

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, June 19, 2023 at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ, after a salute to the flag, Dr. Kennedy, Chairman read the “Open Public Meetings Act”.

BOARD MEMBERS PRESENT

Mr. Summers, Ms. Dawson, Mr. Overman, Ms. Robortaccio, Ms. Dargel and Dr. Kennedy

ABSENT: Mr. Klein

PROFESSIONAL STAFF

Mr. Russell Stern, P.P.
Mr. Kataryniak, PE, PTOE, Ferriero Engineering
Ms. Alyse Hubbard, Esq.

RESOLUTIONS:

RESOLUTION appointing planning consulting firm, Burgis Associates Inc.

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

**RESOLUTION AUTHORIZING THE APPOINTMENT OF
JOSEPH H. BURGIS AS A CONSULTING
PLANNER TO THE ZONING BOARD OF ADJUSTMENT**

WHEREAS, due to increased activity, the Zoning Board of Adjustment of the Township of Roxbury (the “Board”) finds it necessary to appoint a consulting planner to assist the Board and the Township Planner on an as-needed basis; and

WHEREAS, the Board wishes to appoint the firm Burgis Associates Inc. (hereinafter referred to as “Burgis”), to provide planning services to the Board in accordance with their proposal dated October 21, 2022, a copy of which is attached hereto; and

WHEREAS, as appropriate, Burgis will be paid for their services in connection with development applications out of the applicants’ escrows; and

WHEREAS, Section 40:55D-71b, Article 9, of the Municipal Land Use Law states that the Zoning Board of Adjustment may employ, or contract for and fix the compensation of experts, and other staff and services as it may deem necessary; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40:A-11 et. seq.) requires that the resolution authorizing the award of contracts for “Professional Services” without competitive bids and the contract itself must be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Roxbury as follows:

1. The firm Burgis Associates Inc. is hereby appointed to provide professional planning services to the Board, on an as-needed basis, in accordance with its proposal dated October 21, 2022. Where appropriate, Burgis will be paid for their services in connection with development applications out of the applicants’ escrows.

2. This contract is awarded without competitive bidding as a “Professional Service” under the provisions of the local Public Contracts Law because professional planning services are rendered by persons authorized by law to practice a recognized profession.
3. A copy of this resolution shall be published in the official newspaper as designated by the Township Council as required by law.
4. This resolution shall take effect immediately.

The undersigned does hereby certify the foregoing is a true copy of the Resolution of the Roxbury Township Zoning Board of Adjustment memorializing the action taken by the Board at its meeting of June 19, 2023.

APPLICATIONS:

ZBA-21-004 BLACK RIVER HOLDINGS, LLC & MORGAN DEAN HOLDINGS, LLC.
Use Variance, Bulk Variance, Lot Merger, and Preliminary Major Site Plan for property located at 1371, 1373, and 1393 Route 46, Ledgewood, Block 8701, Lot(s) 4, 5, & 6 in a B-2 zone. *(Request to be carried to the July 10, 2023 meeting with no further notification required).*

ZBA-22-041 SPARK CAR WASH, LLC.
Use Variance, Preliminary Major Site Plan and Bulk Variance relief for property located at 1441 Route 46, Ledgewood, Block 8602, Lot 42 in a B-2 zone. *(Request to be carried to a special meeting on June 26, 2023 meeting where further notification is required).*

ZBA-21-008 KALM. Use Variance for property located at 142 Lakeside Boulevard, Landing, Block 11001, Lot 3 in a R-3 zone. *(Request to be carried to the July 10, 2023 meeting with no further notification required).*

ZBA-23-005 RBS HARRISON, LLC. Certificate of Non-Conforming Use for property located at 12 Mark Lane, Succasunna, Block 2001, Lot 4 in a R-3 zone.

Lawrence Cohen, Esquire of Lavery, Selvaggi, Abromitis & Cohen, PC. stepped forward on behalf of the applicant. Mr. Cohen testified that the applicant is seeking certification under Section 68 which is a non-conforming use as a multi family residence consisting of four units. Mr. Cohen stated that the application became somewhat complicated and proceeded to hand out a letter that explains it and read it into the record. Mr. Cohen read the following:

“This is an application with reference to Lot 4 Block 2001, also known as 12 Mark Lane Succasunna. There exists on the property one structure which is a house containing 4 separate dwelling units. Our client, RBS Harrison, sought to sell the property and the purchaser wanted to confirm that there was a four-family dwelling certification and were subsequently advised that there was no confirmation that the building was illegal four family unit. We were consulted by our client, who has owned the property since 2002, and has used it as a four-family structure. When he purchased it, it was a multi-family structure. The applicant has a survey of the property from time of purchase, indicating the dwelling is a 1 1/2 story multifamily unit. Our client asked us to view the issue and an OPRA request was made. We were supplied two subdivision maps, one entitled Succasunna Realty Corp dated May 1951 showing a subdivision of a property on Mark Lane as well as a subsequent map dated January 1959 which was a reapproval of the subdivision. Enclosed are copies of those two maps for your education as well as the survey. Upon our first review we looked at the maps that we had and believed that this structure existed prior to the 1951 map as it is shown in the exact configuration that it is today. We understood that the zoning ordinance was adopted in 1956 and therefore, on behalf of our client, we made an application for determination that this was a pre-existing non-conforming use prior to the adoption of the zoning ordinance. After we made the application, apparently there was some research done by the former zoning officer and he discovered an application for a permit to construct a four-family unit by Succasunna Realty, dated December 14th, 1957. He also produced a letter dated March 16th, 1958, from the Secretary of the Board of Adjustment,

denying that application. It was his position that there was a prior application and that the subject property and the denial pertained to my clients property. Closing copies of those documents are provided to you. It was suggested that an application be filed for the lot in question and advised that we had to apply for a 'Use' variance. Once we filed an additional application, we originally noticed for the Section 68 certification, we then subsequently noticed for the "Use' variance. Upon further review we learned that the denial provided in the OPRA request of the four-family dwelling was not this property. The undersigned hereby applies for a permit to erect a building situated on Mark Lane Succasunna, owner of Succasunna Realty, and it has a four-unit bungalow for summer residents. The application was denied in excess of two families. Mr. Cohen asked the Board to look at the lower left-hand corner which showed Block 1, Lot 3 (subdivision of Succasunna Realty Corp May 1951) if you look at the May 1951, you'll see that Lot 1 Block 3 is at the bend of Mark Lane and not the lot that's in question, it is Lot 14.

Mr. Cohen asked to move these exhibits into evidence.

Ms. Hubbard then swore in Lawrence Robert Keller Jr. of 44 Winding Way, Morris Plains, New Jersey.

Mr. Cohen asked Mr. Keller what his relationship to RBS Harrison LLC was. Mr. Keller responded that he was a partner. Mr. Cohen asked if there were any other partners. Mr. Keller replied yes, his wife and children. Mr. Cohen asked Mr. Keller when he acquired the property. Mr. Keller replied in 2002. Mr. Cohen asked Mr. Keller to describe the property and how it was used. Mr. Keller replied that he purchased the property where it was a four family, one story home and that all of the units were on the 1st floor and they all had one bedroom, 1 bathroom, and separate kitchens.

Mr. Cohen asked if they have separate entrances and how is the entrance configured. Mr. Keller replied that you enter into a small common porch area and then there is a door to your left, center, and right.

Mr. Cohen asked Mr. Keller if the home is registered as a four-family unit. Mr. Keller replied yes that it is registered with the DCA. Mr. Cohen asked if periodic inspections of this property were conducted. Mr. Keller replied yes, inspections take place every five years from the DCA and every year as well as the state based on the fact it houses Section 8 tenants for the purposes of their leases and fire prevention inspects every year as well.

Mr. Cohen asked if all four units were Section 8. Mr. Keller replied yes, all four units and since we've had the building, they've been predominantly Section 8.

Ms. Hubbard swore in Mr. Cohen stating that he represented Sandy Long at the time of purchase in 1976 of property located at 12 Mark Lane in 1976. Mr. Cohen stated that he remembered being on this property and remembers it was a four-family unit.

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

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

Ms. Hubbard swore in Mr. Kenneth Fox, of Fox Architects located in Ledgewood NJ.

Mr. Cohen asked Mr. Fox if he physically inspected this property. Mr. Fox replied that his office inspected the property and created existing documentation of its entire layout. Mr. Fox turned the Board's attention to four historical photos of the property that he downloaded from the internet. Mr. Fox went on to testify to his inspection of the property and stated the following: as

the owner stated, this was always a four-family home and that is pretty obvious in the way it was constructed. The layout is a mirror image of each other and as you can see you would be unable to connect between units because of where the fireplace is located between units, so it's not even possible.

Dr. Kennedy asked the Board if they had any questions.

Mr. Stern asked the applicant if he was anticipating making any changes.

Mr. Keller replied, no, we are not. The application came up because Mr. Keller wanted to sell the property and the new owner made an inquiry and that is when the issue arose.

Mr. Stern asked if there are separate electric panels and how is the water handled? Mr. Keller replied that it is well water. Mr. Stern asked does the same well serviced all four units.

Mr. Stern asked what the square footage of each unit was. Mr. Keller replied they are 482 and 495 square feet, so essentially 485 square feet.

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

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

Ms. Robertaccio made a motion to approve this application. Ms. Dargel seconded.
Roll call: Ms. Robertaccio, yes; Ms. Dargel, yes; Mr. Summers, yes; Ms. Dawson, yes; Mr. Overman, yes; and Dr, Kennedy, yes.

ZBA-23-007 WARD, Certificate of Non-Conforming Use for property located at 16 Gordon Road, Succasunna, Block 12901, Lot 59 in a R-2 zone.

Ms. Hubbard swore in Dawn Ward of 181 Eyland Avenue, Succasunna and David Ward, Jr. of 122, Brooklyn Stanhope Rd. Stanhope, NJ. Mr. Ward, Jr. went on to testify about the property before the Board located 16 Gordon Rd. He stated it was owned by his grandmother, and that she passed away in May of 2023. He stated that it was his family's goal to close out her estate and sell the property. The property has two houses located on it, a larger house which was built in 1920 that is 1300 square feet, and then behind that there is a smaller kind of cottage or a bungalow style building that was built in the 1940s. Mr. Ward Jr. stated that his great-great grandparents bought the property in 1945 with both houses on the lot 1956 and that his grandparents lived in the cottage from 1956 until 1991, at which time the property was sold from my great grandmother's estate to my grandparents and then in the mid-90s my uncle moved in the cottage and had applications for an addition to be put on the cottage and he lived there until his death in 2006. Mr. Ward Jr. stated that his grandmother continued living in the larger house until her death in 2023. Mr. Ward Jr. testified that the two houses have existed on the property as far as any of us in the family have ever really known and since my family took ownership it is the family's goal is to close out the estate. Mr. Ward Jr. stated that himself, his brother, his cousins all own their own homes, so there was no interest in the property.

Mr. Stern asked about the shed on the property that is located within the required 5-foot side yard setback. Mr. Ward Jr. stated that they would remove the shed.

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

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

Ms. Dawson made a motion to approve this application. Ms. Robortaccio seconded.
Roll call: Ms. Dawson, yes; Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Summers, yes;
Mr. Overman, yes; and Dr. Kennedy, yes.

ZBA-23-003 NOSENZO. Bulk variance for property located at 9 Cottage Avenue, Landing, Block 11906, Lot 1 in a R-3 zone.

Mr. Nick Nosenzo stepped forward as he still remained under oath from the prior hearing and stated that he and his wife Jillian and I were before the Board back in May and based on the board's feedback, they made some revisions to their plans for an addition on their home. Mr. Nosenzo also stated that they met in person with the Lake Hopatcong Commission to talk more about some of the things they could do with the property, especially when it came to stormwater drainage and filtration of the water to make sure they were not doing anything damaging to the lake. Mr. Nosenzo stated that the biggest thing they removed the covered deck that they had originally proposed, which will decrease the impervious coverage and building coverage.

Ms. Hubbard swore in Mr. William Byrne of 10 Main St. in Chester, NJ. Mr. Byrne testified that based on the feedback comments from the last hearing the applicants have removed the proposal for the covered deck area which will cut down the building and lot coverage. Mr. Byrne stated that the property exists with a detached garage much closer to the street with a side entry which is a very awkward approach, making it almost unusable. One of the goals was to create a situation where the Nosenzo's could get a safer situation with parking, by installing an attached garage to the home.

Mr. Stern asked the applicant to address the steep slope application. Mr. Byrne replied that he always takes a look at steep slope preservation as really being the preservation of undisturbed areas. Mr. Byrne stated that this area has been disturbed and then then the concern is soil erosion, and we will be following soil erosion standards and working with the county.

Mr. Roth stepped forward while still under oath from the prior hearing presented updated site plans noting that in the last board meeting, he provided site plans and response letters were submitted to address the Township Engineers March 20th memorandum, the Lake Hopatcong Commissions review letter and met with them on May 12, 2023, and also address the comments from the last hearing that took place on May 8th.

Mr. Roth provided an overview of the changes in the requested variances noting the request for the front yard setback for the position stating the proposed is at 28.5 feet where a minimum of 35 feet required. The front yard setback variance as a result of the garage. Next the applicant is requesting variances for the side yard setback along the east property line for the position where 6.6 feet is proposed at the corner of the garage where a minimum of 10 feet is required. The addition and uncovered deck along the east property line are much further from the three existing non-conforming 2-foot setback that occurs at the dwelling. Today, the project results in the removal of a non-conforming condition and the detached garage which was 3.8 feet to these property line. Also, we were previously requesting the variance for the side here except back along the west property line but with the changes that we discussed with the addition we are able to comply with the 10-foot set back on the left side, which is the west side of the property,

so a variance is no longer being requested. The next variance is for the rear yard setback to the proposed uncovered deck where 17.2 feet is proposed, where a minimum of 35 feet is required. A variance is also requested for the lake buffer, where 17.2 feet is proposed from the uncovered deck to the rear property line, where a minimum of 50 feet is required, and this variance is an improvement from the last submission as the cover deck is no longer proposed and the project proposes rain gardens along the bulkhead which will enhance the lake buffer. Also, the uncovered deck maintains the closest feature to the lake, as in the current condition which is at 17.2 feet in existing condition measured to the landscape wall so as to maintain that set back to the rear property line. Additionally, a variance is requested for the driveway slope where 7.4% is proposed which exceeds the maximum requirement. However, this is an improvement from the previously non-conforming condition of 22%. A variance is requested for building coverage where 30.7% is proposed and 24.9% is the pre-existing non-conforming condition. This is an improvement from the last submission where the applicant requested 37.1%. A variance for impervious coverage is requested is 46.1%, while 43.7% is the non-conforming condition which is only a 132 square foot increase in the previous very minor increase in coverage and a great improvement from our last submission which was at 52.1%.

Mr. Roth testified that a stormwater drywell and rain gardens will mitigate the increase in coverage. The drywall encompasses 735 square feet of the area, which is the driveway and a portion of the addition, which will offset the increased coverage as the applicant is only increasing impervious coverage by 132 square feet. Mr. Roth stated that he conducted a soil test and determined that there were sandy soils with no groundwater at the level of where the driver will be composed, so it will function as designed. Another component to the stormwater management system for the project is the rain gardens, it is coordinated with the Lake Hopatcong Commission that we're providing rain gardens along the bulkhead to provide a water quality benefit before the runoff enters the lake and the last variance is for steep slope disturbance where the project is proposing to disturb some areas of the steep slopes and as noted by Mr. Stern, the areas are not natural slopes.

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

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

Ms. Dargel made a motion to approve this application. Ms. Robortaccio seconded.
Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Mr. Summers, yes; Ms. Dawson, yes;
Mr. Overman, yes; and Dr. Kennedy, yes.

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

Ms. Tiina Vaska stepped forward as Mr. Peter's Architect and remained under oath from the prior hearing. Ms. Vaska went on to testify that her applicant had been here before and she provided a quick summary bringing the Board up to date stating Mr. Peters was before the Board in September 2021 requesting to add a deck and a pergola in the front yard where the Board approved an uncovered deck. Mr. Peter's subsequently added a ceiling system which did not meet the allowing building coverage percentage, and at the last hearing the Board had concerns regarding the drywell. Ms. Vaska stated that regarding the drywell, Mr. Peters has submitted reports prepared by Dykstra Walker that was submitted to you as part of this application package whereby they review the existing dry well and determine that it has a capacity of 326 cubic feet and we received a report earlier this evening, basically acknowledging

that yes, we are under capacity, so that is sufficient. However, it was asked if Mr. Peters could raise the existing dry well and add a grate. Mr. Peters agreed.

Ms. Vaska then addressed the shed Mr. Peters built under the existing deck and how it would be screened. The Board requested Mr. Peters match the vinyl siding. or a paint it a darker gray, then install landscape to screen it.

Motion was made to open to the public for comments – Mr. Zylberberg of 307 Kingsland Road, Landing stepped forward and stated that he had spoke on back in September in favor of the proposed deck, but now that it is constructed with the shed he would definitely agree that it is an enhancement to the community and painting it dark Gray with the planners would be a would be a beautiful addition, noting that he is going to be the person looking at it the most because he pulls up every day into and sees it.

Motion was made to close to the public.

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

Motion was made to close to the public.

Dr. Kennedy made a motion to approve this application. Ms. Dawson seconded.

Roll call: Dr, Kennedy, yes; Ms. Dawson yes; Mr. Summers, yes; Mr. Overman, abstain; Ms. Robortaccio, yes; Ms. Dargel, yes;

ZBA-23-004 GUZMAN-HERNANDEZ. Bulk Variance for property located at 72 Kenvil Avenue, Succasunna, Block 3901, Lot 36 in a R-3 zone.

Ms. Hubbard swore in Mr. Luis Guzman-Hernandez of 72 Kenvil Avenue, Succasunna, NJ Mr. Guzman-Hernandez stepped forward and stated that he installed a 6-foot fence on a portion of his property without a permit. Mr. Guzman-Hernandez did not realize that due to the way his property is situated, he installed a fence in the front yard due to a undeveloped paper street.

The Board asked why he needed a 6-foot fence and he explained that he has two dogs and did not want them to escape.

Motion was made to open to the public for comments – Ms. Jennifer Cruz Fuentes of 74 Kenvil Avenue, Succasunna stepped forward and stated that she had problems with Mr. Guzman-Hernandez putting up the six-foot fence in the rear year because there leaves a 1-foot gap between their chain link fence his fence which makes it difficult to maintain the grass allowing for weeds to grow. Ms. Cruz Fuentes stated that she had no problem with the installation of the fence in the front yard because she has dogs and Mr. Guzman-Hernandez's dogs and her dogs do not get along.

Mr. Guzman-Hernandez agreed to install a 4-inch depth gravel patch between the fences by digging out the grass, then putting down weed barrier down, Mr. Guzman-Hernandez also agreed to get an updated survey and come back with it showing the proposed additional fencing as stated in testimony tonight. Mr. Stern asked Mr. Guzman-Hernandez to show all the proposed fencing and guided him to meet with his neighbors work out the remedy for the space in between the fences.

Ms. Robortaccio asked Mr. Guzman-Hernandez about the rooster in his yard and advised that roosters were prohibited. Mr. Guzman-Hernandez replied he was unaware and would remove the rooster.

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

Motion was made to close to the public.

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

The application was carried to the August 14, 2023 meeting with no further notification required.

DISCUSSION: Planner's discussion took place regarding the fence height on the porch surround at Merry Heat Memory Care located at 970 Route 46, Kenil, NJ; Block 5301, Lot 1

NEW BUSINESS: None

OLD BUSINESS:
Motion to adjourn at 10:00pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
June 19, 2023