

On Monday, October 5, 2020 a regular 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: 817 6638 2890#, Participant ID: # and Password: 934956#. 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](http://www.roxburynj.us). The purpose of the Regular Zoning Board Meeting was to conduct routine business.

**BOARD MEMBERS PRESENT**

Ms. Houtz, Mr. Overman, Mr. Klein, Mr. D’Amato, Dr. Kennedy, Ms. Robortaccio, and Ms. Dargel

ABSENT: Mr. Furey

**PROFESSIONAL STAFF**

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

**MINUTES OF SEPTEMBER 14, 2020 MEETING**

Ms. Robortaccio made a motion to approve the minutes of the September 14, 2020 meeting, Dr. Kennedy seconded.

*Roll call:* Ms. Robortaccio, yes; Dr. Kennedy, yes; Ms. Houtz, yes; Mr. Overman; Mr. Klein, yes; Mr. D’Amato, yes; Ms. Dargel, yes;

**RESOLUTIONS:**

**ZBA-20-010 BURKE**, Variance relief for property located at 27 Sunset Lane, Landing, Block 11904, Lot 4 in an R-3 zone.

Mr. D’Amato made a motion to approve, Ms. Robortaccio seconded.

*Roll call:* Mr. D’Amato, yes; Ms. Robortaccio, yes; Mr. Klein, yes; Dr. Kennedy, yes; Ms. Dargel, yes

In the matter of Christian Burke & Janice Riso Burke  
Case No. ZBA-20-010

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

Approved: September 14, 2020  
Memorialized: October 5, 2020

**WHEREAS**, Christian Burke & Janice Riso Burke have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 27 Sunset Lane and known as Block 11904, Lot 4 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.1301.D(4), 13-7.819, 13-7.1301D(5a), 13-7.1301D(8) of the Roxbury Township Land Use Ordinance; and

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**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 Applicants are the owners of the subject premises.
2. The Applicants were proposing to re-develop the existing site by replacing a one-story summer bungalow with a new two-story home. As proposed, they stated the new home would have a similar footprint to the existing one-story home. The existing walls would be replaced and reconfigured.
3. Applicants received a letter of denial dated July 2, 2020 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:

<u>Section</u>	<u>Permitted</u>	<u>Existing</u>	<u>Proposed</u>
13-7.819 Stream, Lake and Pond buffer	Notwithstanding any other provision of the Zoning Ordinance of the Township of Roxbury, no disturbance including grading and the erection, construction or expansion of any building or structure shall be permitted within fifty (50) feet from the bank of any stream or from the edge of any pond or lake in the Township of Roxbury. A conservation easement shall be required at a minimum width of fifty (50) feet along the bank of any stream or from the edge of any pond or lake in the Township of Roxbury	46.5 Feet	42.4 Feet to Steps of Deck.
13-7.1301D(5a)	Principal building: thirty-five (35) feet.	17.67 Feet	21.67 Feet (Deck)
13-7.1301D(8)	Maximum impervious coverage: twenty-five (25%) percent of lot area	26.30%	39.95%
13-7.1301D(8)	Maximum building coverage: fifteen (15%) of lot area	20.5%	20.95%
13-8.700E	No residential building permit (excluding multi-family) shall be granted for the erection of a new dwelling or a Certificate of Occupancy issued unless the construction includes a garage for at least one (1) but not more than three (3) motor vehicles."	No Garage * OMITTED NEW PLAN INCORPORATES GARAGE	No garage on this property. (There is an existing garage is located a crossed the street on different Block and Lot.)

4. The first hearing on the application took place on August 10, 2020. Prior to the initial hearing, the Board received the following:
  - a. The Applicants submitted architectural drawings prepared by Joseph A. Gates, architect, dated February 4, 2020 consisting of one (1) sheet.
5. The testimony, at the initial hearing, centered around the initial proposed home. The design for the home was prepared by the Applicant's architect, Joseph A. Gates, dated February 4, 2020 consisting of one (1)

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sheet. During a colloquy, with the Applicant and the architect and the Board, there was an obvious concern, by the Board, by the absence of a garage. The Township ordinance requires a garage and there did not seem to be any reason that the lot could not be developed with a garage conforming to the ordinance.

6. The matter was, ultimately, carried to the September 14, 2020 meeting. Prior to that meeting the Board received the following:
  - b. Revised architectural drawing, Exhibit 4A, and Stormwater Plan, Exhibit 8, both prepared by Joseph A. Gates, architect, dated September 3, 2020.
7. The Board received a letter from H. Ronald Smith, Chairman, Lake Hopatcong Commission dated August 4, 2020.
8. The Board received a memorandum from Michael A. Kobylarz, Township Engineer/Director of Utilities, dated September 14, 2020.
9. Both Mr. Gates and the Applicants testified at the second hearing. The Applicant's second proposal was a substantial change to the initial plan. In particular, the Applicant now presented a home with a garage. The garage and the adjacent driveway would provide off-street parking for 2 vehicles. Same conforms to the Township code. During the hearing, Mr. Gates agreed to reduce the garage size to 18' and increase the driveway parking size to 18' so that both spaces would essentially comply with Township parking standards and provide a minimum 18 foot set-back from the right-of-way.
10. Mr. Gates also presented revised Coverage Calculations, Exhibit 7, demonstrating that the total building coverage was now at 24.9%; the total lot coverage would now be at 28.97%. This was a reduction from the prior plan. Mr. Gates also noted that he had prepared a stormwater detention system consisting of a seepage pit tying roof leaders from the house into the new seepage pit. Same was set forth on Mr. Gates' Exhibit 8, dated September 3, 2020. (Same would be subject to the review of Mr. Kobylarz, the Township Engineer.)
11. Mr. Gates was thoroughly questioned by the professional staff and Board members. The primary focus of the discussion was on the changes that had been made to the application. Mr. Gates reminded the Board that the subject premises were undersized for the R-3 zone. The R-3 zone anticipates a minimum lot area of 15,000 square feet. The actual lot area is 6,586 square feet. He noted the limited size of the lot imposed a conflict with the type of home that would be anticipated in a lakefront situation in the Township. He

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noted the home being replaced was a summer bungalow – those types of seasonal homes were pretty much extinct and converted to more substantial year-round residences. In making its determination, the Board has taken into account the various reports submitted to the Board and in particular the Lake Hopatcong Commission and the Township Engineer, Michael Kobylarz.

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

1. The Board finds the testimony presented by Mr. Gates to be competent and credible.
2. The Board also notes the testimony provided by the Applicants as well as their “vision” for the development of the subject property.
3. The Board further noted that, during the course, of this application, the Applicant significantly revised its plan to address the concerns raised by the professional staff as well as the Board.
4. The Board finds Mr. Gates’ revised plan, dated September 3, 2020, to be a well-thought out redevelopment of the subject premises. This is not an oversized dwelling or a structure that cannot be accommodated on this lot. It now provides a garage and parking that conforms to the requirements of the Township ordinance. It also replaces a structure that was no longer a structure that was clearly ready for replacement.
5. The Board notes the inherent constraints in developing a substantially undersized lot and further notes this is an already improved lot. The new structure is clearly an aesthetic improvement over the existing seasonal residence. It is also in keeping with the style of lakefront homes in this area of the Township.
6. The Board finds the implementation of this application will not have a substantial impact on the zone plan, zone scheme, or the surrounding properties.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 14th day of September 2020 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, including a mandatory development fee, as applicable.
2. House to be sized and located as depicted on the architectural drawings prepared by Joseph A. Gates, architect, dated September 3, 2020:

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- a. Front Yard Setback to be no less than 18'; rear yard deck to be no less than 21.67'; maximum lot coverage not to exceed 28.97%, maximum building coverage not to exceed 24.49%; distance to lake to be no less than 42.4'.
3. Applicant shall comply with the recommendations noted in the Lake Hopatcong Commission's letter to the Board, dated August 4, 2020, including a landscape plan.
4. Applicant shall comply with the recommendations of the Township Engineer in his September 14, 2020 memorandum:
  - a. The "Stormwater Plan" dated September 3, 2020, prepared by Gates Architectural Design, Inc. contains stormwater calculations and grading. The Township Stormwater Management Ordinance Section 13-8.4 does not regulate a development of this size. The Applicant is proposing to install a drywell/seepage pit to provide some measure of stormwater quantity control. The drywell will control a larger amount of impervious surface (233 SF) than the Applicant is proposing (197 SF). The proposed roof leaders are connected to the drywell which is intended to control the entire roof area (1,368 SF). This amount of controlled area will surcharge the drywell. The recommendation is for the drywell access opening be raised to grade and a grated cover be provided to enable excess stormwater to be released from the system.
  - b. The existing lot grading will conform with the proposed dwelling without significant changes.
  - c. The Sewer Department shall be contacted in order to confirm the work required for the grinder pump/chamber to operate. The pump chamber, shutoff valve, control panel, alarm box and discharge pipe must be reviewed and approved by the Department prior to obtaining any certificate of occupancy for the dwelling.

**ZBA-20-013 LAPERA**, Variance relief for property located at 34 Kentwood Road, Succasunna, Block 5202, Lot 18 in an R-3 zone.

Mr. Klein made a motion to approve, Ms. Robortaccio seconded.

*Roll call:* Mr. Klein, yes; Ms. Robortaccio, yes; Mr. Overman, yes; Mr. D'Amato, yes; Dr. Kennedy, yes; Ms. Dargel, yes

In the matter of Michael Lapera  
Case No. ZBA-20-013

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

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Approved: September 14, 2020  
Memorialized: October 5, 2020

**WHEREAS**, Michael Lapera has applied to the Board of Adjustment, Township of Roxbury for permission to construct a shed requiring variance relief for premises located at 34 Kentwood Road and known as Block 5202, Lot 18 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D8 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:

12. The Applicant is the owner and occupant of the subject premises.
13. The Applicant is proposing to construct a shed which requires variance relief for exceeding impervious coverage.
14. Applicant received a letter of denial dated July 27, 2020 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
  - a. Maximum Impervious Coverage 25% permitted, existing 27.15%, proposed 28.48%
15. The home is presently occupied by the Applicant and his spouse. The Applicant testified that both he and his wife were elderly. His adult daughter was coming to reside with them. She, in effect, would be providing some senior care for her elderly parents. The Applicant stated that there was a need for some additional storage. He was proposing to construct a 10’x20’ shed in the rear of the existing home. The Applicant presented a copy of the plot plan as well as a color photo of the proposed shed. The Applicant stated the proposed shed would be similar to the shed depicted on Exhibit 5 submitted with 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 finds the testimony of the Applicant to be competent and credible.
2. The requested variance is a *de minimis* increase in impervious coverage. The Board notes the property, itself, has a “side entry” driveway and, as a result, the property has a higher level of impervious coverage. As noted, the Applicant’s request results in a *de minimis* increase.

3. The Applicant's proposed rear yard shed is a very typical amenity for single family homes located in the Township. It provides an opportunity to organize and maintain items such as lawn equipment in a neat and confined area.
4. The Board finds the Applicant has met its burden of proof noting the structure in question is a shed and the Applicant's proposed size is not unreasonable.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 14th day of September 2020 that the approval of the within application be granted subject, however, to the following conditions:

5. Payment of all fees, sureties, and escrows required by ordinance.
6. Shed to be constructed and located as depicted on the exhibits submitted with the application – Exhibit 4, Survey and Exhibit 5, Shed Photo.
7. Shed not to exceed 28.48%, as proposed.

**ZBA-20-014 ESPOSITO**, Variance relief for property located at 28 Reger Road, Succasunna, Block 301, Lot 27 in an R-1 zone.

Ms. Robortaccio made a motion to approve, Mr. Klein seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. D'Amato, yes; Dr. Kennedy, yes; Ms. Dargel, yes

In the matter of Kristine & Matthew Esposito  
Case No. ZBA-20-014

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

Approved: September 14, 2020  
Memorialized: October 5, 2020

**WHEREAS**, Kristine & Matthew Esposito have applied to the Board of Adjustment, Township of Roxbury for permission to construct an above ground swimming pool incorporating two (2) decks requiring side yard and rear yard setback relief for premises located at 28 Reger Road and known as Block 301, Lot 27 on the Tax Map of the Township of Roxbury which premises are in a "R-1" Zone; said proposal required relief from Section 13-7.1001D5(a) and 13-7.1301D6(a) 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:

16. The Applicants are the owners and occupants of the subject premises.

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17. The Applicants are proposing to construct an above ground swimming pool and two (2) decks requiring side yard and rear yard setback relief.
18. Applicants received a letter of denial dated July 31, 2020 from Tom Potere, the Zoning Officer.
19. As noted, the Applicant's proposal results in the need for two (2) variances:
  - a. Rear Yard Setback – permitted 50', existing N/A, proposed 28'
  - b. Side Yard Setback – permitted 20', existing 39.1', proposed 15'
20. The Applicants submitted Exhibit 5 – Pool and Deck Drawing & Exhibit 6 – Detailed Deck Drawing.
21. The Applicant's property looks like a lop-sided image of home plate. It has a very irregular rear yard so that one side yard is 140' long, the other side yard is 205' long and there is an irregular rear yard. The Applicant was proposing to locate a swimming pool on the southerly side yard. The location of the pool was depicted on the exhibits submitted with the application. As noted by Mr. Potere, the swimming pool, at its closest point to the side yard, is 15' and its closest point to the rear yard is 28'.
22. The Applicants testified that, given the location of the home and the existing rear yard amenities, the most logical and suitable place to locate the swimming pool was in the location selected by the Applicants.
23. During the course, of the hearing, some concern was raised by Board members as to why the swimming pool and the proposed decking could not be located more in the center rear of the property.
24. The Applicants testified that they wanted to maintain as much open space as possible. Therefore, their proposal would put the swimming pool in a location that conserves the remainder of the yard as an open area for enjoyment. They further opined that the 15' proposed side yard to the swimming pool was only 5' more than permitted. They also noted the swimming pool, itself, would be utilized during the swimming season.
25. During the public hearing, the Township Planner, Russell Stern, noted he could understand how locating the swimming pool in the immediate rear yard would affect the view from the house. Locating the pool in the area proposed by the Applicants would be an effective way to maximize the open space in the rear yard.

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

1. The Board finds the testimony of the Applicants to be competent and credible.

2. The Applicant's request for the variance can be justified under elements of both a "C1" hardship variance and a "C2" flexible C variance:
  - a. The hardship in this case consists of the location of the existing infrastructure together with the very odd and unique shape of the lot, itself.
  - b. The flexible C variance provides an Applicant to demonstrate why a deviation from the zoning ordinance is a better alternative than strict compliance with the zoning ordinance.
3. In this particular case, the Applicants were seeking approval to locate a rear yard swimming pool. There is nothing odd or unique about creating a swimming pool in the Township. The deviation to a side yard setback, at its closest point, is 15' instead of the required 20'. Locating the pool, as proposed by the Applicants, is consistent with the Applicant's desire for a well-planned rear yard that maintains open space. The Applicant's location, whether it be a conforming 20' or 15', will not have any substantial impact on the zone plan, zone scheme or the adjoining property owners.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 14th day of September 2020 that the approval of the within application be granted subject, however, to the following conditions:

8. Payment of all fees, sureties, and escrows required by ordinance.
9. Applicant shall secure all necessary permits prior to construction.
10. The proposed pool and two (2) decks shall be constructed and located as depicted on the plans submitted with the application. Rear yard setback to be no less than 28'; side yard setback to be no less than 15', as requested.
11. Applicant shall comply with all municipal codes and regulations regarding the operation and safety procedures for swimming pools.

**ZBA-20-015 VAN IDERSTINE,** Variance relief for property located at 8 Atlantis Drive, Succasunna, Block 3301, Lot 22 in an R-2 zone.

Ms. Robortaccio, yes made a motion to approve, Mr. D'Amato seconded.

*Roll call:* Ms. Robortaccio, yes; Mr. D'Amato, yes; Mr. Overman, yes; Mr. Klein, yes; Dr. Kennedy, yes; Ms. Dargel, yes

In the matter of Robert & Kristine Van Iderstine  
Case No. ZBA-20-015

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

**RESOLUTION**

Approved: September 14, 2020  
Memorialized: October 5, 2020

**WHEREAS**, Robert & Kristine Van Iderstine have applied to the Board of Adjustment, Township of Roxbury for permission to construct a deck to connect the existing deck to an above ground swimming pool located in the Applicant's rear yard requiring variance relief for premises located at 8 Atlantis Drive and known as Block 3301, Lot 22 on the Tax Map of the Township of Roxbury which premises are in a "R-2" Zone; said proposal required relief from Section 13-7.1101D5(a) 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:

26. The Applicants are the owners and occupants of the subject premises.
27. The Applicants were proposing to construct a new deck to connect the existing deck and pool which results in the need for a rear yard variance from Section 13-7.1101D(a) - rear yard of 50' is permitted; 65' (house) existing; 33' (pool) proposed.
28. Applicants received a letter of denial dated August 13, 2020 from Tom Potere, the Zoning Officer.
29. The Applicants submitted a survey of the property together with Exhibit 8, deck and pool drawing and Exhibit 9, detailed deck drawing.
30. The Applicants stated the existing situation, with the swimming pool, affected one of the occupants of the home. An elder relative uses a swimming pool in a therapeutic manner. The Applicant's provided a copy of a doctor's letter. They noted their proposal would provide for a much easier entry and exit from the swimming pool.
31. The Applicants further stated the improvement would benefit anyone using the swimming pool. They noted the shape of their property was quite irregular. The property to the rear consists of a farm. The Applicants stated there would be no impact on the property to the rear or any of the existing adjoining property owners.

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

1. The Board finds the testimony of the Applicants to be competent and credible.

2. The shape of the property is irregular. The property to the rear is a farm with an expanse of existing open space. The needed variance is due to the fact that the Applicants were, in essence, connecting the pool to the main house by the addition of more decking. This addition will not have any further impact on the existing condition. The fact that the Applicant's proposal will enhance the entry into the swimming pool is a positive benefit and consistent with goals of the Municipal Land Use Law.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 14th day of September 2020 that the approval of the within application be granted subject, however, to the following conditions:

12. Payment of all fees, sureties, and escrows required by ordinance.
13. To the extent that there are any open or non-existing permits affecting this site, same shall be subject to the Applicant securing same and closing out any prior approvals.
14. The proposed deck shall be constructed and located as depicted on the plans submitted with the application. Rear yard setback to be no less than 33' as proposed.
15. Applicant shall comply with all municipal codes and regulations regarding the operation and safety procedures for swimming pools.

**ZBA-20-016 CAPKO**, Variance relief for property located at 4 Sara Lane, Succasunna, Block 4603, Lot 6 in an R-2 zone.

Ms. Robortaccio made a motion to approve, Dr. Kennedy seconded.

*Roll call:* Ms. Robortaccio, yes; Dr. Kennedy, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. D'Amato, yes; Ms. Dargel, yes

In the matter of Christopher & Lisa Capko  
Case No. ZBA-20-016

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

Approved: September 14, 2020  
Memorialized: October 5, 2020

**WHEREAS**, Christopher & Lisa Capko have applied to the Board of Adjustment Township of Roxbury for permission to extend an existing deck requiring variance relief for premises located at 4 Sara Lane and known as Block 4603, Lot 6 on the Tax Map of the Township of Roxbury which premises are in a "R-2" Zone; said proposal required relief from Section 13-7.1101D5(a) & 13-7.1101D6(a) 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:

32. The Applicants are the owners and occupants of the subject premises.
33. The Applicants are proposing to extend the existing deck to connect to the existing above ground swimming pool requiring side and rear yard setback relief.
34. Applicants received a letter of denial dated August 13, 2020 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicants need the following relief:
  - a. Rear Yard Setback – 50’ permitted, 55’ (house) existing, 20’ (pool) proposed
  - b. Side Yard Setback – 15’ permitted, 16.48’ (house) existing, 12’ (pool) proposed
35. The Applicants noted their intent was to extend the current deck 5’ to abut the currently installed above ground swimming pool. The Applicants stated this would allow for safe entry to the pool and better monitoring of the pool while it is being used.
36. The Applicants submitted a copy of the existing plot plan. The Applicants added the location of the proposed deck onto the plot plan and submitted two (2) sketch drawings of the existing pool demonstrating how it would be constructed.
37. A side yard variance was required for the proposed location of the pool. A rear yard setback was also required.
38. The Board notes the Applicant’s proposal for a swimming pool is part of a “wave” of similar applications. This is a result of the Covid19 pandemic in New Jersey. The end result, being many homeowners, in the area are taking staycations in constructing swimming pools to provide an alternative to vacations away from home. The Board further notes that, notwithstanding the pandemic rear, yard swimming pools are a common amenity throughout the State of New Jersey.

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

1. The Board finds the testimony of the Applicants to be competent and credible.
2. The Board notes the swimming pool in question is an existing amenity. The affect of incorporating the new deck, attaching same to the existing deck, results in the pool no longer being an accessory structure. Therefore, the proposed 20’ setback to the pool violates the required rear yard setback to a principal

structure 50'. The Board notes the existing 20' setback will not change. The mere addition of the small deck will have no significant impact on the zone plan and zone ordinance. This is an existing condition. It is further noted the swimming pool location results in the need for one (1) further variance. The Applicant's property narrows on its southerly side as it connects the front yard on Sara Lane to the rear yard. The setback to the house is 16.48', but it is reduced to 12' adjacent to the existing swimming pool. Since 15' is the required side yard, the Applicant's proposal for a 12' setback violates the zoning ordinance, thus relief is needed. The Board finds that the proposed variance is *de minimis* and is triggered by the shape of the existing lot and the location of the existing infrastructure.

3. The review of the lot and the existing conditions demonstrate that there will be no significant substantial impact on any of the neighboring properties nor the zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 14<sup>th</sup> day of September 2020 that the approval of the within application be granted subject, however, to the following conditions:

16. Payment of all fees, sureties, and escrows required by ordinance.
17. To the extent that there are any open or non-existing permits affecting this site, same shall be subject to the Applicant securing same and closing out any prior approvals.
18. The proposed deck shall be constructed and located as depicted on the plans submitted with the application. Rear yard setback to be no less than 20' (pool); side yard setback to be no less than 12' (pool), as requested.
19. Applicant shall comply with all municipal codes and regulations regarding the operation and safety procedures for swimming pools.

**APPLICATIONS:**

**ZBA-17-012 KINGTOWN DIESEL,** Amended Preliminary Site Plan, "D" Variance for property located at 1470 Route 46 East, Ledgewood, Block 9302, Lot 3 in a B-2 zone. *Carried to December 14th, 2020.*

**ZBA-20-009 BRAUN,** Variance relief for property located at 23 King Road, Landing, Block 11910, Lot 4 in an R-3 zone.

Ms. Dargel swore in Scott and Sheri Braun of 23 King Road, Landing, NJ. Mr. Braun stated he and his wife would like to install a 14' x 20' shed in their front yard. Mr. Braun noted that their home is lakefront and they lack the room in their backyard to install the shed. He further stated there is a lack of storage due to the fact they do not have a basement nor an attic. Mr. Braun further stated the property is only set back 22 feet from the bulkhead which leaves little room for any type of structure. Mr. Braun explained that he required a variance just to rehabilitate the home a few years ago. Dr. Kennedy called to the Board's attention that the proposed shed height is 16' 7' feet, noting the allowable height being 15 feet. Dr. Kennedy then asked in a second variance was required. Mr. Stern clarified that the height for

accessory structures is 15 feet, noting the measurement is from the mid-point of the pitched roof and Mr. Braun's shed is 15 feet and in compliance. Mr. Overman stated he had seen several lake front applications with a similar variance request, and that is it common place to have a shed/garage in what is considered the front yard. Ms. Dargel then asked do other properties on King Road have sheds or garages in their front yard. Mr. Braun responded yes, pretty much every other house does.

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

Mr. D'Amato made a motion to approve the application, Dr. Kennedy seconded.

*Roll call:* Mr. D'Amato, yes; Dr. Kennedy, yes; Mr. Overman, yes; Mr. Klein, yes; Ms. Robortaccio, yes; Ms. Houtz, yes; Ms. Dargel, yes.

**ZBA-20-019 STEVENS,** Variance relief for property located at 398 Mt. Arlington Blvd., Landing, Block 12101, Lot 6 in an R-3 zone.

Ms. Dargel swore in Yvonne Stevens of 398 Mt. Arlington Blvd, Landing, NJ and Jason Werner of Everlear Pools and Spas of 144-146 Rossiter Ave, Patterson, NJ. Mrs. Stevens stated she would like to install a swimming pool in her backyard for entertainment purposes. Ms. Dargel then asked Mrs. Stevens what is the issue that brings you before the Zoning Board. Mrs. Stevens went on to explain that she has a paper street that runs along the back of her property causing her to have two front yards, noting that is the only variance in her application. Mrs. Stevens further explained that the paper street is not vacated and is a wooded area with a steep slope. Mr. D'Amato asked if the paper street Mrs. Stevens is referring to is Openaka Road. Mrs. Stevens responded yes. Mr. Stern stated he thought it would be unlikely that the road be constructed, noting the right of way width was only 20 feet, when the standard width is 50 feet, in addition he stated the area is a steep slope. Ms. Robortaccio stated that there really is no other spot to put in the pool. Mr. Stern stated that most of the land behind the fence on the Stevens property is a conservation easement. Mr. Stern wanted the Board to note that it looks like as though on the upside of the retaining wall there appears to be a silt fence installed to stockpile topsoil during construction. Mr. Stern stated that it looks like it may be in the conservation easement and asked Mrs. Stevens to get the property staked out prior to construction as not to encroach on the conservation easement. Mr. Stern stated, he would like the drawing by D J Egarian and Associates, Inc. to depict the conservation easement showing all improvements located outside of the easement area.

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 stipulation of the Board Attorney, Ms. Robortaccio seconded.

*Roll call:* Dr. Kennedy, yes; Ms. Robortaccio, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. D'Amato, yes; Ms. Houtz, yes; Ms. Dargel, yes.

**ZBA-20-020 CASTELLANO,** Variance relief for property located at 78 Emmans Road, Ledgewood, Block 6001, Lot 42 in an R-1 zone.

Ms. Dargel swore in Vincent and Janine Castellano of 78 Emmans Road, Ledgewood, NJ. Ms. Dargel asked the Castellanos what brings them before the Board. Mr. Castellano stated he would like to add onto his home a two-story addition to expand the living space and install a home gym. He stated his proposed addition did not meet the side yard set-back requirement of 20 feet and falls about 3 ½ feet short. Mr. Castellano added that his property is a hardship due to the steep mountainous slope in his back yard. The Castellanos felt the best spot for the addition would be on the side of the home, in addition, it would not cause a negative impact to their neighbors due to the fact there is a tree buffer between the two properties.

Ms. Dargel asked the Castellanos if they planned on removing any trees during construction. The Castellanos responded they would be removing two trees. Ms. Robortaccio asked why the applicant can't meet the side yard set-back by reducing the proposed addition by 3 feet. Mr. Castellano replied due to the layout of the gym equipment, a width of 18 feet is required. Dr. Kennedy asked the applicant if they looked at other proposed areas for the addition where they would not require a variance. Mr. Castellano responded they looked to place the addition on the driveway side but the layout did not work due to the fact there is a drainage issued on that side and the topography of the land wasn't suitable due to a slope. Mr. Stern asked the Castellanos if they were proposing to expand their dining and living room area. Mr. Castellano responded yes. Mr. Stern stated by attempting to place the addition on the side of the house with the garage you would then have to deal with the reconfiguration all of the bedrooms, as well as the garage, so that option wouldn't really make sense. Mr. Stern further added by putting the addition on the right side, it really doesn't impact lower level or existing dining room and kitchen area.

Ms. Dargel asked about the modification of their rear deck. Mr. Castellano explained that when the deck was installed they placed a bump out for the storage of their grill, with the proposed addition, the bump out will be removed. Mr. Stern asked the Castellanos if they had their application reviewed by the Board of Health due to the fact it is a home expansion with a septic system. In addition, Mr. Stern let the applicants know there will be a mandatory affordable housing fee associated with the proposed addition if the square footage of the addition is over 1000 square feet.

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

Mr. D'Amato made a motion to approve the application, Mr. Klein seconded.

*Roll call:* Mr. D'Amato, yes; Mr. Klein, yes; Mr. Overman, yes; Ms. Robortaccio, yes; Ms. Houtz, yes; Dr. Kennedy, yes; Ms. Dargel, yes.

NEW BUSINESS:

None

OLD BUSINESS:

None

Motion to adjourn 9:00 pm

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY

*Tracy Osetec, Board Secretary*

*October 8, 2020*