

On Monday, July 12, 2021 a regular remote meeting of the Roxbury Township Zoning Board of Adjustment, originally scheduled to take place at 7:00 pm in the Council Room of the Municipal Building, was instead held remotely via Zoom. The meeting was open to the public via alternate means to provide the ability to listen and the opportunity to be heard during the public portions of the meeting by calling the following teleconference line: 1-929-205-6099 (“Welcome to Zoom”), entering Meeting ID: 861 2100 4693#, Participant ID: # and Password: 582420#. All applications of those applicants who were to appear before the Zoning Board of Adjustment on the aforementioned date were available online via our Township website at www.roxburynj.us. The purpose of the Regular Zoning Board Meeting is to conduct routine business.

BOARD MEMBERS PRESENT

Mr. Frequenza, Mr. Overman, Mr. Klein, Ms. Dargel and Dr. Kennedy

ABSENT: Ms. Robortaccio, Mr. Furey, and Mr. D’Amato

PROFESSIONAL STAFF

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

MINUTES OF JUNE 14, 2021 MEETING

Ms. Dargel made a motion to approve the minutes of the June 14, 2021 meeting, Mr. Klein seconded.

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

RESOLUTIONS:

ZBA-20-023 PISANO. Bulk Variance relief for property located at 4 Bell Court, Landing, Block 11302, Lot 9 in an R-3 zone.

Ms. Dargel made a motion to memorialize the resolution, Mr. Klein seconded.

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

In the matter of David Pisano
Case No. ZBA-20-023

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

Approved: June 14, 2021
Memorialized: July 12, 2021

WHEREAS, David Pisano has applied to the Board of Adjustment Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 4 Bell Court and known as Block 11302, Lot 9 on the Tax Map of the Township of Roxbury which premises are

Township of Roxbury
Board of Adjustment
July 12, 2021

in a “R-3” Zone; said proposal required relief from Sections 13-7.810.1.B and 1307.1301D8 of the Roxbury Township Land Use Ordinance; and

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

1. The Applicant is the owner of the subject premises, which is a part-time residence for his parents who live in Florida.
2. The Applicant was proposing to construct a 20’ x 30’ pavilion in the front yard, requiring relief from Sections 13-7.810.1.B and 1307.1301D8.
3. Applicants received a letter of denial dated 10/13/20 revised 5/27/21 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Section 13-7.810.1.B - Accessory Buildings – no accessory building shall be permitted in a front yard - 10’x14’ shed existing and proposed
 - b. Section 1307.1301D8 - Building Coverage – 15% permitted, 11.13% existing; 16.4% proposed (121 sq. ft. over)
4. The following documents were marked for identification:
 - a. Exhibit 1 – Application 20-023, Received October 30, 2020
 - b. Exhibit 2 – Formal Denial Letter from Tom Potere, Zoning Officer
 - c. Exhibit 2 – Revised Formal Denial Letter from Tom Potere, Zoning Officer
 - d. Exhibit 3 – Tax Map of Township of Roxbury, Sheet 113
 - e. Exhibit 4 – Survey prepared by Lakeland Surveying, dated January 14, 2020
 - f. Exhibit 5 – Plans – sketch of pavilion
 - g. Exhibit 5a – Revised Architectural Plan prepared by Design One Architecture, prepared by Michael R. Moschella, architect, dated February 17, 2021 revised through May 21, 2021 consisting of two (2) sheets.
5. Duly noticed public hearings occurred on December 14, 2020 and June 14, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with

Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.

6. David Pisano presented sworn testimony in support of the application. The subject lot is a through lot with frontage on 2 roads, Bell Court and "Lane", which is a paper street that serves as a driveway to a neighboring property. The Applicant was proposing an open-air pavilion to create passive recreation space that could be utilized 3 seasons of the year. During the course of the first hearing, the Board suggested that the Applicant attach the pavilion to the home to eliminate the variance for an accessory structure in the front yard.
7. The Applicant returned to the Board with revised plans that reduced the size of the pavilion and attached it to the house. The home is a modest two-bedroom, one bathroom ranch and the pavilion will provide additional outdoor living space. The attached pavilion will result in an increase of maximum building coverage from 11.13% existing to 16.4% proposed, in excess of the 15% permitted, requiring variance relief.
8. The existing shed was relocated to the western portion of the lot, near the frontage on Lane, requiring relief for an accessory structure in the front yard.
9. Andrew Dour, 17 Bell Court, Block 11302, Lot 3, who utilizes "Lane" for access to his driveway participated in the hearing and had no objection to the application.

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

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 13-7.810.1.B - Accessory Buildings – no accessory building shall be permitted in a front yard - 10’x14’ shed approved
 - b. Section 1307.1301D8 - Building Coverage – 15% permitted, 11.13% existing; 16.4% approved (121 sq. ft. over)
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. The subject property has two front yards, fronting on Bell Court and a paper street, creating a hardship for the Applicant, as there is nowhere on the property that he could locate the shed that would be conforming. The shed is located in the front yard of the paper street and will have no impact on the surrounding area.
3. 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. The Applicant reduced the size of the pavilion and attached it to the home, to create a better planning alternative. The dwelling is a modest structure and the addition of the pavilion will provide an outdoor living/recreation area for the occupant resulting in a *de minimis* increase in building coverage.
4. The benefits of granting the deviations outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area. It is unlikely that the paper street will be improved, and the adjoining

neighbor did not object to the application. 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 14th day of June 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The Applicant shall obtain all necessary permits from the building department prior to the start of construction.
3. The addition shall be consistent with the plans submitted to the Board and the representations made during the public hearing.
4. The shed shall be in compliance with the applicable set back requirements.
5. The building coverage shall not exceed 16.4%.

ZBA-21-013 CELENTANO. Variance relief for property located at 4 Highland Avenue, Succasunna, Block 4902, Lot 6 in an R-3 zone.

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

In the matter of Gregory Celentano
Case No. ZBA-21-013

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

Approved: June 14, 2021
Memorialized: July 12, 2021

WHEREAS, Gregory Celentano has applied to the Board of Adjustment, Township of Roxbury for permission to construct a second-floor addition over the existing garage requiring variance relief for premises located at 4 Highland Avenue and known as Block 4902, Lot 6 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D4 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 second story addition to the existing single-family house requiring front yard setback relief from Section 13-7.1301D4.
3. Applicant received a letter of denial dated May 28, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Front Yard Setback – 35’ required; 29.3 existing and proposed
4. The following documents were marked for identification:
 - a. Exhibit 1 – Application 21-013
 - b. Exhibit 2 – Formal Denial Letter from Tom Potere, Zoning Officer
 - c. Exhibit 3 – Tax Map of Township of Roxbury, Sheet 49
 - d. Exhibit 4 – Survey prepared by Lakeland Surveying, date unknown
 - e. Exhibit 5 – Checklist with Waivers
 - f. Exhibit 6 - Architectural plan prepared by Kenneth Fox, architect, dated March 11, 2021 revised through June 3, 2021 consisting of two (2) sheets.
 - g. Exhibit 7 – Calculation Sheet for Building and Lot Coverage
 - h. Exhibit 8 – Photos of Neighboring Homes
5. A duly noticed public hearing occurred on June 4, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

6. Diane and Greg Celentano presented sworn testimony in support of the application. The subject property is an irregularly shaped lot that contains a two-bedroom home. The Applicants are proposing a 21' x 25' second story addition with a master suite, which will be a vertical expansion of a pre-existing, non-conforming front yard setback. The addition is proposed above the garage and will cantilever over the front door.
7. Although the subject lot is conforming as to size, the shape and position of the house creates a hardship. Based on the location of the load bearing walls, the addition was proposed above the garage.
8. The proposal will result in a house that is 24' in height, which is similar to the surrounding dwellings and will fit into the neighborhood. There will be no negative impact from the addition, and it will not impact the ability to utilize the driveway. The addition of the bedroom suite will increase the value and aesthetic appearance of the home.
9. No one from the public was in attendance for this 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-70C from Section 13-7.1301D4 of the municipal zoning ordinance to allow a front yard setback of 29.3 feet where 35 feet is required.
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its "hardship" provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. The subject lot is irregularly shaped and the home has a pre-existing non-conforming front yard setback that will not be exacerbated. The proposed addition will be a vertical expansion of the existing setback.

3. The benefits of permitting the proposed addition outweigh the detriments that may result from denying the requested relief. The addition will increase the value and appearance of the home. It was determined that there would be little impact to the surrounding area and the home will be consistent with other homes in the surrounding area. 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 14th day of June 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The Applicant shall obtain all necessary permits from the building department prior to the start of construction.
3. The addition shall be consistent with the plans submitted to the Board and the representations made during the public hearing.
4. The front yard setback shall not be less than 29.3 feet.

ZBA-21-014 MEYER. Bulk Variance relief for property located at 19 Honeyman Drive, Succasunna, Block 3005, Lot 18 in an R-3 zone.

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

In the matter of Jason Meyer
Case No. ZBA-21-014

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

Approved: June 14, 2021
Memorialized: July 12, 2021

WHEREAS, Jason Meyer has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 19 Honeyman Drive and known as Block 3005, Lot 18 on the Tax Map of the Township of Roxbury

which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.810.1B; 13-7.905B; 13-7.1301D5(b); 13-7.1301D8 and 13-8.809B of the Roxbury Township Land Use Ordinance; and

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

1. The Applicant is the owner and occupant of the subject premises.
2. The Applicant was proposing to construct an addition requiring variance relief.
3. The following documents were marked for identification:
 - a. Exhibit 1 – Application 21-014, received March 22, 2021
 - b. Exhibit 2 – Formal Denial Report from Tom Potere, Zoning Officer
 - c. Exhibit 3 – Tax Map of Township of Roxbury, Sheet 30
 - d. Exhibit 4 – Survey prepared by 3 Wire Surveying, Inc., dated February 4, 2021
 - e. Exhibit 5 - Architectural plans prepared by Frank J. Rawding, architect, dated February 8, 2021 revised through March 31, 2021 consisting of four (4) sheets.
4. Applicant received a letter of denial dated March 26, 2021 revised April 9, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Section 13-7.810.1B – no accessory structure shall be permitted in the front yard, shed #1 existing and proposed in the front yard
 - b. Section 13-7.810.1B – no accessory structure shall be permitted in the front yard, pool is existing and proposed in the front yard
 - c. Section 13-7.905B – no more than two accessory buildings shall be permitted on a residential lot, two sheds and an in-ground pool are existing and proposed
 - d. Section 13-7.1301D5(b) – minimum rear yard setback of an accessory structure shall be five (5) feet, shed #2 existing and proposed setback of 3.5 feet

- e. Section 13-7.1301D8 – maximum impervious coverage permitted is 25%, 27.5% is existing, 27.8% is proposed
5. A duly noticed public hearing occurred on June 14, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.
6. Jennifer and Jason Meyer presented sworn testimony in support of the application. The subject property is unique in that it has a curved frontage on Honeyman Drive, creating two (2) front yards with no true rear yard. The Applicants purchased the home in 2012 with the existing pool and patio in the rear of the home, but within the fenced in front yard. There are two (2) sheds on the property, one with pool equipment located within the fenced area (#1) and one with lawn equipment and toys in the southern corner of the lot (#2). The existing home has a one-car garage that is used for storage as there is limited space. The pool area is a pre-existing non-conforming condition that creates a hardship for the Applicant.
7. The pool area sits above the rest of the yard, with a retaining wall through the center of the yard with approximately a 2-foot change in grade. The existing fence is 6’ high and is also located within the front yard. The Applicants agreed to add landscaping along the fence line.
8. Shed #2 was constructed on river rock and is setback 3.5 feet from the property line. The Applicants agreed to relocate the shed 5 feet from the property line to eliminate a variance.
9. The Applicants are proposing an addition to enclose the existing sunroom and adding a master suite to the second floor. The second story will cantilever over the first floor, with

no increase to the existing footprint. The addition will continue the existing roofline. There will be a *de minimis* increase in impervious coverage as a result of the addition; 27.5% to 27.8%.

10. There was no one present at the meeting regarding this 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-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 13-7.810.1B – no accessory structure shall be permitted in the front yard, shed #1 existing and approved in the front yard
 - b. Section 13-7.810.1B – no accessory structure shall be permitted in the front yard, pool is existing and approved in the front yard
 - c. Section 13-7.905B – no more than two accessory buildings shall be permitted on a residential lot, two sheds and an in-ground pool are existing and approved
 - d. Section 13-7.1301D8 – maximum impervious coverage permitted is 25%, 27.5% is existing, 27.8% is approved
 - e. Section 13-8.809B - no fence shall exceed 4' in the front yard, the 6' fence is the front yard is approved
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. The subject property is a corner lot, with two front yard and no true rear yard. The fenced pool area is an existing condition in the front yard

that is not being altered. The proposed addition increases the functionality and value of the home and results in a *de minimis* increase in impervious coverage.

3. The benefits of approving the pre-existing non-conforming conditions outweigh the detriments that may result from denying the requested relief and requiring the removal of the pool area. The Applicant eliminated a variance by agreeing to move Shed #2 into a conforming location.
4. It was determined that there would be little impact to the surrounding area as the pool has existed for many years without a complaint. The Applicant agreed to add landscaping to screen the pool area. 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 14th day of June 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The Applicant shall obtain all necessary permits from the building department prior to the start of construction.
3. The addition shall be consistent with the plans submitted to the Board and the representations made during the public hearing.
4. Landscaping shall be added along the 6' fence.
5. Shed #2 shall be moved within the required 5' setback.
6. Impervious coverage shall not exceed 27.8%.

APPLICATIONS:

ZBA-21-016 GUARINO, Bulk Variance relief for property located at 25 Silver Springs Drive, Landing, Block 11601, Lot 16 in an R-3 zone. *Request to be carried to September 13th 2021 meeting with no further notification.*

ZBA-21-020 PINEDA, Bulk Variance relief for property located at 3 S. Hillside Avenue, Succasunna, Block 3603, Lot 6 *Request to be carried to August 9th 2021 meeting with no further notification.*

ZBA-20-004 SPEICHER, Minor Subdivision, “D2” Variance for property located at 280 Old Ledgewood Road, Flanders, Block 9303, Lot 1, 3 & 4 in a B1-A zone. *Request to be carried to August 9, 2021, further notification required.*

ZBA-21-011 CALANTROPIO, Bulk Variance relief for property located at 82 Lazarus Drive, Ledgewood, Block 8303, Lot 6 in an R-1.8 zone.

Mr. Wiener swore in Audra Calantropio of 82 Lazarus Drive, Ledgewood, Block 8303, Lot 6 in an R-1.8 zone. Ms. Calantropio explained that she is returning to the Board with new plans reflecting the changes that the Board suggested. Ms. Calantropio explained the need to move the pool three feet to remove it from the easement. Mr. Stern explained that should the application be approved, one of the conditions of the resolution would be to obtain a Hold Harmless Agreement with the Township Engineering Department. Ms. Calantropio concurred.

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

Dr. Kennedy made a motion to approve the application based on the uniqueness of the property and the willingness of the applicant to enact as many of the Board’s recommendations as possible into their plan, Ms. Dargel seconded.

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

ZBA-21-018 MCCLOSKEY, Certificate of Non-Conformance for property located at 40 Salmon Lane, Ledgewood, Block 8801, Lot 6 in an B-2 zone.

Mr. Edward Dunne represented Mr. Matthew Mc Closkey who was present in his office during the testimony. Mr. Wiener then swore in Matthew Mc Closkey of 40 Salmon Lane Ledgewood, NJ. Mr. Dunne went on to testify that Mr. McCloskey is before the Board in hopes to obtain a Certificate of Non-Conformance which has been necessitated by bank requirements in order to proceed in the sale of his residential property which is located in a non-conforming zone. Mr. Dunne screen shared Exhibit 02 (Zoning Officer Report by Tom Potere) and asked Mr. McCloskey if he found the report to be mostly accurate. Mr. McCloskey replied yes. Mr. Dunne addressed a shed that was spoken of in Mr. Potere’s report and confirmed that the shed was not on Mr. McCloskey’s property but instead the adjacent lot. Mr. McCloskey confirmed the shed was not his. Mr. Dunne then address Exhibit 03 (Tax Map) and asked Mr. McCloskey if the highlighted Lot 6 was indeed his property. Mr. McCloskey confirmed. Mr. Dunne then spoke to Exhibit 4 (Survey) which showed the property conditions when Mr. McCloskey purchased the property in 2004. Mr. Dunne stated aside from the deck which was replaced by a stone patio, the configuration of the property is essentially the same. Mr. McCloskey concurred. Mr. Dunne moved onto Exhibit 05 (Property Tax Card), he went on to show the year the house was build which was in 1830 and is a single- family home. Mr. Dunne then addressed Exhibit 06 (Lot Line Adjustment) and stated that just prior to McCloskey purchasing the home the lot line was adjusted with the adjacent used car lot which increased the area of the car lot and decreased the area of Mr. McCloskey’s lot. Mr. Dunne asked Mr. McCloskey to read the last line of the lot line adjustment agreement which read “In granting this approval the Township Planner has determined that no new lots are being

created and that both lots conform to the ordinances bulk requirements and or that pre-existing non-conformities are being increased”. The agreement was signed by Mr. Stern. Mr. Dunne then addressed the Deed that was drawn up for the Lot Line adjustment which was approved by the Township. Mr. Dunne moved onto Exhibit 08 (Property Deed) which reflected the purchase of property by Mr. McCloskey in 2004. Mr. Dunne then address Exhibit 09 (New Septic System Approval), he went on to explain there was a cesspool failure in 2016 and new septic system needed to be installed and is subsequently licensed thru 2022. Mr. Dunne then addressed an aerial photo from 1957 which depicted a home in the approximate area and location of Mr. McCloskey. Mr. Dunne noted the picture did not show a deck on the home and asked Mr. McCloskey if he received a permit from the Township for the current patio that replace the deck that was installed. Mr. McCloskey replied yes.

Mr. Overman asked what is the significance of the patio? Mr. Dunne replied that the patio was installed after the zone was changed and could have been considered an expansion of the pre-existing non-conforming home but instead was approved by the Township.

Ms. Dargel asked if the tent/canopy depicted in the photos that the Zoning Officer provided was a temporary or permanent structure. Mr. McCloskey replied temporary.

Mr. Stern stated the matter before the Board is to determine if the single-family dwelling existed before the enactment of the zoning particularly the LIOR zoning which went into effect in 2001 albeit, prior to that is was most likely industrial zoning, nevertheless, zoning did not occur in the Township until roughly the 1950’s so based upon the tax record, and based upon the aerial photograph it appears as though it is safe to say that the development of a single-family dwelling pre-dated the zoning.

Mr. Wiener followed up with this isn’t a matter of variances but simply a confirmation that the use predates the zoning.

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

Dr. Kennedy made a motion to approve the application based on the fact the home has been there for over 100 years and there has not been any substantial increase in the dwelling since that time, Ms. Dargel seconded.

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

ZBA-21-019 RUDE. Bulk Variance relief for non-conforming sign located on property located at 376 Mt. Arlington Blvd., Landing, Block 12103, Lot 3 in an R-3 zone.

Mr. Wiener swore in Richard Rude of 61 King Road, Landing, NJ. Mr. Rude went on to testify that he approached the Township to see what would be required to replace the existing uprights on the sign because they are starting to lean. Mr. Rude stated he is trying to keep things neat and orderly, and he was advised that he would need to seek permission from the Zoning Board to make any modifications to the sign. Mr. Rude stated in order to replace the uprights the whole sign would have to be dismantled albeit only for a point in time. Mr. Rude went on to state that there would be no addition or subtraction to the sign.

Dr. Kennedy asked Mr. Rude if he was going to take down the entire sign and re-build it. Mr. Rude replied he would take it down straighten it and put it back up, noting it was leaning a few degrees to the east. Mr. Stern then asked the applicant if he would be taking down the billboard, removing the structural steel posts and then re-setting the structural steel posts with a concrete foundation. Mr. Rude replied that the construction permits have not been applied for yet so he really couldn't speak to the re-construction process. Mr. Rude said he assumes the engineer will require new footings. Mr. Stern stated he raised the question because minor repairs and non-structural maintenance is permitted on a non-conforming sign, but this non-conforming sign is not permitted by Ordinance and is located in a residential district that does not allow freestanding signs let alone a billboard sign. Mr. Stern went on to state that the planning premise on a non-conforming sign is over a period of time they go away and while minor maintenance is allowed, what is being proposed is a re-build. Mr. Rude stated that it would not bother him if the sign lasted another 50 years due to the fact that the entire proceeds of the sign go to charity. Mr. Overman stated he didn't really think that should be taken into account when looking at the Zoning because there would not be any enforcement that it continues to be for charitable purposes, stating the Board has to look at the structure itself and the property and the impact to neighbors if any, as opposed to the revenue it generates. Mr. Stern concurred and stated when you take a look at the zoning which is R-3 and what was submitted as part of the application is a tax map and it shows what is symbolic of a stream to the west on the other side of Mt. Arlington Blvd. and the properties to the east across from Openaka Road are wet or municipally owned. Mr. Stern stated a number of issues are raised with taking down the sign and reconstructing it with that being wetlands as well as potentially needing the approval of the Morris County Planning Board, noting any type of free-standing sign in the residential zone a minimum 10 foot set-back from the right-of-way as well as 30 feet from the side yard and what is being proposed is a set-back of roughly 2.9 feet from the side yard and 2.2 feet from the right-of-way. Mr. Rude replied if the town would like, he could move the sign to the south which would center it in the lot the setback is an issue. Dr. Kennedy stated the issue is if you move it, it will have to be taken down and put back up and that what presents the issue.

Mr. Overman commented that the lot is very small .10 acres (40 feet by 109 feet) and in looking at the application, he didn't see any use for the property.

Mr. Stern stated that is where the wetlands come into play and the property really has no utility, except for maybe the retention of what is already there, but not necessarily reconstructing the sign for next multiple decades.

Mr. Rude spoke to the wetlands and stated there is a stream a few lots over and it may be a Township lot but on the lot with the sign there is no stream.

Dr. Kennedy stated the issue he has is a hypothetical is being spoken of at this point and it is unclear of what is actually going to be involved in reconstructing the sign and what issues you may be facing. Dr. Kennedy stated rather than grant or not grant a variance he would like to see more documentation regarding this matter, so the Board has an opportunity to see if it is something the Board is willing to approve.

Mr. Rude replied he would hope to get a conditional variance before he goes and spends money on drawings.

Mr. Stern replied that additional information is required such as the stream near the property it could have a potential wetland transition area associated with it. We also need a better indication of being proposed, especially if this is a replacement.

Mr. Rude stated he is just trying to avoid the engineering expense until he knows if what is being proposed is permissible.

Mr. Overman asked is there any way to get the uprights reinforced?

Mr. Rude replied he would look into it and it might be possible to install sister uprights next to the existing ones.

Mr. Stern replied that will require a variance because it would be a structural modification.

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

The applicant requested to carry the application to the August 9th, 2021 meeting with no further notification.

NEW BUSINESS: Discussion on reinstallation of in-person Zoning Board meetings.

OLD BUSINESS: None

Motion to adjourn at 8:03 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
July 28, 2021