

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, May 09, 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. Steven Bolio, P.E.

MINUTES OF APRIL 11, 2022

Ms. Dargel made a motion to approve the minutes of the April 11, 2022,
Ms. Robortaccio seconded.

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

RESOLUTIONS:

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.

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

*In the matter of Ashly Beverage
Case No. ZBA-21-036*

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

Approved: April 11, 2022
Memorialized: May 09, 2022

WHEREAS, Ashly Beverage has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 45 Silver Springs Drive and known as Block 11601, Lot 30 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.1301D4, 13-7.1301D6, 13-7.1301D8 of the Roxbury Township Land Use Ordinance; and

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

Township of Roxbury
Board of Adjustment
May 09, 2022

1. The Applicant is the owner and occupant of the subject premises.
2. The Applicant is proposing to construct a 21'x12' garage and 2nd floor addition requiring variance relief.
3. Applicant submitted the following:
 - a. A survey prepared by Thomas C. Yeager, PLS, dated September 24, 2020
 - b. Architectural plans prepared by Alex G. Padilla, dated January 25, 2021 revised through November 11, 2021 consisting of 14 sheets.
 - c. A written narrative to the Board that was attached to the application.
4. Applicant received a letter of denial dated October 25, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:

<i>Section</i>	<i>Permitted</i>	<i>Existing</i>	<i>Proposed</i>
§ 13-7.1301D4	Front Yard Setback: 35 feet	39.2 feet	28.08 feet
§ 13-7.1301D6	Side Yard Setback: 10 feet	8.6 feet	8.6 feet
§ 13-7.1301D8	Maximum lot coverage: twenty-five (25%) of lot area	28.9%	30.8%
§ 13-7.1301D8	Maximum building coverage: fifteen (15%) of lot area	12.8%	16.86%

5. The Board received a report from the Lake Hopatcong Commission dated March 10, 2022. The report contained several bullet points for the recommendations for maintaining the issues with the quality of water runoff on the lake. Those issues are noted below in the conditions of approval.
6. The Township Engineer, Michael A. Kobylarz submitted a report dated April 7, 2022. Mr. Kobylarz's report set forth a list of items that would be conditional for approval.
7. The testimony at the public hearing was provided by the Applicant, Ashly Beverage. She provided a list of exhibits depicting existing and proposed additions to the home including photos taken by the Applicant and two aerial images that were downloaded from the internet. The Applicant used the exhibits and offered further testimony and a detailed description of the exhibits that were submitted to the Board. As marked, Exhibits A through L are as follows:
 - a. Exhibit A – existing front view
 - b. Exhibit B – existing roof
 - c. Exhibit C – side view

- d. Exhibit D – view of 43 Silver Street
 - e. Exhibit E – J – photos of other homes in the general vicinity of the subject property
 - f. Exhibit K – a hand drawn sketch of the location of the garage related to the neighbors existing garage
 - g. Exhibit K-1 – the location of the garage, drawn in red, indicated on a photo, showing the setback location
 - h. Exhibit L – proposed front view of the house with the garage
8. The lot is substantially undersized for the zone; 15,000 sq. ft. is required, and 9,174 sq. ft is existing, 40% less than required. The maximum floor area ratio 25% or 2825.29 square feet for 15,000 square feet, for 9174 square feet, the maximum floor area ratio is 2293 square feet, where 2884 square feet is proposed. Both conditions create a hardship in upgrading the home to be consistent with the neighborhood and conform to the zoning requirements.
 9. The proposal includes an expansion of the existing footprint to add a one-car garage and the heightening of the roof to upgrade and modernize the home in a manner consistent with the neighborhood. In response to input from her neighbor, the garage was reduced in size and setback further from the side yard to create the maximum amount of open space. The side yard setback variance is triggered by the vertical expansion of the home but does not decrease the existing setback. There is no conforming location to construct the garage on the property. The Applicant noted that 1-3 car garages are required for new residential construction per the Township's Ordinances.
 10. The Applicant testified that the relief related to the maximum lot coverage and the maximum building coverage are a result of the lot being undersized. If the subject lot were conforming as to lot area, these variances would not be necessary, the proposed addition would comply.
 11. The Applicant is proposing a phased approach to the project, focusing first on the curb appeal of the home and the exterior, aesthetic upgrades, including landscaping.

12. There is a grinder pump in the location of the proposed garages. The Applicant testified that she would work with the Township Engineer with regard to relocating the pump.
13. No one from the public was 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:

1. The Board finds the testimony of the Applicant 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. § 13-7.1301D4 – Front Yard Setback shall be 35 feet, 39.2 feet is existing and 28.08 feet is approved
 - b. § 13-7.1301D6 – Side Yard Setback shall be 10 feet, 8.6 feet is existing and the expansion is approved
 - c. § 13-7.1301D8 – Maximum lot coverage shall not exceed 25% of the lot area, 28.9% is existing and 30.8% is approved
 - d. § 13-7.1301D8 – Maximum building coverage shall not exceed 15% of lot area, 12.8% is existing and 16.86% is approved
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. A key factor in considering this application is the existing conditions as currently built. The home is undersized for the zone and is not aesthetically in keeping with the neighborhood. In addition, the lack of a garage is inconsistent with the goals of the Township ordinance

which requires a minimum of a one car garage. The Board found that the relief was *de minimis* and that the proposal would be an improvement to the property and the neighborhood.

4. The Board also thoroughly reviewed the reports provided by Michael Kobylarz, the Township Engineer, and the Lake Hopatcong Commission. The Board finds the testimony of the commentary from both Mr. Kobylarz and the Lake Hopatcong Commission to adequately address any negative impacts of the Applicant's proposal. The Board is satisfied that the approval of the application with those conditions satisfies the basis for a "C" variance under the Municipal Land Use Law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 11th day of April 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 necessary permit and approvals and the construction shall be consistent with the plans submitted to the Board and the testimony at the public hearing.
3. The green stormwater infrastructure proposed for the site as recommended by the Lake Hopatcong Commission shall be shown/specified on the site plan.
4. Soil Erosion/Sediment Control measures shall be shown on the plans with applicable details.
5. Any proposed trees and other plan species shall be specified on the site plan.
6. The existing low head pressure system grinder pump chamber is within the location of the proposed garage. The following shall be required to relocate the pump chamber:
 - a. All work associated with the relocation of the grinder pump shall be coordinated with the Sewer Department. The relocation of the pump chamber, shut-off valve, control panel, alarm box, discharge pipe and all appurtenances must be confirmed by a representative of the Sewer Department. An electrical and plumbing permit will be required for this relocation work.
 - b. The alarm box must be visible from the relocated pump chamber. The discharge pipe will need to be cut and reconfigured to the new chamber

- location. The new pipe shall be schedule 40 PVC and any bends shall be 45 degrees and 22.5 degrees maximum.
- c. The pipe discharging from the house is the homeowner's responsibility and a plumbing permit from the Construction Department is required for this relocated connection into the pump chamber as applicable.
 - d. A Sewer Utility Easement for the grinder pump system has been recorded and is on file for this property.
7. The above notes shall be added to the site plan. All costs associated with the relocated equipment is the applicant's responsibility.
8. As noted in the Lake Hopatcong Commission letter.
- a. The Applicant shall work with their engineer to identify opportunities to reduce the impervious coverage on the property or mitigate impacts to stormwater runoff through the use of green stormwater infrastructure.
 - b. Soil erosion and sediment controls shall be used during construction if the Applicant will be disturbing on-site soils. Overland stormwater flow can carry sediment and nutrients to the lake resulting in increased nutrient loads and particulates that can promote aquatic plant and algae growth.
 - c. Native plants species shall be utilized if additional plantings are being considered. Vegetative buffers along the shoreline can drastically reduce the transport of nutrients, chemicals, and particulate matter in the lake. Applicant shall take measures to maintain the trees and plants that are already present on the property to help mitigate stormwater.
 - d. The Commission encourages the use of sod or native plant species that do not require the use of fertilizer for their establishment to reduce the availability of nutrients within the watershed, thereby reducing the potential for nutrient loading to Lake Hopatcong.

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.

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

*In the matter of Merry Heart Memory Care, LLC
Case No. ZBA-22-005*

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

Approved: April 11, 2022
Memorialized: May 09, 2022

WHEREAS, Merry Heart Memory Care, LLC has applied to the Board of Adjustment, Township of Roxbury seeking Use Variance and Amended Site Plan for premises located at 970 Route 46 and known as Block 5301, Lot 1 on the Tax Map of the Township of Roxbury which premises are in a “B-1” Zone; said proposal required relief from Section 13-7.2302A and 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. Patrick J. Dwyer, Esquire represented the Applicant.
2. The Applicant submitted the following documents:

Prepared by Dykstra Walker Design Group – dated 10/12/21, revised 1/10/22

Sheet 1, Title Sheet
Sheet 2, Boundary and Topographic Survey Plan, dated 9/1/21, revised 10/12/21
Sheet 3, Layout Plan
Sheet 4, Grading, Soil Erosion & Sediment Control, and Steep Slopes Plan
Sheet 5, Lighting and Landscape Plan
Sheet 6, NJDEP Permitting Plan

Prepared by Lighthouse Architecture – dated 4/30/21

Sheet A0.00, Cover Sheet
Sheet A0.10, Code Sheet
Sheet A0.30, Demolition Plan – First Floor
Sheet A0.31, Demolition Plan – Mezzanine Floor
Sheet A0.40, Demolition Elevations
Sheet A1.00, First Floor Plan
Sheet A1.01, Mezzanine Floor Plan
Sheet A2.00, Building Elevation

3. The Board received the following reports:
 - a. Russell Stern, Township Planner, dated March 25, 2022
 - b. Mark Kataryniak, Board Engineer, dated March 10, 2022
4. The subject property encompasses 54,333 square feet (1.25 acres) located in the B-1 Limited Business District at the intersection of Route 46 and Commerce Boulevard. The southern portion of the tract contains wetlands. The site is developed with a two-story 8,451 square feet retail building that obtained Planning Board approvals in 2001 for preliminary site plan and 2002 for final site plan. The first floor contains 7,610 square feet and the mezzanine 841 square feet. The structure was formerly occupied by Dian's Boutique. Twenty-eight constructed and eight banked parking spaces are provided. Floor area ratio is 0.16 (0.20 permitted) and 45.6% impervious coverage (60% permitted). Public water and sewer service the property.
5. A number of variances and waivers were previously granted, including but not limited to:
 - Sidewalk setback from R.O.W.
 - Absence of full height curb for stormwater management
 - Dimensions of loading area
 - Reduction of street trees outside of R.O.W.
 - Parking lot shade trees
 - Stormwater quality control
 - Light intensity along the adjoining roads
6. Located to the south is Drakesville Pond and to the southwest the Drakesville multi-family residential development which are both zoned MFR Multi-family Residential. Across Commerce Boulevard to the west is a child day care facility zoned B-1 Limited Business District. Across Route 46 to the northwest is a service station zoned B-3 Planned Shopping Center District and to the north is another service station zoned B-2 Highway Business District. Also located to the north are two commercial buildings zoned B-2.
7. The Applicant, (Merry Heart Memory Care, LLC), now seeks "D1" (use) variance and preliminary site plan approvals to convert the vacant former retail store to a residential memory care facility with a maximum of twenty-four (24) residents. There will be a total of 24 beds contained within 14 one-bed units and 5 two-bed units. All residential units will be located on the first floor along with a dining room, activity room, kitchen, laundry, an office/nurse's room, and six toilets/showers.

8. At least three (3) beds will be designated for Medicaid residents and thus qualify as affordable housing and contributing to the Township's housing obligation.
9. The building façade and site's exterior (ingress/egress, circulation, parking, and lighting), essentially remains as originally approved. Parking will be reduced from 28 to 26 spaces. The two removed spaces and a back-up space will be converted to a 28' x 15' patio. A handicap ramp will be constructed from the patio to a new entrance on the easterly side of the building.
10. The application is under the jurisdiction of the Zoning Board as a "D1" use variance is requested.
11. At a duly noticed public hearing, Blanquita Bonifacio, from Merry Heart Care, LLC, Peter Porretta, AIA, PP, the project architect, Mark Walker, P.E., the project engineer and John McDonough, P.P, the project planner, who were accepted as experts in their respective fields. The proposal requires a New Jersey Department of Community Affairs Public Health review and approval; inspections and permits will be issued by the Township of Roxbury. The proposal is fully compliant with the State Requirements. The proposal is for a 24-hour care facility, which is fully staffed.
12. The proposal includes a reconfiguration of the interior of the building and some minor exterior renovations to accommodate the use. The interior design is in accordance with the State requirements for an assisted living center. Although a kitchen is proposed, cooking will take place off the premises and served from the kitchen. There will be two food deliveries daily. The laundry service will be handled on site. There will be communal bathrooms. The entire facility will be barrier-free for handicapped access.
13. There is an existing mezzanine which was used by the retail use, but there is no use proposed because the barrier free access would require an elevator. A door is proposed to block access to the mezzanine. Each room will have a window, so as part of the demolition plan, windows will be removed, and new openings created. All doors will have restricted egress utilizing magnetic locks, which can be released by a fire alarm or staff. The existing access ramp will be evaluated for handicapped accessibility.

14. There is a recreation room proposed that is compliant with the State requirements and an outdoor, fenced area for passive recreation. There are common areas that can be utilized for visitation.
15. Mr. Walker provided an overview of the site plan and was marked as A-1 for identification. The subject property is an oversized lot, with ingress and egress on Route 46 and Commerce Avenue, left turns out of the site are not permitted for neither driveway. There are some wetlands to the south and a category 1 waterway with a 300-foot Riparian Buffer. NJDEP recently reduced the buffer to 50 feet which comes up right to the fence in the rear. The site is lit with downward lighting and was originally landscaped, but new landscaping will be provided.
16. Deliveries are anticipated to utilize the front door, but there is a van that comes daily and can utilize the proposed ramp in the rear of the property. In addition to the ramp, the site changes include landscaping the site, removal of two parking spaces, replacing a turn-around area with a patio and the installation of steel bollards and 5' high fencing. The fencing will be PVC piping and likely grey to match the building. Based on the bedroom breakdown, 16 spaces are required and 26 space are proposed. There is a maximum number of three shifts, with 5 employees or fewer per shift.
17. The Applicant applied for a Letter of No Interest from the New Jersey Department of Transportation, however although the site is located in a heavily traveled intersection, the use is less intense than the permitted uses. At the suggestion of Mr. Stern, the Applicant requested permission to park 2 vans overnight on the site.
18. The proposed freestanding sign and sign on the easterly façade of the building will be exactly the same size and shape as the existing signs. The sign on the westerly side will be removed. Three renderings of the sign details were marked as A-2 for identification as follows;
 - a. Free standing sign front
 - b. Building mounted sign
 - c. Elevation rendering of the free-standing sign

The existing sign lighting will remain as existing, and will be shut down at 10pm, but the site will remain lit.

19. Referring to Mr. Stern's report dated March 25, 2022, addressing each item: During the review, Mr. Walker testified that the cable service would be upgraded as needed and a generator will be installed on the westerly side of the building and properly screened. Mr. Walker reviewed the report prepared by Mark Kataryniak, from Ferriero Engineering, Inc. and noted that he was in agreement with the requested revisions and improvements, as well as testifying that garage collection will be conducted twice a week to remove the food waste from the site more frequently. Additionally, the proposed project is exempt from the stormwater management ordinance and the Morris County Soil Conservation District for soil disturbance.
20. Ms. Bonifacio, from Merry Heart, testified as the proposed operations on site. She has owned similar facilities since 1980s and is licensed through the State of New Jersey, Department of Health. This facility was licensed in December of 2021. The facilities are regularly inspected and received 5-star ratings from the State, providing various levels of service to their elderly patients. The witness confirmed the previous testimony regarding operational shift and van transport. The proposed location will be called "The Cottage" to reduce the stigma associated with dementia, as well as its proximity to the lake.
21. The activities calendar was marked A-3 for identification; the activities are certified for patients suffering from dementia to stimulate the brain activities. The patients at this facility will not require medical intervention, so there will be no medical waste on site. The State requires 1 certified aide for every 8 patients with a supervising nurse for each shift.
22. Mr. McDonough presented the planning testimony in support of the Use Variance Relief requested. The proposed use is inherently beneficial, whereby the positive criteria that is typically required is satisfied. This is a special category of land use, similar to schools, hospitals, special needs individuals. The proposed land use addresses a critical need in the State of New Jersey for senior care facilities such as the one proposed by the Applicant. Many of the patients have memory and dementia issues. The Applicant's facility clearly

addresses those vital needs. The conditions proposed by the Board's professionals would mitigate any negative criteria from the facility.

23. Accordingly, the balancing test, as set forth in *Sica v Board of Adjustment of the Tp of Wall, 127 N.J. 152 (1992)* is applied. Reviewing the four-part test, Mr. McDonough noted
- a. What is the public interest at stake: the proposal is for a 24-hour health care facility for dementia patients.
 - b. What are the potentially negative impacts: the Board addressed meeting the required code for health care facilities, there will be no medical waste on site, there is a decrease in traffic and parking intensity from the prior, permitted use, the Applicant is repurposing an attractive building, there will be a low generation of sound; there is good neighborhood compatibility that is well integrated at this location.
 - c. Can you mitigate the impact: the conditions proposed by the professionals and agreed to by the Applicant mitigate any negative impact that may result from the use.
 - d. Balance the positive and negative: the adapted reuse will promote a beneficial land use, positive aesthetics and promote the public welfare.

Accordingly, there will be no negative impact to the area and the criteria to grant a use variance is satisfied.

24. It was noted by the Chairman that there is a great need for these facilities and that Roxbury has traditionally been supportive of the use.
25. No member of the public spoke in favor of or against the application.

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

1. The Board found the testimony of the Applicant's witnesses to be competent and credible. The Board weighed the Applicant's presentation and the guidance from its professionals

and determined that relief could be granted from Section 13-7.2302A, to permit a residential memory care/assisted living facility in the B-1 Zone.

2. The Applicant's Planner, with the support of the testimony from the site engineer, and representative, was able to establish the positive and negative criteria required and the four elements of proof set forth in *Sica*. The proposed use is inherently beneficial, similar to a house of worship or hospital; therefore, the positive criteria is established. The public interest is served by a 24-hour health care facility for dementia patients.
3. The Board determined that the Applicant was able to address the potentially negative impacts, noting that all State requirements for a health care facility are met and there will be no medical waste on site. There will be a decrease in traffic and parking, as the proposed use is less intense than uses permitted in the zone. Additionally, the use is compatible with the surrounding uses.
4. The Applicant agreed to all conditions suggested by the Board and its professionals, which mitigated any negative impact that may result from the use. When balancing the positive and negative criteria, the Board determined that the adapted reuse of an attractive site in a highly traveled area within the Township will promote a beneficial land use and promote the public welfare. Accordingly, there will be no negative impact to the area and the criteria to grant a use variance is satisfied.
5. Finally, a waiver is granted from Section 13-8.809B, as a 5-foot-high fence for safety is proposed in the Route 46 front yard area (between building face and R-O-W), while fences over 4 feet are prohibited.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 11th day of April 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. Applicant shall obtain all outside agency approvals, including but not limited to the NJDEP, NJDOT, the Township Sewer Authority and the Township Council.
3. Three (3) 30-year deed restricted affordable Medicaid beds (memory care/assisted living) shall be provided. The property has been designated for three (3) affordable units in the

Township's 2021 Housing Plan Element/Fair Share Plan. The Applicant shall comply with the Low/Moderate Housing Provisions under Section 13-7.826, to the extent applicable.

4. Signage details shall be incorporated into the site plan.
5. Sign lighting shall be turned off at 10:00 pm.
6. The wood fence dumpster enclosure needs repair and should be replaced with PVC fence and gate to match the building façade. Details shall be provided.
7. The existing wallpack wall light facing Route 46 shall be replaced with a conforming shoebox concealed source type fixture.
8. The leaning freestanding light fixture by the southwesterly building corner shall be set plumb and a base/bolt cover provided.
9. The freestanding light fixture by the northeasterly build corner shall be straightened.
10. The PVC Picket Fence detail on Sheet 3 appears as a 6-foot-high stockade fence. Additional dimensions, labeling, and detailing shall be provided. Fence height shall not exceed 5 feet and shall not be white in color.
11. In accordance with Section 13-500, all electric, telephone and cable television lines shall be installed underground.
12. Handicap ramps, railing, etc., shall satisfy ADA requirements.
13. Approval is required from the Township Fire Official.
14. Garbage and debris shall be removed from the property, including the wetlands.
15. In accordance with the March 14, 2001, Resolution of Memorialization, Condition 7, the Applicant shall verify that Title 39 enforcement has been implemented and will continue.
16. All fees, sureties, escrows, and outstanding vacant property registration fee as required by Ordinance shall be paid prior to the issuance of a temporary certificate of occupancy.
17. Sewer capacity allocation shall be obtained from the Township Engineer and authorized by the Governing Body (Section 13-8.501).
18. In accordance with Sections 13-4.6 and 13-4.7, the Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer.
19. In accordance with Section 13-7.21A04, deliveries shall be prohibited between the hours of 11:00 p.m. and 6:00 a.m.

20. A “Stop” sign shall be provide at the Commerce Boulevard exit drive and a compliant “Stop” and “No Left Turn” sign installed at the Route 46 exit.
21. Pavement parking stall striping, stop, crosswalks handicap stalls, fire zone, etc. shall be repainted.
22. Pavement cracks shall be sealed.
23. Plans shall note that broken and cracked sidewalk and curb shall be repaired at the direction of the Township Engineer.
24. The outdoor patio area shall be enhanced with some shade cover, seating, tables, decorative fencing, decorative bollards, and landscaping including flowering perennials and ornamental grasses.
25. A landscape plan shall be provided that addresses the requirements of the Township Ordinance (street trees, hedges, etc.) and includes flowering perennials and grasses. The plan is subject to the review and approval of the Township Planner.
26. The landscape plan shall graphically depict existing vegetation to remain and identify the species and general size.
27. The foundation landscape plan shall be enhanced and include flowering perennials. EKM, JC, and TC2 as proposed are not recommended.
28. Flowering perennials and ornamental grasses shall be provided by the freestanding sign.
29. The landscape plan shall note that plants are to be trimmed, planting beds weeded, and landscape mulched.
30. Repairs shall be provided to make the irrigation system functioning.
31. The depression in the lawn along Route 46 shall be filled and seeded.
32. Sparse lawn area should be reseeded.
33. ADA spaces shall be further evaluated to determine if they are in conformance with current standards.
34. Note 8 shall be updated upon receipt of verification from the NJDEP on boundaries and location of Riparian Zone, Freshwater Wetlands, and the Wetlands Transition Areas once obtained by NJDEP.

35. The Applicant shall verify the condition of the wood beam guide rail and posts at the rear of the southern portion of the site near the loading area. Any deteriorated or damaged posts shall be replaced as part of this application.
36. A painted crosswalk shall be provided in the main drive aisle connecting the ADA parking spaces and main entrance to the building.
37. The Applicant shall indicate if the existing site identification sign will remain at the northwest corner of the property.
38. The painted No Parking gore area in front of the buildings shall be extended across the length of the proposed curb area of the proposed patio.
39. The cable service shall be upgraded as needed to provide service to each bedroom.
40. A generator shall be installed on the westerly side of the building and properly screened.
41. The Applicant shall cooperate with the Engineer and Planner to address any concerns that may be raised by the Fire Official administratively.
42. Applicant shall be permitted to park two (2) vehicles on the site overnight.

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.

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

*In the matter of Shruthi Shankar
Case No. ZBA-21-001*

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

Approved: April 11, 2022
Memorialized: May 09, 2022

WHEREAS, Shruthi Shankar has applied to the Board of Adjustment, Township of Roxbury for permission to construct a swimming pool and fence for premises located at 6 Wheeler Street and known as Block 2604, Lot 1.01 on the Tax Map of the Township of Roxbury which premises are in a “R-4” 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 is proposing to construct an in-ground swimming pool, a 6' white privacy fence, and a safety metal fence around the pool area.
3. Applicant submitted a Plot Plan prepared by Steven Smith, PLS, of Jaman Engineering Associates dated November 15, 2021 consisting of one (1) sheet.
4. Applicant received a letter of denial dated December 20, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Section 13-7.8101B – No accessory building shall be permitted in the front yard, proposed pool - 14'x31'5”.
 - b. Section 13-8.809B – No fence or wall which exceeds 4' in height shall be constructed or maintained between the road right-of-way line and the front foundation wall of the principal building. In the case of corner lots, such restrictions shall apply to both street frontages – proposed 6' high solid PVC fence and 6' high metal fence.
5. Shruthi Shankar provided the testimony at the public hearing. As part of her testimony, she submitted a portion of the Township tax map which depicted the location of the Applicant's home and a copy of a plot plan showing the two adjoining streets Wheeler Street and Chester Avenue (an unimproved street). Ms. Shankar set forth a basis for approving the variances. She noted the unique location of her property. The entry to the house is via Wheeler Street and noted a plan had been put forth that would accommodate the existing lot. The Applicant was requesting to add an in-ground pool and the appropriate required fencing for the backyard. The proposal was to add a 6' white privacy fence along the backend of the property and a safety metal fence around the pool area. She noted that the lot was considered a corner lot when in reality Chester Avenue is a paper street.

6. Ms. Shankar stated and believed that the improvements to the backyard would have no material impact from the public or neighbors. The proposed 6' fence along the back of the property will provide privacy for the Applicant.

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

1. The Board finds the testimony of the Applicant to be competent and credible.
2. The requested variance relief is *de minimis*. Its impact on the development and aesthetics of the within property are consistent with other homes in this area of the Township. With the advent of the Covid pandemic, the Township is seeing numerous homeowners requesting the addition of adding swimming pools to their homes.
3. It is noted the Applicant's property adjoins an unimproved street. It is not likely that there is going to be any significant impact with the additional development of the subject premises.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 11th day of April 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 improvements shall be located as depicted on the plans submitted with the application.
3. The Applicant shall submit the construction plans to be reviewed and approved by the construction official and zoning officer.

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

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

In the matter of Anthony & Rachel DiPasquale
Case No. ZBA-22-007

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

Approved: April 11, 2022
Memorialized: May 09, 2022

WHEREAS, Anthony & Rachel DiPasquale have applied to the Board of Adjustment, Township of Roxbury for permission to construct a deck requiring variance relief for premises located at 11 Picardy Road and known as Block 1302, Lot 110 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D5(a) 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 were proposing to construct a 518 square foot deck requiring rear yard setback relief. Applicants submitted a four-page sketch of the proposed deck prepared by Anthony DiPasquale, dated 11/4/21 and a marked-up survey prepared by Marc J. Cifone, dated 12/7/2020.
3. Applicants received a letter of denial dated March 23, 2022 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:
 - a. Rear Yard Setback – 35’ required and existing; 22’ proposed
4. Anthony DePasquale provided the testimony at the public hearing. He noted the purpose of the application was to construct a 16’x32’ deck in the rear of the home. He opined this would provide a much-needed backyard recreation.
5. During the course of the public hearing, it came to the attention of several Board members that there is an existing non-conforming shed located in the rear yard.
6. During a colloquy with the Board, the Applicant agreed to move the shed to a conforming location.

WHEREAS, the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing

the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Roxbury for the following reasons:

1. The Board finds the testimony of the Applicant and the comments of the Board members to be consistent that the location of the existing infrastructure and orientation of the house constitutes a hardship. The Applicant's proposed deck is *de minimis* under the circumstances and will have no significant impact caused by the Applicant's proposed deck.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 11th day of April 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 existing non-conforming shed shall be moved to a conforming location (with all appropriate permits) or alternatively, removed from the premises.
3. Deck shall be sized and located as depicted on the plans submitted with the application with the constructed deck to become no closer than the Applicant's request of a 22' rear yard setback.
4. Deck to remain open and uncovered.

APPLICATIONS:

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.
Applicant requested to withdraw application.

ZBA-21-030 VANDE VELDE, 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 June 13th, 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 June 13th, 2022 meeting, with no further notice required.

ZBA-22-016 VANDERHOOF, Certificate of Non-Conforming Use for property located at 46 Main Street, Succasunna, Block 3702, Lot 2 in a B1-A zone.

Mr. Wiener swore in Diane Vanderhoof of 106 Ford Road, Landing NJ and Todd Vanderhoof of 46 Main Street, Succasunna, NJ. Ms. Vanderhoof went on to testify she is the owner of 46 Main Street, Succasunna and is seeking a certificate of non-conformance to sell the said property. Ms. Vanderhoof stated that she has owned the property since 1995 where it has been maintained as four apartments and one office. Mr. Potere, Roxbury Township Zoning Officer's report of May 9, 2022

concurs with that statement. Mr. Stern stated that Sandor Nayari, former Roxbury Township Zoning Officer was tasked with generating a list of non-conforming multi-family parcels and the applicant before the Board is on the list identified as multi-family and marked as four apartments with one business.

Dr. Kennedy asked what the office was used for. Mr. Vanderhoof replied, his family ran a business called Adventure Graphics.

Mr. Overman asked Ms. Vanderhoof at the time of purchase were there any tenants. Ms. Vanderhoof replied one apartment was occupied at that time. Ms. Vanderhoof replied that she and her husband renovating the apartments to prepare them for rental.

Dr. Kennedy asked how long the office use continued for. Mr. Vanderhoof replied, it is still in use although at a smaller scale due to the passing of his father six years ago.

Ms. Dargel asked about the five meters on the side of the dwelling. Mr. Vanderhoof replied they are gas meters, and each unit is billed separately. Ms. Dargel asked if each unit had its own electric as well. Mr. Vanderhoof replied yes, and they are billed separately as well. Ms. Vanderhoof stated that she pays for the water. Ms. Dargel asked if it had existed that way for over 25 years. Mr. Vanderhoof replied, yes.

Ms. Dargel asked how the dwelling was being advertised. Mr. Vanderhoof replied it was not being advertised as they already have a buyer.

Motion was made to open to the public for questions – Mr. Nicholas Pappas stepped forward stating that he lives next door to the property on 8 South Street. Mr. Pappas stated the building has five units and the office has not been used in many years. Mr. Pappas stated that he had a visit from the Zoning Officer stating that Mr. Vanderhoof complained about his on street parking.

Dr. Kennedy told Mr. Pappas that this is a time for questions of the applicant regarding the testimony they provided and did he have any questions regarding that matter.

Mr. Wiener then swore in Mr. Nicholas Pappas of 8 South Street, Succasunna. Mr. Pappas stated that in testimony the applicant stated that there has been a continued use of the business and he disputes that fact.

Mr. Stern stated when it comes to abandonment of a use, and you look at the site inspection photos it is still set up as an office. Mr. Stern asked Mr. Vanderhoof if continues to use the office space. Mr. Vanderhoof replied, yes. Mr. Pappas then questioned the sign on the property. Mr. Stern replied that a sign would not be taken down knowing a new business will be replacing it. Mr. Pappas asked if someone abandoned a building could they keep the sign up. Mr. Stern replied, it would depend on all particular elements involved pertaining to that parcel. Mr. Stern stated no complaints had been issued regarding the sign. Mr. Pappas asked if the Township needed to receive a complaint. Mr. Stern asked Mr. Pappas if he would like to issue a complaint. Mr. Pappas replied the Vanderhoofs were complaining that they did not want him to park on the street and now they want a certificate of non-conforming use when a business has not been run there in years. Mr. Stern stated that we are digressing from this application, where this application is about a non-conforming certification and not parking issues. Mr.

Pappas replied that the lot at the Vanderhoof property is small and did not have enough parking.

Dr. Kennedy reiterated that this is not the appropriate forum for parking complaints. Mr. Pappas stated he is not complaining about his parking issue but questioning the parking for the Vanderhoof's and if it is adequate.

Mr. Stern remarked this application is for a pre-existing non-conforming use and not site plan detail. Mr. Pappas stated then what is the law for a business abandonment.

Mr. Wiener stated the business has not been abandoned, but to the contrary. The Vanderhoof's are before us tonight to seek permission to continue the use as a business. Mr. Wiener stated there has been no attempt to abandon the business use and that is through the testimony we heard tonight. Mr. Pappas stated the business has not been used in many years and no proof has been shown. Mr. Wiener stated that in fact proof has been made by the Vanderhoof's and the Township professionals. Mr. Pappas asked where everyone would be parking. Dr. Kennedy stated that this business and apartment use has been there since 1995 and there has been no issue and again, we are not here tonight for site plan details.

Ms. Robortaccio stated the reason the applicant is here tonight is to continue the use as it has always been, if the new owner would like to change the use, they would have to come back before the Board.

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. Klein, yes;
Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

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.

Mr. Anthony Sposaro, Esq. stepped forward to represent Black River Holdings, LLC stating the applicant is here before the Board for Preliminary and Final Site Plan approval and variance relief associated with the construction of another building on site. Mr. Sposaro went on to state they have received reports from the Board professionals.

Mr. Wiener swore in Mr. Nolan Forlenza of 24 Highland Avenue, Long Valley, NJ.
Mr. Wiener then swore in Mr. James Glasson of Civil Engineering located in Budd Lake, NJ.

Mr. Glasson asked the Board to look at a colorized version of sheet 2 of 14 which was existing conditions plans dated 09-28-2020 revised on 04-27-2022 (document marked as Exhibit A-1). Mr. Glasson explained there are three lots involved with this application, Lot 4 Block 8701 which is a rectangular shaped lot and is the current site of Cycle Exchange located at 1393 Route 46, its size is 27,897 square feet. The second lot is Lot 5, Block 8701

and is a small rectangular shaped lot that previously contained a carpet store that is now vacant and the size of the lot is 13,113 square feet. The third lot is known as Lot 6, Block 8701 an irregular shaped lot with a flag staff out to Route 46 that is a vacant property that contains 33,893 square feet. The lots are located within the B-2 zone which requires a minimum lot size of 10,000 square feet and all lots in this application are complying.

Mr. Glasson went on to testify that Lot 4, the current site of cycle exchange has 100 feet of frontage on Route 46 and is 250 feet deep which contains a two-story building, although from the road level it appears as one-story at grade with Route 46, but there is a slope to the rear and there is a walk-in basement in the back. The footprint of the building is 5,337 square feet and the building itself is 75 feet wide by 62 feet deep. The FAR is .38 and a variance was granted for that back in 2013 whereas the zone only allowed .2, but with the current proposal the FAR greatly decreases.

Mr. Glasson stated that on the property there is an access way from Route 46 and it operates in a counterclockwise direction around the building. There are five spaces designated as display spaces that were approved in the 2013 application. There were 14 approved spaces where 12 are required based upon the use of the property. The five display spaces in the front of the property are not counted towards that and there is one handicap space in front and the remainder of the spaces are in the rear. The property has 12,662 square feet of pavement and the amount of impervious coverage is at 72.26% which required a variance in the last application and was subsequently approved. The lot next door has housed a carpet store has 103 feet of frontage on Route 46 and is 117 feet deep and if you look at the two buildings you will notice the vacated carpet store is much closer to Route 46 than the Cycle Exchange and it blocks the view of the Cycle Exchange when traveling westbound on Route 46, noting the reason for the Cycle Exchange sign location. The vacated carpet store is only 22 feet off the front property line and has a huge amount of paved area as well as a gravel area and its impervious coverage is about 84%. The third lot which is the vacant lot next door that has a flag staff to Route 46 is 52 feet wide and a depth of about 230 feet. Access to these lots is from an ingress/egress off Route 46 that has been installed over the last couple of years. Prior to the installation there was an open curb-line. The rear of the property houses the Ledgewood Brook which runs across lot 4 and lot 6. Wetlands were approved and delineated in 2015 and a flood hazard applicability application to determine the property is not in a flood hazard zone (the permits were renewed in 2021). A transition area waiver was granted and when the carpet store was owned previously, a portion of the land was cleared and will need to be replanted by Mr. Forlenza with some landscaping. Public sewer and public well serve all the lots, there is no storm drainage, everything flows to the rear. Additionally, there is gas service to the carpet store.

Mr. Glasson addressed the signs on site, one of which is a 10 x 6 freestanding sign, and the others are building mounted signs which are 64 square feet each on the front of the building. Mr. Glasson went on to state that Mr. Forlenza will not be requesting and additional signage.

Mr. Glasson went on to address sheet 5 of 14 dated 09/28/2020 depicting the proposed lot merger of lots 4, 5, and 6 and merging them into lot 4.01. The frontage of the lot will be 254 feet across Route 46 and have a depth of 250 feet. The applicant is proposing an addition that is 20 feet wide and 28 feet deep. The proposed design holds the line of the existing Cycle Exchange and carried the addition across as well as carried the sidewalk across from the cycle exchange. There will be two 4-foot doors on the front of the building and in addition, a double 4-foot door that has a depressed curb in front of it for loading showroom vehicles. In the rear of the building there is a small area which is a garage space

that has a 12-foot garage door and 3-foot man door with a depressed curb to allow access of vehicles. There are two access points for parking and currently the site travels in a counterclockwise direction. Parking by ordinance requires 12 spaces where 27 spaces are proposed. In the front of the building there are 15 spaces including 2 handicap spaces and we are proposing an additional handicap space and thirteen additional spaces across the front. The applicant is proposing to eliminate one space in the rear to accommodate better circulation. Mr. Glasson explained a 42-foot-long combination of truck, car, and trailer can fit around the building. The Fire Official's report suggests that a fire truck would not be able to circulate around the rear of the building. Mr. Glasson stated a small fire truck could but a larger one could not.

There will be an 889 square foot impervious coverage overage with the newly proposed addition. The applicant will be proposing an underground infiltration system in the rear consisting of a 3 x 8 drywell. The entire roof area of the existing Cycle Exchange and newly proposed addition will be filtered into the drywell.

Mr. Glasson went on to address landscape and lighting stating that there are six existing lights for the cycle exchange building with five being pole mounted and one building mounted all at 18 feet in height. The applicant is proposing all lights be LED fixtures. The applicant is also proposing planting at the entrance of the site, and around the right side of the building, as well as three street trees around Route 46.

Mr. Glasson went on to list the waivers being requested by the applicant and they are as follows: Waiver for an environment impact statement, parking lot aisle landscaping, 20-foot parking area setback from Route 46, hairpin striping on parking spaces, 9-foot-wide curb plants, loading space size of 15 x 60, curbing on the existing easterly driveway access from Route 46, and sidewalks on Route 46.

Mr. Glasson then went on to list the variances being requested for this application and they are as follows: use variance for expansion and sale of new and used boats, floor area ratio where .20 is the maximum and .206 is being requested, 20-foot landscape strip across the entire frontage, parking setback from front building, and parking setback from the side and rear.

Mr. Stern stated that depending on when the application was submitted, the applicant may be required to install an electric vehicle charging station. Mr. Glasson replied, if it is required, we will come into compliance.

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. Forlenza owner of the Cycle Exchange stepped forward to brief the Board on the operations of his business which consisted of the sales of motorcycles, power sports, and watercraft that are pre-owned. The largest delivery truck to deliver the vehicles is a 20-foot box truck. The hours and days of operations are Tuesday through Saturday 10:00 am to 5:00 pm and pre-covid they were 10:00 am to 7:00 pm two nights a week. There are 4 employees (2 service and 2 sales). The main business service provides reconditioning of vehicles to prepare for sale. The outdoor display area is used for motorcycle display during the day, but the vehicles are brought inside at night. The additional space being requested as part of this application is for more indoor showroom space. Additionally, the

sale of boats are being proposed as they may be used in a trade for vehicle purchase. Boats will not exceed 20-feet in length. The applicant is also seeking approval to display boats in an outdoor display area which will not exceed the proposed space. No new signs are being proposed as part of the application. The existing trash enclosure is sufficient for the newly proposed addition. Mr. Forlenza stated the property does not generate a lot of recycling and trash due to the fact all the vehicles are pre-owned and are not unwrapped during shipment.

Dr. Kennedy asked if there would be any battery storage pertaining to electric vehicles. Mr. Forlenza replied that currently the motorcycle industry has not moved in that direction. Dr. Kennedy then asked about chemical storage. Mr. Forlenza replied that nothing new from the previous approval.

Application to be carried to the July 11, 2022 meeting without further notification.

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.

Mr. Selvaggi stepped forward and stated at the prior hearing of April 28th, 2022, Mr. Speicher testified to the operations on the property and Mr. Glasson testified to the engineering issues and now Ms. Jessica Caldwell, PP will be testifying to the variances and waivers required.

Mr. Wiener swore in Ms. Jessica Caldwell of J. Caldwell and Associates of 145 Spring Street, Suite E, Newton, NJ. Ms. Caldwell went on to testify the applicant needs a variance for expansion of a pre-existing non-conforming use for changing the lot size for the pre-existing tire repair use on the property. The property is in the B1-A business district and has been existing as a light industrial type of use. Additionally, there is a variance required for impervious coverage where the impervious coverage will be reduced by virtue of the sub-division and site plan proposal.

Ms. Caldwell went onto explain that the expansion of a pre-existing non-conforming use has case law that shows where the positive criteria is met by bringing the proposed application more into conformance with the variance by cleaning up or improving the visual aspects of the application. A reduction in impervious coverage is being created as well as a larger lot area in the proposal where a drywell is being included as part of an infiltration system, as well as striping of the parking spaces and providing for a trash enclosure on the site.

The use of this property is an industrial service use which is located close to Route 80 noting there is a lot of truck traffic, so it makes sense to have the business in this type of location where it has existed in quite some time.

No repairs will be out in the open nor will any tools be left out in the open. There is sufficient on-site parking and as well as circulation. The use does not involve high traffic volume and is setback from other adjacent uses and has proposed screen from Route 80.

Mr. Stern asked Mr. Forlenza if he was agreeable with the comments of the Board professionals in their reports. Mr. Forlenza replied, yes.

Mr. Stern suggested the front outdoor storage area on the proposed plan just be a designated area because for the tire operation, the trucks will need to circulate across that area. Mr. Stern stated he understands why the applicant would want to keep it open for a

future use, but right now it is depicted as a striped area for outdoor storage so the timing on how it fits into this approval is unclear. Mr. Glasson replied, the applicant would like to keep the right if the use changes but does understand if the Board does not want it striped seeing how it could take on the trappings of parking spaces.

Ms. Caldwell went on to address the waivers requested; an environmental impact statement, loading space where there is a required size of 40 x 60 where the applicant is proposing 20 x 40, parking shall be enclosed by curbing, 4 parking spaces per bay. Mr. Stern stated testimony that was provided states the applicant is proposing 7 passenger vehicle spaces along with 6 oversized vehicle spaces and one handicap space and he believes the applicant complies. Mr. Stern commented that on the right side is a shared driveway which is part of Mr. Mohr's property. Ms. Caldwell went on address the waiver for 10-foot side yard traffic aisle access that is gravel, and the applicant has proposed to pave said area, additionally, hairpin parking, soft striping not provided, curb planting islands are requested waivers.

Mr. Forlenza agreed to pave the gravel area on the side of the building where a waiver was requested.

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; Mr. Furey, yes; Dr. Kennedy, yes.

OLD BUSINESS: *None*

NEW BUSINESS: *None*

OPEN TO THE PUBLIC:

*No discussion of any pending application.

Motion to adjourn at 9:13 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
May 09, 2022