

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, April 10, 2023 at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ, after a salute to the flag, Dr. Kennedy, Chairman read the “Open Public Meetings Act”.

**BOARD MEMBERS PRESENT**

Mr. Summers, Ms. Dawson, Ms. Robortaccio, Mr. Furey, and Dr. Kennedy

*ABSENT: Mr. Overman, Mr. Klein, and Ms. Dargel*

**PROFESSIONAL STAFF**

Mr. Russell Stern, P.P.

Mr. Kataryniak, PE, PTOE, Ferriero Engineering

Ms. Alyse Hubbard, Esq.

**MINUTES OF MARCH 13, 2023**

Ms. Dawson made a motion to approve the minutes of the March 13, 2023.

Ms. Robortaccio seconded.

*Roll call:* Ms. Dawson, yes; Ms. Robortaccio, yes; Mr. Summers, yes; Mr. Furey, yes; Dr. Kennedy, yes.

**RESOLUTIONS:**

**ZBA-22-026 BLANTON**, Bulk Variance relief for property located at 215 Kingsland Avenue, Landing, Block 11002, Lot 32 in a R-3 zone.

Ms. Robortaccio made a motion to memorialize the resolution.

Mr. Furey seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. Furey, yes; Mr. Summers, yes; Ms. Dawson, yes; Dr. Kennedy, yes.

*In the matter of Ayla and Chris Blanton*

*Case No. ZBA-22-026*

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

Approved: March 13, 2023

Memorialized: April 10, 2023

**WHEREAS**, Ayla and Chris Blanton have applied to the Zoning Board of Adjustment of the Township of Roxbury seeking to construct a new single-family dwelling for premises located at 215 Kingsland Avenue, and known as Block 11002, Lot 32 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Residential Zone; said proposal required relief from Sections 13-7.1301D.5(a), 13-7.1301D.6(a), 13-7.1201D8, 13-7.819 and 13-8.700E 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:

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1. The Applicant is the owner of the subject property, which contained a dilapidated structure. The Applicant proposes to demolish the existing structure and construct a new two-story single-family home with a garage, driveway, deck and patio.
2. The Applicant submitted the following documents:
  - a. Architectural Drawings, “Design of New Dwelling” prepared by Jeffrey R. McEntee, Architect, L.L.C., dated May 31, 2022, revised November 2, 2022, consisting of four (4) sheets.
  - b. Architectural Renderings, prepared by Jeffrey R. McEntee, dated August 29, 2022, labeled A-5 and A-6.
  - c. Planning Report, “Blanton Residence” prepared by Jessica C. Caldwell, P.P., A.I.C.P dated June 13, 2022.
  - d. Site Plan, prepared by Roth Engineering, dated June 14, 2022, revised through February 7, 2023, consisting of three (3) sheets.
  - e. Stormwater Management System Operations and Maintenance Manual, prepared by Roth Engineering, dated February 7, 2023.
  - f. Zoning Denial prepared by Tom Potere, Zoning Officer, dated September 23, 2022, and revised November 7, 2022 and March 3, 2023.
  - g. Coverage and Lake Buffer Analysis for Kingsland Road, prepared by Roth Engineering, dated November 1, 2022 and received by the Board on November 3, 2022.
3. The Board received the following memorandums:
  - a. Michael Kobylarz, Township Engineer, dated September 30, 2022
  - b. H. Ronald Smith, Chairman, Lake Hopatcong Commission, dated September 29, 2022 and February 22, 2023
4. The subject application seeks bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) from the following Sections of the Township’s Zoning Ordinance:
  - a. Section 13-7.1301D.5(a) – Minimum Rear Yard Setback: 35 feet is required, 74.8 feet is existing, and 24.1 feet is proposed to the deck.
  - b. Section 13-7.1301D.6(a) – Minimum Side Yard Setback: 10 feet is required, 3 feet is existing, 9.1 feet is proposed to the deck.

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- c. Section 13-7.1301D8 – Maximum Impervious Coverage: 25% permitted, 17.9% is existing and 38.7% is proposed.
  - d. Section 13-7.1301D8 – Maximum Building Coverage: 15% is permitted, 13% is existing, 25.37% is proposed.
  - e. Section 13-7.819 – No disturbance including the construction of a structure, shall be permitted within 50 feet from the bank of a lake; the house is proposed at 37.9 feet from Lake Hopatcong, the deck is proposed at 24.1 feet from Lake Hopatcong, and the deck steps are proposed at 23 feet from Lake Hopatcong.
  - f. A waiver is necessary from Section 13-8.700E of the Township’s Land Use Ordinance: no residential building permit shall be granted for the erection of a new dwelling that includes a garage for more than three (3) motor vehicles, four (4) spaces are proposed. *The waiver was eliminated during the hearing, the Applicant will have three (3) parking stalls and one (1) storage area.*
5. Duly noticed public hearings were held on October 3, 2022, December 12, 2022, and March 13, 2023, at which time Christopher Blanton presented sworn testimony in support of the application, along with Jeffrey McEntee, Architect, Michael Roth, Professional Engineer, and Jessica C. Caldwell, Professional Planner, who were all accepted as experts in their respective fields and duly sworn in. The subject property is an undersized lot consisting of 7,435 square feet, where 15,000 square feet is the minimum lot area. It is also nonconforming as to lot width (minimum 100 feet, 69.3’ to 49’ existing) and lot frontage (minimum lot frontage of 90 feet, 69.3’ existing). The existing structure has a footprint of 938 square feet and is in a nonconforming location in the northeastern corner of the property.
6. Mr. McEntee testified that he worked with the Applicant to design a new 2½ story, single-family dwelling with modern amenities and an aesthetically pleasing exterior. Referring to Drawing A-1, the witness explained that proposed roof lines and recessed portion of the façade were designed to reduce the appearance of mass. There is a covered porch entrance and two garage doors on the front elevation. The rear elevation contains a second story covered balcony with cable rail system, a wood deck and patio below the deck.

7. Drawing A-2 includes the site plan and zoning table, as well as the Basement and Foundation Plan. The proposed dwelling will have conforming front and side yard setbacks. The basement includes an oversized garage, to allow for household and recreation equipment, as well as boat storage. There is a studio, storage and mechanical room as well.
8. Drawing A-3 depicts the first and second floor layouts. The first floor, consisting of 2,026 square feet, has an open concept layout with a living room, kitchen and dining room in the rear. A conservatory, pantry, bathroom, and entrance with foyer are located in the front portion of the main floor. The second floor, consisting of 1,243 square feet, has three (3) bedrooms, two (2) bathrooms and a laundry room with a loft overlooking the living room. A second story covered balcony is proposed above a portion of the proposed deck, which has stairs leading to the rear yard. Drawing A-4 provides the side yard elevations. It was noted that a small portion of the deck violates the side yard setback by less than one foot, as the property narrows as it approaches the lake.
9. The Board raised questions regarding the size of the home on an undersized lot and a discussion took place regarding similarly situated homes in the area.
10. Mr. Roth presented an overview of the site plan and bulk variances, noting that the proposed structure is conforming as to height, front and side yard setbacks. A waiver is needed, as a four-car garage is proposed where only a three-car garage is permitted. Further relief is needed for maximum building coverage of 27.6% where 15% is permitted and maximum impervious coverage of 45.4% where 25% is permitted.
11. The proposed stormwater management system will collect the runoff from the roof and the driveway, which will flow into a drywell, which will be an improvement to the current situation. A ridge is proposed in the center of the property with a swale that serves to maintain the runoff on site and away from adjacent properties. A portion of the driveway is captured by a trench drain and everything beyond that drains toward the street.
12. Ms. Caldwell presented some brief planning testimony, and the meeting was carried to November 14, 2022, where there was no testimony presented. On December 12, 2022, the Applicant returned to the Board with revised plans that reduced the depth of the structure by 4 feet, removed the proposed paver patio, resulting in a reduction in impervious coverage by

- 2.33%. Additionally, the original proposal had a rear yard setback of 13.2 feet and the revised plans have a 23-foot setback, where 50 is required from the lake. There is an overall reduction of the building footprint from 1860 sf to 1484 sf. Additionally, the drywell design was revised based on comments from Mr. Kobylarz to comply with the required setbacks.
13. In analyzing the total coverage and lake buffer, Mr. Roth compared the subject property to nine neighboring properties and testified that this property is the fourth highest, out of nine, regarding building coverage. The lake buffer is also consistent with the neighboring properties, which have decks and patios within the buffer.
  14. At the request of the Board, the Applicant further scaled back the project and returned to the Board on March 13, 2023. As more specifically explained in a letter from Roth Engineering, LLC, dated February 7, 2023, the stormwater management system is proposed, including two drywells that will collect the runoff from the roof. The drainage pattern directs a portion of the runoff to the lake and a portion toward Kingsland Avenue. The Applicant received Certification from the Morris County Soil Conservation District and is proposing to exceed the requirements by utilizing two super silt fences to be utilized during construction. A rain garden will be created adjacent to the lake on the western side of the property, which will protect the quality of the lake. The project proposes stormwater management measures that provide water quality, quantity, and recharge and are designed to protect Lake Hopatcong. It was noted that the patio in the rear of the home is landscape gravel and there is lawn and landscaping on both sides of the home which will reduce runoff. Finally, the Applicant received a letter, dated February 22, 2022, from the Lake Hopatcong Commission, noting that the Applicant has complied with the Commission's recommendations, and they support the application.
  15. A discussion ensued regarding the garage, as it allowed for four (4) parking stalls and only three (3) are permitted by the Township's Zoning Ordinance. The Applicant agreed that one of the garage parking stalls would only be utilized as a storage area.
  16. Ms. Caldwell was called again to provide planning testimony in support of the application and opined that the positive and negative criteria were met by this application. The subject property is an isolated, undersized lot that narrows toward the lake with nonconforming

conditions that create a hardship for compliance with the zoning requirements. The proposed dwelling is consistent with the neighborhood in size and scale.

17. The project will remove a dilapidated structure and replace it with a modern, aesthetically pleasing dwelling that will fit nicely in the community. The Applicant worked with the Lake Hopatcong Commission and addressed its concerns, as well as the concerns raised by the Board by downsizing and minimizing development. Stormwater Management Controls are proposed to mitigate the impact of development, and the measures exceed the requirements of the Morris County Soil Conservation District.
18. During the public portions of the hearing, the neighboring property owners raised questions and concerns regarding the height of the retaining wall and impact on drainage. Additionally, concerns were raised regarding the proximity of the house and the adjacent properties and the effect that would have on the neighbors' quality of life. It was noted that decks are not necessities that should result in granting a variance. Finally, members of the public opined that the house is too big for the lot and may block lake views of the neighbors.

**WHEREAS**, the Board has determined that the relief requested by the Applicants 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 found the witness testimony to be competent and credible. The Board determined that relief can be granted pursuant to N.J.S.A. 40:55D-70(c) from the following Sections of the municipal zoning ordinance:
  - a. Section 13-7.1301D.5(a) – Minimum Rear Yard Setback: 35 feet is required, 74.8 feet is existing, and a 24.1-foot setback to the deck is approved.
  - b. Section 13-7.1301D.6(a) – Minimum Side Yard Setback: 10 feet is required, 3 feet is existing, and a 9.1-foot setback to the deck is approved.
  - c. Section 13-7.1301D8 – Maximum Impervious Coverage: 25% permitted, 17.9% is existing and 38.7% impervious coverage is approved.
  - d. Section 13-7.1301D8 – Maximum Building Coverage: 15% is permitted, 13% is existing, 25.37% building coverage is approved.

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- e. Section 13-7.819 – No disturbance, including the construction of a structure, shall be permitted within 50 feet from the bank of a lake: the house is approved at 37.9 feet from Lake Hopatcong, the deck is approved at 24.1 feet from Lake Hopatcong, and the deck steps are approved at 23 feet from Lake Hopatcong.
2. N.J.S.A. 40:55D-70(c)(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, 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.
3. The subject property is an undersized lot, that narrows toward the lake, which creates a hardship with regard to constructing a conforming structure. At the Board’s suggestion, the Applicant revised the plans to mitigate the impacts on the surrounding area, with the creation of a rain garden and increased stormwater management controls. Further, the Applicant received a Certification from the Morris County Soil Conservation District and worked with the Lake Hopatcong Commission. The Board determined that the proposed dwelling was consistent with the character of the neighborhood and similar in size to the surrounding homes.
4. Accordingly, the Board found that the benefits of permitting the proposed dwelling, as revised, outweigh the detriments that may result from denying the requested relief. It was further determined that there would be little impact to the surrounding area and that the proposed stormwater management controls would eliminate runoff onto the adjoining property. Additionally, the side yard setback variance was de minimis in nature and the rear yard setbacks to the lake were consistent with the adjacent homes. Removing the dilapidated structure and replacing it with a modern, more attractive structure was not inconsistent with the zoning scheme or Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 13th day of March 2023 that the approval of the within application be granted subject, however, to the following conditions:

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1. Payment of all fees, sureties, and escrows required by ordinance.
2. The construction of the proposed dwelling shall be consistent with the plans submitted to the Board and the representations made at the public hearing.
3. The Applicant shall obtain all necessary zoning and construction permits.
4. Applicant shall pay the Mandatory Affordable Housing Fee prior to the issuance of construction permits.
5. Applicant shall comply with all reports and memorandums from the Board's Professionals and the Lake Hopatcong Commission.
6. Soil testing shall be performed prior to the issuance of building permits.
7. The proposed grate elevations shall be accurately reflected on the site plans.
8. Applicant shall obtain a road opening permit for the work required in the Municipal Right-of-Way.
9. Applicant shall obtain approval or a letter of no interest from the Homeowner's Association for the work required in the Kingsland Road right-of-way.
10. Applicant shall obtain approval for the low head pressure sanitary sewer system prior to the issuance of a Certificate of Occupancy.
11. Applicant shall take measures during construction to avoid damaging the existing pump chamber.
12. Any retaining wall over four (4) feet shall be designed by a New Jersey Licensed Professional Engineer, and calculations and a detailed cross section of the wall shall be submitted and subject to review and approval by the Township Engineer.
13. The proposed driveway material shall be specified on the plan and a typical section/detail shall be provided and subject to review and approval by the Township Engineer.
14. The Applicants shall utilize two (2) super silt fences during construction.
15. The rain garden shall be constructed and maintain on the property, as approved by the Township's Planner.
16. The garage shall be used to park no more than three (3) cars and the remainder of the garage shall be used for storage only.



**ZBA-22-020 PICCOLO**, Certificate of Non-Conforming Use for property located at 81-83 Main Street, Succasunna, Block 3801, Lot 79 in a B1-A zone.

Ms. Robortaccio made a motion to memorialize the resolution.

Ms. Dawson seconded.

*Roll call:* Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*In the matter of Dr. Roberto Piccolo, DMD*

*Case No. ZBA-22-020*

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

Approved: March 13, 2023

Memorialized: April 10, 2023

**WHEREAS**, Dr. Roberto Piccolo, DMD has applied to the Zoning Board of Adjustment of the Township of Roxbury requesting a Certification of a Pre-existing Nonconforming Use, pursuant to N.J.S.A. 40:55D-68, for premises located at 81-83 Main Street, Landing, and known as Block 3801, Lot 79 on the Tax Map of the Township of Roxbury which premises are in a “B-1” Zone; 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 Applicant is the owner of the subject property, which contains two residential units above two retail units. The Applicant is seeking a Certification that the mixed retail and residential structure is a Pre-existing, Nonconforming Use in the zone.
2. The application is under the jurisdiction of the Zoning Board as N.J.S.A. 40:55D-68 states that any time after the passage of an ordinance that renders an existing, permitted use nonconforming, an interested party may apply to the Board of Adjustment for a Certificate certifying that the use or existed before the adoption of the ordinance which rendered it nonconforming.
3. The Applicant submitted the following documents:
  - a. Notice of Property Assessment for 2021, with narrative notes.
  - b. Deed from Sainato to Baylor (prior owners), dated May 7, 1976.
  - c. Garden State, MLS Listing for the subject property from 2002.
  - d. Deed from Baylor to 81-83 Main Street LLC, dated June 12, 2003.

- e. Picture of the Structure from 2003, with uses indicated.
  - f. Certificate of Approval from Township of Roxbury, Bureau of Fire Prevention, dated September 26, 2017.
  - g. Floor Layouts for Ground and Second Floors, preparer and date unknown.
4. The Board received a memorandum from Tom Potere, Zoning Officer, dated October 7, 2022, with the following:
    - a. Photos attached, dated October 6, 2022, consisting of two (2) sheets.
    - b. Floor layouts, also submitted by the Applicant.
    - c. Map of the Property, prepared by DMC Associates, Inc., dated June 2, 2003.
  5. Duly noticed public meetings were held on November 14, 2022, and March 13, 2023, at which time Dr. James Piccolo presented sworn testimony in support of the application. The Applicant purchased the property in 2003 consisting of 2 retail spaces on the first floor and 2 residential units on the second floor. During a site inspection, the Zoning Officer determined that the property was not a conforming mixed use of residential and retail uses and advised the owner that if he wanted to sell the property, he would need a certification that the use is a pre-existing nonconforming use and structure.
  6. The subject home was constructed in 1925 and based on the floor plans, there are 2 retail spaces and 2 two-bedroom apartments on the second floor. The structure has 4 electric meters on the right side of the house and four gas meter in the rear of the structure.
  7. The first and second floor have side-by-side units that mimic each other. There are two retail units, with related office areas and bathrooms on the first floor. Each retail space has a front entrance, and a rear exit from the office area. There are two, two-bedroom apartments, with kitchens/living areas and a bathroom on the second floor. The two residential units have a common exterior entrance to a flight of stairs with separate interior entrances from the front porch, as well as second story entrances from the deck. There is one parking area in the front of the building.
  8. Based on historical zoning maps, the property was located in the C Zone District in 1946. In 1959, the property was re-zoned to B-1, zoning district, and is currently located in the B-1A

Zone. There is sufficient testimony and evidence that the structure was a permitted use until the rezoning of the property in 1959.

9. Dr. Piccolo testified that when he purchased the property, there were existing tenants that remained, namely Paws for Beauty and Classic Taxi on the first floor. The Applicant read a statement from the current tenant into the record, but the witness was not present to testify.
10. The meeting was carried to March 13, 2023, at which time Carl F. Wronko, an Attorney in the State of New Jersey presented an Affidavit and presented testimony regarding his involvement with the property. Dating back to 1974, Mr. Wronko represented the prior property owner in the sales and leasing of the property and it has been a mixed retail and residential use since that time.
11. There was no one from the public present for this hearing.

**WHEREAS**, the Board has determined that the relief requested by the Applicant, for a Certification of a Pre-existing, Nonconforming Use and Structure, should be granted for the following reasons:

1. The Board found the witness testimony to be competent and credible. The Applicant was able to establish that the mixed retail and residential building was constructed as a permitted use prior to the zoning change in 1959. The testimony of the Applicant is supported by the tax records and the physical features of the property.
2. The home was constructed in 1925, with the same layout and design as currently exists. There does not appear to be any alterations to suggest that the building was renovated to create the four (4) dwelling units. The individual units are independent of each other, with separate entrances and utilities.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 13th day of March 2023 that the approval of the within application shall be granted subject.

**ZBA-22-042 KOVAL**, Bulk variance for property located at 15 Harriet Way, Landing, Block 9703, Lot 9 in a R-3.

Ms. Robortaccio made a motion to memorialize the resolution.

Mr. Furey seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. Furey, yes; Mr. Summers, yes; Ms. Dawson, yes; Dr. Kennedy, yes.

*In the matter of Frank and Cheryl Koval  
Case No. ZBA-22-042*

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

Approved: March 13, 2023  
Memorialized: April 10, 2023

**WHEREAS**, Frank and Cheryl Koval have applied to the Zoning Board of Adjustment of the Township of Roxbury seeking approval to expand a dormer for premises located at 15 Harriet Way, Landing, and known as Block 9703, Lot 9 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Residential Zone; said proposal required relief from Sections 13-7.1301D4 and 13-7.7B 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 subject application is for the construction of a dormer on an existing structure, that has a pre-existing, nonconforming front yard setback, requiring variance relief, pursuant to N.J.S.A. 40:55D-70(c), from the following Sections of the Township’s Zoning Ordinance:
  - a. Section 13-7.1301D4 – Minimum front yard setback: 35 feet required, 13 feet existing, 22 feet proposed to the dormer.
  - b. Section 13-7.7B - a nonconforming structure shall not be enlarged unless the structure is changed to a conforming structure...if the use is permitted, and is nonconforming because of...yard regulations, said structure may be enlarged provided...the yard regulations are not further violated; the nonconforming setback cannot be expanded, and the proposed dormer does not meet the front yard setback.
2. The Applicant submitted the following documents:
  - a. Septic Map, received by the Roxbury Township Health Department, dated December 1, year illegible.
  - b. Proposed Architectural Rendering, preparer unknown, undated.
  - c. Map of Property, prepared by Walter F. Van Treek, Jr. dated April 21, 1975.
  - d. Zoning Denial Letter from Zoning Officer, Tom Potere, dated March 3, 2023, with aerial picture attached.

- e. Pictures of the neighboring houses; consisting of six (6) sheets
3. A duly noticed public meeting was held on March 3, 2023, at which time Cheryl and Frank Koval presented sworn testimony in support of the application. The subject property is mostly square shaped, corner lot, and developed with a single-family dwelling, a driveway and shed in the rear. The dwelling has a pre-existing nonconforming front yard setback.
4. A photo of the property was marked as A-1 for identification.
5. The Applicant is proposing to construct a dormer the full length of the home, which will not change the footprint of the home but will exacerbate the non-conforming setback. While the dormer will add mass to the home, it is proposed at a 22-foot setback, and is consistent with the neighborhood. The finished exterior will match the existing siding.
6. No one from the public was present at the hearing.

**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 found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70(c) from the following Section of the municipal zoning ordinance.
  - a. Section 13-7.1301D4 – Minimum front yard setback: 35 feet required, 13 feet existing, 22 feet setback to the dormer is approved.
  - b. Section 13-7.7B - a nonconforming structure shall not be enlarged unless the structure is changed to a conforming structure if the use is permitted, and is nonconforming because of yard regulations, said structure may be enlarged provided the yard regulations are not further violated; the nonconforming setback cannot be expanded, and the proposed dormer does not meet the front yard setback. Expanded dormer approved.
2. N.J.S.A. 40:55D-70(c)(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape

of the property, unusual topographic conditions or by reason of the location of the existing structures on the property.

3. The location of the existing of the structure on the lot, with a nonconforming front yard setback, creates a hardship for the Applicant. The benefits of permitting the homeowner to expand the dormer and create additional space within the existing home outweighs the detriments that may result from denying the requested relief.
4. It was determined that there would be little impact to the surrounding area and the proposed addition is consistent with the neighboring homes. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 13th day of March 2023 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 construction shall be consistent with the plans submitted to the Board and the testimony in the public hearing.
3. Applicant shall obtain all necessary zoning and construction approvals.

**APPLICATIONS:**

**ZBA-21-004 BLACK RIVER HOLDINGS, LLC & MORGAN DEAN HOLDINGS, LLC**

Use Variance, Bulk Variance, Lot Merger, and Preliminary Major Site Plan for property located at 1371, 1373, and 1393 Route 46, Ledgewood, Block 8701, Lot(s) 4, 5, & 6 in a B-2 zone. (Request to be carried to the May 8, 2023 meeting with no further notification).

**ZBA-23-003 NOSENZO**. Bulk variance for property located at 9 Cottage Avenue, Landing, Block 11906, Lot 1 in a R-3 zone. (Request to be carried to the May 8, 2023 meeting with no further notification).

**ZBA-22-041 SPARK CAR WASH, LLC**

Use Variance, Preliminary Major Site Plan and Bulk Variance relief for property located at 1441 Route 46, Ledgewood, Block 8602, Lot 42 in a B-2 & LIOR zone.

Mr. John Wyciskala Esq. of Ingelsino, Webster, Wyciskala, & Taylor stepped forward as Attorney for SPARK Car Wash, LLC. Mr. Wyciskala testified that the property is about 1.1 acres in size and had previously been developed as a car wash for the better part of 50 years where it was known as the Roxbury Car Wash. Said site closed down approximately 1 year ago. Mr. Wyciskala stated that the site is not particularly attractive and has not been updated in many years. Mr. Wyciskala stated that his client purchased the property in the past year and that Spark Car Wash is a growing company in the state of New Jersey. Spark Car Wash is looking to rebrand and update the facility to a modern state of art site. The owner is proposing changes to the façade and landscape improvements. Mr. Wyciskala stated the existing building will not be increased and impervious coverage will be reduced with the new proposal.

Mr. Matthew Canale, Director of Real Estate at Spark Car Wash stepped forward and testified the Spark Car Wash was founded to bring modern car washing to the New Jersey area. Spark Car Wash focuses on high technology equipment along with a highly trained staff. Spark Car Wash is very different from traditional car washes. Spark Car Wash has pay stations, vacuum park, eco-friendly cleaning agents which are 100% biodegradable. State of the art recyclable units are used to recycle 80-90% of the water used at the car wash. The business is open to the public, vacuums are free to the public, and members benefit from unlimited washes. Mr. Canale stated that vacuums are a very important part of the business model. The hours of operation are 8 am to 8 pm and there are 3 to 4 staff members on site at any given time with a shift change at 2 pm. Garbage pickup is once a week between 7 & 8 am. Deliveries take place using a Sprinter van on an as needed basis, which is usually every 1 to 2 weeks. There are two lanes on site, one for the members and one for the general public.

Mr. Wyciskala asked Mr. Canale to address the current site remediation. Mr. Canale stated that the remediation has to do with the septic tank on site and Spark Car Wash has hired an LSRP to oversee the project.

Mr. Stern asked if it was just the septic and not any cleaning agents left behind. Mr. Canale replied, just the septic. Mr. Canale replied, the remediation has taken place and the LSRP is currently providing the testing measures. Mr. Wyciskala stated that he expects a remediation outcome report showing the soil has been taken care of but there is a possibility show future ground water monitoring and natural attenuation.

Mr. Stern asked Mr. Canale to address the Sprinter van deliveries. Mr. Canale replied it is a quick drop off of supplies.

Mr. Wyciskala asked Mr. Canale to address the lighting, noting it is the intention of Spark Car Wash to reduce site lighting in the off hours beyond 8 pm, but yet providing necessary security lighting on site. Mr. Canale stated that at 9 pm the lights will dim, and they will be set on timers.

Dr. Kennedy asked Mr. Canale to describe how the cleaning agents are stored on site. Mr. Canale replied that they are placed in a storage room and are all kitchen grade biodegradable.

Mr. Stern asked if there would be public restrooms. Mr. Wyciskala replied, yes and that they would be relocated to a more central location along with making them ADA compliant.

Mr. Summers asked where one would sign up to be a member, at the pay station or in the building area. Mr. Canale replied, both spots can accommodate member sign up.

Mr. Stern asked what the typical number was of vehicle stacking after a snow event. Mr. Wyciskala replied that Spark's Civil Traffic Engineer will response in later testimony.

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

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

Mr. Stern asked if Spark Car Wash provided vacuum services. Mr. Canale replied, no it is self-serve. Mr. Stern asked if someone is physically disabled is there a way to get that done. Mr. Wyciskala replied that they would circle back on the question.

Ms. Hubbard swore in Paul Mutch of Stonefield Engineering located at 15 Spring Street, Princeton, NJ. Mr. Mutch stepped forward to address Exhibit A-1 which was a colorized site plan rendering which was the same in layout and content as submitted to the Board, noting he has taken the liberty to add coloring and landscaping for the benefit of the Board. Mr. Mutch stated that the applicant is proposing a significant rehabilitation of an aging site which is defunct, looking to provide an aesthetic upgrade with state-of-the-art facilities. The site fronts Route 46 on the main highway and ramp D and there is also a rear access via Kings Highway. The car wash is pressed up against the northern side of the site, the back wall butts up

against the residential property in the rear where there is a fence. No plans are being proposed on the rear portion of the property when it comes to the footprint, only the façade will be upgraded. There is a large parking field in front of the building that currently provides vacuum spaces that are located along the building. The proposal is to mimic the previous operation with upgraded and state-of-the-art services.

A conversation between SPARK Car Wash and the DOT took place as they have jurisdiction over the access points. The DOT requested certain changes to the site plan to allow them to issue a letter of no interest which essentially states the operation and traffic will be the same and has resulted in the site plan presented to the Board. The DOT has signed off on the application as they are comfortable as to what is being proposed from an access standpoint. Spark Car Wash will be maintaining the Kings Highway access which will be a very lightly used roadway. Spark Car Wash will be updating the access plan where the DOT has asked for signage and striping, and they will continue to work with them to be sure they are comfortable with what is on-site. Part of the letter of no interest is Spark is not allowed to make any moderate changes to the pavement inside the right of way but everything else is allowed. Spark looks forward to working with the Board professionals on the access plan.

To modernize the site SPARK will be adding two features which are the vacuum spaces which have arms on both sides and are pleasant in appearance. The vacuums are lit by LED lighting and have a trash receptacle attached to them. The vacuums are free to the public although the business model is to receive a car wash and then vacuum your vehicle. The pay stations are located off the southeast corner of the building to modernize the operation to make it fully automated. There will be an attendant to help with any issues. The interior lane will be non-members and the exterior lane will be dedicated to those customers who have a membership. All ingress movements come from the driveway closest to the ramp and all egresses from the driveway further down the site.

There will be 16 trees planted on site with a combination of shrubs and grasses as well with a total of 200 plantings.

Existing site sheet flows into river and into the driveways and falls below the disturbance required for a major development. The standards have been met naturally by reducing the impervious coverage by 8%. The site will not produce any more sheet flow than is already taking place by adding curbs and inlets.

Lighting for the site is a full upgrade of LED lighting. Fortunately, the home which sits north of the building is protected as there is no lighting at the back of the building.

There will be new connections made into the public utilities.

SPARK will be formalizing the condition in the back of the building where the employee parking which is partially dug up. Paving will take place and five parking spaces will be installed and the trash enclosure will be masonry and substantial.

The wash operation is 2 minutes in to out and is very efficient. Typical stacking is two cars, where a total of eight cars can be accommodated. Vacuums may be used at no charge.

Mr. Kataryniak had some concerns about vehicles pulling in the cue lane or exit lane to use the vacuums located in the front of the building. Mr. Mutch replied that they have the signoff of the DOT, but SPARK would be willing to provide extra signage and striping.

Mr. Furey asked Mr. Mutch to walk him through the metrics. Mr. Mutch stated that there are going to be 5 employee parking spaces, and 14-18 vacuuming spaces with the building itself at 65,000 square feet.

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

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



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The application was carried to May 8, 2023 with no further notification required.

**ZBA-22-036 BURKE**. Bulk variance relief for property located at 11 Silver Springs Drive, Landing, Block 11601, Lot 10 in a R-3 zone.

Ms. Toni Burke remained under oath from the prior hearing and introduced Mr. John Tomic as her contractor. Mr. Tomic of 23 Keiller Court, North Haledon, NJ was then sworn in by Ms. Hubbard. Ms. Burke testified that she had a updated survey which depicted the current conditions of the property. Ms. Burke explained that they have added a spiral staircase to the project since the last hearing. Ms. Burke also stated that they have addressed the drainage concerns. Mr. Tomic stated that he will be taking the leader pipes and connecting them to PVC pipes into which they will dump into planters below them. Mr. Tomic also stated that Ms. Burke would like to use impervious decking for the proposed deck.

Mr. Stern stated for the Board's information the Zoning Officers report of 01/03/2023, last revised 03/31/2023 shows the setback variance for the rear of the deck to the water, which is 24 feet, the rear yard setback is 23 feet, and the impervious coverage did not change due to the fact there is an existing concrete patio below the proposed deck. What changed is the building coverage went from 13.25% to 17.82% where 15% is permitted. Additionally, there is a variance for an existing shed. Ms. Burke stated that the shed existed at the time she purchased the property. The shed is 15.5 feet x 10 feet and sits within the front yard set back which is common in the area.

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

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

Ms. Robortaccio made a motion to approve the application. Mr. Furey seconded.  
Roll call: Ms. Robortaccio, yes; Mr. Furey, yes; Mr. Summers, yes; Ms. Dawson, yes; Dr. Kennedy, yes.

**ZBA-22-043 PETERS**. Bulk variance for property located at 305 Kingsland Road, Landing, Block 11001, Lot 16 in a R-3 zone.

Ms. Hubbard swore in Tiina Vaska of 33 North Shore Road, Denville, NJ. Ms. Vaska stepped forward and testified that her applicant is back before the Board for additional impervious coverage and building coverage variances.

Dr. Kennedy asked Ms. Vaska to explain why the applicant who was approved quite recently was back before the Board seeking approval yet again. Dr. Kennedy asked if what was constructed varied from what was approved.

Ms. Vaska addressed the items in Mr. Potere's report and the first item was the under-lock ceiling system. Ms. Vaska stated that this type of system counts towards impervious coverage as the water cannot seep through the floor above and the water is drained away, however, this area added impervious coverage. 24.9% was approved in September 2020 but, by adding this ceiling brought it up to 27.5% on impervious coverage. Ms. Vaska noted that this is an R3 zone and 25% is allowable. However, as noted previously, this is a severely undersized lot where the R3 zone is supposed to have a minimum lot size of 15,000 square feet where this property has 7,700 square feet, making it less than half the size. If this property were located on 15,000 square feet, the impervious coverage would be at 13.4% which is dramatically less than the 25%.

The second item mentioned in the Zoning Officer's report was the awning over the deck. The Zoning Officer referenced the earlier variance stating that the deck shall not be constructed shall be constructed without the pergola and shall remain uncovered. So as noted previously, the Board was very generous and allowed for the deck. Noting Mr. Peters was hoping to build a pergola, but it was deemed a little bit too bulky despite the fact it wasn't a covered porch, but

Mr. Peters understood the point being made that it was a structure of sorts. Mr. Peters did not in any way construe an awning as being a covering.

Ms. Vaska then addressed the third item in the Zoning Officers report and that was an enclosure under the deck. Ms. Vaska stated that when the deck was constructed there was an opportunity for some storage for the kayaks and the boards.

A discussion was had regarding the construction of the storage area.

Mr. Stern described the facade as light gray which made it stand out. Mr. Stern suggested a stone veneer be added to soften the appearance. Mr. Stern stated that it was never presented as a storage area and now it sticks out like a giant white shed.

Mr. Stern additionally added that the reason we limit impervious coverage is for drainage issues. So now that you've put the under decking under the deck, you're now creating a potential drainage issue.

Ms. Vaska replied it's going to the underground collection basin.

Mr. Stern asked Mr. Peters if he would be open to expanding the dry well and taking more water into the dry well and then reducing the amount of stormwater coming off your property.

Mr. Peters asked if he should come back with an analysis of the existing conditions then a calculation showing whether or not that is sufficient or whether or he needs the expansion.

Motion was made to open to the public for comments.

Ms. Hubbard swore in Joe McKeon of 304 Kingsland Road, Landing. Mr. McKeon went on to state that he spoke here at the first hearing, and spoke against approval of the application, noting he didn't like the project. Mr. McKeon thought he was going to walk by the house and see and unsightly bottom on the deck, but he was surprised and happy with what is being constructed.

Motion was made to close to the public.

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

Application was carried to the June 12, 2023 meeting.

**ZBA-23-001 OSBORNE**, Bulk variance for property located at 13 Summit Lane, Succasunna, Block 5403, Lot 2 in a R-3 zone.

Ms. Hubbard swore in Brian Osborn of 13 Summit Lane, Succasunna. Ms. Robortaccio questioned the house number, noting she was unclear whether it was 13 or 15. Mr. Osborne explained that the prior owner was superstitious and had the house number changed to 15 for a time.

Ms. Hubbard swore in Kenneth Fox of Fox Architectural Design located at 546 Route 10, Ledgewood. Mr. Fox stepped forward as the applicants architect and planner.

Mr. Osborne stated that he has a collection of classic cars and has been renting garages all over the place to store everything, noting it's getting quite expensive and inconvenient. Mr. Osborne said he thought of the idea of building a 2-car garage addition, then found out that four car garages were not permitted per Township ordinance.

Mr. Fox testified that the property is a single-family home near the end of the cul-de-sac. Noting that there's only one home on the street that is beyond this on the right side of the dwelling and there's nothing.

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for quite some distance, there is a house across the street. The driveway enters on the right-hand side and driveway turns left into a 2-car garage. There is a pool constructed in the backyard presently and a shed. The shed's location happens to be located in a drainage easement which was built by the previous owner. Mr. Fox stated the applicant is proposing to remove the shed. The proposed garage will be adjacent to the house. The applicant is proposing a basement for the garage as well, making it a two-story accessory structure. The main story will house the cars require and the basement level will house motorcycles.

Mr. Fox continued with a variance request for the 57% principal structure where 50% is allowed.

Mr. Stern testified that the requirement for an accessory structure cannot exceed 50% of the building footprint. It's to keep things proportionate to one another and not have a structure dominating physically, visually over the principal structure. I think when you take a look at this property, it's large. The minimum lot size requirement is 40,250 square feet. They have over 62,000 square feet, so it's a large size lot. It appears as though the accessory structure is well positioned. Creating a nice pseudo courtyard effect and almost seems complementary to the in-ground pool. There is a couple of restrictions going in that the storage is only for residential purposes, that no residential, that no commercial registered vehicles permitted you mentioned, and it must be maintained for residential purposes.

Mr. Fox stated what we've done is try to match the house by matching siding and a decorative stone base around the base. So, in order to help accommodate the five feet that we're moving back, we make the full whole entire front portion of that 4 feet small would take two feet off each side, so that would take off 120 square feet. Which brings it to approximately 53%. 20 the garage will be 28 by 30. And the garage will be 28 by. 30 storage is going to be 18 by.

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

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

Ms. Robortaccio made a motion to approve the application. Mr. Furey seconded.  
Roll call: Ms. Robortaccio, yes; Mr. Furey, yes; Mr. Summers, yes; Ms. Dawson, yes; Dr. Kennedy, yes.

NEW BUSINESS:

OLD BUSINESS:

Motion to adjourn at 9:40 pm

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY

*Tracy Osetec, Board Secretary*  
*April 10, 2023*