 square foot data center building operated by Verizon. The premises have frontage on Route 10, Hunter Street, and Main Street. The front half of the site where the building is located is situated in the B2 Highway Business District Zone. The rear portion of the property contains parking and a paved

driveway connection to Main Street – it is zoned R-3 Residential District and located within the Township’s Historic District. Nine (9) parking spaces are provided (6 spaces required). There is no loading area. A 7-foot-high nonconforming fence, which screens existing air conditioning condensers, is located in the front yard area of Hunter Street. The property exhibits a nonconforming floor area ratio, lot frontage, and lot width.

5. Properties across Hunter Street to the west are developed with residential dwellings zoned B-2 and R-3. The adjacent properties to the northwest and northeast also contain dwellings zoned R-3. Located to the east is a 2-story commercial building zoned B-2.
6. The Applicant is seeking a D4 variance approval for the construction of a 20’x21’5” addition to the southeast building corner to essentially “square off” the structure. The floor area ratio would be increased from 0.2195 to 0.2276 (0.20 permitted). Also proposed (as amended during the public hearing) is an additional 7-foot-high brick wall that will enclose an air conditioner unit located in the front yard area of Route 10 and Hunter Street. A transformer will be situated in the Hunter Street front yard.
7. The application falls within the jurisdiction of the Zoning Board as a “D4” variance is required for exceeding permitted floor area ratio. The following relief is required:
  - a. A variance pursuant to *N.J.S.A. 40:55D-70d(4)* from Section 13-7.2502D7 to permit a floor area ratio of 0.2276, which exceeds the permitted floor area ratio of .20, whereas 0.2195, an existing non-conforming floor area ratio exists.
  - b. A variance pursuant to *N.J.S.A. 40:55D-70c* from Section 13-8.809 to permit a 7-foot high brick wall to match the building façade.
  - c. A waiver is necessary from Section 13-8.706A, which requires the architectural screening of rooftop mechanical equipment.
  - d. A waiver is necessary from Section 13-8.809B, which prohibits a fence over four (4) feet in height located between the front foundation wall and right-of-way line.
  - e. A waiver is necessary from Section 13-8.707D, as the proposed work light located on the air condenser fence post, across from Hunter Street is a nonconforming light fixture.
  - f. A waiver is necessary from Section 13-8.608A, as curbs are not provided along Hunter Street and Main Street.

- g. A waiver is necessary from Section 13-8.703A, as a loading space is not provided.
  - h. A waiver is necessary from Section 13-8.707C, as illumination has not been provided for the parking lot and building entrance.
  - i. A waiver is necessary from Section 13-8.806.2A, as a 25 foot wide landscape buffer is not provided abutting the residential zone.
  - j. A waiver is necessary from Section 13-8.702B, as ADA accessible parking is not provided.
8. The Applicant's first witness at the public hearing was its architect, Frank Colasurdo, who presented sworn testimony in support of the application. Mr. Colasurdo reviewed the nature of the proposed application. The subject premises will house a data center with a data processor and equipment, there will be no permanent employees. None of the improvements would be located in the R-3 Residential District. He opined the Applicant was proposing a modest installation of additional fence area comprising 90.13 total square feet for the proposed location of two (2) air conditioning condenser units to be surrounded by a 7-foot brick wall that would match the existing structure. There are two proposed air conditioning condenser units to be installed on an existing concrete pad.
9. The Applicant was also proposing a 20'x 21'5" building addition with the proposed façade to match the existing building brick façade. The purpose of the building addition was to install a new replacement generator to accommodate emergency backup power in the event of a power outage.
10. During the public hearing, Mr. Colasurdo went over the reports of the professional staff. He also presented a proposed waiver request in a document dated, with the last revision date, of October 23, 2020. Same consisted of a minor site plan checklist that was reviewed by the professional staff.
11. The main focus from the Township were three (3) reports issued by the professional staff. Mr. Denisiuk's report dated February 1, 2021, summarized his general review of the site. During Mr. Colasurdo's testimony, he made reference to existing uses on the site, the proposed use and associated developments together with any potential impacts.
12. Mr. Colasurdo also testified relative to the maintenance of on-site fuel source and fueling methods, exhaust methods, and noise levels for the proposed generators, noting that he reviewed the acoustic noise study of the product and it complies with all applicable noise levels. Acoustic louvres will be

utilized to reduce the noise levels for the exhaust vent. The generator complies with EPA Standards for emissions.

13. Mr. Colasurdo also responded to the level of on-site parking, stating that he did not anticipate technicians coming to the property and having to stay any inordinate amount of time. Any overnight parking of vehicles would be on the commercial side of the property and be limited to small SUV-type vehicles. In response to a question from Mr. Stern, Mr. Colasurdo stated the parking lot situation would be configured with parking locations to better organize the site. It was noted the Americans for Disability Act (ADA) did not require ADA parking spaces for this type of facility – none was provided and waiver was requested.
14. The Applicant agreed to a 100'x30' sight triangle at the intersection of Route 10 and Hunter Street as a condition of the Certificate of Occupancy. However, he noted the application did not propose any new curb cuts onto an existing public road nor would there be any increase in existing traffic, thus a waiver should be granted. An additional waiver is sought for the required loading area, as all deliveries are via UPS so a loading area is not needed. The Applicant agreed to screen the trash enclosure and have the light lens flush with the fixture housing and parallel to the ground, as required and noted in Mr. Denisiuk's report.
15. Mr. Colasurdo then moved on to discuss the planning report issued by the Board's Planner, dated February 5, 2021. He noted the floor area ratio variance, a "D4" variance, was the reason this application was under the jurisdiction of the Zoning Board and not the Planning Board. He characterized the relief as *de Minimis* – 0.20 versus 0.2276. He further noted the addition, itself, was a 428.33 square foot addition that essentially squared off the southeast building corner. The expansion increases the existing impervious coverage from 37.62% to 38.6% (less than 1%).  
He further noted the zone contemplates up to 60% impervious coverage.
16. There was a discussion as to a waiver from Section 13-8.706A requiring architectural screening of rooftop mechanical equipment. The witness testified that the pipe will be painted white to blend in with the building. Mr. Stern consented to the waiver as the pipe will be screened by existing Pine trees and set back from the road.
17. And the final testimony was presented by the Applicant's Planner, William F. Masters, Jr. Mr. Masters was qualified as an expert in professional planning. Mr. Masters stated he had reviewed the Township

Ordinance, the Master Plan, the application, made a site visit and came up with a commentary and conclusions relative to the site. He took notice of the enhanced activity and technology that was taking place in the telecommunication industry.

18. He reviewed the overall site, the existing conditions on-site and noted the testimony and narrative presented for what he referred to as a modest intensification of the site. Mr. Masters testified that the floor area ratio, which is the primary relief needed for the development, is a regulation designed to control density and intensity of use. The Applicant must establish that the site will accommodate the floor area of the structure. The impervious coverage on site will be well below the permitted 60%. The subject structure will be utilized solely to house equipment, as opposed to employees or customers with active travel on site. Accordingly, the relief can be granted without a substantial detriment to the Master Plan.
19. The Master Plan has a Design Plan Element requirement to preserve and enhance the visual environment and encourage the most appropriate architectural and sight design features possible. The generators will be housed inside the building, which will create a better visual environment than if they were located outside the building, which is a more typical design.
20. Relief is also required for the height variance for the accessory structure; namely replacing the board-on-board fence with a 7' high wall. The wall will be a more attractive method for screening and will reduce the noise generated by the air conditioner condensers. Mr. Masters opined that both the proposed structure and the wall will promote the public good and the purposes and objectives of zoning.
21. There was no one present at the hearing in opposition to this 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. Pursuant to *N.J.S.A. 40:55D-70d(4)*, the Board determined that relief be granted from Section 13-7.2502D7 for the construction of the proposed addition, which will result in a Floor Area Ratio in excess of 0.20 that is permitted by the Township's Ordinance. Relief can only be granted by a showing of a "special reason." See Coventry Square v. Westwood Zoning Board of Adjustment, 138 N.J. 285 (1994).

The Superior Court held that an applicant need not show that a site is particularly suited for a more intensive development, rather the applicant must show that the site will accommodate the problems associated with a floor area larger than that permitted by the ordinance. Randolph Town Center v. Tp. of Randolph, 324 N.J. Super 412, 416 (App. Div. 1999).

2. The Board found the witness testimony to be competent and credible. Mr. Masters, the Applicant's planner, testified that the current structure exceeds the FAR permitted in the zone. The maximum impervious coverage in the zone is 60% and the proposed development will result in 37.62% impervious coverage, far less than permitted. The building is utilized as an equipment center, instead of a more intensive use as an office or commercial building, with employees or customers and active travel.
3. There will be minimal impact to the Master Plan or zone scheme. The building will house equipment that is usually located outside of a building, which is not particularly attractive. The result will be an improved visual impact in the area. The generator will operate in emergency situations so that the equipment designed to support the public is sustained and service is not interrupted, which is a benefit to the community.
4. Further relief can be granted pursuant to *N.J.S.A. 40:55D-70c* from the following Section 13-8.809 of the Township's zoning ordinance. *N.J.S.A. 40:55D-70c(1)* indicates that a variance may be granted under its "hardship" provisions, with the hardship being related to the exceptional narrowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in *N.J.S.A. 40:55D-2*) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
5. The proposed 7' wall, associated with the addition, will screen the air conditioning condenser in a more attractive method than the existing board-onboard fencing. The Applicant has taken steps to reduce the visual and noise impacts from the condenser. The building houses a data center/switch facility, which is supported by both the generator and air conditioner. The benefits of allowing the wall in excess of 4 feet, which is permitted in the zone, outweigh the detriments that may result from denying the requested relief. As previously stated, the proposed development supports the public good and promotes the objectives of the Municipal Land Use Law, the Master Plan and the zone scheme.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 8<sup>th</sup> day of February 2021 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. An electronic copy of the plans shall be provided in compatible CAD format.
3. A signed and sealed copy of the boundary survey shall be provided.
4. A minor soil moving permit required.
5. Applicant shall address any comments from the Fire Official.
6. Applicant shall address any comments from the Township Engineer.
7. A pre-construction meeting must be scheduled and completed prior to any construction.
8. Prior to a Certificate of Occupancy, Applicant shall provide an as-built survey after construction is completed.
9. Trash receptacles shall be enclosed and screened on all sides. Detailed shall be provided.
10. Adequate sight distance shall be maintained at intersections.
11. The proposed flood light shall be replaced with full cutoff lighting and not exceed the height of the fence.
12. The proposed brick and louver colors shall be indicated on the drawings to compliment the building façade.
13. The proposed/existing air conditioning condenser will be located along the Hunter Street building elevation and be screened by a gated 7' high brick wall enclosure extending no closer to Route 10 than the current enclosures. The new location shall be located on the site plan. Wall and gate details shall be provided.
14. The proposed transformer along Hunter Street shall be depicted in relation to the existing vegetation. Applicant shall provide shrubs in front of the transformer. Same shall be reviewed and approved by the Township Planner.
15. The height of the transformer shall be confirmed and noted.
16. Parking lot pavement and curb shall be repaired and parking spaced striped.
17. Improvements along Main Street, as specified by the Main Street Streetscape Design Standards shall be provided, if required by the Township Engineer.

18. Broken/cracked/uplifted sidewalk, along the Applicant's frontage, shall be repaired/replaced as directed by the Township Engineer.
19. Existing vegetation shall be identified and depicted on the drawings.
20. Landscaping shall be provided between the building addition and Route 10. Same to be reviewed and approved by the Township Planner.
21. Landscaping shall be provided along the existing and proposed fence/wall enclosures. Same to be reviewed and approved by the Township Planner.
22. The existing hedge along Main Street shall be replaced and the overall landscape treatment in this area shall be enhanced. Same to be reviewed and approved by the Township Planner.
23. Landscaping shall be provided to screen the parking lot from the road and adjoining residential properties. Same to be reviewed and approved by the Township Planner.
24. Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer.
25. Applicant shall pay a mandatory development fee in accordance with Section 13-7.829, as applicable.
26. Applicant shall submit a report prepared by an Acoustical Engineer to evaluate the noise levels for the condensing units and the proposed generator.
27. A sight triangle shall be provided prior to the issuance of Certificate of Occupancy. The sight triangle shall be subject to review and approval by the Township Engineer.
28. Applicant may obtain construction permits upon approval of the above conditions but prior to landscape compliance plan and identification of the curbing and sidewalks to be repaired or replaced, at the discretion of the Township Engineer. Landscaping and sidewalk repair/replacement shall be completed prior to the issuance of a Certificate of Occupancy.
29. Applicant shall provide proof of exemption from the ADA parking requirements in lieu of providing ADA parking stalls.

**ZBA-21-001 DAVIS.** Certificate of Non-Conforming Use for property located at 447 Route 46, Kenvil, Block 2613, Lot 12 in a B-1 zone.

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

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

*In the matter of Mark Davis, Executor for the Estate of Marilyn B. Davis*  
Case No. ZBA-20-001

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

Approved: February 8, 2021  
Memorialized: March 8, 2021

**WHEREAS**, Mark Davis, Executor for the Estate of Marilyn B. Davis, has applied to the Board of Adjustment, Township of Roxbury seeking a Certificate of Non-Conforming Use for premises located at 447 Route 46 and known as Block 2613, Lot 12 on the Tax Map of the Township of Roxbury which premises are in a “B-2” Zone; said proposal required relief from NJSA 40:55D-68 Certification of a Non-conforming Use of the Municipal Land Use and the Roxbury Township Land Use Ordinance; 13-7.7 et seq. 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. Patrick J. Dwyer, Esquire represented the Applicant.
2. The Applicant is the executor of the estate of Marilyn B. Davis. As such, he is the owner of the subject property.
3. The Applicant is seeking a Certification of Non-Conforming Use for the subject property pursuant to NJSA 40:55 D-68.
4. The Board received a report from Tom Potere, Zoning Officer, dated January 29, 2021.
5. Mr. Potere did an on-site inspection of the premises on January 29, 2021. His report noted the violations of the existing zoning ordinance:

*“The application before the board is for a preexisting nonconforming certification as outlined in this letter. The above mentioned property is located in a B-2 Zoning District on Route 46 within the Kenvil section of the Township. This property was built in 1925 as per the property record on file with the Tax Department. The left hand side of the house was added onto in the 1970’s and the total lot size of this property is 15,002.64 square feet.*

*I conducted an inspection on January 29, 2021 and determined there is a 2 ½ story house with a front porch and detached building on this property. It is a single-family home which has one electric meter on the exterior of the structure and one mail box. The detached building had been a garage at one time but was converted to a printing shop in the 1970’s. During my inspection one of the estate owners was living at the house and I was able to access the inside of the house during the inspection. It is a four bed room single-family house with two unfinished basements.*

*During my inspection I found the detached building to be vacant and where the building had garage doors at one time, they have been boarded up and replaced by a window and door way. Currently, § 13-8.700 Off Street Parking General requires a garage if one was provided. I would note that the detached building /*

*garage on the property should be addressed by the applicant. Please refer to the attached pictures taken during my inspection."*

§ 13-8.700 Off-Street Parking General

*E. No residential building permit (excluding multi-family) shall be granted for the erection of neither a new dwelling nor a Certificate of Occupancy issued unless the construction includes a garage for at least one (1) but not more than three (3) motor vehicles."*

*F. Existing dwellings having multiple-space garage, carport or approved shelter capability, to the extent such capability is required to meet subsection 13-8.701A, off-street parking requirements, must continue this capability. Existing dwellings having single-spaced garage, carport or approved shelter capability must continue this capability. Subject to the foregoing requirements, an existing garage may be replaced on site with either an attached or detached garage, but an existing garage may not be replaced by carport, shelter or outside parking space(s). All off-street parking space(s), including those located in garages, carports and approved shelters, shall be dimensioned at not less than nine (9) feet by eighteen (18) feet.*

§ 13-8.701A Parking Requirements.

*For residential developments, off-street parking shall be provided as set forth in Exhibit 1.*

**Exhibit 1**  
**Off-Street Parking Requirements For Residential Land Uses**

<b>Housing Unit Type/Size</b>	<b>Off-Street Parking Requirements</b>
	<i>Single-Family Detached/Attached</i>
<i>2 and 3 Bedroom</i>	<i>2.0</i>
<i>4 and 5 Bedroom</i>	<i>3.0</i>

6. Testimony, at the public hearing, was offered by the executor, Mark Davis. The Applicant is thoroughly familiar with the usage of the site since his parents purchased the home in the mid 1960's. His parents lived in the subject premises for a long period of time and noted the home has remained in his family since that time; his father having died in 2008 and his mother having died in 2018. Both continued to reside at the premises. He noted the timeline he provided noted the home was listed for sale as a residence in 2019. The house went under contract. The purchaser required mortgage financing and mortgage financing was denied by the lender. The Applicant stated the termination took place due to the fact that the subject property was not zoned for residential use. In fact, the zone B-2 is a non-residential zone.
7. At this point of the hearing, the Board entertained and analyzed questions relative to whether or not the Applicant met the necessary burden of proof to confirm the legality of a non-conforming use. Thus, the Board's analysis was tasked with answering the following questions:

- a. What was the use which existed on the property in question at the time of the adoption of the zoning ordinance – the evidence presented, by the Applicant, suggests that a residential use had taken place on the property for nearly 100 years. B-2 zoning did not take place until sometime prior to the Applicant’s purchase of the subject property. In any event, a couple of events took place that altered and made a significant change to the status of the property: In 1972, the property underwent a significant renovation. It does not appear that the addition was constructed with the benefit of any permits and clearly was a significant expansion of the non-conforming use. The premises had also contained an accessory structure (a garage) that was located on the side of the house (the location was depicted on drawings submitted with the application). The garage was subsequently transformed into an area that was utilized for the Applicant’s newspaper/advertising business. The garage was no longer utilized to store automobiles, but, in fact, was utilized to store newspapers, periodicals, advertising, etc. This change totally was inconsistent with the Township’s Land Use Law.
8. Mr. Potere’s report covered the new existing violations set forth on Page 1 and 2 of his report. Page 4 depicted the present iteration of the garage.
9. The Board is determined that the Applicant has clearly not met the appropriate standards for the confirmation of a non-conforming use.
10. The first part of the Applicant’s application is thus, **denied**.
11. The Applicant also had applied for alternative relief. A “D1” or “D2” variance. The public hearing continued into the variance relief phase of the application. The Board then applied the requirements necessary for affirmative relief as a “D1” or “D2” variance pursuant to NJSA 40:55D-70d. The Board notes there are six (6) separate “D” variances. The statute provides for six (6) different types of “D” variances. The subject application only applies to the use or principal structure in a district restricted against such use or principal structure or an expansion of a non-conforming use – this constitutes a “D1” variance.
12. The Board’s focus then turned to whether or not the Applicant had provided sufficient proofs to meet the requirements for the grant of a “D1” use variance.
13. As noted, an Applicant for a use variance must present evidence of the positive criteria for the grant of a use variance. Generally, there are sufficient “special reasons” for the grant of a “D” variance under two

broad circumstances: (1) when a refusal to allow the project would impose on the Applicant an undue hardship and/or (2) when a proposed project carries out a purpose of zoning as defined in N.J.S 40:55D-2.

**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. In this particular case, the Board is dealing with a structure that has existed on this site for almost 100 years. The existing structure had been subject to alterations during the course of those 100 years. They are set forth in the record above. The Board also notes the 2009 presentation to the Applicant (see Exhibit 7) a Commendation of this property received from the Township Historic Advisory Committee. The Commendation was for historic preservation. The Board notes the existing home was upgraded in 1972 and the end result was indeed a structure worthy of Commendation. It is obvious some care went into this addition. This aspect, along with the history of the site, constitutes a special reason sufficient to grant a “D1” use variance.
2. The Applicant has also agreed to readapt the accessory structure for utilization as a garage. It is not to be used for any commercial activities – strictly an accessory residential purpose. No utilities other than electric shall be utilized in the garage.
3. Based on the above, the Board finds that the Applicant has satisfied the proofs necessary to grant the relief requested by the Applicant.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 8<sup>th</sup> day of February 2021 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. The Applicant’s plans for the conversion of the garage shall be reviewed and approved by the Township Planner. There shall be no utilities other than electric utilized in the garage.
3. The use of the property shall be solely for one-family residential home.

**ZBA-21-002 SOS SERVICES, LLC.** Use Variance for property located at 438 Route 46, Kenvil, Block 2612, Lot 13 in an B-1 zone.

Ms. Robortaccio made a motion to memorialize the resolution, Mr. Overman seconded.  
*Roll call:* Ms. Robortaccio, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. D’Amato, yes; Ms. Dargel, yes; Dr. Kennedy, yes.

*In the matter of SOS Services, LLC*  
 Case No. ZBA-21-002

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

Approved: February 8, 2021  
 Memorialized: March 8, 2021

**WHEREAS**, SOS Services, LLC has applied to the Board of Adjustment, Township of Roxbury for permission to replace a pre-existing nonconforming sign with a new nonconforming sign requiring variance relief for premises located at 438 Route 46 and known as Block 2612, Lot 13 on the Tax Map of the Township of Roxbury which premises are in a “B-2” Zone; said proposal required relief from Sections 13-8.916B2, 13-8.917A1, & 13-8.917A2 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. Glenn Williams, Esquire represented the Applicant.
2. The Applicant is a Limited Liability Company and the owner of the subject property.
3. The Applicant was proposing to replace a pre-existing nonconforming sign with a new nonconforming sign requiring variance relief.
4. Applicant received a letter of denial dated 12/17/20 revised 1/12/21 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:

<b>Section</b>	<b>Permitted</b>	<b>Existing</b>	<b>Proposed</b>
§ 13-8.916B2 Signs in Nonresidential Zoning Districts in the B-1 District	One (1) freestanding sign per lot, not to exceed the following standards which are based upon the predominant street exposure: Street Name (Route 46), Maximum Freestanding Sign Size (55 sq. ft.), Minimum Freestanding Sign Setback (15 feet), Maximum Freestanding Sign Height (18 feet)	Two nonconforming signs.	Proposed one sign - 24 Sq. Ft., 7.33 feet tall.
§ 13-8.917A1 Nonconforming Signs	No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign.	Two nonconforming signs.	Proposed one sign - 24 Sq. Ft., 7.33 feet

Township of Roxbury  
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March 08, 2021

	No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.		tall.
§ 13-8.917A2 Nonconforming Signs	A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Section.	Two nonconforming signs.	Proposed one sign - 24 Sq. Ft., 7.33 feet tall.

5. During the course, of the public hearing, it became clear that the existing signage associated with the site, is actually located within the right-of-way of Route 46 thus, any relief granted to the Applicant, would have to be located entirely on the Applicant’s property. As noted, the Applicant expressed a willingness to reduce the size of the sign to 24 square feet. The proposed sign was depicted on Exhibit 5 submitted with the application. When the Applicant became aware of the issue with the sign, the Applicant agreed to move the sign to a conforming location. (Exhibit 6 is a survey showing the proposed sign location.) The Applicant was proposing to construct the sign in the area depicted on Exhibit 6. No part of the sign shall encroach into or over the right-of-way of Route 46.

**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 general testimony of the Applicant, Ray Sosnovik, to be competent and credible.
2. The site is a commercial site. It is obviously in need of a reasonable and compatible sign for this location.
3. The Board finds the Applicant’s proposal to be reasonable under the circumstances and the setback relief being granted is also appropriate under the circumstances.
4. With the Applicants exhibits, there were numerous pictures of similar signs throughout the general area in Roxbury. It is clear this proposed sign is essentially compatible with existing signage for similar commercial enterprises.
5. When questioned, the Applicant agreed that lighting for the sign would be dimmable and turned off no later than 10:00 PM in the evening.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the

Township Roxbury on the 8<sup>th</sup> day of February 2021 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 provide a survey showing the location of the proposed sign, the color detail for the proposed sign, as well as the lighting detail.
3. The Applicant is reminded that the Applicant's property is located adjacent to a State Highway – the New Jersey Department of Transportation has jurisdiction over the State Highway. The Applicant must avoid any interference with the right-of-way of the State Highway. The sign shall be setback a minimum of 10.4 feet from the back of curb. In addition, the location of the sign must not interfere with the operation of motor vehicles into and out of the Applicant's premises.
4. The details of the sign and lighting shall be reviewed and approved by the Township Planner.
5. Sign illumination shall be dimmable and turned off not later than 10:00 pm.

**APPLICATIONS:**

**ZBA-20-004 SPEICHER**, Minor Subdivision, "D2" Variance for property located at 280 Old Ledgewood Road, Flanders, Block 9303, Lot 1, 3 & 4 in a B1-A zone. *Request to be carried to April 12, 2020 with no further notification.*

**ZBA-20-023 PISANO**, Variance relief for property located at 4 Bell Court, Landing, Block 11302, Lot 9 in an R-3 zone. *Request to be carried to April 12, 2020 with no further notification.*

**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. *Request to be carried to April 12, 2021 notification required.*

**ZBA-20-024 EGBERT**, Use Variance for property located at 31 Berkshire Valley Road, Kenvil, Block 4003, Lot 6 in an R-3 zone.

Ms. Hubbard swore in Mr. William A. Egbert of 25 Little Lane, Wharton. Mr. Heymann Attorney for Mr. Egbert asked Mr. Egbert if he was the owner of 31 Berkshire Valley Road, Block 4003, Lot 6 in an R-3 zone. Mr. Egbert replied yes. Mr. Heyman asked Mr. Egbert how long he has owned the property. Mr. Egbert replied since 1978. Mr. Heymann asked Mr. Egbert to give a brief overview of the property. Mr. Egbert replied in 1982 he received a variance from the Zoning Board that allowed the property to maintain a retail use on the first floor and residential space on the second floor. Mr. Egbert stated he maintained a monogramming shop on and off for a number of years since 1982. Mr. Heymann asked Mr. Egbert how many bedrooms exist in the upstairs unit. Mr. Egbert replied two. Mr. Heymann asked if both units were currently vacant. Mr. Egbert replied yes. Mr. Heymann asked Mr. Egbert if was seeking to change the footprint of the building. Mr. Egbert replied no. Mr. Heymann asked the Board to look at Egbert Exhibit 7 which showed a series of photos depicting the elevation of the property. Mr. Stern asked Mr. Egbert to clarify if the first floor of the proposal is for a one bedroom unit. Mr. Egbert replied that he has revised his plans and will now be proposing a two bedroom unit. Mr. Heymann went on to discuss Egbert Exhibit 7 a photo that is a direct view of the front of the property, showing the first floor as a retail space and the second floor as a residential space.

Mr. Heymann addressed Mr. Stern's report noting it is Mr. Stern's request that the gravel be removed from the front of the property as shown in the survey Mr. Wunner prepared. Mr. Egbert agreed to remove the gravel and

create spaces for parking. Mr. Heymann asked Mr. Egbert if he is seeking to get approval for four parking spaces. Mr. Egbert replied yes. Mr. Heymann asked Mr. Egbert if he owned the adjacent Lot 5. Mr. Egbert replied yes and that he used to own the adjacent Lot 7 as well. Mr. Heymann asked if the driveway that is shown in Exhibit 7 is on Lot 5. Mr. Egbert replied yes. Mr. Heymann stated that Mr. Stern suggested if Lot 5 or 6 is sold, an easement agreement should be drawn up. Mr. Egbert and Mr. Heymann agreed to Mr. Stern's suggestion. Mr. Heymann then referred to Mr. Stern's report and asked Mr. Egbert what he intended to do with the shed on the property. Mr. Egbert replied it is his intention to rehabilitate it. Mr. Egbert stated the shed was used as a garage that serviced the house on Lot 7, in which Mr. Egbert used to own. Mr. Egbert stated he will close up the wall on the right side and put a door on the left side so it can be used as storage for the residents of the units.

Mr. Heymann asked Mr. Egbert if he would be agreeable to putting in some form of landscaping in the front of the property to give it a buffer making it look more attractive. Mr. Egbert agreed.

Mr. Overman commented that the parking being proposed in the front of the property is located near a very busy intersection causing concerns regarding sight distance. Mr. Overman then asked Mr. Egbert what could he tell the Board about any past issues pulling in and out of the property, especially when the bottom floor was a retail space. Mr. Egbert testified that he had concerns regarding that matter the whole time he owned the property, especially when the retail space was operational. Mr. Egbert went on to explain that is why he is asking that the retail space be converted to residential space, making it a much less intense use and more conforming to the surrounding properties. Mr. Heymann asked Mr. Egbert if the residents can use the driveway to back in and out of property. Mr. Egbert replied yes, and the parking spaces exit onto the driveway to assist in backing out.

Dr. Kennedy asked if Berkshire Valley Road is a County Road. Mr. Stern replied yes. Dr. Kennedy asked if the County has certain requirements that need to be accommodated. Mr. Stern replied Mr. Egbert stated there is currently a 65-70 foot length along the roadway of gravel and that gravel was a parking area for the retail establishment and what Mr. Egbert is proposing is the elimination of quite a bit of the gravel. Dr. Kennedy asked if the residents can only come out of one exit/entrance. Mr. Stern replied correct; there is no flow thru the property and the only use will be the existing driveway.

Mr. Heymann stated he submitted an application to the County and they are awaiting on the response. Mr. Heymann noted he spoke to Mr. Perry of the County and the County will not have any significant comments to be made regarding the application.

Dr. Kennedy asked if the property requires a garage due to the fact it is located in the R-3 zone. Mr. Stern replied, the R-3 does require a garage but, there is no garage on the property currently and there has never been a garage. Mr. Overman then questioned Exhibit 4A which showed a garage on the survey. Mr. Egbert replied what Mr. Overmann is speaking of is what is considered the current shed. He following up with the shed was considered a garage by the 1930's standards and was used as a garage for many years. Mr. Egbert stated its dimensions are 18 feet by 19 feet. Dr. Kennedy asked if the Board had to issue a variance due to the fact there is no garage on the property. Mr. Stern replied no, it would be a design waiver. Mr. Overmann asked if there is driveway access to the garage. Mr. Egbert replied yes there is a driveway access to the right of the shed. Mr. Overman asked Mr. Egbert to describe the condition of the shed. Mr. Egbert went on to explain the shed needs repair and its driveway access is covered by an easement.

Mr. Stern went on to explain Mr. Egbert has provided a parking plan that is necessary for the two residential units and based upon the garage's proximity Mr. Stern felt that the residents would probably not use it to park a vehicles in. Ms. Dargel asked Mr. Stern if it was common to have a garage for a multifamily dwelling. Mr. Stern replied two family dwellings at times do have garages but there are times that they don't. Mr. Stern stated that as a Planner, he did not see substantial detriment should a garage not be provided and while it is very customary in Roxbury to have a garage associated with a single family dwelling, Roxbury does not have a lot of two family dwellings and the ones they do have tend not to have garages.

Ms. Robertaccio stated she noticed the property before the Board was up for sale and asked Mr. Heymann would the proposed improvements to the site be done prior to the sale. Mr. Heymann replied Mr. Egbert has a purchaser under contract and the potential buyer knows Mr. Egbert is before the Board. Mr. Heymann went on to state that the specifics of who will do the improvements will have to be worked out between the buyer and

seller, noting nothing had been resolved as of yet. Mr. Heymann stated the buyer would have to abide by the conditions of the resolution as well as the condition in which to convert the retail space into a residential space. Ms. Robortaccio asked who would be responsible for the repair of the shed. Mr. Heymann replied the owner by making it a condition of the certificate of occupancy. Mr. Heymann stated if the shed cannot be saved it will have to be taken down and Mr. Egbert concurred. Ms. Robortaccio asked Mr. Stern if the Board can approve the application knowing the property may be sold and the work may not be done by the current applicant. Mr. Stern replied yes; there will be a resolution with required conditions that need to be met in order to obtain a zoning permit and a certificate of occupancy.

Mr. Stern asked Mr. Egbert if he would be paving the proposed parking spaces. Mr. Egbert replied; yes. Dr. Kennedy asked how it would impact the impervious coverage. Mr. Stern replied; it would fall within compliance. Dr. Kennedy asked if the applicant is requesting a one bedroom or a two bedroom unit on the first floor. Mr. Egbert replied; a two bedroom unit.

Motion was made to open to the public for comments – none were made  
Motion was made to close to the public

Mr. Heymann called forward Ms. Jessica Caldwell to provide testimony as a Planner. Ms. Hubbard swore in Ms. Caldwell of 145 Spring Street, Newton, NJ 07860. Ms. Caldwell went onto testify the applicant is proposing two parking spaces in front of the home and two at the end of the driveway and in addition will be removing the gravel area as shown on the survey. Ms. Caldwell testified there are shrubs proposed between the parking spaces and the residence in which the applicant has agreed to work with Mr. Stern on some additional landscaping. Ms. Caldwell stated that what is called the framed garage on the plans is what the applicant is proposing as use for storage. There is a driveway adjacent, however Mr. Stern mentioned there really is no vehicular access and the applicant is not proposing to make it accessible to vehicles. Given the odd shape of the lot it would be difficult to put a garage in that connects to the existing driveway. As Mr. Stern previously discussed, it would not be completely out of character for a two family home not to have a garage and just surface parking, hence the applicant is requesting a design waiver. Ms. Caldwell went on to present (Exhibit A-1 Aerial View 03-08-21) which showed an aerial view of the site and surrounding properties within 200' of 31 Berkshire Valley Road. The exhibit showed the surrounding properties to the west were typically single family residences and to the north mostly undeveloped land zoned PO-LI and to the southeast a landscaping and grounds maintenance firm in the OR Zone. The character of the area directly surrounding the proposed use is residential, although there is some mix of uses as you go further up the road. Ms. Caldwell stated what the applicant is proposing is the R-3 zone and is a "D1" Use Variance to convert a commercial space into a two bedroom apartment, noting there would also be a two bedroom unit on the second floor. Ms. Caldwell noted there are two parking spaces required per unit per RSIS and the applicant is proposing four spaces. Ms. Caldwell then went on to address the positive and negative criteria of the "D1" Use Variance. Ms. Caldwell testified that under case law, determining that a site is particularly suited for this specific use meets the general welfare purpose, which is purpose A. Ms. Caldwell believes this site is particularly suited for a variety of reasons, one being this is a building that can be easily converted to a residential unit as well having adequate parking on the site. The existing structure fits into the character of the neighborhood and is not proposed to be changed dramatically in its exterior, for example there will be no expansion of the foot print. The lot is one and a half the minimum for the zone which provides for adequate yard and open space. The proposal also includes the deteriorating garage to be rehabilitated and additional landscaping to be installed. The proposal includes a reduction in impervious coverage. There is no substantial detriment to the public good as well as no substantial detriment to the Master Plan and Ordinances and the higher burden of proof in terms of reconciling the proposed use of the Master Plan. The site will be buffered with existing open yard and landscaping allowing the two-family home to blend into the neighborhood and the residential use will be in keeping with the surrounding uses more so than the approved commercial/retail. In terms of substantial detriment to the Master Plan and Ordinances, this piece of property is a unique mixed use property in the R-3 zone and the location, size and shape of the existing structure would not be easily replicated such that is does not negatively impact the Master Plan Ordinances or zoning regulations. In terms of the enhanced quality of proof, the Master Plan does not really contemplate two-family homes, how given the existing commercial use, the residential use is more within keeping of the zone, therefore more in keeping with the Master Plan which was approved by the Board of Adjustment in 1982.

Dr. Kennedy made the statement that renters of today generally use two cars and that is why the Ordinance requires two parking spots for each apartment. Dr. Kennedy went on to ask, where would guest vehicles park, noting parking along the roadway would be dangerous. Dr. Kennedy then went onto ask if the Board should require more parking spaces. Mr. Heymann replied that there is a lengthy driveway that is adequate for additional parking. Mr. Stern measured the driveway to be 75 feet in length from the parking spaces.

Mr. Overman asked Ms. Caldwell why this property is particularly suited for this zoning, noting it is a multi-family. Ms. Caldwell explained that it really goes to the existing structure which has two units of residential space and one unit of commercial/retail space and has zoning board approval to remain as it is. Mr. Overman replied that it is not a great location for multi-family use. Mr. Heymann stated that in what is going on in the world today with retail space and malls losing stores, the probability is the space will remain the same, a vacant empty bottom retail space. Ms. Caldwell agreed and stated there is adequate parking, open space, the building is easily converted, it is a two-family and is not really a multi-family by Land Use Law. One-family and two-family homes are treated the same in Land Use Law. One and two family residences are often permitted in the same zone. Ms. Caldwell does not believe this parcel is a multi-family home. Multi-family homes require site plans. Mr. Heymann asked Ms. Caldwell if she agreed with Mr. Stern's report stating it is more conducive to bring this property into the full residential use to conform with the R-3 zone than it currently is as a use. Ms. Caldwell replied; yes. Mr. Overman asked if this property were being converted from its existing variance to a single-family use, would you be before the Board today. Mr. Heymann replied no, the applicant would submit a zoning permit and if he fell in compliance there would be no need to come before the Board. Mr. Overman stated then it is the burden of applicant to convince the Board that this should remain a non-conforming structure. Mr. Heymann replied it is his position that currently the property is an eye-sore which will remain or the Board will force Mr. Egbert to try and find a commercial tenant which in the middle of this residential zone under the current economy will be quite difficult to do. Mr. Overman replied or Mr. Egbert can sell it to someone who will convert the property back to a single family use. Dr. Kennedy asked Mr. Heymann if the contract is contingent on make the property a two-family dwelling. Mr. Heymann replied yes.

Mr. Egbert stated that he has been on the property for 42 years and has gone back and forth on whether to keep the property as a retail use or convert it to a single-family. Mr. Egbert said his thoughts on a single-family are as follows, the footprint of the building is 1,000 square feet and to take the building and convert it to a modern single family residence has great limitations to it, such as where to put the stairwell. He noted 1000 square feet is not conducive to a residential structure. Mr. Egbert stated he no longer wanted the retail space and agreed that it is an intense use, so what he is proposing a less intense use which is more consistent with the residential character of the neighborhood. Mr. Egbert stated the prospective purchaser would like to better the property and convert it to a two-family home. Mr. Overman asked why the property is unique and others in the area not. Mr. Egbert replied because when he received the variance in 1982, he dedicated the right-of-way in front of the property to the Township of Roxbury, noting he would have had a larger front yard had he not done so. Mr. Egbert again stated it is his opinion that the home doesn't lend well to convert to a single-family and in addition there is a need for residential apartments in Roxbury Township. Ms. Caldwell agreed that conversion back to single family would be difficult and not well suited to this property as the existing structure is well suited to conversion to two apartments and that is part of the particular suitability. It is a lawfully existing structure and applicant is looking to make it more residential in keeping with the zone. The property has one and a half times the zones minimum lot size, so it is larger than some of the other lots in the area.

Mr. Stern stated that the application needs Morris County Planning Board approval.

Motion was made to open to the public for comments – none were made  
Motion was made to close to the public

Mr. D'Amato made a motion to approve the application, Mr. Overman seconded.

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

**ZBA-21-005 DEROSA.** Bulk Variance relief for property located at 2 Lisa Court, Succasunna, Block 4801, Lot 7 in an R-2 zone.

Ms. Hubbard swore in Kimberly DeRosa of 2 Lisa Court, Succasunna, NJ 07876 and Jason Hunt of 2 Lisa Court, Succasunna, NJ 07876. Mr. Hunt went on to testify that they are seeking to install an above ground pool which requires a variance due to the bulk standard requirement of a 50 foot rear yard set-back. Mr. Hunter state the household has four teenage boys and the pool would provide great recreational use.

Mr. Stern stated the principle rear yard set-back is applied to this application because the pool is connected to the deck which is attached to the dwelling. So by zoning code this is all viewed as one big building even though its mass is much less than an actual two-story dwelling. If the applicant just constructed a pool, the above ground pool would be permitted because it maintains a 15 foot minimum set-back, but it is only because the pool is attached to the deck which is attached to the dwelling that sends the applicants before the Board. Mr. Stern noted, if the Board recalls, there was an application a few months back which is located directly behind the current applicant and that applicant had a similar proposal and the prior applicant stated there was a large Arborvitae hedge between the two properties. Ms. DeRosa concurred with Mr. Stern's statement.

Ms. Dargel made the statement that this property is a corner lot which makes it a uniquely situated. Mr. Stern stated it is also undersized by approximately 8,000 square feet, the zone requires 25,000 square feet and the applicant is approximately 17,000 square feet.

Dr. Kennedy asked the Mr. Hunt if he considered not attaching the pool to the deck. Mr. Hunt replied yes they had considered detaching it, but even if they did they still would not meet the set-back requirement due to the undersized lot. Dr. Kennedy then asked the applicants if it was their intent to install fencing around the pool. Mr. Hunt replied the drawing submitted shows a deck with a railing encompassing the west side of the pool and it is their intent in the future to fence in the pool area, but it is not in the plans currently before the Board.

Mr. Overmann made the statement that upon his review of aerial photos of the area, it is not out of character to have a pool and most of them are at the fifteen foot buffer.

Motion was made to open to the public for comments - Karen and Keith Kurtzer of 4 Lisa Court were sworn in by Ms. Hubbard. Ms. Kurtzer went on to testify that her neighbors directly behind her at 3 Kelly Drive put up a Home Depot pool without permits and that the children had no adult supervision in the yard noting there are a lot of small children in the neighborhood. Ms. Kurtzer stated she was very concerned about the situation and the Town stepped in and let the owner know they required a variance and the owner never pursued getting the variance and a fence was never put up nor a gate on the ladder to the pool. Mr. Kurtzer noted the residents at 1 Kelly Drive are putting up a pool, and now a pool is going in next door. Ms. Kurtzer stated they are on the downslope and are concerned with the security and their safety should mother-nature cause any destruction to the pool. Ms. DeRosa stated that unsupervised children are not the case in her yard and that her children are supervised. Ms. Kurtzer stated maybe the other children will come to her yard. Mrs. DeRosa replied that she would not allow it. Ms. Kurtzer reiterated that at the property behind her the adults are not out in the yard watching the children. Mr. Hunter replied he not that neighbor. Ms. Robortaccio stated that the testimony is getting into neighborhood stuff and is not in the realm of the Board. Ms. Robortaccio told Ms. Kurtzer if she has a problem with the neighbor who did not apply for permits and feels that they may be in violation, she can call the Township Zoning Officer and have him take a look. Ms. Kurtzer replied she already did and is only expressing her concern with what the neighborhood looks like and where the pool is going to be should anything happen structurally, noting it will it come down to her property. Dr. Kennedy stated we need to make sure we focus on the application at hand and only the application, anything regarding what you have been speaking of can be handling by calling the Zoning Officer or the appropriate authorities. Dr. Kennedy asked Ms. Kurtzer if she had anything specific to this application other than the drainage. Ms. Kurtzer replied no, only the security of the pool so that no one can wander onto the property and into the pool.

Mr. Overman stated what was said earlier was if the pool wasn't attached to the deck and the house, the applicant would not be before the Board and would simply just be able to get a building permit to construct the pool exactly where she wants to construct it, so the pool itself is not prohibited in the zone. Mr. Overman went on to state the deck makes logical sense when installing an above ground pool paving the way to make the pool more functional and even add security because now the access to the pool is limited to the deck as opposed to an external staircase, which could then be accessed by anybody coming onto the property. As far as the drainage is concerned, this pool is not placing the property over on impervious coverage.

Motion was made to close to the public

Ms. Robortaccio made a motion to approve the application, Mr. D'Amato seconded.

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

**ZBA-21-003 CORBO.** Bulk Variance relief for property located at 45 Unneberg Avenue, Succasunna, Block 3201, Lot 19 in an R-2 zone.

Ms. Hubbard swore in Thomas and Stephanie Corbo of 45 Unneberg Avenue, Succasunna, NJ 07876. Mr. Corbo went on to testify they would like to build an addition by going over an existing garage that is attached to the home by using the existing footprint. The need for variance relief is because the garage is a pre-existing non-conforming and is located too close to the front property line. Mr. Corbo further stated they reason for the addition is to create more bedroom space.

Mr. Stern stated he wanted the Board to be aware that the applicants are building the addition over a garage where the existing garage does not conform to the minimum setback requirement of the R-2 zone which is 50 feet. The existing garage is at 36 feet and a variance is required because the applicants are proposing to put mass in the set-back area which is why they are currently before the Board of Adjustment. Ms. Robortaccio stated the applicants are not coming out any further then where they are now. Mr. Corbo concurred. Mr. Overman asked the applicants if they are looking to extend the existing roof-line. Mr. Corbo replied that the existing roof-line would not match up to give enough height in the garage so they will have to go a little bit higher to get the ceiling height they are looking for. Ms. Dargel stated that the applicant still would not be higher than the ordinance allows for a single family home. Mr. Corbo replied no, they are much lower. Mr. Stern confirmed they are in compliance. Ms. Hubbard asked if the carport on the plan currently on the property. Mr. Corbo replied yes. Dr. Kennedy asked if the properties surrounding the Corbo property are two story dwellings as well. Mr. Corbo replied yes and they have the smallest house on the street. Ms. Dargel stated she noticed the septic field is in the back of the yard and making it hard to extend in the back of the house. Mr. Corbo replied yes and that would increase construction costs to do so. Mr. Stern let Mr. Corbo know, if the Board approves the application, they will need Health Department approval because of the septic system. Mr. D'Amato asked if the same amount of people will be living in the home. Mr. Corbo replied yes.

Motion was made to open to the public for comments – none were made

Motion was made to close to the public

Mr. D'Amato made a motion to approve the application, Mr. Klein seconded.

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

NEW BUSINESS: None

OLD BUSINESS: None

Motion to adjourn 9:00 pm

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY  
*Tracy Osetec, Board Secretary*  
*March 31, 2021*