

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

BOARD MEMBERS PRESENT

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

ABSENT: Mr. Summers

PROFESSIONAL STAFF

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

MINUTES:

Ms. Robortaccio made a motion to approve the minutes of the June 19, 2023 meeting.

Ms. Dargel seconded.

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

RESOLUTIONS:

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; and Dr, Kennedy, yes.

In the matter of RBS Harrison LLC
Case No. ZBA-23-005

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

Approved: June 19, 2023
Memorialized: July 10, 2023

WHEREAS, RBS Harrison LLC has applied to the Zoning Board of Adjustment of the Township of Roxbury seeking a Certification of Pre-Existing Nonconforming Use for premises located at 12 Mark Lane, and known as Block 2001, Lot 4 (formerly Block 43, Lot 30.01) on the Tax Map of the Township of Roxbury which premises are in a “R-3” Residential Zone; said proposal required relief from Section 13-7.13 of the Roxbury Township Land Use Ordinance; and

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

1. Lawrence Cohen, Esquire, Lavery, Selvaggi, Abromitis & Cohen, PC, represented the Applicant.
2. The subject application seeks a Certification of a Pre-existing Nonconforming Use pursuant to N.J.S.A. 40:55D-68 for a four-unit residential dwelling in a single-family zone and is therefore under the jurisdiction of the Zoning Board of Adjustment.
3. The Applicant submitted the following documents:
 - a. Deed from Kerry Long to Lawrence R. Keller and Kathleen F. Keller, dated January 8, 2002, and recorded January 23, 2002, in Deed Book 05546, Page 071 in the Morris County Clerk's Office.
 - b. Deed from Lawrence R. Keller and Kathleen F. Keller to RBS Harrison, LLC, dated March 14, 2002, and recorded March 21, 2002, in Deed Book 05582, Page 017 in the Morris County Clerk's Office.
 - c. Hand Sketch of the interior layout of the premises, preparer and date unknown.
 - d. Resolution from a January 25, 1984 hearing, for Preliminary Major Subdivision Approval, dated February 15, 1984.
 - e. Resolution for Final Major Subdivision Approval and related minutes dated October 24, 1984.
 - f. An OPRA response for Block 43, Lot 30, Location Green Lanes.
 - i. Document provided to the Applicant that were submitted to the Board.
 - ii. Documents unrelated to the subject property that were contained in the same file.
4. The Board received a memorandum from Michael Haggerty, Zoning Officer, dated May 30, 2023, with attached photographs.
5. The following documents were marked for identification at the public hearing:
 - a. A-1 - Letter from Lavery, Selvaggi, Abromitis & Cohen,
 - b. A-2 – Packet of Documents:
 - i. Application for construction permit for Block 1, Lot 3.

- ii. Denial letter for construction permit for Block 1, Lot 3.
 - iii. Survey of property, prepared by Richard S. Hudson Associates, dated December 4, 2001.
 - iv. Map Showing Sub-division of Property owned by Succasunna Realty Corp., prepared by Frank Pesce, Surveyor, dated May of 1951.
 - v. Partial Map Showing Sub-division of Property owned by Succasunna Realty Corp., prepared by Frank Pesce, Surveyor, dated January of 1959, with "12 Mark Ln." handwritten and the property circled, preparer and date of handwritten information unknown.
- c. A-3 - Certificate of Registration, Department of Community Affairs ("DCA"), dated September 18, 2017, indicating "Building Use: Multiple Dwellings" and "Total Number of Units on Property: 4," two (2) sheets.
 - d. A-4 – Notice of Violation and Order to Correct, issued by Michael Pellek, Fire Official, dated September 25, 2018, indicating "Type of NLHU MULTI-FAMILY DWELLING 4 UNITS."
 - e. A-5 – Exhibit prepared by Fox Architecture and Design, consisting of the Existing Plan and Exterior, Aerial Photo dated unknown, Aerial Photo from 1979, Aerial Photo from 1963, Aerial Photo, 1957.
6. A duly noticed public meeting was held on June 19, 2023, at which time Lawrence Robert Keller, Jr, on behalf of the Applicant, and Kenneth Fox, AIA, PP, who was accepted as an expert witness in the field of architecture, presented sworn testimony in support of the application. Mr. Keller is a partner in RBS Harrison, LLC, and has personally owned the subject property since 2002. When he purchased the property, there was an existing 4-unit dwelling, each unit having a separate kitchen, living room, one bedroom and one bathroom. There is a common porch with 4 separate entrances. The units were not fully occupied when Mr. Keller purchased the property but there was no commercial use.

7. The Applicant reviewed the Exhibits that were submitted, noting that the survey from 1951 shows the property as it is currently situated, but for the enclosed front porch (A-2). Both the DCA registration (A-3) and the Fire Prevention Inspection (A-4) indicate that the structure is a multi-unit dwelling.
8. Mr. Cohen was sworn in and testified that he represented the prior owner, Sandy Long, in 1976. During that time, he conducted site visits, and the property contained the same 4-unit dwelling that currently exists.
9. Mr. Fox, who conducted a site visit and documented the interior layout of the units, reviewed Exhibit 5. As an expert architect, he opined that the structure was constructed as a 4-unit dwelling, as the two sides of the building mirror each other. Each unit has separate electrical service, but a shared well and septic system. The individual units are 485 square feet, for a total of 2098 square feet and each is occupied by a couple or single individual.
10. The structure contains interior fireplaces and demising walls. The historical aerial photos show that the existing structure dates back to as early as 1957 and is consistent with the 1951 Subdivision Map.
11. A memorandum was issued by the Zoning Officer, noting the four individual units (12A-12D), that contain the a “Living room, Kitchen, Bedroom, Full bathroom, (1) Electric meter.” As stated in the memorandum, the Ranch style house with (4 apartments) was built in 1955. Additionally, the Zoning Officer conducted a site inspection, and observed that there is a common entrance into a vestibule with a washer and dryer, but each apartment has its own door.
12. Members of the Board visited the site and questioned Mr. Keller about parked commercial vehicles. The Applicant responded that they may have belonged to the handyman, but that he would not permit the parking of commercial vehicles on the property.

WHEREAS, the Zoning Board of Adjustment of the Township of Roxbury has made the following conclusions of law based on the foregoing findings of facts:

1. The Application is for a Certification of a Pre-existing Nonconforming Use as a four-family home on the property located in the R-3, Single Family, Residential Zone. The Board determined that the witnesses were competent and credible. The Applicant submitted sufficient evidence and testimony to support the granting of a Certification of a Pre-Existing, Nonconforming Use pursuant to N.J.S.A 40:55D-68. The documents submitted to the Board established that the 4-unit dwelling dates back to approximately 1951 and has existed since that time. The Architect established that the units were constructed in the current configuration and have been individually occupied dwelling units.
2. The DCA registration and Fire Inspection document the property as containing a 4-unit dwelling. The Zoning Officer's report also supports the requested Certification, confirming the layout and access to the units. The Board determined that the current use as a 4-unit dwelling predates the current single-family zoning and that neither an overt act nor an intention to abandon the use has occurred and that the Applicant was entitled to the Certification that was requested.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 19th day of June 2023 that the application for a Certification of a Pre-existing Nonconforming Use has been granted pursuant to N.J.S.A. 40:55D-68, signifying that Block 2001, Lot 4 continues to contain a lawful, pre-existing, nonconforming, four-family residential use and an approval shall be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. No commercial vehicles shall be stored/parked on the property, other than those present for immediate use to service the dwelling.
3. The subject property shall be utilized for residential purposes only.

Ms. Dargel made a motion to memorialize the resolution. Ms. Dawson seconded.

Roll call: Ms. Dargel, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Ms. Robertaccio, yes; and Dr. Kennedy, yes.

In the matter of Jillian Ferrucci (Nosenzo)
Case No. ZBA-23-003

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

Approved: June 19, 2023
Memorialized: July 10, 2023

WHEREAS, Nicholas and Jillian Ferrucci have applied to the Zoning Board of Adjustment of the Township of Roxbury seeking bulk variance approval for an addition and renovation to the premises located at 9 Cottage Avenue and known as Block 11906, Lot 1 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Residential Zone; said proposal required relief from Sections 13-7.819, 13-7.1301D4, 13-7.1301D5(a), 13-8.612E, 13-7.1301D8, and 13-7.818G of the Roxbury Township Land Use Ordinance; and

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

1. The subject application is for an addition, renovations, and the construction of a deck on the existing single-family home, requiring relief from the following Sections of the Township’s Land Use Ordinance:
 - a. Section 13-7.819 – No disturbance within fifty (50) feet of a lake: disturbance from the house, 30.5 feet existing 30.48 feet proposed.
 - b. Section 13-7.819 – No disturbance within fifty (50) feet of a lake: disturbance from the deck, 20.3 feet existing 17.2 feet proposed.
 - c. Section 13-7.1301D4 – Minimum front yard setback: 57.2 feet existing, 28.5 feet proposed.
 - d. Section 13-7.1301D5(a) – Minimum rear yard setback: 35 feet required, 20.3 feet to the deck and 30.5 feet to the house existing, 17.2 feet to the deck and 30.5 feet to the house proposed.

- e. Section 13-7.1301D5(a) – Minimum side yard setback: ten (10) feet required, 6.4 feet to the west and 2 feet to the east existing, 9.5 feet to the west and 6.6 feet to the east proposed.
 - f. Section 13-8.612E – Maximum residential driveway grade shall not exceed six percent (6%) within 25 feet of the right-of-way line and fifteen percent elsewhere: 22% within the right-of-way and 4% elsewhere existing, 7.4% within the right-of-way and 7.4% elsewhere proposed.
 - g. Section 13-7.1301D8 – Maximum building coverage: 15% of lot area permitted, 24.9% existing, and 30.7% proposed.
 - h. Section 13-7.1301D8 – Maximum impervious coverage: 25% of lot area permitted, 43.7% existing, and 46.1% proposed.
 - i. Section 13-7.818G – Steep Slopes Disturbance: 15-19.99% slopes, 35% maximum disturbance permitted, 35.185% existing, and 84.26% proposed.
 - j. Section 13-7.818G – Steep Slopes Disturbance: 20-24.99% slopes, 15% maximum disturbance permitted, 15.71% existing, and 88.28% proposed.
 - k. Section 13-7.818G – Steep Slopes Disturbance: 25%+ slopes & ridgelines, 3% maximum disturbance permitted, 2.86% existing, and 100% proposed.
2. The Applicant submitted the following documents:
- a. Site Plan, prepared by Roth Engineering, dated January 9, 2023, revised May 22, 2023.
 - b. Architectural Plans, prepared by Byrne Design Associates, LLC, dated January 9, 2022, revised through May 17, 2023.
 - c. Zoning Denial, prepared by Tom Potere, Zoning Officer, dated January 24, 2023.
 - d. Zoning Denial, prepared by Michael Haggerty, Zoning Officer, revised through June 19, 2023.
3. The Board received the following memorandums:

- a. Melanie Michetti, P.E., C.M.E., Township Engineer, dated March 20, 2023 and May 1, 2023.
 - b. H. Ronald Smith, Chairman of the Lake Hopatcong Commission, dated June 12, 2023.
4. Duly noticed public hearings were held on May 8, 2023 and June 19, 2023, at which time Nicholas Ferrucci, along with Michael Roth, P.E., the Applicants' Engineer and William Byrne, the Applicants' Architect, who were accepted as experts in their respective field, presented sworn testimony in support of the application. The subject property is an undersized lot, with nonconforming lot area, lot width, lot frontage, rear and side yard setbacks, building and impervious coverage, setback from the lake, accessory structure in front yard and driveway slope. The Lot is approximately 36 feet wide at the Cottage Avenue right-of-way and approximately 140 feet deep. The existing garage is situated within the front yard setback, but the home is largely within the building envelope.
 5. The Applicants purchased the home in 2016 and are proposing to renovate and construct an addition to make the home more functional. The proposal includes the removal of the existing garage and an addition to construct an attached garage, second story, as well as cover the existing deck. A new driveway is proposed to extend from Cottage Avenue to the proposed garage. The addition will result in the need for a variance for the front and side yard setback for the home. The proposed covered deck will require a variance for rear yard setback and setback from the lake. A side yard setback is also required, but the deck will not be closer to the side yard than the home is.
 6. There will also be an increase in impervious coverage and building coverage, steep slopes disturbance and a waiver is needed for the slope of the driveway. The removal of the garage will eliminate the pre-existing, nonconforming condition of an accessory structure in the front yard. The new driveway slope will be an improvement on the existing conditions, as 22% is existing and 7.2% is proposed.

7. A drywell is proposed in the front yard that will improve the drainage, with a 466 square foot increase in impervious coverage, 735 square feet of which will be addressed by the drywell. Both the proposed trench drain, and roof runoff will be directed to the drywell, with an overflow pipe that connects to an existing drainage pipe that drains to the lake.
8. After reviewing same, the Board raised concerns regarding the floor plans and the increase in impervious coverage and requested that the Applicants return with revised plans.
9. Revised plans were submitted to the Board and considered at the meeting on June 19, 2023. Mr. Byrne explained the architectural plans to the Board. The Applicants proposed to remove the covered deck and decreased both impervious and building coverage. The garage addition is attached to the home with a foyer and split staircase where a bedroom currently exists. There are two (2) bedrooms proposed above the garage, along with a Jack-and-Jill bathroom. There is a proposed playroom that connects the front of the home to the Master Suite in the rear of the home, through a walk-in closet. The garage was relocated closer to the home, which provided additional off-street parking.
10. The garage faces the street and is the width of the home. The front entrance is on the side of the home, behind the garage. The architectural drawings depict the topography of the property, with a slope from Cottage Avenue toward Lake Hopatcong. The basement has low ceilings and is not conducive to living area. The 22.6' x 21.6' garage will be used for storage.
11. Although steep slopes disturbance relief is required, the slopes were disturbed by the prior construction. The Applicant agreed to follow the Morris County Soil Conservation District requirements for soil erosion standards. Soil logs were taken, and the soil is sandy, and the drywells should function as designed. The Applicant agreed to follow the recommendations of the Lake Hopatcong Commission, including the installation of a

rain garden along the bulkhead to address water quality before the stormwater flows into the lake.

12. Mr. Roth testified that although variance relief is required, the proposed additions result in improved conditions on the property with a minor increase in impervious coverage that is the result of architectural and topographical challenges. Mr. Roth opined that the improvements further the following goals of the Municipal Land Use Law (N.J.S.A. 40:55D-2):

- a. Purpose A – to guide the appropriate use of lands to promote the general welfare by improving both the property and the dwelling.
- b. Purpose H – to encourage transportation routes that will promote the free flow of traffic by creating off street parking to eliminate on street parking and allow traffic to flow freely.
- c. Purpose I – to promote a desirable visual environment through creative development techniques by creating a better layout for the property, with visual appeal.

13. The witness further opined that the location of the home, the pre-existing, nonconforming conditions and the topography create a hardship for the Applicants to construct a modern, functional home without requiring variance relief. The proposal includes protecting natural resources with the construction of stormwater improvements and maintaining the scale of development with minor deviations.

14. No one from the public was present for the subject 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 witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70(c) from the following Sections of the municipal zoning ordinance:
 - a. Section 13-7.819 – No disturbance within fifty (50) feet of a lake: disturbance from the house, 30.5 feet existing 30.48 feet approved.
 - b. Section 13-7.819 – No disturbance within fifty (50) feet of a lake: disturbance from the deck, 20.3 feet existing 17.2 feet approved.
 - c. Section 13-7.1301D4 – Minimum front yard setback: 57.2 feet existing, 28.5 feet approved.
 - d. Section 13-7.1301D5(a) – Minimum rear yard setback: 35 feet required, 20.3 feet to the deck and 30.5 feet to the house existing, 17.2 feet to the deck and 30.5 feet to the house approved.
 - e. Section 13-7.1301D5(a) – Minimum side yard setback: ten (10) feet required, 6.4 feet to the west and 2 feet to the east existing, 9.5 feet to the west and 6.6 feet to the east approved.
 - f. Section 13-8.612E – Maximum residential driveway grade shall not exceed six percent (6%) within 25 feet of the right-of-way line and fifteen percent elsewhere: 22% within the right-of-way and 4% elsewhere existing, 7.4% within the right-of-way and 7.4% elsewhere approved.
 - g. Section 13-7.1301D8 – Maximum building coverage: 15% of lot area permitted, 24.9% existing, and 30.7% approved.
 - h. Section 13-7.1301D8 – Maximum impervious coverage: 25% of lot area permitted, 43.7% existing, and 46.1% approved.
 - i. Section 13-7.818G – Steep Slopes Disturbance: 15-19.99% slopes, 35% maximum disturbance permitted, 35.185% existing, and 84.26% approved.
 - j. Section 13-7.818G – Steep Slopes Disturbance: 20-24.99% slopes, 15% maximum disturbance permitted, 15.71% existing, and 88.28% approved.

- k. Section 13-7.818G – Steep Slopes Disturbance: 25%+ slopes & ridgelines, 3% maximum disturbance permitted, 2.86% existing, and 100% approved.
2. N.J.S.A. 40:55D-70(c)(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. 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. Accordingly, based on the topography, existing conditions, and location of the home on the property, a hardship existing that impedes the Applicants’ ability to construct a conforming addition to their home. The proposed addition will result in modernizing the home to current standards.
 4. The benefits of permitting the addition will result in additional off-street parking and an improved layout appearance of the home, which outweigh the detriments that may result from denying the requested relief. The proposed improvements are further the goals of the Municipal Land Use Law by improving the home and property, encouraging the free flow of traffic and creating a desirable visual environment.
 5. It was determined that there would be little impact to the surrounding area and the proposed drainage will protect the natural resources in the area and is consistent with the goals of the Master Plan. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 19th day of June 2023 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.

2. The improvements on the property shall be consistent with the plans submitted to the Board and representations made at the public hearing.
3. Applicants shall comply with the Township's Engineer's Report, dated March 20, 2023.
4. Applicants shall construct a rain garden along the bulkhead to address the water quality before the stormwater flows to Lake Hopatcong.
5. According to Chapter 9.3 of the "New Jersey Stormwater Best Management Practices Manual", a maintenance plan and deed restriction to prevent neglect, adverse alteration or removal of the Drywells shall be submitted for review and approval of the Township Engineer and Board Attorney. Said deed restriction shall subsequently be recorded with the Office of the Morris County Clerk.
6. Applicant shall obtain a Certification from the Morris County Soil Conservation District.

Ms. Dargel made a motion to memorialize the resolution. Dr. Kennedy seconded.

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

In the matter of Jeff Peters
Case No. ZBA-22-043

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

Approved: June 19, 2023
Memorialized: July 10, 2023

WHEREAS, Jeff Peters has applied to the Zoning Board of Adjustment of the Township of Roxbury seeking approval for an awning, installing a ceiling and an enclosed area under the deck of the premises located at 305 Kingsland Road and known as Block 11001, Lot 16 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Section 13-7.130D8 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 received two prior approvals for the construction of a deck in the front of his home. As noted in the Resolution from September 13, 2022:
2. The Board received a memorandum from Tom Potere, Zoning Officer, dated September 13, 2021. As noted by Mr. Potere:
 - a. *“This memo addresses the front yard deck at 307 Kingsland Road which was approved by a variance on July 8, 2019, and memorialized on August 12, 2019. As you can see in the attached resolution, the deck had two variances for a front yard and side yard setbacks. This deck was approved 19’ from the front yard and the landing and steps are 17’ from the front yard as well as the deck was approved for an 8’ side yard setback. The other condition of approval was that the deck shall remain open and uncovered.”*
 - b. *“The difference between this approval and the proposed deck at 305 Kingsland Road is the front yard setback is 14’ from the deck and there is a gazebo located at the top of this deck and gas fireplace.”*

The second approval granted a front yard setback of 14-foot where 35 feet is required. As a condition of the September 13, 2021 approval, the deck was to remain uncovered. The Applicant installed an awning, a Haven Underlock ceiling system below the framing of the deck, a roof overhand on the covered porch and a wall enclosure under the deck. The within application is seeking relief, pursuant to N.J.S.A. 40:55D-70(c), from the following Section of the Township’s Zoning Ordinance:

- a. Section 13-7.130D8 – Maximum impervious coverage: 25% permitted, 24.9% approved on September 13, 2022, 27.5% as constructed.
 - b. Section 13-7.130D8 – Maximum building coverage: 15% permitted, 14.6% approved on September 13, 2022, 27.17.3% as constructed.
3. The Applicant submitted the following documents:
 - a. Deck Plans, prepared by Tiina Vaska, Architect, dated August 30, 2022, consisting of five (5) sheets.

- b. Zoning Denial for Deck & Pergola, from Tom Potere, Zoning Officer, dated July 29, 2021, Revised August 30, 2021 and December 7, 2022.
 - c. Pictures of the home, six photos on one sheet, undated.
 - d. Aerial Diagram and Aerial Photo on one sheet, undated.
 - e. 3D Aerial of the home and surrounding area prior to the construction of the deck, undated.
 - f. 3D Aerial of the home and photo of 307 Kingsland, North to South View, undated.
 - g. Deck Elevation Options for Peters Residence, prepared by Tiina Vaska, dated April 25, 2023, consisting of three (3) sheets.
 - h. Drywell Sizing Calculations, prepared by Dykstra Walker Design Group, dated May 1, 2023.
 - i. Pictures of homes in the surrounding area, along with location maps, submitted by Tiina Vaska, received by the Board on May 18, 2023, consisting of two (2) sheets.
4. The Board received a memorandum from Melanie Michetti, P.E., C.M.E., the Township Engineer and Director of Utilities, dated June 19, 2023.
 5. The following exhibits were marked for identification:
 - a. A-1 – A picture of the home with the retractable awning open
 - b. A-2 – A colorized version of the survey
 - c. A-3 – A colorized version of the rendering
 6. Duly noticed public hearings were held on April 10, 2023 and June 19, 2023, at which time Jeff Peters and Tiina Vaska, AIA, who was accepted as an expert in the field of architecture, presented sworn testimony in support of the application. The Applicant is before the Board again because he did not construct the deck consistent with the prior approvals and has increased the impervious coverage and building coverage, necessitating additional variance relief.

7. The subject property is an undersized lot of 7,300 square feet where 15,000 square feet is required in the R-3 Zone. The property is located on the curve of Kingsland Road and the home is set back from the roadway. There is a walk out garage in the front of the home and a deck is constructed above the driveway, with access to the main floor.
8. During construction, a Haven Underlock Ceiling System was installed under the deck. Additionally, the Applicant enclosed the section of the deck adjacent to the driveway with PVC paneling, which created a “shed” for storage of kayaks and other outdoor items. These improvements increased both building and impervious coverage on the lot. For structural reasons, a support beam with a small roof was installed over the front door area. A retractable awning was installed on the deck, in violation of the prior approval.
9. The Board noted that the construction had begun but that the work was not yet completed. The Board questioned the Applicant regarding why the work was inconsistent with the prior approvals. Comments were made by members of the Board and its professionals regarding the use of PVC paneling and the appearance from the road. Additionally, members of the Board raised concerns regarding the impact that the increase in building and impervious coverage would have on drainage on the site.
10. The Applicant was directed to consider ways in improve the visual appearance of the white paneling and to have an engineer evaluate the drainage capacity and determine if the system needs to be improved. The hearing was carried to June 19, 2023.
11. The Board received calculations for the drywell system, which were confirmed by the Township Engineer to be accurate and sufficient. On June 19, 2023, Ms. Vaska presented the Board with 6 options to improve the appearance of the deck elevation, as well as pictures of homes in the surrounding area that have sheds in the front yard. The Board preferred Option #5, Gray Paneling to Match the Deck, with additional landscaping to be reviewed by the Township Planner.

12. Prior to the closing of the hearing on April 10, 2024, Joe McKeon, who objected to the prior application, testified that he was in favor of the enclosure, as it provides storage for kayaks and other outdoor items and cleans up the property. At the June 19, 2023 hearing, David Zylberberg testified that he was in favor of the shed and the proposed enhancements, as it will improve the view of the property from his driveway across Kingsland Road.

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 13-7.130D8 – Maximum impervious coverage: 25% permitted, 24.9% approved on September 13, 2022, 27.5% approved as constructed.
 - b. Section 13-7.130D8 – Maximum building coverage: 15% permitted, 14.6% approved on September 13, 2022, 27.17.3% approved as constructed.
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 Applicant received relief from the Board for the proposed improvements, but the “as-built” improvements were not consisted with the approval. The Applicant worked

with the Board, over the course of two hearings, to improve the appearance of the shed, including gray paneling and landscaping, which was compatible with the neighborhood. The design change during construction resulted in relocating a post and extending the roof to manage the load bearing from the second floor and extending the covered entranceway for the home.

4. Although there was an increase in impervious and building coverage, the Board determined that relief could still be granted, as the benefits of permitting the small addition to the home, for structural and safety reasons, and the other modifications outweigh the detriments that may result from denying the additional variance relief. It was further determined that there would be little impact on the surrounding area, as the immediate neighbors were in support of the improvements, which will provide a means of storage on the property and result in an improved aesthetic appearance of the home. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 19th day of June 2023 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The proposed improvements shall be consistent with the plans submitted to the Board, Option #5 for the shed façade and the representations made to the Board at the hearing.
3. The existing drywells shall be exposed, raised to grade and overflow grates shall be installed to permit periodic maintenance of the drywells.
4. According to Chapter 9.3 of the “New Jersey Stormwater Best Management Practices Manual”, a maintenance plan and deed restriction to prevent neglect, adverse alteration or removal of the Drywells shall be submitted for review and approval of the Township Engineer and Board Attorney. Said deed restriction shall subsequently be recorded with the Office of the Morris County Clerk.

5. The Applicant shall finish the shed with gray paneling to match the deck and landscaping, subject to review and approval of the Township Planner.

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.

Mr. Anthony Sposaro, Esq. stepped forward and stated that there was a motion by the Board to authorize Ms. Hubbard to prepare a favorable resolution of the Board and its professionals wanted at the prior hearing. Mr. Sposaro stated that architectural plans have been submitted. and trusts that they were satisfactory and consistent with the representations that were made at the prior hearing. Mr. Sposaro testified that he has presented their case and additionally, had an opportunity to review the draft resolution prepared by Council, where he had no comments. Mr. Sposaro commended Ms. Hubbard for an exemplary job, noting a lot of this application was heard before Ms. Hubbard became Board Attorney.

Dr. Kennedy stated based on his reading of the resolution, specifically the issue dealing with the sale of vehicles on display, he wanted to make sure that the applicant is allowed five display spaces. Mr. Sposaro concurred.

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.

Dr. Kennedy thanked Mr. Sposaro and the Board for its perseverance and hard work where the two came together and were able to finally come up with a beneficial conclusion for both the applicant and Roxbury Township.

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

ZBA-21-008 KALM. Use Variance for property located at 142 Lakeside Boulevard, Landing, Block 11001, Lot 3 in a R-3 zone.

Mr. Craig Bossong from Florio, Perrucci, Steinhardt, Cappelli, Tipton and Taylor stepped forward on behalf of the applicant requesting relief for a minor site plan application to convert a second floor of an existing building into a single residential apartment. Mr. Bossong noted that what was unique about this application is that the applicant runs two businesses on the 1st floor and then they want to convert the 2nd floor into a residential apartment space for themselves so they will continue to run the karate shop on one side, the CPA office on the other and they will live upstairs, if the board is so kind to grant the application. Mr. Bossong stated that his applicant is before the Board of Adjustment because although the business and professional office are permitted uses on the 1st floor, the residential use is a conditional use on the second floor. Additionally, one of the conditions of the ordinance reads that there is a requirement that 50% of the residential units be an affordable unit, noting however, the

ordinance doesn't really speak to what happens if there's only a single unit being constructed. Mr. Bossong stated that in speaking with your professionals, the opinion is that it still needs the conditional use variance. Mr. Bossong stated that it would require a D3 variance which creates the jurisdiction for this Board. Mr. Bossong stated that both uses will continue to remain and the only change in the actual footprint of the building is the construction of the residential apartment upstairs. Noting otherwise the footprint remains the footprint and as part of the existing structure on site, there's four pre-existing nonconformities that won't be exacerbated or changed. The minimum front yard setback is 3 feet where 35 feet is required, the maximum building height requirement is 28 feet and two stories, where the existing building is less than 28 feet, but it's technically two and 1/2 stories. The floor area ratio is .258 where .20 is permitted and the maximum pervious coverage of 68.64% exceeds the 60% permitted. Mr. Bossong stated that his applicant will stripe the parking lot and bring it up to the current standards.

Mr. Bossong stated that the applicants have had half their business there for over 35 years and the other business moved in more recently. The applicants would like to stay in town, but due to economic circumstances, they've obviously had to relocate their home and want to move it upstairs and make use of the entire property, noting the reason for seeking the residential use on the second floor.

Ms. Hubbard swore in Joseph Allen Gates of Gates Architectural Design Inc located at 132 Landing Rd. Landing, NJ 07850.

Mr. Gates addressed the Board's attention to a colorized drawing that was submitted and labeled as sheet A-1 last revised 06/29/23, regarding the layout of the plans and the reason we believe that this project is relatively simple from a construction standpoint, noting all the work will take place on the 2nd floor for the construction itself and the existing conditions of the first floor will not change. The existing karate school is the back half of the building, and the front portion is the accounting firm. The second floor shall be converted into a new apartment with one bedroom in the back right, and one bedroom in the front left, with much of the living space in the back portion at the larger area.

Mr. Gates stated that his office is located around the corner and that the residential unit portion of the subject building has been there since the 1970's. Mr. Gates also felt that it seemed relatively appropriate to have a residential unit in some of the buildings, noting there's not a whole lot of commercial rentals going on. Mr. Gates stated that his applicants like the town and they've been in town for a long time. They feel that if they move their own residential living quarters into the building, it lets them keep an eye on their building and it keeps everything under one roof instead of going back and forth from a house to the business.

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 Joseph Phil of Suburban Consultant Engineering located at 96 Route 206, Suite 101, Flanders, NJ 07836,

Mr. Phil turned the Board's attention to the Minor Site Plan dated January the 27th, 2021. Mr. Phil went on to testify that the site fronts Lakeside Blvd., which is County Route 631, 101.5 feet along the frontage. The property is almost shaped like a parallelogram. The lot compiles .426 acres. The building is only three feet off the right of way line. The site itself has existing parking

and circulation. Currently there is parallel parking on the side, parking in the rear of the parking lot and along the curb line of the building, towards the back. The site also has an egress lane coming out on the southerly side of the site of the building that also enters for traffic flow out back onto Lakeside Blvd.

Mr. Bossong asked Mr. Phil to walk the Board through the positive and negative criteria. Mr. Phil responded that the applicant here tonight is proposing to convert the 2nd floor to a single residential apartment consisting of a 1 unit with two bedrooms. The applicants also propose to occupy that second-floor apartment for their own use and primary residence. The site currently functions as a two-business commercial space on the first floor occupied by New Jersey Martial Arts Academy, and Kelly Carmona CPA, which are both owned and operated by the applicant. The site itself is located in the B-1 zone and is surrounded by similar businesses and uses along Lakeside Blvd., including the 7-Eleven, Dunkin' Donuts, and Landing Post Office that are on the same easterly side of Lakeside Blvd. On the westerly side of Lakeside Blvd. and across the street are the Beanstalk Academy, a mixed-use office building at 143 Lakeside Blvd., and The Pop Bagel Shop. Additionally, to the north and west of the site it adjoins an undeveloped 56.31-acre parcel in the R-R Rural residential district that belongs to Kingsland's Association. Mr. Phil stated that in his professional opinion, he believes that this application will promote the intent of the MLUL, which encourages municipal action to guide the appropriate use or development of all lands in the state in a matter which will promote the public health, safety morals, and general welfare. It does not conflict with the development and general welfare of neighbor and municipalities, the County, and the State as a whole. This will also promote and establish appropriate population densities and concentrations that will be able to contribute to the well beings of persons, neighborhoods, communities and regions, and preservation of the environment. As for the D-3 variance, this does not create a negative situation. In so talking about the substantial detriment to the public good or this application. This application presented having a 1-unit or instead of a 2-unit apartment, will not substantially impact the surrounding properties. The use being proposed will not substantially impair the intent of the purpose of the township zoning plan, zoning ordinance, or residential use.

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

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

Mr. Stern asked Mr. Bossong if he had received a letter from the Morris County Planning Board, as the road itself would be under county jurisdiction.

Mr. Bossong replied yes, and let the Board know that they received a response back where some requirements were issued, noting that the driveways on the site are required to be between 12 and 15 feet wide for one way traffic; so that it doesn't appear that this traffic can go two ways on the site. Additionally proper signage should be installed including the one-way entrance only exit.

Mr. Bossong address the existing shed that sits on the property line. The applicants have agreed to relocate the shed to a ordinance compliant area in the northerly corner of the property.

Mr. Stern asked if the basement would be used for storage. Mr. Bossong replied, yes.

Mr. Kataryniak asked about the grades to the building entrance and the new handicapped parking spaces and did they comply with all ADA requirements.

Mr. Bossong replied, yes.

Township of Roxbury
Board of Adjustment
July 10, 2023

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

DISCUSSION: None
NEW BUSINESS: None
OLD BUSINESS: None

Motion to adjourn at 9:30pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
July 10, 2023