

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, April 11, 2022, 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**

Ms. Dawson, Mr. Klein, Mr. Overman, Ms. Robortaccio, Mr. Furey, Ms. Dargel, and Dr. Kennedy.

*ABSENT: None*

**PROFESSIONAL STAFF**

Mr. Larry Wiener, Esq.  
Mr. Russell Stern, P.P.  
Mr. Mark Kataryniak, PE, PTOE

**MINUTES OF MARCH 14, 2022**

Ms. Robortaccio made a motion to approve the minutes of the March 14, 2022, Mr. Furey seconded.

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

**NEW BUSINESS:** Discussion regarding proposed special meeting on April 28, 2022

**RESOLUTIONS:**

**ZBA-21-038 BULL.** Bulk Variance relief for property located at 6 Robinson Avenue, Succasunna, Block 4901, Lot 34 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; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Ms. Dargel, yes; Dr. Kennedy, yes.

*In the matter of Dennis A. Bull  
Case No. ZBA-21-038*

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

Approved: March 14, 2022  
Memorialized: April 11, 2022

**WHEREAS**, Dennis A. Bull has applied to the Board of Adjustment, Township of Roxbury for permission to construct a 12’x26’ in-ground swimming pool, patio and fence requiring variance relief for premises located at 6 Robinson Avenue and known as Block 4901, Lot 34 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.810.1B & 13-8.809B 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 Applicant is the owner and occupant of the subject premises.
2. The Applicant submitted the following:
  - a. A marked-up survey prepared by Marc J. Cifone of Lakeland Surveying dated March 21, 2017.
  - b. Photographs of the current conditions on the property, with the location of the pool indicated on a picture and a sample picture of the proposed pool.
  - c. A picture of the proposed fencing.
3. Applicant received a letter of denial dated October 15, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:

<b><i>Section</i></b>	<b><i>Permitted</i></b>	<b><i>Existing</i></b>	<b><i>Proposed</i></b>
§ 13-7.810.1B	No accessory structure shall be permitted in a front yard.	N/A	12ft. by 26ft. in-ground pool (Front yard - Righter Road)
§ 13-8.809B Fences, Walls, and Retaining Walls.	No fence or wall which exceeds four (4) feet in height shall be constructed or maintained between the road right-of-way line and the front foundation wall of the principal building.	N/A	54 Inches Fence

4. A duly noticed public hearing was held on March 14, 2022, at which time Dennis A. Bull presented sworn testimony in support of the application. The subject property is located on Robinson Avenue, with a second frontage on the Righter Road Right-of-Way, resulting in two front yards for zoning purposes. The Applicant is proposing to install an in-ground pool in the rear of the property, that fronts on Righter Road, requiring variance relief. Pursuant to the construction code, the Applicant is further proposing a 54' fence around the perimeter of the property, where 48' is permitted in a front yard, requiring variance relief.
5. The proposed fence is a decorative aluminum picket fence, that will be located on the Righter Road side of the existing berm. No tree removal is proposed, but the Applicant will add landscaping for privacy along the fence line. The fence will be in line with the neighboring fences and be set back from Righter Road, as the edge of the pavement is 10 feet from the subject property line.

6. There was no one from the public 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-70C from the following Sections of the municipal zoning ordinance:
  - a. Section 13-7.810.1B – No accessory structure shall be permitted in the front yard, the proposed; 12’x26’ in-ground pool is approved in the front yard on Righter Road
  - b. Section 13-8.809B – No fence which exceed four (4) feet in height shall be constructed between the right-of-way line and the front foundation wall of the principal building; a 54’ fence is approved between the right-of-way and principal building
2. 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, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property.
3. The subject property has two front yards, which creates a hardship for the Applicant as they cannot install a pool in a conforming location. Additionally, the fence would be permitted in a rear yard, but is prohibited along the Righter Road frontage, which is one of two front yards.
4. The benefits of permitting the pool and the fence in the front yard, to provide recreation for the family in a safe environment outweigh the detriments that may result from denying the requested relief. Additionally, the fence is setback from Righter Road and will be in line with the neighboring properties. Accordingly, it was determined that there would be little impact to the surrounding area and 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 14<sup>th</sup> day of March 2022 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 fence and pool shall be installed consistent with the plans submitted to the Board and representations made at the public hearing.
3. The Applicant shall obtain the necessary zoning and construction approvals prior to the start of construction.

**ZBA-21-037 RUETER**, Bulk Variance relief for property located at 11 West Maple Avenue, Succasunna, Block 2801, Lot 59 in a R-4 zone.

Dr. Kennedy made a motion to memorialize the resolution. Ms. Robortaccio seconded. Roll call: Dr. Kennedy, yes, Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Overman, yes; Mr. Furey, yes.

*In the matter of Samantha & James Rueter  
Case No. ZBA-21-037*

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

Approved: March 14, 2022  
Memorialized: April 11, 2022

**WHEREAS**, Samantha & James Rueter have applied to the Board of Adjustment, Township of Roxbury for permission to construct a front and rear covered porch requiring variance relief for premises located at 11 West Maple Avenue and known as Block 3801, Lot 59 on the Tax Map of the Township of Roxbury which premises are in a “R-4” Zone; said proposal required relief from Section 13-7.1401D4 of the Roxbury Township Land Use Ordinance; and

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

1. The Applicants are the owners and occupants of the subject premises.
2. The Applicants submitted the following:
  - a. Architectural Plans prepared by William P. Byrne, architect, dated October 4, 2021 consisting of three (3) sheets.

- b. Zoning Plan prepared by Michael J. Roth PE, dated November 4, 2021 consisting of one (1) sheet.
3. Applicants received a letter of denial dated February 23, 2022 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:
  - a. Front Yard Setback – 30’ required, 23.4’ existing, 20.1’ proposed
4. A duly noticed public hearing was held on March 14, 2022, at which time James and Samantha Rueter, the Applicants, along with William Byrne, AIA, was accepted as an expert architect, presented sworn testimony in support of the application. The subject property is approximately 8,898 square feet, with a 1½ story frame dwelling, a driveway, rear patio and gardens. The Applicants are proposing to remodel their home, to include a second story addition while maintaining the existing footprint. The existing front porch is shallow, and the steps run down toward the driveway. The renovations will include an expansion of the porch from 5.2’x5’ to 5.2’x9’, with a portico and steps down toward the front roadway, which is an increase of the current non-conforming front yard setback, from 23.4 feet existing to 20.1 feet proposed, where 30 feet is required. The proposed renovations will create a more functional home for the Applicants, we well as improve the aesthetic appearance of the dwelling that is consistent with the streetscape of the neighborhood.
5. The renovations all include the removal of the existing patio and gardens in the rear of the property and the construction of a covered 12’x17.92’ deck and walk-out steps to a patio, for which no relief is needed.
6. The portico will provide a covered entryway, which is safer than the current porch. The subject property is located on a quiet, dead-end street and the porch will provide a protected outside area for the homeowners.
7. There was no one from the public in attendance 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:

Township of Roxbury  
Board of Adjustment  
April 11, 2022

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Section 13-7.1401D4 of the municipal zoning ordinance, permitting a 20.1-foot setback, where 30 feet is required.
2. 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, 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 currently developed with a non-conforming front yard setback to a front stoop with steps to the side. The proposed renovation is a *de minimis* increase to the front yard setback that will result in a safer and more attractive front entrance to the home.
4. The benefits of permitting the minor deviation outweigh the detriments that may result from denying the requested relief. The property is located on a dead-end street and the proposed addition is consistent with the surrounding streetscape. Accordingly, it was determined that there would be little impact to the surrounding area and 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 14<sup>th</sup> day of March 2022 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 shall obtain all zoning and building permits prior to the start of construction.
3. The proposed addition shall be constructed consistent with the plans submitted to the Board and the representations made at the public hearing.

**ZBA-22-010 WOODMONT REALTY RT. 46, LLC**, Preliminary Major Site Plan for property located at 1751 Route 46, LedgeWood, Block 9603, Lot 3 & 4 in a GU zone.

Dr. Kennedy made a motion to memorialize the request for extension. Ms. Robortaccio seconded.

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

*In the matter of Woodmont Realty Rt. 46, LLC  
Block 9603, Lots 3 & 4  
Case No. ZBA-022-010*

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

***EXTENSION OF TIME***

Approved: March 14, 2022  
Memorialized: April 11, 2022

**WHEREAS**, Woodmont Realty Rt. 46, LLC, previously applied to the Board of Adjustment, Township of Roxbury for a use variance and preliminary site plan approval for premises located at Route 46 West and known as Block 9603, Lots 3 & 4 on the Tax Map of the Township of Roxbury which premises are in a “OB” Zone; said proposal required relief from Section 13-7.34 of the Roxbury Township Land Use Ordinance; and

**WHEREAS**, the Applicant shall comply with all of the conditions set forth in the prior Resolutions of Approval including the prohibition of billboards prior to the issuance of a Certificate of Occupancy; and

**WHEREAS**, the Board approved said application, which was memorialized in a resolution adopted on September 15, 2008; and

**WHEREAS**, Lawrence A. Calli, Esq., of Calli Law, submitted a letter dated February 15, 2022 requesting an extension of the subject approval, pursuant to Section 13-2.512 of the Township’s Land Development Code; and

**WHEREAS**, Mr. Calli appeared at the Board meeting on March 14, 2022 and explained that the Applicant has invested significant money in the development of the property, including soil movement, earth work, highway improvements and road frontage improvements; and

**WHEREAS**, the development has been delayed in obtaining approvals as result of the Covid-19 Pandemic; and

**WHEREAS**, the Board finds sufficient cause to grant the Applicant's request for a one year extension of the subject approvals.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby grants and one year extension of the use variance and preliminary site plan approval, to expire on September 15, 2023.

**ZBA-21-007 HOPATCONG DD, LLC**. Use Variance and Preliminary Major Site Plan for property located at 136 Lakeside Blvd, Landing, Block 11001, Lot 5 in a B-1 zone.

Ms. Robortaccio made a motion to memorialize the resolution of withdraw. Mr. Furey seconded.

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

*In the matter of Hopatcong DD, LLC  
Case No. ZBA 21-007*

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

Approved: March 14, 2022  
Memorialized: April 11, 2022

**WHEREAS**, Hopatcong DD, LLC has applied to the Board of Adjustment, Township of Roxbury for the addition of a drive-thru and construction of associated improvements requiring variance and waiver relief for premises located at 136 Lakeside Boulevard and known as Block 11001, Lot 5 on the Tax Map of the Township of Roxbury which premises are in a "B-1" Zone; and

**WHEREAS**, the subject application involves Block 11001, Lot 5 located at 136 Lakeside Boulevard (CR 631). The property encompasses 16,216 square feet (0.372 acres) in the B-1 Limited Business District. It has an average lot depth of roughly 191.5 feet and 84.7 feet of frontage along Lakeside Boulevard. The site is developed with a two-story building containing a total of 2,615 square feet and a floor area ratio of 0.16 (0.20 permitted). The first floor is occupied by a Dunkin Donuts quick-food establishment. On the second floor is a two-bedroom apartment encompassing 1,590 square feet that overhangs the first-floor commercial use. According to tax records and a review of project files, there is no indication of approvals being granted for the residential unit. Site plan approval was granted by the Planning Board in 1969 for a snack bar. The building is served by sanitary sewer and public water. Twenty parking spaces are existing for both Dunkin Donuts and the residential two-bedroom apartment. No designated loading/unloading area is present; and



**WHEREAS**, the Applicant received approval for the subject development from the Morris County Planning Board and has received several memorandum from the Board's professionals and municipal departments providing comments and concerns on the application as proposed; and

**WHEREAS**, the Applicant was represented by Bernd Hefele, Esquire and appeared before the Board on February 14, 2022 to provide an update of the status of the application, which was filed February 18, 2021 and seek additional input from the Board; and

**WHEREAS**, the Board noted that the application was not scheduled for a public hearing and could not be reviewed but that the site constraints were a concern for the proposed drive thru; and

**WHEREAS**, via email dated February 21, 2022, Mr. Hefele requested that the application be withdrawn.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 11<sup>th</sup> day of April, 2022 that the within application has been withdrawn.

**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 the April 28<sup>th</sup>, 2022 special meeting, further notification is required.*

**ZBA-22-002 SANCHEZ**, Final Site Plan for property located at 5 Crystal Court, Ledgewood, Block 9603, Lot 8.01 in a B-2 zone. *Request to be carried to the April 28<sup>th</sup>, 2022 special meeting, further notification is required.*

**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 9<sup>th</sup>, 2022 meeting, with no further notice required.*

**ZBA-21-029 MARTINELLI**, Use Variance and Bulk Variance relief for property located at 32 Mapledale Avenue, Succasunna, Block 3709, Lot 7 in a R-3 zone. *Request to be carried to the May 9<sup>th</sup>, 2022 meeting, with no further notice required.*

**ZBA-21-030 VANDEVELDE**, Bulk Variance relief for property located at 20 Sunset Lane, Landing, Block 11903, Lot 21 in a R-3 zone. *Request to be carried to the May 9<sup>th</sup>, 2022 meeting, with no further notice required.*

**ZBA-21-035 PIERSON**, Bulk Variance relief for property located at 29 Sunset Lane, Landing, Block 11904, Lot 5 in a R-3 zone. *Request to be carried to the May 9<sup>th</sup>, 2022 meeting, with no further notice required.*

**ZBA-21-036 BEVERAGE**, Bulk Variance relief for property located at 45 Silver Springs Drive, Landing, Block 11601, Lot 30 in a R-3 zone.

Mr. Wiener swore in Ms. Ashly Beverage of 45 Silver Springs Drive, Landing, NJ. Ms. Beverage went on to testify that she was before the Board to request variance relief for such variances reflected in a denial letter written by Tom Potere, Township Zoning Officer. Ms. Beverage stated she purchased the home in October 2020 and has since been having discussions with the Township and neighbors for guidance on a home addition that would accommodate both parties as well as herself. Ms. Beverage went on to testify that there are four variances required and three of which relate to an appeal for hardship due to an undersized lot of approximately 9,000 sq. ft. in a district where the average lot size is 15,000 sq. ft. Ms. Beverage went on to discuss the front yard set-back noting the allowable minimum is 35-feet where the current condition is 39.2 feet and the newly proposed set-back is 28.08 feet.

Ms. Beverage addressed a picture board with multiple photos labeled as Exhibit A-1. Ms. Beverage went on to state the reason for the addition of a garage is to modernize the home as well as provide some storage. The proposed one car garage is modest in size 21 x 12 feet which is only slightly larger than the minimum standard of 18 x 9 feet. Ms. Beverage stated that her original proposal was to build a two-story garage and set it flush with the principle dwelling but, upon talking with neighbors the space between the home was a preference to them so Ms. Beverage moved the garage forward on the property. Ms. Beverage referenced a design ordinance that states all new home construction must provide at least a one car garage and no more than a three-car garage.

Mr. Overman asked since this is an existing home being renovated would this then require a garage be built. Mr. Stern replied this is a renovation and a garage would not be required, but the argument is that the code does require it on new construction which makes it a beneficial to the homeowner and he could see the need for one in this application.

Dr. Kennedy stated he believed there was a clause in the code that stated if a renovation cost was over the cost value of the property it was then deemed new construction where then a garage would be required.

Ms. Beverage addressed photos in Exhibit-A which depicted other homes in the community with detached garages located very near the road, noting it was not aesthetically pleasing.

Ms. Beverage went on to discuss the side yard set-back in which the minimum allowed is 10-feet and the existing is 8.6 feet with the proposed being the same, noting that this is a pre-existing non-conforming condition where no modification is being made and Ms. Beverage asked if she could seek forgiveness of this ordinance.

Ms. Beverage asked the Board to note that the fence between 45 and 47 Silver Springs does not sit along the property line and there is an additional 3 to 6 feet at different portions of the fence and the property belongs to 45 Silver Springs Drive, noting this can be seen clearly on the survey submitted in the variance packet.

Ms. Beverage went on to address the maximum lot coverage variance where 25% is allowed and the pre-existing percentage is 28.9 and where 30.8 percent is being proposed. Ms. Beverage stated she is seeking hardship due to an undersized lot.

Lastly, Ms. Beverage addressed the maximum building coverage where 15 percent is allowed, and the existing structure is 12.8 percent and the proposed is 16.86 percent.

Ms. Beverage stated that should she be approved, she would do the work in a phased effort, first of which would be curb appeal, noting the home is currently very unattractive. The first items to be completed would be the roof, siding, painting, and hire a professional landscaper. Ms. Beverage also stated that she reached out to the Township's Engineering and Utilities Department regarding her grinder pump, and she is aware that it will need to be relocated due to the placement of the garage.

Dr. Kennedy asked if Ms. Beverage read the letter written by the Lake Hopatcong Commission. Ms. Beverage replied that she had a conversation with the Commission and herself is quite passionate about the environment and will adhere to all provisions set forth in the letter.

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

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

Ms. Robortaccio made a motion to approve the application with conditions. Mr. Klein seconded.  
Roll call: Ms. Robortaccio, yes; Mr. Klein, yes; Ms. Dawson, yes; Mr. Furey, yes; Mr. Overman, yes; Ms. Dargel, yes; Dr. Kennedy, yes.

**ZBA-22-005 MERRY HEART MEMORY CARE**, Amended Site Plan and Use Variance for property located at 970 Route 46, Block 5301, Lot 1 in a B-1 zone. Mr. Patrick Dwyer, Esq. of Nusbaum Stein stepped forward to represent Merry Heart Memory Care, LLC. Mr. Dwyer went on to testify the application we have before us proposes to convert a retail store located on the corner of Route 46 and Commerce Boulevard, formally known as Dianne's Gifts into an adult residential memory care facility to be operated by Merry Heart.

In addition to site plan approval, the applicant is asking for a D-1 use variance because due to the fact the proposed use is not permitted within the zone. Mr. Dwyer explained that the existing building will remain largely the same with some minor improvements outside and the interior will be reconfigured to allow 24 in-patient rooms with 3 beds being income restricted noting it will contribute to the Roxbury Township Affordable House Plan. Mr. Dwyer let the Board know that testimony will be provided showing the use to be inherently beneficial.

Mr. Dwyer introduced the owner and operator of Merry Heart Blanche Bonifacio, Project Engineer Mark Walker, Project Architect Peter Porretta, Planner John McDonough, and two employees from Merry Heart.

Mr. Wiener swore in Mr. Peter Porretta of Lighthouse Architecture, located in Philadelphia, PA. Mr. Porretta has been practicing as a self-employed architect for over 30 years and is licensed in all the mid-Atlantic states from Connecticut to Virginia's and

Florida as well. Mr. Poretta's main field of practice is senior health care and assisted living facilities as well as military federal contracting. Mr. Porretta is a graduate of Clemson University and Rowan University.

Mr. Porretta went on to testify that the proposed site is an existing retail building where the interior will be reconfigured, and some minor exterior changes will be made. Mr. Porretta stated that the site plans submitted to the Board will be submitted to the NJ Department of Health and that permitting will not take place at the local municipality level. Permit review takes place at DCA Healthcare and plan review, permit issuance, and inspections are conducted by the local municipality noting this is the process in which all hospitals and assisted living facilities are licensed.

Mr. Porretta testified that this facility has been redesigned to allow for 19 rooms with 5 of the rooms being dual occupancy, additionally there will be common bathroom areas and a small kitchen that will not be used for cooking as food will be prepared at the Merry Heart facility on Route 10 and delivered by van. In this use, unlike assisted living, the restrooms are communal. There will be a laundry area where linens can be cleaned on site. The facility is barrier free as the facility must comply with the regulations of the NJ Department of Dementia Care. All the bedrooms have their own windows that are controlled to only open a certain amount.

Mr. Overman asked Mr. Porretta about the facility being barrier free and did he mean there are no doors. Mr. Porretta replied no, it means wheelchair accessible.

Mr. Porretta stated the heating and air will remain in the attic area and the mezzanine will not be used as it is not barrier free and would require elevator use.

Ms. Robortaccio asked if a door would be installed so the patients could not access the area. Mr. Porretta replied, yes.

The existing windows will be replaced so each room shall have a window. There will also be a fresh air install where fresh air is circulated throughout the building. In addition, there will also be a staff and guest bathroom on the first floor.

Mr. Overman asked about the size of the recreation area and did Mr. Porretta feel it was undersized. Mr. Porretta stated the requirement is so many square feet per person and it has met that requirement.

Dr. Kennedy asked about the communal bathrooms especially regarding the patients not being fully cognizant. Mr. Porretta replied, the idea of this use is the facility should feel like a home and in a home the bathroom is communal.

Ms. Dawson asked about security and what would prevent the patients from wondering out of the facility. Mr. Porretta replied, all the doors will have restricted egress with magnetic locks that are tied to the fire alarm system. The two rear doors will exit into a fenced in area with locks on the gate.

Ms. Dargel asked about visitors and what would be expected. Mr. Porretta replied there is a common area where there is soft seating which is like a living room with tables and chairs. Ms. Dargel asked if there will be a recreation area for the patients. Mr. Porretta replied, yes there will be one indoors and outdoors.

Mr. Stern stated that the exterior ramp and railing required some improvement, will the ramp be widened to meet DCA requirements. Mr. Porretta replied, the ramp will be inspected for accessibility, and that his presumption is it meets all requirements being the building is not that old.

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

Mr. Wiener swore in Mr. Mark Walker of 21 Bowling Green Parkway, Lake Hopatcong, NJ. Mr. Walker stated that he is a licensed Professional Engineer who has testified in front of various Land Use boards.

Mr. Walker went on to address a colored rendering superimposed on an aerial photo in which he distributed 11 x 17 copies to the Board. Mr. Walker labeled the document as Exhibit A-1.

Mr. Walker went on to testify that the property is located in a B-1 zone which requires 10,000 square feet noting this property is significantly larger at 54,333 square feet. The building was home to Dianne's Gift Boutique which had 7,670 square feet of retail space on the first floor and 840 square feet on the second floor. There is ingress from Commerce Boulevard and Route 46 and in both instances left turns are prohibited out of the site. There are 28 existing parking spaces including 2 ADA compliant parking spaces. There are some wetlands just to the south and category 1 water located in the rear which previously carried a 300-foot buffer, but when applying for an interpretation from the DEP for this application, it was revealed that the buffer has been reduced to 50 feet. The existing facility is professionally lit and landscaped but after 20 years some of the landscaping needs replacement and should the applicant receive approval, they will then discuss an updated landscape plan with Mr. Stern. There is a dumpster area located to the south that was originally approved as a 12 x 30-foot dumpster area where a 15 x 60 is required. The applicant is proposing the loading area be used for refuse pick up. There will be one van that makes deliveries twice a day delivering meals, in addition, a van will pick the residents up and take them out shopping or to an event.

Dr. Kennedy asked if laundry services will be a part of the daily schedule. Mr. Walker replied, the laundry will be done on the premises. Mr. Walker stated there are two options for food delivery, one is to enter through the front door or there will be a new ramp installation in the rear of the property where the food can be take in.

Mr. Walker went on to describe the interior of the building which will house 24 total beds with 14 one bedroom and 5 two bedrooms with 3 of the beds to be dedicated to Medicare residents and these beds will qualify for affordable housing which contributes to the township housing obligation. Mr. Stern asked if that would be a 30-year deed restriction. Mr. Walker replied, yes.

Mr. Walker testified that there is not much going on with the site plan, only some upgrades to the landscaping. Additionally, the applicant is proposing to remove two parking spaces and a turnaround area on the east end of the parking lot to install a patio, steel bollards, and fencing. Mr. Walker went on to testify that the facility will have an ADA ramp into the hallway where the residents are located and access to the recreational area. The only additional improvement would be the installation of a five-foot fence in the recreation area.

Mr. Stern asked Mr. Walker if he would be able to set the fence back so it would not be in the front yard or would the applicant be requesting a variance. Mr. Walker replied they

would be requesting a variance. Mr. Stern asked if the fence would be a decorative black metal fence. Mr. Walker replied no, it would be a PVC privacy fence natural in color, not white.

Mr. Walker addressed parking and stated in using the parking calculations per the Township ordinance, the applicant would be required to have 16 parking spaces. Mr. Walker stated at the busiest time of the day there are 5 employees on site and if the food van came that would be 6, additionally, once a month a doctor visits the facility which would be 7 and occasionally, a visitor or guest will visit making it 8 or 9 at the most. Unfortunately, this type of facility usually does not have many visitors due the fact the resident does not recognize the visitor due to dementia or Alzheimer's. Dr. Kennedy asked what the parking calculations are based on. Mr. Walker replied, the parking calculations are based on the number of bedrooms, noting for a one bedroom it is .6 parking spaces and for a two bedroom it is 1.25. Mr. Furey asked is it the Township or the DCA that drives the ordinance. Mr. Walker replied the DCA ensures compliance with all the necessary building codes. Mr. Furey asked if there was any interaction with DCA and parking requirements. The DCA will review the plans and if they have a comment, they will let the applicant know, but otherwise the parking falls under the Township Ordinance.

Mr. Stern asked if there were stairs at the front entryway of the building. Mr. Walker replied that there are no stairs.

Mr. Overman commented that it seemed as though this tenant's use will utilize less parking spaces than a conforming business use would. Mr. Walker replied that there will be very little activity and most of the activity will occur during shift change which is three times a daily.

Dr. Kennedy asked Mr. Walker to address visitor parking during the holidays. Mr. Walker replied, a schedule would be made, if necessary, with visitation hours for each patient. Additionally, staff could park at the Merry Heart facility on Route 10 and be shuttled over to the site if need be, to free up any need parking spaces.

Mr. Stern remarked that the proposed use would be a decrease in intensity and about 2000-2001 when the property was rezoned highway business to the B-1 use to eliminate some of the high intensity uses. Mr. Stern further remarked that this use is a positive use in what is a very busy intersection.

Mr. Walker addressed a comment regarding the wood beam guide rail post that may have deteriorated. Mr. Walker will inspect it to make sure it is viable and if not, it will be replaced.

Mr. Stern asked if there is a possibility Merry Heart would be parking vans overnight at the facility, due to the fact St. Therese's parking situation has changed. Mr. Dwyer stated he would like to include in the approval overnight parking of a few vans if necessary. Mr. Walker stated if the applicant could get approval for two vans that would be great.

Mr. Overman asked Mr. Walker about the no left turn signage out of the facility. Mr. Walker replied there is existing signage from the previous tenant.

Mr. Walker handed out a copy of what was labeled Exhibit A-2 which depicts the free-standing sign in front of the building, the building mounted sign, and an elevation rendering of landscape surrounding the free-standing sign. The newly proposed sign will be the exact same size as the existing sign. Mr. Stern stated that the prior tenant received

variances for the signage on site. Mr. Walker replied that there are two free standing signs, one on the northerly side and one on the westerly side. Mr. Walker stated the sign on the westerly side will remain and the sign on the northerly side will be removed.

Mr. Stern asked about the illumination of the signs. Mr. Walker replied that existing lighting that will be used. Dr. Kennedy asked about the hours of illumination. Mr. Walker replied, the lighting for the sign will be turned off by 10:00 pm according to the Township Ordinance, but the lighting inside the building will be on all 24/7.

Mr. Walker went on to address other items in Mr. Stern's report and Mr. Kataryniak's report and they are as follows:

- Light fixture that is leaning – will repair
- Striping of the walkway from the ADA spaces to the ramp area
- Seal the cracks in the parking area
- Will check handrail to see if ADA compliant
- Trash enclosure – will repair
- Will replace exterior lights with LED fixtures
- Will provide tasteful covers for the lights
- Waiver request for five-foot fenced in area
- Provide fence details
- Remove all garbage and debris from site
- Generator installation
- Deliveries are prohibited between 11:00 pm and 6:00 am – agreed
- Landscaping – agreed to upgrade
- File letter with DOT
- DEP – wetlands transition area documentation

Ms. Dargel asked if there would be any medical waste/disposal taking place at the facility. Mr. Walker replied, no.

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

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

Mr. Wiener swore in Blanche Bonifacio of 200 Route 10, Succasunna, NJ 07876. Ms. Bonifacio went on to testify that Merry Heart is involved with senior health care and she owns and is licensed by the State of New Jersey Department of Health to run facilities in Succasunna and Parsippany and has done so since 1982. Ms. Bonifacio went on to testify that the health care facility is licensed by both state and federal agencies and Merry Heart has maintained a five-star rating.

Ms. Bonifacio stated that the proposed memory care facility will have 24-hour care with food service provided by the Merry Heart facility located at 200 Route 10, Succasunna. Ms. Bonifacio stated there will be transport service to and from the nursing home for medical appointments, food transfer, etc.

Ms. Bonifacio testified that there will be daily activities for the patients such as exercise, inspirational stories, and music, etc.

Ms. Bonifacio went on to state that all workers are trained for three months specifically in dementia care and must be certified to work at the facility.

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

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

Mr. Wiener swore in Mr. John McDonough of 101 Gibraltar Drive, Parsippany, NJ 07054. Mr. McDonough is a licensed planner in the state of New Jersey and is a member of the Institute of Certified Planners.

Mr. McDonough went on to testify that this application has what Mr. Cox states as the analytical short cut due to the fact this application has an inherently beneficial use which means the positive criteria the Board would ordinarily hear about is automatically satisfied. This is a low intensity land use in comparison to what existed previously. The Board has already vetted any negative criteria.

Mr. McDonough finished up his testimony stating all relief can be granted without substantial detriment to the area.

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

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

Mr. Stern made a final remark that this proposal falls within the Township's Housing Element Fair Share Plan.

Dr. Kennedy stated he couldn't think of a better use for this site as he knows firsthand the importance of such type of healthcare noting, that Roxbury was one the first communities leading the way in adult care for dementia patients.

Dr. Kennedy made a motion to approve the application with the conditions agreed to in testimony. Ms. Robortaccio seconded.

Roll call: Dr. Kennedy, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Furey, yes Ms. Dargel, yes.

**ZBA-22-001 SHANKAR**, Bulk Variance relief for property located at 6 Wheeler Street, Kenvil, Block 2604, Lot 1.01 in an R-4 zone.

Mr. Wiener swore in Shruthi Shankar of 6 Wheeler Street, Kenvil, NJ 07847. Ms. Shankar went onto testify that she would like to install an inground pool on her property for the recreational use of her family, noting the reason she is seeking a variance is the property has a paper street alongside the property causing a front yard setback variance and accessory structure in the front yard variance. Ms. Shankar further testified that she would like to install privacy fencing on the rear property line as well. Additionally, there will be installation of pavers around the patio as well as a decorative black aluminum fence around the pool.



Dr. Kennedy asked Ms. Shankar if she would be willing to reduce the height of the fence. Ms. Shankar replied she would like to match the existing fencing on the side yard which is 6 feet in height.

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

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

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

**ZBA-22-007 DIPASQUALE**, Bulk Variance relief for property located at 11 Picardy Road, Succasunna, Block 1302, Lot 110 in an R-3 zone.

Mr. Wiener swore in Anthony DiPasquale of 11 Picardy Road, Succasunna, NJ 07876. Mr. DiPasquale testified he would like to build a 16 x 32-foot deck on the home noting it does not meet the minimum rear yard setback of 35 feet. The plans are proposing only 22 feet to the rear yard. Mr. DiPasquale stated he has a hardship due to the fact the home is further back on the lot and is uniquely angled. Mr. DiPasquale stated he would like to use sliding glass doors to enter out onto the deck. Mr. DiPasquale believes his deck would be of no detriment to his neighbors as his yard is screened by large evergreens.

Ms. Dargel address the existing shed on the property and noted that it was only set back 1.8 feet from the property line where 5 feet is required.

Mr. DiPasquale agreed to move the shed into conformance with the Township ordinance.

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

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

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

**OLD BUSINESS:** *None*

**OPEN TO THE PUBLIC:**

\*No discussion of any pending application.

Motion to adjourn at 9:38 pm

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY  
*Tracy Osetec, Board Secretary*  
*April 11, 2022*