

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, August 14, 2023 at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ, after a salute to the flag, Dr. Kennedy, Chairman read the “Open Public Meetings Act”.

BOARD MEMBERS PRESENT

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

ABSENT: Mr. Summers, Ms. Dawson, and Mr. Overman

PROFESSIONAL STAFF

Mr. Russell Stern, P.P.
Ms. Alyse Hubbard, Esq.

MINUTES:

Ms. Robortaccio made a motion to approve the minutes of the July 10, 2023 meeting.
Ms. Dargel seconded.

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

RESOLUTIONS:

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

*In the matter of Spark Car Wash, LLC
Case No. ZBA-22-041*

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

Approved: June 26, 2023
Memorialized: August 14, 2023

WHEREAS, Spark Car Wash, LLC has applied to the Zoning Board of Adjustment of the Township of Roxbury seeking a Use Variance, Preliminary Major Site Plan and related bulk variance and waiver approval for premises located at 1441 Route 46 and known as Block 8602, Lot 42 on the Tax Map of the Township of Roxbury which premises are in a “LI/OR” Light Industrial/Office Research Zone; said proposal required relief from Section 13-7.3402, 13-7.3507F, 13-7.3507G, 13-7.3507I, 13-7.2502D7, 13-7.2502D10, 13-7.810.1B, 13-8.602A, 13-8.608A, 13-8.610, 13-8.702A, 13-8.702F, 13-8.702H, 13-8.703A, 13-8.705B, 13-8.904A, 13-8.916D3, 13-8.905B, 13-8.916D1, 13-8.905D, 13-8.910E, 13-8.705B, 13-8.804A, 13-8.807A, 13-8.807M 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:

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1. John Wyciskala, Esquire, of Inglesino, Webster, Wyciskala, Taylor, LLC, represented the Applicant.
2. The application is under the jurisdiction of the Zoning Board as the application requires a “D-2” use variance for expansion of a nonconforming use, as a car wash is not permitted in the LI/OR Zone. Additionally, the application requires a “D-3” use variance for site plan requirements for vehicle service stations that are not in compliance with the conditional use standards.
3. The Applicant submitted the following documents:
 - a. “Preliminary and Final Major Site Plan for Spark Car Wash,” prepared by Stonefield Engineering & Design, dated September 29, 2022, revised through June 7, 2023, consisting of twenty (20) sheets.
 - b. “Existing and Proposed Floor Plans,” prepared by Gary Kliesch and Associate Architects, dated October 4, 2022, last revised on April 28, 2023 consisting of four (4) sheets.
 - c. “Vacuum Equipment Directional Signs and Monument Signs,” prepared by Gary Kliesch and Associate Architects, dated June 6, 2023.
 - d. “Pay Station Menu Board, XPT, Fast Pass Reader and Colored Elevations,” prepared by Gary Kliesch and Associate Architects, dated June 7, 2023.
 - e. “Mat Washer Details and Wire Basket Signs,” prepared by Gary Kliesch and Associate Architects, dated June 26, 2023, marked as A-14 at the hearings.
 - f. “Proposed Site Rendering,” prepared by Gary Kliesch and Associate Architects, dated June 26, 2023, consisting of three (3) sheets.
 - g. Stormwater Management Statement, prepared by Stonefield Engineering & Design, dated April 27, 2023.
 - h. ALTA/NSPS Land Title Survey, prepared by Stonefield Engineering & Design, dated May 6, 2022, revised through December 19, 2022.
 - i. Letter to the Planning Board from Stonefield Engineering & Design, dated June 14, 2023.
 - j. Letter to Mark Kataryniak, Board Engineer, from Stonefield Engineering & Design, dated April 28, 2023.
 - k. Board of Adjustment Meeting Minutes from March 2, 1966.

4. In addition, Applicant submitted the following documents at the hearing, that were marked for identification:
- a. A-1 – “Site Plan Rendering Exhibit,” prepared by Stonefield Engineering & Design, dated April 6, 2023
 - b. A-2 – Car Queueing Exhibit, prepared by Stonefield Engineering & Design
 - c. A-3 – “Existing Site Image and” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - d. A-4 – “Proposed Site Rendering” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - e. A-5 - “Existing Site Image and” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - f. A-6 – “Proposed Site Rendering” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - g. A-7– “Existing Site Image and” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - h. A-8– “Proposed Site Rendering” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - i. A-9 – “Rendered Elevations,” prepared by Gary Kliesch and Associate Architects, dated May 8, 2023
 - j. A-10 – Rendering of signs and elevations of kiosks and menu boards (previously marked A-1 on May 8, 2023)
 - k. A-11- Color rendering of the elevations of the signs (previously marked A-2 on May 8, 2023)
 - l. A-12 – Aerial Exhibit of the property dated April 6, 2023
 - m. A-13 – Site Plan Rendering dated June 23, 2023
 - n. A-14 – “Mat Washer Details and Wire Basket Signs,” prepared by Gary Kliesch and Associate Architects, dated June 26, 2023
 - o. A-15 – Planning Exhibits for Spark Car Wash, LLC, prepared by John McDonough Associates, on April 4, 2023

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- p. A-16 – Details for pay station menu board, fast pass reader, and colored elevations.
 - q. B-1 – Board Exhibit containing six (6) photos of another Spark Car Wash location.
5. The Board received the following memorandums:
- a. Russell Stern, Township Planner, dated April 6, 2023, May 8, 2023, and June 22, 2023
 - b. Mark Kataryniak, Board Engineer, dated April 4, 2023 and June 22, 2023
 - c. Melanie Michetti, Township Engineer, dated January 25, 2023
 - d. Abby Montgomery, Health Department, dated April 6, 2023
 - e. Matthew Holland, Police Department, dated April 5, 2023
6. Applicant needs relief from the following variances and waivers:
- a. Variances pursuant to N.J.S.A. 40:55D-70d:
 - i. Section 13-7.3402, for the expansion of a nonconforming use as a car wash is not a permitted or conditional use allowed in the LI/OR Zone.
 - ii. Section 13-7.3507F, which requires a minimum setback of 40 feet from the road right-of-way for all buildings, structures, canopies, fuel pumps, air pumps, tanks, or other service appliances, including vacuums.
 - 1. Route 46: Five (5) ground mounted vacuums with overhead arm, garbage cans, mat cleaners and illumination are located within the required setback.
 - 2. Route 46 Jughandle: Two (2) pay stations with canopies and two (2) automatic gates are proposed within the setback.
 - 3. Kings Parkway: One (1) trash enclosure is proposed within the setback.
 - iii. Section 13-7.3507G, which requires a minimum side/rear yard building setback of no less than 25 feet. The existing building is located 10.1 feet from adjoining Lot 43 and 14.5 feet from Lot 45.
 - iv. Section 13-7.3507I, which requires a minimum twenty (20) feet wide landscape strip across the entire frontage, which includes a hedge consisting of two rows of shrubs and shade trees. There is a non-compliance landscaping along the frontage of Kings Parkway and the Route 46 jughandle.
 - b. Variances pursuant to N.J.S.A. 40:55D-70c:

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- i. Section 13-7.2502D7: a maximum building height of 28 feet is required, 31 feet is proposed for the tower.
 - ii. Section 13-7.2502D10: a minimum 10 feet aisle/driveway/parking setback from the front building elevation and 5 feet from the side and rear elevations is required: existing/proposed site improvements have paving flush with the front elevation and 3 feet from the side.
 - iii. Section 13-7.810.1B: no accessory buildings shall be permitted in the front yard; the proposed attendant's pay stations are located in the front yard associated with Route 46 jughandle.
- c. Waiver – A waiver is necessary from the following Sections:
- i. Section 13-8.602A: local roads shall have a 50 feet wide right-of-way and 30 feet wide cartway, the existing right-of-way is 33 feet wide and cartway is 12.1-24 feet wide on Kings Highway.
 - ii. Section 13-8.608A: curbs shall be required on both sides of all street, partial curbing proposed along Kings Parkway.
 - iii. Section 13-8.605E2: all roads shall be paved from curb to curb, partial asphalt proposed.
 - iv. Section 13-8.610: sidewalks shall be provided on both side of all streets, no sidewalks are proposed.
 - v. Section 13-8.702A: parking spaces shall be 9 feet wide, 10 feet width is proposed for the stalls associated with the vacuums.
 - vi. Section 13-8.702F: a 20 feet wide parking/ traffic aisle/driveway setback from Route 46 is required:
 - 1. Route 46 jughandle has a 3.4 feet setback from the traffic aisle, 14.7 feet to the gate and 12.7 feet setback to the pay station canopy are proposed.
 - 2. Kings Parkway has a 5.5± feet setback from the parking spaces.
 - vii. Section 13-8.702H: minimum setback of parking areas to any building, a 3 feet setback is proposed.

- viii. Section 13-8.703A: every building requiring the receipt of materials shall have a 15' x 60' loading/unloading space, no loading space is proposed.
 - ix. Section 13-8.705B: all non-residential uses shall have one location for trash/recycling enclosure in the side or rear yard, enclosure is proposed within the Kings Parkway front yard.
 - x. Section 13-8.804A&B: all site plans require street trees planted 40 feet on center within the road rights-of-ways. Partial compliance is provided. Additional street tree(s) to be provided by lot 45, adjacent to the Kings Parkway right-of-way.
 - xi. Section 13-8.807A: a minimum of 3' high screen planting between the parking area and street lines required, partial compliance provided.
 - xii. Section 13-8.807M: landscaping shall be required to accent of driveway openings, partial compliance provided. Low growing perennial plantings will be provided on both sides of the drive-thru entrance off of Route 46.
 - xiii. Sections 13-8.904A and 13-8.916D3: only one freestanding sign is permitted per lot, one (1) monument sign, two (2) pay station signs, and three signs on each of the 15 vacuums are proposed.
 - xiv. Sections 13-8.905B and 13-8.916D: only one (1) façade sign is permitted, four (4) are proposed on the building. With multiple road frontages, a maximum of two façade signs are permitted (Section 13-8.905B), five (5) signs are proposed on the Pay Station.
 - xv. Section 13-8.905D: the maximum façade sign shall not exceed 5 feet, two 7'-5" high Spark Car Wash and logo signs are proposed on the building tower.
 - xvi. Section 13-8.910E: advertising on traffic control/directional signs is prohibited, eight (8) traffic control/directional signs with illuminated logos are proposed.
7. Duly noticed public meetings were held on April 10, 2023, May 8, 2023, and a Special Meeting was held on June 26, 2023. During the course of the public meetings, sworn testimony was given by Matt Canale, the Director of Real Estate for Spark Car Wash, Paul Mutch, PE, of Stonefield Engineering & Design, LLC, the site and traffic engineer, Gary Kliesch, AIA, NCARB, NJCID and Oliver Young, AIA, NCARB, LEED AP, of Gary Kliesch and Associate Architects, PC, and John

McDonough, PP, of John McDonough Associates, the planner, who were accepted as experts in their respective fields.

8. The subject property is 1.1 acres in size and has been developed as a car wash for over 50 years. It is a split zoned parcel with the front half located in the B-2 Highway Business District and the rear in the LI/OR Light Industrial/Office Research District. The property has frontage on westbound US Route 46, which is its primary ingress/egress. It also has frontage on Kings Parkway which serves as a secondary ingress/egress. Frontage is also on the US Route 46 jughandle, but with no vehicle access. Kings Parkway is a lightly travelled, unsigned private right-of-way.
9. To the west along Route 46 the property adjoins the Towne Toyota Service Center, which is situated in the B-2 District. Along Kings Parkway the site adjoins a single-family residence located in the LI/OR zone. Across Kings Parkway to the northeast is Kenvil Weldery and Machine in the LI/ OR zone.
10. The Applicant is proposing interior modifications to the car wash tunnel, façade alterations, new signage, new lighting, new landscaping, and redevelopment of the existing parking lot and drive aisles. The Applicant also proposes sixteen (16) new exterior freestanding vacuums with overhead illuminated arms located within the parking lot and 20' feet to Route 46 right-of-way. The building footprint will be slightly decreased, and impervious coverage will be reduced from 57.5% to 49.5%. This is not a major development from a stormwater management perspective, the stormwater will continue to sheet flow off the site with the installation of curbing and inlets.
11. Roxbury Car Wash operated on the site until approximately a year ago and the site has not been maintained and is an eyesore. It was purchased by Spark Car Wash who propose to rebrand, renovate, and modernize the building and operation. A computerized operation and a highly trained staff will improve the overall experience.
12. Site remediation was necessary for the removal of a septic system, pursuant to New Jersey Department of Environmental Protection, with the possibility of future monitoring and environmental testing. The car wash utilizes 100% biodegradable soap and 80-90% of the water is recycled through an underground reclamation system. Approximately 15% of the water that is not recycled will flow into the public sewer system.

13. The on-site stormwater management system replicates existing conditions with overland sheet flow discharging to Ledgewood Brook and the adjacent landscape areas, and the elimination of the piped conveyance system.
14. There will be 3-4 employees monitoring the business, at the vacuums, the loading tunnel and pay stations. The hours of operation are 8:00 am to 8:00 pm daily, with a shift change at 2:00 pm. Garbage collection occurs once a week between 7:00 am and 8:00 am. Delivery of supplies occurs approximately every other week with a Sprinter Van directly into the building. Chemicals and cleaning agents are delivered in 10-gallon containers and stored in the equipment room, there are no hazardous material on site. All employees, deliveries, and garbage removal vehicles will access the site from Kings Parkway.
15. Customers access the site from Route 46 through an ingress driveway, travel through the carwash and exit back onto Route 46 through an egress driveway. There are two access lanes with menu boards and pay stations, one for the general public and one for customers with memberships. License plate recognition technology will be utilized for membership customers. The computerized system controls the flow of vehicles entering the car wash tunnel, allowing one vehicle to enter at a time. Approximately 18 vehicles can queue before the pay stations and another six (6) between the pay stations and the car wash tunnel, which is consistent with the Institute of Transportation Engineer trip generation for automated carwashes. Vehicles are in the tunnel for approximately two (2) minutes. There is one (1) made ready electric vehicle charging station, proposed along the Kings Parkway building elevation.
16. Mr. Canale testified that vacuums are a popular feature and an integral part of the business model. All vacuums are self-serve, for no cost. Each vacuum station contains two (2) “arms” with the vacuum attached. There are cleaning agents and cloths at each vacuum for customer use, as well as trash receptacles. The stations are illuminated with downward facing LED lights. The vacuums are connected via an above-ground piping system, powered by turbines that are contained in a black aluminum, picket fence enclosure. All other pipes are below ground. The above-ground piping system will be Spark Blue and must be accessible for maintenance purposes.

17. The parking lot behind the building will contain five (5) employee parking stalls, and a stall that is compliant with the Americans with Disabilities Act. A masonry trash enclosure is proposed with similar architecture to the building.
18. A minor renovation is proposed in the front of the building to remove an angled overhead door and “square-off” the building, which results in a decrease in square footage from 6457 square feet to 6346 square feet. The existing roof is 15’2” and the proposed elevation is 15’7”. The rooftop mechanical equipment will be screened with an 18’8” parapet on the north side and an 18’4” parapet on the south side. There is a wedge tower, which is an architectural element, near Route 46 that tops at 31’ and includes Spark Signage. The southern façade will consist of storefront framing and glazing with corrugated metal panels. A mat wash and dry system with shelving is proposed on the eastern corner of the southern elevation. The façade is a sleek, modern design, with grey, blue, and white finish.
19. Vehicles will enter the tunnel from the eastern side of the building and exit on the western side. A new conveyor trench is proposed along the southern side of the building. The northern side of the building will be renovated to remove the existing corridor and create an office, a public accessible restroom, a break area, storage/utility closet, an equipment room and an electrical room, which has an exterior door.
20. There is a lighting plan that proposes to upgrade to full LED fixtures. There are four (4) LED pole mounted, light fixtures along the driveway and parking lots. The footcandles at the property line to the north will be 0, but there will be some spillage onto Route 46. The tower element has LED lighting. There are recessed LED lights along the exit and entrance to the tunnel and decorative sconces on the southern and western façade. Site lighting will be reduced to security lighting at 9:00 pm.
21. The proposed signage is custom designed, with Spark Blue and Spark Orange and the logo. Eight directional signs are proposed, which are internally lit. The monument sign is back lit with the letters extruding from the sign. The sign on the wedge is 60.27 square feet, and consists of the logo and “Spark Car Wash.” The menu boards are mounted on the kiosks, with suspended signs over the pay stations that read “Bar at Clearance Level” for the full-service lane and “Welcome Back” over the membership lane with channel letters mounted on the overhead beam that read

“Member Lane Only.” The mat cleaning station is indicated with channel letters mounted on the façade of the building that read “Spark Park Hub” and the company logo.

22. After hearing comments from the Board and its professionals, the Applicant increased the proposed landscaping and enhanced the buffers on the site. The proposed landscaping plan includes 16 deciduous and ornamental trees that will be along the driveway and parking lots. Twelve evergreen trees are proposed behind the building to provide screening to the adjacent residential lot. More than 150 shrubs will be planted along the driveways and parking areas to enhance the visual appearance of the site. Lawn areas will be resodded and an irrigation system will be installed for maintenance of the landscaping. A maintenance company will be utilized as well.
23. The Applicant’s Planner testified that the Applicant is making a significant investment to revitalize the existing site, which will enhance the image and identity of the community. The enhanced landscaping plan and buffer will improve the aesthetic appearance of the site. The business model will improve the efficiency of the site, including the queuing of vehicles and the elimination of individuals hand drying vehicles in the front of the building. There will be limited construction impacts, as this is an adaptive reuse of the property and an efficient use of land.
24. Mr. McDonough opined that the criteria for relief for an expansion of a non-conforming use, pursuant to N.J.S.A. 40:55D-70d(2), has been satisfied. The site will be improved by the modernized operational use of the property. The architecture, better site organization and definition of space will result in an improved visual environment.
25. The following purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2) are advanced by this application:
 - a. Purpose A – to encourage municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals and general welfare: the application proposes an adaptive reuse of the property with operations that are environmentally conscious, utilizing biodegradable products and recycling the water through a reclamation system.
 - b. Purpose G – to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space,

both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens: the application proposes an adaptive reuse of the property in a commercial corridor.

- c. Purpose I – to promote a desirable visual environment through created development techniques and good civic design arrangements: the proposed architectural improvements, site organization and landscaping will create an appealing visual environment.
 - d. Purpose M – to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land: the reuse of an existing car wash facility limits the required construction costs and impact to the area.
26. The proposal will not have a substantial impact on the surrounding area. The proposed improvements will allow the site to flow, function, and operate in a safe, efficient manner. There was an interactive process between the Applicant and the Board to make a good plan for the property better. The proposal is consistent with the Master Plan by utilizing the site for a viable commercial use and not rezoning the property.
27. The criteria for conditional use relief, pursuant to N.J.S.A. 40:55D-70d(3), have also been met. The justifications for the expansion of a non-conforming use will carry forward and the deviations from Section 13-7.3507 will not have a substantial impact on the surrounding area.
- a. Section 13-7.3507F – Minimum setback from the roadway of 40 feet – landscaping will provide screening of the vacuums and pay stations that are in the front yard setback to minimize the visual impact.
 - b. Section 13-7.3507G - Minimum rear/side yard building setback of 25 feet – the building within the front yard setback is an existing condition.
 - c. Section 13-7.3507I – Minimum 20 wide landscape strip across the entire frontage, including a hedge consisting of 2 rows of shrubs and shade trees – sufficient buffer and screening provided with stable and seasonal plants to minimize the impact.
28. Finally, the Applicant’s Planner presented testimony to satisfy the criteria to grant relief, pursuant to N.J.S.A. 40:55D-70c. The site is developed with non-conforming conditions, the Applicant is

reusing the property within the existing constraints. The height variance required is limited in area to the tower, which is consistent with the branding for Spark Car Wash. The setback and parking variances will facilitate operational efficiency. Although sidewalks are not proposed, there are no sidewalks to connect to. The area is autocentric and the proposed use is consistent with the surrounding uses. Ultimately, the completed site will be an improvement over the existing conditions.

29. Mr. McDonough opined that the proposed signage is tasteful and not an overbranding of the site. The signs are informative and directional and integrate into the overall efficiency of the site. Although numerous waivers are required for the design of the site, he noted that the analysis should be qualitative, not quantitative, focusing on the end result.
30. There was no one from the public present at the hearings.

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. The Applicant's professionals worked with the Board's professionals and presented an improved plan that addressed the concerns of the Board.
2. The Board determined the relief can be granted pursuant to N.J.S.A. 40:55D-70d(2) from Section 13-7.3402 of the municipal zoning ordinance, to permit the expansion of a nonconforming use, to allow for the improvements to the existing car wash which is not permitted in the LI/OR Zone. It was further determined that the Applicant is entitled to relief, pursuant to N.J.S.A. 40:55D-70d(2) from Section 13-7.3507, as the following conditional use standards have not been met:
 - i. Section 13-7.3507F - a minimum setback of 40 feet from the road right-of-way for all buildings, structures, canopies, fuel pumps, air pumps, tanks or other service appliances, including vacuums:
 1. Route 46 - Five (5) ground mounted vacuums with overhead arm, garbage cans, mat cleaners and illumination are approved within the required setback.

2. Route 46 Jughandle - Two (2) pay stations with canopies and two (2) automatic gates are approved within the setback, 14.7 feet to the gate and 12.7-foot setback to the pay station canopy are proposed.
3. Kings Parkway - One (1) trash enclosure is approved within the setback, 32 feet from the right-of-way.
 - ii. Section 13-7.3507G - a minimum side/rear yard building setback of no less than 25 feet: existing building is located 10.1 feet from adjoining Lot 43 and 14.5 feet from Lot 45.
 - iii. Section 13-7.3507I - a minimum twenty (20) feet wide landscape strip across the entire frontage, which includes a hedge consisting of two rows of shrubs and shade tree, is required: the landscaping plan is approved with less than 20-foot-wide buffer along Kings Parkway and Route 46 jughandle.
3. The Applicant's Planner was able to establish that the proposed expansion is not inconsistent with the Master Plan and promotes the goals of the Municipal Land Use Law (N.J.S.A. 40:55D-2), specifically, improving site circulation and traffic flow, enhanced landscaping and architectural design will improve the overall site functionality and appearance in the Route 46 commercial corridor.
4. The witness further established that there would not be a substantial detriment to the public. The application is an adaptive reuse of the site with minimal construction. The Applicant proposes to use environmentally safe products and recycle the water on site. There will be no impact to the surrounding area and the site can accommodate the use and the proposed expansion. It follows that relief can be granted without substantially impairing the zoning scheme or Master Plan.
5. Relief can be granted pursuant to N.J.S.A. 40:55D-70c from the following Sections of the municipal zoning ordinance:
 - i. Section 13-7.2502D7: a maximum building height of 28 feet permitted, 31 feet is approved for the tower.
 - ii. Section 13-7.2502D10: a minimum 10 feet aisle/driveway/parking setback from the front building elevation and five (5) feet from the side and rear elevations required: site improvements that are paving flush with the front elevation and three (3) feet setback from the side yard approved.

- iii. Section 13-7.810.1B: no accessory buildings shall be permitted in the front yard, the proposed attendant's pay stations are approved in the front yard associated with the Route 46 jughandle.
6. 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.
7. The site is developed with a non-conforming building and the Applicant is working within the confines of the site, resulting in the need for bulk variance relief. The tower element is consistent with the branding of Spark Car Wash and the height variance is required for the tower only. The benefits of permitting the proposed improvements outweigh the detriments that may result from denying the requested relief, as the site is vacant and unsightly. The Applicant will revitalize the site and improve the Route 46 corridor. Based on the reasons set forth herein, it was determined that there would be little impact to the surrounding area and the relief can be granted without substantially impairing the zoning scheme or Master Plan.
8. The requested waivers can be granted pursuant to N.J.S.A 40:55D-51, as they are reasonable and within the general purposes and intent of the provisions for site plan approval. The literal enforcement of the provisions of the ordinance is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question.
 - i. Section 13-8.602A: local roads shall have a 50 feet wide right-of-way and 30 feet wide cartway, the existing right-of-way is 33 feet wide and cartway is 12.1-24 feet wide on Kings Highway.
 - ii. Section 13-8.608A: curbs shall be required on both sides of all streets; the application is approved with partial curbing along Kings Parkway.
 - iii. Section 13-8.605E2: all roads shall be paved from curb to curb, the application is approved with partial asphalt on Kings Parkway.

- iv. Section 13-8.610: sidewalks shall be provided on both sides of all streets; the application is approved with no sidewalks.
- v. Section 13-8.702A: parking spaces shall be 9 feet wide, 10-foot width is approved for the stalls associated with the vacuums.
- vi. Section 13-8.702F: a 20 feet wide parking/ traffic aisle/driveway setback from Route 46 is required:
 - 1. Route 46 jughandle has a 3.4 feet setback from the traffic aisle, 14.7 feet to the gate and 12.7 feet setback to the pay station canopy are approved.
 - 2. Kings Parkway has a 5.5± feet setback from the parking spaces.
- vii. Section 13-8.702H: minimum setback of parking areas to any building, a 3 feet setback is approved.
- viii. Section 13-8.703A: every building requiring the receipt of materials shall have a 15' x 60' loading/unloading space, application is approved without a loading space.
- ix. Section 13-8.705B: all non-residential uses shall have one location for trash/recycling enclosure in the side or rear yard, enclosure is approved within the Kings Parkway front yard.
- x. Section 13-8.804A&B: all site plans require street trees planted 40 feet on center within the road rights-of-ways. An additional street/shade tree will be provided by lot 45, adjacent to the Kings Parkway right-of-way.
- xi. Section 13-8.807A: a minimum 3' high screen planting between the parking area and street lines required. Relief is granted.
- xii. Section 13-8.807M: landscaping shall be required to accent of driveway openings, low growing perennial plantings shall be provided on both sides of the drive-thru entrance off of Route 46.
- xiii. Sections 13-8.904A and 13-8.916D3: only one freestanding sign is permitted per lot, one (1) monument sign, two (2) pay station signs, and three signs on each of the 15 vacuums are approved.

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- xiv. Sections 13-8.905B and 13-8.916D: only one (1) façade sign is permitted, four (4) are approved on the building. With multiple road frontages, a maximum of two façade signs are permitted (Section 13-8.905B), five (5) signs are approved on the Pay Station.
- xv. Section 13-8.905D: the maximum façade sign shall not exceed 5 feet, two 7'-5" high Spark Car Wash and logo signs are approved on the building tower.
- xvi. Section 13-8.910E: advertising on traffic control/directional signs is prohibited, eight (8) traffic control/directional signs with illuminated logos are approved.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 26th 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. Applicant shall install Belgium Block curbing in the front of the site and concrete curbing in the rear, subject to the review and approval of the Board Engineer and Planner.
- 3. Applicant shall comply with Section 13-7.812 regarding communication antennas/satellite dish antennas.
- 4. Painting of curbs is prohibited.
- 5. Applicant shall comply with Section 13-7.814 regarding loudspeakers.
- 6. Applicant shall obtain sewer capacity authorization from the Governing Body if an increase in allocation is required (Section 13-8.501E).
- 7. Applicant shall pay their fair share of off-tract and off-site improvements as determined by the Township Engineer (Section 13-4.6 and 13-4.7).
- 8. Applicant shall pay a mandatory development fee in accordance with Section 13-7.829.
- 9. Applicant is required to make an application and obtain final site plan approval from the Board.
- 10. Applicant shall provide a color version of the vacuum color chart detail on Sheet C-16. Colors shall consist of blue, red, yellow and green.
- 11. The vacuum color chart detail on Sheet C-16 that graphically depicts four (4) towel/equipment baskets shall be revised to depict no more than one basket.
- 12. Applicant shall provide a color material sample of the open weave fabric depicted on Sheet C-16.

13. Updated architectural plans that depict consistent details for the Vacuum Arch and Footing Detail the Arch Final Assembly Detail, which includes the vacuum, mat holder and garbage can shall be submitted for review and approval by the Board Planner.
14. All garbage cans shall be located on the asphalt and indicated on the Site Plan, subject to review and approval by the Board Planner.
15. Decorative trash receptacles shall be provided near the drive-thru entrance, exit and vacuum area (Section 17.3507U). A color detail shall be provided, subject to review and approval by the Board Planner.
16. Traffic aisle striping shall be provided to differentiate the two stacking lanes, subject to review and approval by the Board Engineer).
17. The Applicant shall address compliance with EV parking space requirements. The site plans shall be revised to provide for the timing for the installation of EV chargers.
18. Parking calculations must also be provided at 5 stalls plus 1 per each peak shift employee (This standard requires 5 stalls plus 4 stalls for peak hour employees for a total of 9 spaces). Five employee spaces are proposed in accordance with the per bay calculation at the rear of the building. There are an additional 13 parking spaces available for customers in the vacuum park area which complies with the Township Code requirements. Plans shall be amended to clarify same.
19. Architectural and engineering drawings shall note that rooftop mechanical equipment shall be architecturally screened in a manner compatible with the building architecture.
20. The dimensions of the menu board sign (Sheets C-13 and EX-A1) should be reduced (72" height proposed). The sign shall be mounted on the kiosk wall.
21. Details for the Mat wash equipment area and the direction signage shall be submitted to the Board.
22. Color manufacturer directional sign details shall be provided.
23. The proposed chain link fence trash enclosure gate shall be replaced with a Trex or PVC type board gate to complement the structure. The Reference to wolmanized wood gate shall be removed.
24. Scrolling text and graphics on the menu board signs are prohibited.
25. Unauthorized adjustable floodlights mounted on the Route 46 utility pole shall be noted for removal on the Lighting Plan (Section 13-8.707I).

26. The lights on the vacuums shall only be illuminated during business hours.
27. Plans shall identify the illumination proposed for the vacuum equipment. Details of the vacuum light and color photos shall be included in the vacuum detail.
28. Illumination on the vacuum lights shall be turned off or intensity reduced if notified by the Zoning Officer or Police for excessive glare/intensity of illumination.
29. Exterior lighting shall be turned off no later than 11:00 PM. Freestanding sign illumination shall be extinguished no later than 10:00 PM (Section 13-8.908D).
30. Light color temperature shall be reduced as directed by the Board's Engineer.
31. A revised landscape plan shall be submitted and subject to the review and approval of the Township Planner.
32. The light pole installation detail shall provide a base plate/bolt cover.
33. Trash enclosure detail shall specify a smooth face block with a color matching the principal façade.
34. All plant material shall be guaranteed by the landscape contractor for a minimum period of one year to replace dead or dying/marginal plants.
35. Towel drying outside of the car wash building, except for customers utilizing the towels available in the vacuum park, is prohibited.
36. Signage and striping shall be upgraded/added at the egress driveway at Route 46 to restrict the entrance movements and to direct all existing traffic to turn right. A "Right Only" sign below the Stop Sign shall be indicated on the plan, and a right turn arrow shall be marked on the pavement at the egress driveway.
37. Channelizing lane striping shall be added along the entrance driveway between Route 46 and the pay station to provide two queuing lanes for vehicle staging and separation at the approach to the island at the pay station.
38. The interior plumbing drawings submitted for building permits shall contain sufficient floor drains to contain the water generated by the wash system within the building's footprint/water reclamation system.
39. The width of the flush curb opening at the rip rap apron shall be indicated on the plans.
40. Details for the two rip rap pads, indicating the stone size and pad thickness shall be provided.
41. Electric conduits/lines between the building and the vacuum units shall be shown on the plan.

42. Applicant shall obtain a certification from the Morris County Soil Conservation District and any plan changes required for the certification shall be reflected on the final site plans.
43. Details for the directional signs shall be submitted for review and approval by the Board Engineer.
44. Applicant shall obtain approval or confirm, to the satisfaction of the Township Engineer, that no submission is required as the development will comply with the permit-by-rule parameters from the New Jersey Department of Environmental Protection for the proposed surface discharge within the Riparian Area of the Ledgewood Brook.
45. The water discharged from the car wash shall comply with Chapter 12.6 of the Township's Revised General Ordinances.
46. All water discharged into the sewer system shall be metered.
47. The residual grits, oils and grease shall be collected in the oil/grease separator prior to discharging into the sanitary sewer system and properly disposed of.

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

In the matter of KALM, LLC
Case No. ZBA-21-008

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

Approved: July 10, 2023
Memorialized: August 14, 2023

WHEREAS, KALM, LLC has applied to the Zoning Board of Adjustment of the Township of Roxbury seeking conditional use and site plan approval for premises located at 142 Lakeside Boulevard, and known as Block 11001, Lot 3 on the Tax Map of the Township of Roxbury which premises are in a "B-1" Business Zone; said proposal required relief from Section 13-7.2302C.2 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. Craig Bossong, Esquire represented the Applicant.
2. The application is under the jurisdiction of the Zoning Board as the application requires a use variance for a second-floor residential apartment. The subject application proposes to convert the

second floor of the existing structure into a two-bedroom apartment requiring relief, pursuant to N.J.S.A. 40:55D-70d(3) from the following Sections 13-7.2302C, Conditional Uses, which provides that residential apartments located on the second floor in a building containing a retail store or service establishment on the first floor, shall have a minimum of fifty percent (50%) of these units shall meet the requirements and objectives set forth Section 13-7.826 to create additional apartments for low- and moderate-income units within the Township of Roxbury. One market rate unit and no affordable unit are proposed.

3. The Applicant submitted the following documents in addition to the application and checklist:
 - a. Minor Site Plan for KALM, LLC, prepared by Suburban Consulting Engineers, Inc., dated January 27, 2021, revised through June 30, 2023, consisting of three (3) sheets.
 - b. Architectural Plans, prepared by Gates Architectural Design, Inc., dated December 8, 2020, revised through June 29, 2023, consisting of two (2) sheets.
 - c. Boundary & Location Survey, prepared by Suburban Consulting Engineers, Inc., dated September 24, 2020.
 - d. Deed from GTM, L.L.C. to KALM, L.L.C. dated March 8, 2005.
4. The Board received the following memorandums:
 - a. Russell Stern, Township Planner, dated May 2, 2023 and July 6, 2023.
 - b. Mark Kataryniak, Board Engineer, dated April 28, 2023.
 - c. Michael Pellek, Fire Official, dated April 26, 2023.
 - d. David Holland, Police Dept., dated April 25, 2023.
 - e. Morris County Planning Board, Advisory Review, dated September 30, 2021.
5. The following pre-existing nonconforming conditions exist on the property:
 - a. Minimum Front Yard Setback: 35 required, 3.0 feet existing.
 - b. Maximum Building Height: 2 stories and 28 feet permitted, 2 1/2 stories existing.
 - c. Maximum Floor Area Ratio: .2 FAR permitted, .258 FAR existing.
 - d. Maximum Impervious Coverage: sixty percent (60%) permitted, 68.64% existing.
 - e. Parallel Parking Stalls shall be 8 feet by 24 feet, existing spaces are 9.5 feet by 20 feet.
 - f. Residential buffer: 35 feet required, 13.9 feet existing.
 - g. Parking Lot Stall Setback: 10 feet required, none proposed.

- h. Loading/unloading space required, none proposed.
 - i. Lighting and landscaping, non-compliant.
6. A duly noticed public meeting was held on July 10, 2023, at which time Joseph Alan Gates, AIA, of Gates Architectural Design, Inc., and Joseph D. Phil, PLS, PP, of Suburban Consulting Engineers, were accepted as experts in their respective fields and presented sworn testimony in support of the application. The subject property is an 18,559 square foot lot on Lakeside Boulevard improved with a 2½ story building and related parking lot. There is a shed in the northeastern corner of the property that straddles the property line. There are three (3) parallel parking stalls on the northern side of the lot and 13 perpendicular stalls in the rear. Access to the site is from an ingress driveway on the northern side of the building, with one way circulation around the building to the southern egress driveway.
 7. The first floor, which consists of 1,808 square feet, contains a martial arts school in the rear and an accounting office in the front, and will remain unchanged. The second floor and the basement are currently used for storage.
 8. A colored version of Sheet A-1, Preliminary Floor Plan, was marked as Exhibit A-1 for identification. The Applicant is proposing to convert the 1,808 square foot, second floor into a two-bedroom, two-bathroom apartment, which requires a “D3” conditional use variance, as the unit will be occupied by the Applicants, who operate the first-floor businesses. In the B-1 Zone, second story residential units are only permitted as a conditional use if 50% are deed restricted as affordable housing.
 9. The apartment will have access from the existing side entrance of the building, with stairs to the second floor. The rear of the building will contain a kitchen and dining area, a living room, bedroom, and bathroom. The front portion of the building will contain a second bedroom, den, and bathroom. The existing windows will be enlarged for proper emergency egress. The basement will continue to be utilized for storage.
 10. Applicant is proposing to reconfigure the parking to create two parallel parking stalls on the northern side of the building, that will be designated for drop off and pick up. Eleven (11) parking stalls in the rear of the property, including two stalls that are compliant with the Americans with

Disabilities Act. The shed will be moved in a conforming location within the lot and a gated trash enclosure is proposed.

11. Mr. Phil testified to the necessary criteria to establish the site could accommodate the proposed use, to support the granting of a conditional use variance. Similarly situated properties exist in the surrounding area, with a business on the first-floor and residential units on the second floor. There is a benefit to the community and the Applicant to have the owner of the building reside on site, as the property will be maintained, with continuous care and beautification on site. Converting the second floor to a commercial use would be a more intense use of the site, as there is less traffic with the residents working on site.
12. The proposed use of the property will further the following purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2:
 - a. Purpose A. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare; the proposed unit is a reasonably sized apartment that will allow the commercial use on the first floor to continue to function efficiently.
 - b. Purpose D. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole; the proposed mixed use is similar to other sites in the surrounding area.
 - c. Purpose E. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; the proposed apartment is reasonably sized residential dwelling unit on the second floor that is consistent with the surrounding area.
 - d. Purpose G. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens; the proposed apartment will be occupied by the owners, limiting the impact of the use on the surrounding area.

13. With regard to the negative criteria required for a conditional use variance, the witness testified that the use would not substantially impact the surrounding properties, as there would no increase in traffic. The use is contemplated by the zone, and the conditional use variance is related to the owner occupancy of the unit, as the ordinance requires an affordable housing unit. The subject situation is unique, as the building configuration and site conditions limit the practicality of creating two apartments. Whereas, one appropriately sized unit is better suited for the site.
14. The Applicant received comments from the Morris County Planning Board, requiring the driveway be increased to 12 feet to 15 feet in width. Additionally, proper signage is required, including a Stop, One Way, Entrance Only, Exit Only, and Do Not Enter sign to control the flow of traffic. Finally, the Applicant agreed to a Right Turn Only out of egress driveway onto Lakeside Boulevard.
15. There was no one from the public in attendance for this hearing.

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

1. The Board found the witness testimony to be competent and credible. The Board determined that the Applicant was entitled to relief pursuant to N.J.S.A. 40:55D-70d(3), from the condition of Section 13-7.2302C. As set forth in *Coventry Square, Inc., v. Westwood Zoning Board of Adjustment*, 138, N.J. 285 (1994), the Applicant must establish that the site remains suitable for the use, despite the fact that the conditions are not met. The focus is on the specific departures from the conditional use standards and the significance of the deviations in the context of the specific development proposed, the site and the surrounding land uses.
2. The Applicant was able to establish that an apartment on the second floor, above a commercial use, was consistent with the surrounding area. The unique situation at hand is a less intense use, as the occupants of the residential unit work on the first floor. Therefore, there will be no increase in traffic to the site. Although an affordable housing unit is not being established, the size of the apartment is appropriate for both the site and the applicant.
3. It was further determined that the benefits of permitting the owner occupied, second floor unit, without providing an affordable housing unit, outweigh the detriments that may result from denying the requested relief. It was noted that the proposal will be the highest and best use of the

property. As previously noted, there would be little impact to the surrounding area and 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 10th day of July 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. All improvements shall be consistent with the plans submitted to the Board and the representations made at the public hearing.
3. All commercial activity shall cease between the hours of 11:00PM and 6:00AM, pursuant to Section 13-7.21A04 of the Township's Ordinance.
4. The Applicant shall comply with the requirements set forth in the September 30, 2021, letter from the Morris County Planning Board:
 - a. The site driveways shall be between 12-ft and 15-ft width for one-way traffic per Table 500-4: Driveway Dimensions, Morris County Land Development Standards.
 - b. Proper signage including Stop, One Way, Entrance Only, Exit Only, and Do Not Enter shall be depicted on the site plan.
5. The gravel parking area located along the northerly side property line shall be removed to reduce the impervious coverage.
6. The existing concrete pad at the northeast property corner shall be enclosed by a gated fence and used as a trash enclosure, as required by Section 13-8.705 of the Land Development Code.
7. Sheet 2 of the Site Plan shall be revised to indicate one two-bedroom apartment.
8. Tilting/adjustable lights are prohibited and shall be replaced with fixed arm fixtures having the light lens parallel to the ground.
9. The Zoning Data Table on Sheet 2 shall identify a minimum lot frontage of 100 feet (150 feet depicted).
10. The Applicant shall repair any cracked or distressed areas of pavement within the parking lot, reseal the pavement surface, and re-stripe the lot for the parking space and circulation delineation.
11. Areas near the relocated shed at the northwest corner of the parking lot shall be gore striped where no parking is intended to occur.

12. Sight triangles at the egress driveway shall be indicated on the plans, in accordance with Section 13-8.607.
13. Traffic signage and striping at the egress driveway shall be provided in accordance with current MUTCD and Morris County requirements.
14. The Applicant shall satisfy ADA parking requirements with associated signage.
15. The parking space allocation shall be revised to include handicapped parking meeting all applicable ADA requirements, including regrading.
16. The sidewalks shall be reconstructed to provide a drop curb for ADA access.
17. The parallel parking stalls shall be appropriately signed for drop-off and pickup, subject to the review and approval by the Township Engineer.
18. The Parking Summary Table plans shall be revised to reflect the accurate bedroom count for the apartment and coordinated with the Minor Site Plan.
19. Should designated parking be proposed, details of all intended signage and striping for the designated spaces shall be indicated on the plans, subject to review and approval by the Board Engineer.
20. The lighting operation shall be evaluated for different types of use and adjusted if needed.
21. Subject to review and approval by Morris County Planning Board, the egress driveway onto Lakeside Boulevard shall be signed for a Right Turn Only and indicated on the revised plans.
22. The shed shall be relocated to a conforming location with the property lines.

EXTENSION:

ZBA-23-017 WOODMONT, property located at 1735 & 1751 Route 46, Ledgewood, Block 9603, Lots 3 & 4 in a OB zone.

Mr. Stern stated that the applicant is requesting a one-year extension, noting that they have an approval from the Board for a combination warehouse office type use and have obtained a variance. Mr. Stern stated that the applicant is having difficulty getting a purchaser at the warehouse percentages that were permitted by the board and sees no reason not to grant the extension.

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

APPLICATIONS:

ZBA-23-004 GUZMAN-HERNANDEZ, Bulk Variance for property located at 72 Kenvil Avenue, Succasunna, Block 3901, Lot 36 in a R-3 zone. *(Request to be carried to the September 11, 2023 meeting with no further notification required.)*

ZBA-23-010 301 KINGSLAND RD, LLC, Bulk Variances for property located at 301 Kingsland Road, Landing, Block 11001, Lot 14 in an R-3 zone.

Mr. Jim Burke, Esq. stepped forward as attorney for the applicant. Mr. Burker testified that the property is located in an R3 zone and is also subject to the steep slope overlay. The present condition of the site is that there is remnant of a house that burned down apparently some years ago where the chimney is still standing and some of the foundation. Mr. Burke stated that his client first tried to just rebuild the site, but the zoning officer at the time said it was not allowed and when looked into, the ordinance calls for off street parking and states that no residential building permit shall be granted for the erection of a new dwelling nor certificate of occupancy, unless the construction includes a garage for at least one or more vehicles.

Mr. Burke further stated that the architectural plans were revised to include a garage and that the other variances being sought are basically a result of the inclusion of the garage.

Ms. Hubbard swore in Mr. Kent Rigg, Civil Engineer, of 24 Godwin Ave. Midland Park, NJ. Mr. Rigg testified that the applicant is seeking a "C" variance for height, a rear yard setback variance and then additional relief from the steep slope overlay.

Mr. Rigg stated that the inclusion of the parking garage was not part of the original site plan. So originally, the grade at the house was similar on all the back right, as it was approximately the same as the back left and the front right was the same as the front left which was just about two to three feet below first floor. Mr. Rigg stated that with that grading a height variance would not have been necessary, but with the garage now a basement entrance garage, which comes in from the side, the grades at the left side of the house are now six or seven feet lower than they had been in the previous configuration.

Dr. Kennedy asked if Mr. Rigg could explain in basic layman's terms why the request for a height variance. Mr. Rigg replied that there is actually more than one factor, but the first one being the garage entrance on the side. The grade on the front right is 942, where initially it was at 942 on the left front side. Now the grade is at 934.9, which is 7.1 feet lower in order to provide a driveway to garage entrance.

Mr. Rigg continued testimony and spoke about the roof which is categorized as a shed roof, and because of that the measurement is going from the average grades to the to the highest point on the ridge, noting if this were a ridge roof and we averaged the high point at the eaves, the building elevation actually would be a little bit more than five feet lower and would not require a variance.

Dr. Kennedy asked what is the difference between a shed roof and a ridge roof? Mr. Rigg replied it is sloped in one direction instead of being high in the middle and sloping in two directions. The shed roof creates another story because it's labeled as attic and storage, but it is going to have a balcony. The variance was not for extra stories, it was for building height vertical difference.

Dr. Kennedy asked if the zone requires a maximum of 2 ½ stories. Mr. Rigg replied yes. Dr. Kennedy asked by having the garage, two stories, and an attic exceeds the allowed. Mr. Rigg replied yes, due to the fact the garage at the basement level, even though the majority of the foundation is not exposed at the level of the garage.

Ms. Hubbard swore in Mr. Mariconda of 13 Wetmore Drive, Denville, NJ 07834, who is a managing partner of 301 Kingsland Road, LLC.

Ms. Robertaccio asked if Mr. Mariconda would be living at 301 Kingsland Road. Mr. Mariconda replied no it is investment property and his intent is to sell it.

Mr. Mariconda was asked to address the second story of the home. He explained that there is a balcony and 90% of the space is considered attic space, noting he did not consider it a third floor because his interpretation was if more than 50% of the foundation is exposed, its immediate average would constitute a third floor. Mr. Mariconda further explained that the basement that has access to the garage is exposed to the lower grade. If you look at the front elevation of the house, the majority of the house appears to be a two-story house noting, that he had to drop the elevation on the left side primarily to accommodate getting a driveway under the garage, but the grade comes up again behind the porch.

Dr. Kennedy asked what would be up in the attic. Mr. Mariconda replied, gas furnaces, air conditioner air handler, noting that there'll be no water or no plumbing. Additionally, no finished floors, just floors to go to the service units and that's it.

Dr. Kennedy asked if the home would have a single car garage. Mr. Mariconda replied, yes. Dr. Kennedy then asked where there would be additional parking. Mr. Mariconda replied, on the driveway and that you can fit two cars up on top and one in the driveway, that's probably more than RSI is required.

Mr. Stern asked Mr. Mariconda if he had a copy of the Lake Hopatcong Commission letter dated August 11th, 2023, noting that the Commission made some recommendations regarding the site. Mr. Mariconda replied yes and that he will comply with all the recommendations in the letter.

Mr. Stern then asked if he had received a copy of the report written by Melanie Michetti, Roxbury Township Engineer dated August 14th, 2023. Mr. Mariconda explained that he had just received the letter earlier in the day and had a chance to review it he believes he can comply with the requested items.

Mr. Mariconda was asked to address the retaining walls on site starting with the wall at the back of the property. Mr. Mariconda stated that the plan is not to disturb it or anything behind it. The limit of disturbance is at the bottom of the wall and that it is mainly just minor regrading and removal of the old gravel from the old driveway.

Dr. Kennedy stated that he really would like to have the plans revised to reflect Ms. Michetti's concerns before the Board can offer any kind of motion to approve or disapprove.

Dr. Kennedy stated that his suggestion would be to speak with Ms. Michetti by phone or by zoom and sort out some of these issues previously discussed like the issue regarding the grinder pump and design calculations, the time to really deal with these things should be now as opposed to after action by the board.

Mr. Rigg went on to discuss the seepage pit proposed in the steep slope area. Mr. Rigg explained that the seepage pit is not required in that, the applicant is decreasing impervious coverage as part of this application by 1,300 square feet, from 3,562 square feet to 2,294 square feet. The highest part of the seepage pit will be at the lowest grade where it's located.

Ms. Robertaccio asked what the volume for the pit was. Mr. Rigg replied, 1000 gallons.

Mr. Stern asked where the grinder pump is being proposed. Mr. Rigg replied that the pump is 20 years old and may require maintenance of some sort. Mr. Stern asked if the applicants proposal was to keep the grinder pump in the same area. Mr. Rigg replied yes.

Dr. Kennedy stated that he would prefer that they meet with the engineering department, make sure that everybody's on the same page with that.

Mr. Rigg went on to address the rear yard setback variance necessary due to the porch coming out the back, which is again up higher than it would have been because the applicant had to drop the grade there for the garage entrance which extended 3 feet into the setback, making it 32-foot set back from the rear yard. Mr. Riggs stated that the entire house has been designed to fit within the occupied areas and designed to fit within the setback line making so the steps require the relief, not the landing.

Mr. Rigs stated that part of the reason this is necessary is the lot is somewhat odd shaped.

Mr. Rigg directed the Board to an exhibit he marked up showing the steep slope areas. He marked each area in a different color for each category of steep slope area that's being disturbed. Green being B slope B, which is 15% percent to 19.9%. There is an area in the gravel driveway and in the existing gravel driveway there is another area of slope C which is in blue, so out of the total of 19,172 square feet, there is approximately 580 square feet, which is located in the existing gravel driveway. From looking at the site, essentially everything between the bottom of this retaining wall in the back and the pavement appears to have been previously disturbed.

Motion was made to open to the public for comments and Mr. Craig Bitten of 204 Kingsland Road, Landing stepped forward as a Vice President of the Kingsland Association. Ms. Hubbard started for the record that Mr. Bitten must represent himself unless he's an attorney, noting he cannot speak on behalf of others. Mr. Bitten agreed and asked if Mr. Rigg could go to the map and address his concerns on groundwater runoff down the driveway, noting that there already is a runoff issue which crosses the road. Mr. Bitten then asked that with the lake only about 1215 feet away, is there any provisions for groundwater runoff across the driveway. Mr. Rigg replied that the driveway does not drain into the seepage pit, however, the gravel driveway that currently exists is substantially larger than what is being proposed, noting as of right now there are no mitigating measures and with the decrease in impervious coverage, roughly 1/3 as well as adding a seepage pit to catch all the runoff from the house, there should be significantly less water running off that that lot than there is at this time.

Mr. Bitten then asked about the encroachment of the wall on the left side of the property onto Kingsland property. Mr. Mariconda replied that the intent was not to touch any of that rear retaining wall. Mr. Mariconda did state that the wall fronting Kingsland Road is in a state of disrepair and is falling onto the roadway. Dr. Kennedy stated that he felt the repair of the wall should be mandated in the resolution.

Ms. Maria Sudol of 30 Corwin St. Kenil, stepped forward and told the Board that she is the property owner at 302 Kingsland Rd, Landing. Ms. Sudol stated that Kingsland Road Association has a volunteer Board and that she is the President. Ms. Sudol stated that she has been told that the Association could not send a letter with comments but that they would have to send somebody in person, and we asked Mr. Bitton to come in person, and now you're saying that he can't represent the Association. Ms. Hubbard replied, yes. He can only represent himself. Ms. Hubbard explained that the Lake Hopatcong Commission has a has an advisory role and so board seeks advisory opinions from their engineers and their professionals, among others and as a as an objector or a concerned citizen, or any type of group, you cannot send a letter in place of a person because you're not subject to cross examination. As you can see, the board is actually a little disappointed that their engineer wasn't here to answer questions they had about the advisory letter that they had, but as a member of the public, we can't accept anything in writing. It must be through testimony, subject to cross examination, when we say representation, you know he can come here. I'm sure he's met with you and had concerns raised and he's going to come here and speak his concerns. But the term representation and for his legal counsel and he's not. So if you wanted to hire an attorney to represent the Association, that's one thing, but if not, he can only speak on behalf of himself as a resident and a member of the committee.

Motion was made to close to the public.

Ms. Hubbard asked Mr. Burke for an extension of time. Mr. Burke replied that he would always extend the time for a decision not knowing what the deadline is, but just as a matter of courtesy.

The matter was carried to the September 11, 2023 meeting with no further notification required.

ZBA-23-009 RUBIANO, Bulk Variances for property located at 18 N First Avenue, Kenil, Block 2613, Lot 16 in a R-3 zone.

Ms. Hubbard swore in Jessica and Magdiel Rubiano of 18 N First Avenue, Kenil. Mr. Rubiano went on to explain that they are seeking variance relief for the construction of a full second story addition to their existing home. Mr. Rubiano stated that he is looking to improve the functionality of his home and also to improve the appearance bringing a positive impact to the neighborhood.

Dr. Kennedy questioned if the maximum impervious coverage increases if you are adding a second story.

Mr. Stern replied in constructing a second story addition there is a bump out on the second floor where the bedroom is making it cantilever out which increases the impervious coverage.

Dr. Kennedy asked MR. Rubiano how many bedrooms there would be in total. Mr. Rubiano replied, a total of 4, noting that they have been in Roxbury now for 14 years and their children will be attending college. Mr. Rubiano explained that the Cape Cod they have is lovely, but he just doesn't have the room for his grown children, and the impending move in of his mother.

Ms. Robortaccio asked about the garage and the shed, noting that they are not 5 feet from the property line. Mr. Rubiano replied that is correct and that the house was built in 1944 and as far as he knew no upgrades to the property have taken place up until now.

Mr. Stern stated that this is pre-existing nonconformity and that that garage was constructed in 1947. Mr. Rubiano added that when he purchased the home the garage was there.

Mr. Stern addressed the variances that the applicant is seeking relief from starting with a front yard setback to the principal structure, which is actually maintaining the current setback of 15.7 feet noting that it is being exacerbated by the second story addition. Additionally, there is a side yard setback at 9.5 feet, which is being exacerbated by a second story addition and the impervious coverage has a slight increase.

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.

A motion was made to approve this application by Mr. Klein and seconded by Ms. Robortaccio.

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

ZBA-23-008 KHAN, Bulk Variances for property located at 82 Lazarus Drive, Ledgewood, Block 8303, Lot 6 in a R-3 zone.

Ms. Hubbard swore in Mr. Ayaz Khan of 82 Lazarus Drive, Ledgewood. Mr. Khan went on to testify that he is attempting to put in a pool in their backyard where the original homeowners had a variance for a different shaped pool. Mr. Khan stated that the original variance was for a rectangular shape where he would like to install a kidney shaped pool with a spa in order to maximize the backyard space.

Dr. Kennedy asked if Mr. Khan would explain what relief you are seeking versus what has been previously approved by the prior homeowner.

Ms. Hubbard swore in Mr. Khan's pool contractor Mr. Derek Blasker of 22 Route 130, Yardville, NJ 08620. Mr. Khan stepped forward and testified that the applicant is seeking two variances, one of them is accessory building or structure set back and the other one is for the six-foot existing fence.

Dr. Kennedy stated that the fence should be the easiest one to try to resolve and was there a particular reason why the applicant felt he needed a six-foot fence versus one that meets the current ordinance.

Mr. Khan explained it was an existing fence from the time of purchase approximately two years ago, noting it received Board approval for the prior owners of the property Jamie and Audra Calantropio. Additionally, the Calantropio's received a variance for the set back of the pool which was 5 feet from the principal dwelling and then they received the variance for impervious coverage which was approved at 40%. Mr. Khan stated that what he is proposing reduces the impervious coverage.

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. Robortaccio made a motion to approve the application. Mr. Klein seconded.

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

DISCUSSION: None

NEW BUSINESS: None

OLD BUSINESS: None

Motion to adjourn at 9:14 pm

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

Tracy Osetec, Board Secretary

August 14, 2023