

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, July 11, 2022, at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ after a salute to the flag Dr. Kennedy, Chairman read the “Open Public Meetings Act”

BOARD MEMBERS PRESENT

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

ABSENT: None

PROFESSIONAL STAFF

Mr. Larry Wiener, Esq.
Mr. Russell Stern, P.P.

MINUTES OF JUNE 13, 2022

Ms. Robortaccio made a motion to approve the minutes of the June 13, 2022,
Ms. Dargel seconded.

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

RESOLUTIONS:

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.

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; Dr. Kennedy, yes.

*In the matter of Michael Speicher
Case No. ZBA-20-004*

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

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

WHEREAS, Michael Speicher has applied to the Board of Adjustment Township of Roxbury seeking “D” Variance, Minor Subdivision and Site Plan approval for premises located at 280 Old Ledgewood Road and known as Block 9303, Lots 1, 3 & 4 on the Tax Map of the Township of Roxbury which premises are in a “B-1A” Zone; said proposal required relief from Sections 13-7.2403I; 13-8.700C; Section 13-8.702A; Section 13-7.2402C along with waivers, variance(s) as designated & enumerated in Paragraph 8 of the within Resolution and compliance with 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. Michael S. Selvaggi, Esq. represented the Applicant.
2. The subject application involves Block 9303, Lots 1, 3 and 4 located in the B-1/A Limited Business District. The Mount Olive/Roxbury Township municipal boundary line traverses all three properties with the frontage of all lots located in Mount Olive and the rear, including the majority of the building on Lot 4, located in Roxbury. Lot 4 is developed with a 6,279 GFA 3-bay industrial building per Roxbury Planning Board final site plan approval in 1983. The property exhibits numerous pre-existing nonconformities. The Applicant currently operates a service tire truck center from the property. Over the years, operations (soil moving, construction equipment and vehicle parking, material storage, etc.), have encroached onto Lots 3 and 20. The existing building is serviced by on-site well and septic. In 2001 the property was rezoned to B-1/A which prohibits automotive/vehicular service, repair or related use, as well as outdoor storage or storage yards for materials or equipment, storage buildings or warehouses.
3. The Applicant now requests “D’ variance, minor subdivision, and preliminary and final site plan approval to retain the existing industrial use and merge a portion of “Roxbury” Lots 1 and 3 to Lot 4, thus expanding the parcel from 66,733.12 square feet to 77,733.22 square feet. The proposed subdivision is consistent with the agreements and resolutions made between Roxbury and Mount Olive Townships for tax assessments, land use and enforcement authority. By expanding Lot 4, the impervious coverage will be decreased from 70.57% to 58.12% (50% permitted). Four trailers are proposed behind the building for the storage of tires and parts. Access to the property will remain unchanged.

ALL PARKING AREAS WILL BE PAVED.
4. The application is under the jurisdiction of the Zoning Board as the application requires a “D1” variance for the use of four trailers in the operation of the property and a “D-2” variance for the expansion of a nonconforming use.
5. The Applicant submitted the following documents:

Prepared by Civil Engineering, Inc. – dated 7/22/20, most recently revised 1/18/22

- Sheet 1, Cover Sheet

- Sheet 2, 1982 Final Site Plan
 - Sheet 3, Existing Conditions Plan
 - Sheet 4, Proposed Subdivision Plat
 - Sheet 5, Proposed Site Layout
 - Sheet 6, Proposed Lighting and Landscaping Plan
 - Sheet 7, Proposed Soil Erosion and Sediment Control Plan
 - Sheet 8, Construction Details
6. In addition, Applicant submitted the following documents;
- a. Application for Minor Soil Relocation Permit, dated 7/27/20
 - b. Application for Soil Erosion and Sediment Control Plan Certification, dated 7/31/20
 - c. Property Deeds for Lots 1, 3 & 4 in Block 9303
 - d. Application for Major Soil Moving Permit, dated 12/2/20
7. The Board received the following memorandums:
- a. Russell Stern, Township Planner, dated 11/3/20 & 4/4/22
 - b. Mark Denisiuk, Board Engineer, dated 11/4/20, 12/10/20, 3/29/22
 - c. Michael Kobylarz, Township Engineer, dated 11/5/20 & 4/26/22
 - d. Abby Montgomery, Health Dept., dated 11/9/20 & 4/19/22
 - e. Michael Pellek, Fire Official, dated 11/3/20 & 4/13/22
 - f. Daniel Murry, Police Dept., dated 11/4/20
8. Applicant needs relief from the following variances and waivers:
- a. Variance – A “D2” variance is necessary from Section 13-7.7 for the expansion of a nonconforming use. The proposed subdivision application to increase the lot area and site plan application to expand gravel surfaces and utilize four (4) trailers for the storage of tires intensifies the nonconforming outdoor storage, vehicular service, and related use, which are prohibited in the B-1/A District.
 - b. Variance – A “C” variance is necessary from Section 13-7.7 for expansion of a nonconforming use which allows a maximum 50% impervious coverage. By increasing lot size, impervious coverage will be reduced from 70.57% to 58.12%. In accordance with Roxbury Code, gravel surfaces shall be included in impervious surface coverage calculations.
 - c. Variance A “D1” variance is necessary from Section 13-7.2402C, as outdoor storage is a prohibited use in the B-1/A District. Four (4) trailers are proposed to the rear of the building for the operation of the site and vehicle equipment storage is proposed in front of the building but is smaller in area than that depicted on the

1985 As-Built Final Site Plan (as-built conditions have change since the 1985 Final Site Plan).

- d. A Waiver Is necessary from Section 13-8.701B, which requires 4 parking spaces per bay and work area and 1 per 225 SF GFA retail area. This equates to 14 parking spaces while only 4 spaces (1 handicap and 3 regular 9' X 18' spaces are provided). Spaces used for service trucks and 9' X 28' spaces are not included. Extra vehicle parking can be accommodated in the cross-hatched area designated as a vehicular equipment storage area.
 - e. Waiver – A waiver is necessary from Section 13-8.702A, as 9' X 28' parking spaces are proposed while 9' x 18' spaces are required. A prior approval allowed 9' X 20' spaces.
 - f. Waiver – A waiver is necessary from Section 13-8.702F and G, as a 10 feet side yard traffic aisle/access drive is required while paved is proposed flush with the southerly side property line.
 - g. Waiver – A waiver is necessary from Section 13- 8.702k, as hairpin parking stall striping is not provided.
 - h. Waiver – A waiver is necessary from Section 13-8.702N and 13-8.807E, as curbed planted end islands are not provided.
 - i. Waiver – A waiver is necessary from Section 13-8.703A, as a 15' X 60' loading area is required while a 20' X 40' space is provided.
 - j. Waiver – A waiver is necessary from Section 13-8.807L, as the trash/recycling enclosure is not landscaped.
9. Public hearings were continued on April 28, & May 9, 2022.
 10. Michael Speicher, the Applicant, updated Board members on the history of the subject property. The subject property and the adjoining lot in Mount Olive have essentially functioned as one property. However, it was determined that there was a discrepancy in the municipal boundary lines effecting lot lines between the Mount Olive property and the Roxbury Township property. It is only in the last several months that the boundary line

issue was resolved. The revised plans that have been prepared for the Board were in accordance with the accepted Roxbury/Mount Olive boundary line.

11. The Applicant was seeking approval of a minor subdivision and consolidation of the subject property. There would be site plan approval and an expansion of a non-conforming use and bulk variances. It was noted there were 77,733 square feet in Roxbury. The existing 70% lot coverage would be reduced to 58% whereas 50% is permitted thus, relief was being sought for the additional lot coverage.
12. Mr. Speicher stated improvements to the site were going to wind up being improvements to the operations taking place on-site. He noted it was an appropriate spot for construction on the site. He noted the current tenant had moved in in 2017.
13. He noted the business plan was to install, replace, and repair tires and heavy commercial vehicles. Work would be done in the yard and tires put away at the end of the day. He stated that there had been some difficulty getting trailers to haul tires out during the Covid pandemic. He stated operations had been cleaned up substantially. He further stated the existing tenant plead guilty to violations and promised to address the situation in a meaningful manner.
14. The Applicant also requested a proposal to increase the number of trailers to three (3) and one sea container. He noted the trailers are picked up regularly, Service Tire is a nationwide company headquartered in Bethlehem, Pennsylvania. It was noted the outdoor storage would remain. It is not presently used but wants to continue the potential for same. He further stated the idea was to obtain Roxbury approval first, be in compliance then go to Mount Olive for site plan to build for Speicher's business on two separate lots. He noted all the same was to be in accordance with the municipal boundary line agreement.
15. He stated the concrete pad was partially covered and used for a storage rack. He would be adding a trash enclosure, the striped parking area pavement would be repaired, gravel areas paved, drywells and new leader drains would be at the site. Same would conform to requirements of Roxbury Township. Same would have to be reviewed and approved by the Township Engineer. He stated there would be a new loading zone. He stated the work

on-site would take place from 7:00 AM to 6:00 PM weekdays and 7:00 AM to 12:00 PM Saturdays. There would be no towing. It was stated that there are several road service trucks that are utilized to go out and change tires off site. The trucks typically would go home with employees for overnight emergency services. Mr. Speicher stated he has not seen anything to indicate traffic or hazardous activity within his site. It was further noted that there was one (1) tenant living on the adjoining residential property. He stated that there would be a permanent container that remains on-site to store new tires. He further stated the road service from the site is a 24/7 operation. The location closes at 6:00 PM, air compressors are utilized but no other chemicals are used on-site. The Applicant agreed that the conditions that are set forth in the resolution of approval shall be reiterated and stated in the lease to be signed by any prospective tenant as a condition of a certificate of use.

16. The gravel parking areas shall be paved. Further discussion was directed at page 3 of 8 of the colorized site plans:
 - a. Lot 1 is a triangular odd, shaped lot with no frontage on the roadway with 57,548 square feet of unimproved property.
 - b. Lot 3 – 49,713 square feet with brown woods - yellow gravel to be removed.
 - c. Lot 4 – 66,775 square feet with 150' frontage, an unimproved lot.
 - d. A-2 – colorized Sheet 4 denoting the subdivision. Township boundary stays the same constitutes the municipal enforcement line.
17. It is noted that in Mount Olive they are applying to merge all the Mount Olive lots for enforcement purposes.
18. A further review of A-3 notes the colorized Sheet 5 of 8 the Site Plan has conforming setbacks to building. Floor area ratio allowed is existing .09%. It was proposed to cut back gravel and reconfigure the rear and pave same.
19. The Applicant created a buffer delineated parking and designated an ADA parking space. The woods adjacent to the driveway provide visible screening of the building. There would be aisleways around the building, a well in front/manhole and septic in the rear. Overhead utilities would be from the right side. It was noted there would be an access easement for

Mohr only that “runs” with his ownership. Same would be a license which could be revoked. It was reiterated the dumpster and enclosure would be moved to the rear. Three (3) new trailers are proposed 8’X 60’. There would be five (5) new garage doors – three (3) in the rear and two (2) in the back and a 20’ X 40’ loading space. Tires will be moved around with forklifts.

20. Further discussion clarified there would be storage racks for the rims along the northern side next to the shed. The septic field would be fenced off. Rear access between lots will be eliminated. Same is to be perfected by a filed map.
21. The storage area is not to exceed 1,440 square feet for trailers only. Applicant’s request for 9’x18’ parking spaces requires a waiver.
22. The Board Engineer, Mark Kataryniak submitted a report dated March 29, 2022. It was noted a final copy of the boundary line agreement signed by all appropriate parties is a condition of approval. The metes and bounds description was updated. There must be monuments designated on the boundary line and minimum of three (3) are required. Mr. Kataryniak made reference to stormwater requirements – the Applicant agreed to comply and same would be incorporated as a condition of approval.
23. The Health Department noted there is to be no storage outside of the trailers. Operating hours were reiterated Monday – Friday 7:00 AM to 6:00 PM and Saturday 7:00 AM to 12:00 PM.
24. The Board received a report dated April 26, 2022 from the Township Engineer Michael Kobylarz. Mr. Kobylarz noted he revised the plans entitled “Minor Subdivision and Preliminary & Final Site Plans for Lots 1, 3 & 4, Block 9303”, Sheets 1-8 prepared by Civil Engineering, Inc. dated November 20, 2019, last revised January 18, 2022 and offer the following comments:
 - a. The site is served by an existing private well and septic disposal system.
 - b. Roxbury and Mount Olive Township have entered into an agreement in order to address the discrepancies with the municipal boundary line. This agreement will establish the taxation, and land use/enforcement responsibilities by defining an agreed upon a “Municipal Enforcement Boundary Line” which is now defined on the

plans. There was a defined location of said line as shown on the plans which clearly establishes a sensible jurisdictional limit for the development of the subject properties within both municipalities. This line and proposed lot lines will decrease the non-conformance for impervious coverage for lot 4.

25. The Board received a report dated April 19, 2022, from the Health Department. It was noted that the site inspection revealed approximately 50 tires on the property behind the building outside of any containment that would protect them from filling with water. There were other tires that were containerized.
26. The Board also received reports dated November 3, 2021 and April 13, 2022 from the Fire Marshall Michael Pellek. Mr. Pellek's report noted he found the final site plan as being acceptable.

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 applicant engaged Jessica Caldwell PP as its Planning Expert. Ms. Caldwell confirmed her qualifications, background, and noted all licenses were in good standing.
2. She gave an overview of the site and its interaction with the Zoning Ordinance. Her testimony highlighted the unique features of the site and the impact of the existing on-site infrastructure. The site is zoned B1-A (Business Zone) and has been used as a light industrial use. She acknowledged the site is a pre-existing non-conforming use – she further noted the D2 variance was triggered since the application involved subdividing the existing lot. One result of the reduction in size (due to the subdivision) resulted in the need for a D2 variance (70.57% presently being reduced to 58.12%- still 8% over the permitted 50%).
3. She summarized the situation by noting the expansion of a preexisting g use can improve the existing conditions by cleaning up or improving the proposed improvements noted on the site plan. Reference was made to *Burbridge vs. Mine Hill*

Township, 117 N.J. 376 (1990). The Burbridge case specifically addresses the basis for granting relief in special circumstances.

4. It was further noted the reduction in impervious coverage was being implemented. Coverage dropping from 70.67% to 58.12%. Other upgrades included a drywell which would be part of an infiltration system, striping parking spaces, and providing for a trash enclosure at an appropriate location on-site.
5. She noted the site is an industrial use. It is located near Route 80. The business on-site was compatible with the industrial use and the location of the major interstate highway.
6. Ms. Caldwell summarized the legal basis for the grant of the D1 and D2 variances. In her opinion the existing use of the property, the typography, proximity to Route 80; the structures on-site; and the size of the overall property clearly give rise to a hardship – this is a unique circumstance. The expansion of the non-conforming use is an upgrade of the existing structures. The reasons set forth for the requested relief have worked to “readjust” and “reconfigure” the site. The improvements and plans submitted will have much less of an impact than the prior use.
7. As for the “c” variances arguably they could be looked as being subsumed by the grant of the “d’ variance. Nevertheless, the discussion and analysis of the requested variances and waivers is appropriate. The Board finds that the Applicant has dealt with the variances and waivers. There was appropriate testimony from Ms. Caldwell and there were comments from the Board Professionals and the Board Members.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 9th day of May 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 submit a minor subdivision map for the review and approval by the Board Engineer and Board Attorney.
3. Applicant shall comply with Section 13-2.402A Lot Line Revision Fee, prior to the filing of minor subdivision deeds.

4. Applicant shall clear the site of tires prior to the filing of the minor subdivision, No outdoor storage of tires past the hours of business operation (Monday -Friday 7:00am -6:00pm / Saturday 7:00am -12noon).
5. Health Department shall review the septic system and well.
6. A compatible electronic CAD file shall be provided prior to filing the deeds.
7. Gravel areas will be paved.
8. No more than 1,400 square feet of area can be designated tor trailer/container storage.
9. Lot 3 gravel shall be removed.
10. Storage of steel rims will only occur on the westerly side of the building in rack storage.
11. The surface of the existing septic field has a propane tank on it and is utilized for the storage of tires. The septic field should be open, and the area fenced to prohibit storage.
12. Remove outdoor storage designation in front of building
13. On sheet "1", under "proposed" it shall be noted that both Townships entered into an agreement over taxation, supervision, licensing, land use and enforcement authority following the proposed subdivision lines. Reference to "common municipal boundary line" along the new border of the subdivided lots shall be replaced with "municipal enforcement boundary line".
14. Applicant must obtain Final Site Plan approval from the Zoning Board.

ZBA-22-013 RUDE, Bulk Variance relief for property located at 61 King Road, Landing, Block 11912, Lot 4 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; Dr. Kennedy, yes.

*In the matter of Richard Rude
Case No. ZBA-22-013*

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

Approved: June 13, 2022
Memorialized: July 11, 2022

WHEREAS, Richard Rude has applied to the Board of Adjustment, Township of

Roxbury for permission to construct a detached garage requiring variance relief for premises located at 61 King Road and known as Block 11912, Lot 4 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.1301D8, 13-7.1301D6(b), 13-7.810.1B 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 a detached garage requiring variance relief.
3. The Applicant submitted architectural plans prepared by Kenneth J. Fox dated 3/8/22 consisting of two (2) sheets.
4. Applicants received a letter of denial dated 2/23/22 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>
13-7.1301D8	Lot coverage – Maximum 25%	42.4 %	42.3 %
13-7.1301D8	Building coverage – Maximum 15%	23.9 %	25.3 %
13-7.1301D6(b)	Minimum setback 5 foot	1 Ft.	2.5 Ft.
13-7.810.1B	No Accessory building shall be permitted in the front yard.	607 Sq. Ft.	780 sq. Ft. 26’x30’
13-7.819	Stream, Lake & Pond Buffers	50 feet	Paver walkway to water
3-7.905	Accessory Buildings/pools	10’ Min Pool setback to dwelling	Less than 10’

5. Much of the application centered around enhancement of the existing garage. Like many lakefront homes – the subject property is long and somewhat narrow. The focus of the home is on the lakeside of the property. The garages in this neighborhood function more as a rear entryway to the home.
6. As noted, the Applicant submitted the two separate drawings on the same set of plans exhibit Z1 being the replacement garage design and exhibit Z2 being the overall site layout plan, which also demonstrated proposed changes the Applicant was making to pavers being installed in the rear yard together with an outdoor pool.
7. Much of the testimony was provided by the Applicant’s architect, Kenneth J. Fox. Mr. Fox used the exhibits to acquaint the Board and the public with what was being proposed onsite.

8. During the Public Hearing, there was a colloquy between the Applicants architect Mr. Fox, the Applicant Richard Rude, Tom Potere, the Zoning Officer as well as Board Members.
9. Mr. Fox noted there was a plan for the projects proposed. The existing garage was damaged and in need of a replacement. The new garage would be set 1' 6" further away from the side property line than existing (still nonconforming), the existing asphalt driveway was to be removed and replaced with a new paver driveway with a different configuration. Existing concrete walkway on the side of the house was to be removed and replaced with a new paver walkway. The paver walkway was to be extended to the existing boathouse. A newer pool area and seating area installed behind existing house.
10. Mr. Fox went on to discuss the reasons the Board should grant the relief requested. Mr. Fox went on to say the garage is located in the front yard because the narrow lakefront property prohibits the garage from being located anywhere else. The proposed garage is no closer to the property line than the existing. The impervious coverage is altered to provide safe access towards the lake and boathouse and utilizes pavers instead of concrete. Mr. Fox further noted the reconstruction of a garage is similar to those in the neighborhoods and similar to that which exists on the site. It has been generally accepted by the Municipality to allow garages in the front yard when the existing house and narrow property preclude access to the rear.
11. The applicant also presented Plans/Detail/Plot Plan denoted Sheets A-1 and A-2 showing "Proposed Alterations/Front Porch". The exhibit was part of the record.
12. The Public Hearing on this application began on June 13, 2022. Unfortunately, a report that was to have been prepared and submitted by the Lake Hopatcong Commission was not completed. The Board was awaiting any issues or comments from the Board. The matter was agreed to be carried to the July 11, 2022 meeting without further notice.
13. The Lake Hopatcong Commission submitted a letter date June 26, 2022. The report suggested steps the applicant could take to protect the sensitive environment from stormwater runoff and other issues.
14. Having had an opportunity to review the LHC report the Board received the report and endorsed same.

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 presented by the applicant and the testimony of the applicant's architect to be competent and credible. Some of the infrastructure on-site is clearly in need of "refreshing". The garage area would benefit from the modifications being made by the applicant.
2. Given the unusual shape of the lot, the location of existing infrastructure; the topography of the lot- constitute the basis for a C1 hardship variance. The way the lot and onsite infrastructure are located -it is difficult to locate anything without running afoul of the Zoning Ordinance.
3. The applicant also committed to follow the rules and regulations promulgated by the Lake Hopatcong Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13 day of June 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 comply with the conditions and recommendations of the Lake Hopatcong Commission (No deed restriction).
3. No conversion of paver driveway and walkway to an impervious surface.

ZBA-22-011 PEREIRA, Use Variance and Bulk Variance relief for property located at 1026 Route 46, Ledgewood, Block 6501, Lot 24 in a B-2 zone.

Mr. Stern stated that he was not present at the June 13, 2022 meeting and subsequently read the meeting minutes and perused the file which concluded with a discussion with Mr. Michael Kobylarz, Roxbury Township Engineer. Mr. Stern stated that Mr. Kobylarz went out the 1026 Route 46 site with the submitted plans and in Mr. Kobylarz's opinion a letter from the New Jersey Department of Environmental Protection of approval or exemption or any appropriate permits should be obtained, noting the property and the home itself is located within a wetlands transition area buffer. Mr. Kobylarz noted that during his inspection the disturbed area was back-filled with debris and fill. Mr. Stern stated in conclusion the resolution should include a condition that the applicant must seek NJDEP approval, exemption, and/or necessary permits that are required.

Ms. Dargel made a motion to memorialize the resolution based on the fact Mr. Wiener will revise the resolution per Mr. Stern's comments as stated above. Ms. Robortaccio seconded. Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Dr. Kennedy, yes.

*In the matter of Carliane Pereira
Case No. ZBA-22-011*

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

Approved: June 13, 2022
Memorialized: July 11, 2022

WHEREAS, Carliane Pereira has applied to the Board of Adjustment, Township of Roxbury seeking approval of a pre-existing non-conforming certification for premises located at 1026 Route 46 and known as Block 6501, Lot 24 on the Tax Map of the Township of Roxbury which premises are in a "B-2" Zone; said proposal required relief from Sections 13-7.7.7(b) & (c), 13-8.612(f) 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. Lawrence Cali, Esquire represented the Applicant.
2. The Applicant is the owner of the subject premises. Testimony from the Applicant At the Public Hearing indicated that the property had been essentially inutile. The Applicant purchased a home with the specific goal of simply fixing the home up and improving it aesthetically. The Applicant indicated that what had been built (had been in the middle of construction) and then stopped was an enhancement.
3. The Applicant stated they are a family of four. They had two children and had expected and anticipated that they would have been able to move into Roxbury. At the present time, they have had to commute to work and look for places to school their children.
4. The Applicant is seeking pre-existing non-conforming certification for the subject premises.
5. The Applicant submitted the following documents:
 - a. Plans/Details/Plot Plan prepared by Joseph M. Donato, architect, dated 10/8/21 consisting of 2 sheets.

- b. Variance Plan prepared by George R. Gloede, Jr. PE dated 2/2/22 consisting of 1 sheet.
6. Applicant received a letter of denial dated 6/6/22 from Tom Potere, the Zoning Officer. Mr. Potere's memorandum of 6/6/22 provided a concise statement as to the expansion of what was determined to be an existing nonconforming use. Mr. Potere noted that the applicant filed on 11/8/2021 a request for a zoning permit. It was clear that the Applicant had expanded the existing use and structure. Mr. Potere noted the Construction Department only issued a permit to change different size windows and change a door. Mr. Potere's follow up visit revealed that the amount of work that was being done was more than windows and doors, the whole structure was gutted with new electric, plumbing, framing and the removal of the front porch and replacing same. Mr. Potere noted at the time of the inspection, the owner already removed two exceptionally large pine trees in the front yard without a tree removal permit. Having moved past the request for a certification of a valid nonconforming use, the focus then turned to whether or not it would be appropriate for the Board to grant a D2 Use Variance.
7. During a colloquy with the Applicant, Applicants Counsel and Members of the Board, there was a discussion as to the Township Ordinance and a requirement for residential driveway setback. The existing driveway off of Route 46 encroached onto the adjoining property. The Applicant was seeking relief to cut back the driveway so that same would be solely located on the Applicant's property.
8. There were further issues that were discerned by Mr. Potere. The plans submitted by the Applicant contained onsite plans for planting to create privacy. Mr. Potere, after looking at the survey, pointed out that in fact there was a third parking area. That area was obscured by an overlay of planted trees. The "newly found" driveway was in fact parallel to the front of the existing home. Therefore, the Applicant would be able to demonstrate that there was a third onsite parking area.

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. Subject property has a significant hardship. It is in the B2 Zone. The B2 Zone is for business uses.
2. The Applicant's request is to utilize the site as a single-family home. As previously discussed, and noted, the Applicant request was in fact an expansion of an existing nonconforming use a D2 variance.
3. In analyzing the situation, the Board found the Applicant's testimony to be competent and credible.
4. It was further noted that during the hearing there was some significant testimony about the lack of additional parking space and only when a closer look was taken at the variance plan that the Board Members realized that there was in fact room for parking.
5. It was also noted that the Applicant's had installed and denoted that there would be space for planting green giant arborvitae 5 to 6 feet tall, 4-inch caliber 5 feet off the property line spaced 10 feet off center.
6. After considering all the evidence that was presented, the Board finds that the enlargement and enhancement of the property was an appropriate expansion of this nonconforming use. The grant of the variance enables the Applicant (and future owners) to utilize this property that has been substantially rehabilitated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of June 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 insure the location of the landscaping depicted on the plans submitted with the application shall be installed.
3. The Applicant shall continue to maintain said vegetation.
4. The Applicant must secure Certificate of Occupancy to occupy the premises.
5. There shall be no further approvals for any further expansion or deviation from the approved plan without Board approval.

6. It is further noted that there are existing wetlands to the rear. Same was discussed at length at the public hearing. On July 6, 2022 the Township Engineer provided a memo regarding his review and inspection of the property regarding wetlands.

As a result of his inspection, the applicant shall obtain an appropriate NJDEP approval exemptions/permits regarding the work conducted and to be conducted on the property. No exterior site work (driveway, decks, walls, walks, grading, etc.) shall be constructed and no Certificate of Occupancy issued until appropriate approval / exemption permits are obtained from NJDEP.

7. Applicant shall provide a landscape plan for the review and approval by the Township Planner.

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.

Ms. Dargel made a motion to memorialize the resolution of denial without prejudice.
Ms. Robortaccio seconded.
Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes;
Mr. Overman, yes; Dr. Kennedy, yes.

*In the matter of Vande Velde
Case No. ZBA-21-030*

**RESOLUTION OF FINDINGS AND CONCLUSIONS
BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
RESOLUTION
DISMISSAL WITHOUT PREJUDICE**

Denied: June 13, 2022
Memorialized: July 11, 2022

WHEREAS, Erik Vande Velde has applied to the Board of Adjustment, Township of Roxbury for permission to construct a 12'x24' shed requiring variance relief for premises located at 20 Sunset Lane and known as Block 11903, Lot 21 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Sections 13-7.1301D8, 13-7.810.1B, 13-7.1301A1, 13-7.1301B1, 13-7.905A of the Roxbury Township Land Use Ordinance; and

WHEREAS, the within application had been scheduled for numerous times for a public hearing and the Applicant never proceeded, as a result the Board finds the Applicant had been dilatory in pursuing the requested relief;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Roxbury on the 13th day of June 2022 with within application is denied without prejudice; no findings are made as to the merits of the within application.

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 *Request to be carried to the August 8th, 2022 meeting, with no further notice required.*

ZBA-22-014 INGA. Bulk Variance relief for property located at 3 Reidar Street, Succasunna, Block 3202, Lot 2 in a R-2 zone. *Request to be carried to the August 8th, 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 August 8th, 2022 meeting, with no further notice required.*

ZBA-22-021 HOFFMAN. Bulk Variance relief for property located at 5 Gregory Drive, Kenvil, Block 2503, Lot 2 in a R-4 zone.

Mr. Wiener swore in Mr. Kyle Hoffman and Mrs. Brianna Hoffman of 5 Gregory Drive, Kenvil, NJ. Mr. Fox stepped forward as Mr. Hoffman's Design Architect. Ms. Dargel recused herself due to the fact she works with Mrs. Hoffman. Ms. Dargel stepped down from the dais and sat in the public seating area.

Mr. Hoffman stated he has been a resident of Roxbury for most of his life and is currently a volunteer firefighter in town and has been for the last 20 years. Mr. Hoffman stated he loves the community and is raising his family in town and that he and his wife and kids have outgrown their home and would like to build an addition. Ms. Hoffman added that she and the kids love the community and when Mr. Hoffman retires, they would like to remain in town so he can continue his volunteer work with the fire department.

Mr. Fox entered Exhibit A-1 which was sheet 1 of 3 previously submitted to the Board. Mr. Fox went on to testify that this applicant is not looking to exceed various bulk standards, as the application does not exceed building coverage or lot coverage but for a minor front yard set-back. Mr. Fox noted the home already sits within the front yard set-back as a pre-existing non-conforming condition. The allowable front yard set back is 30 feet where the addition being proposed will sit at 27.6 feet, noting the cantilever of the second floor is 18 inches out from the face of the home and the proposed portico which will sit within the already pre-existing condition. Mr. Fox turned the Board's attention to sheet 2 of 3 which depicts a floor plan of the home showing it as a typical Cape Cod layout. Mr. Fox continued stating that there will be no negative impact to the neighborhood and the only reason the applicant is before the Board is because the existing home already sits with the front yard set-back.

Dr. Kennedy asked Mr. Fox if there was a reason the cantilever is bring brought out 18 inches. Mr. For replied to obtain more bedroom space.

Mr. Fox stated that only element that sticks out past the pre-existing condition is the portico, and it is being installed for safety reasons. Mrs. Hoffman stated that currently during rainstorms there is water seeping into the basement and that they front door must remain closed to avoid water seeping in.

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

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

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

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

OLD BUSINESS: *None*

NEW BUSINESS: *None*

OPEN TO THE PUBLIC:

*No discussion of any pending application.

Motion to adjourn at 7:22 pm

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