

On Monday, November 9, 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: 86446114382#, Participant ID: # and Password: 054024#. All applications of those applicants who were to appear before the Zoning Board of Adjustment on the aforementioned date were available online via our Township website at www.roxburynj.us. The purpose of the Regular Zoning Board Meeting was to conduct routine business.

BOARD MEMBERS PRESENT

Ms. Houtz, Mr. Overman, Mr. Klein, Mr. Furey, Dr. Kennedy, and Ms. Dargel

ABSENT: Ms. Robortaccio, Mr. D’Amato

PROFESSIONAL STAFF

Mr. Russell Stern, P.P.
Mr. Denisiuk, Ferriero Engineering
Mr. Larry Wiener, Esq.
Ms. Hubbard, Esq.

MINUTES OF OCTOBER 05, 2020 MEETING

Dr. Kennedy made a motion to approve the minutes of the October 05, 2020 meeting, Mr. Klein seconded.

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

RESOLUTIONS:

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

Mr. Klein made a motion to approve, Dr. Kennedy seconded.

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

In the matter of Scott & Sheri Braun
Case No. ZBA-20-009

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

Approved: October 5, 2020
Memorialized: November 09, 2020

WHEREAS, Scott & Sheri Braun have applied to the Board of Adjustment, Township of Roxbury for permission to construct a shed in the front yard requiring variance relief for premises located at 23 King Road and known as Block 11910, Lot 4 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.810.1B and 13-7.1301 of the Roxbury Township Land Use Ordinance; and

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

1. The Applicants are the owners and occupants of the subject premises. The subject premises are a lakefront home with frontage on Lake Hopatcong.
2. The Applicants were proposing to construct a shed in the front yard of their home. The shed would be 20'x14' with a height of just short of 16'8". The proposed location and the details of the shed were depicted on the plans that were submitted by the Applicant.
3. As noted by Mr. Potere, in a letter dated September 15, 2020, the Applicant's proposal resulted in the need for a variance from Section 13-7.810.1B from the Township's Ordinances for which accessory structures are not permitted in the front yard.
4. A duly noticed public hearing occurred on October 5, 2020 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
5. Scott and Sheri Braun, the Applicants, testified under oath at the public hearing. They noted, like many owners of lakefront homes, they considered the lakeside of the house to be their front yard. They noted it was very common, along King Road, (and along other streets with lakefront homes) that parking and garages and other accessory building would be located on the street side and not on the lakeside.
6. The backyard is only 22 feet from the bulkhead and there is no area in which to locate the shed. There is no attic or basement in the home, the shed will provide a needed storage area for the homeowners.
7. It was noted that the height of the shed is 16.8 feet to the roofline, but the midpoint of the shed is 15 feet, which is in conformance with the Township's Ordinances.
8. The Lake Hopatcong Commission in a letter dated October 1, 2020 indicating that they had no objection and found that the Applicant's request would not impact the water quality of Lake Hopatcong.

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

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from Section 13-7.810.1B of the municipal zoning ordinance, permitting the construction of a shed within the front yard.
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. The subject property is a long, narrow lot and the existing dwelling is located close to the lake in the rear yard, creating a hardship for the homeowner. There is insufficient area in which to locate the shed in the rear yard.
3. It is common for lakefront homes to utilize their rear yard as the front yard and locate sheds and parking in the front yard. It was determined that there would be little impact to the surrounding area, as the layout of the property is similar to other home in the neighborhood and other lakefront properties. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 5th day of October 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.
2. The proposed shed is to be constructed as depicted on the exhibits attached to the application. The location shall be as set forth as noted on the plans located 20’ and 12’ off the respective side yards as depicted and shall be sized no greater than 14’x20’ with a height no greater than 16’8”.

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

Mr. Klein made a motion to approve, Dr. Kennedy seconded.

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

In the matter of Danny & Yvonne Stevens
Case No. ZBA-20-019

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

Approved: October 5, 2020
Memorialized: November 09, 2020

WHEREAS, Danny & Yvonne Stevens have applied to the Board of Adjustment

Township of Roxbury
Board of Adjustment
November 09, 2020

Township of Roxbury for permission to construct an in-ground pool in the front yard of their home located at 398 Mt. Arlington Boulevard and known as Block 12101, Lot 6 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.810.1B of the Roxbury Township Land Use Ordinance; and

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

9. The Applicants are the owners and occupants of the subject premises.
10. The Applicants were proposing to construct an in-ground pool in the front yard of their home in violation of the Township zoning ordinance.
11. Applicants received a letter of denial dated August 18, 2020 from Tom Potere, the Zoning Officer.
12. A duly noticed public hearing occurred on October 5, 2020 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.
13. Yvonne Stevens, the Applicant and Jason Werner of Everlear Pools and Spas presented sworn testimony in support of the application. The Applicant noted that there were some unique aspects of their property that resulted in the need for the requested variance. “The front of their home” faces Mt. Arlington Boulevard, where they have access from the road. Mt. Arlington Boulevard is a fully completed road with a 50’ right-of-way. Access to their home is provided by Mt. Arlington Boulevard. To the rear of their home, is an unimproved street, Openaka Road. That street is vacated and is not presently being used. Nevertheless, it is technically a second front yard and the lot, itself, is a through street. In addition, there is a significant portion of the property that is part of a conservation easement. Thus, that portion of the property cannot be further improved.
14. The Applicants also submitted a rendering entitled “Pool Location and Grading Plan for the Stevens residence” dated August 12, 2020. Same was prepared by David J. Egarian, PE. As shown on Mr. Egarian’s drawing, the pool was to be located between the rear of the house and the Openaka Road right-of-way. In addition, there would be some re-grading associated with the installation of the swimming pool.

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. At the end of the day, the Board finds the testimony presented, by the Applicant, to be competent and credible.
2. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from Section 13-7.810.1B of the municipal zoning ordinance. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. The subject property has 2 front yards and is adjacent to a conservation easement creating a hardship for the homeowner to construct a pool in a conforming manner on the property.
3. A pool is a common residential amenity and the benefits of permitting construction in a conforming manner outweigh the detriments that may result from denying the requested relief.
4. It was determined that there would be little impact to the surrounding area and the property is uniquely shaped and the pool would be located near an unimproved right-of-way. But for the existence of the “unimproved street behind the house, no variance would be required.” The pool could be constructed and only a building permit need be required. Accordingly, the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 5th day of October 2020 that the approval of the within application be granted subject, however, to the following conditions:

3. Payment of all fees, sureties, and escrows required by ordinance.
4. Applicant shall obtain permits from the construction department prior to the start of construction.
5. The pool shall be constructed in accordance with the plans submitted to the Board.
6. The Conservation Easement shall be staked out prior to construction.
7. The Conservation Easement shall be indicated on the drawing prepared by D.J. Egarian and Associates, confirming that all improvements are outside of the Conservation Easement Area.

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

Mr. Overman made a motion to approve, Mr. Klein seconded.

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

In the matter of Vincent and Janine Castellano
Case No. ZBA-20-020

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

Approved: October 5, 2020
Memorialized: November 09, 2020

WHEREAS, Vincent and Janine Castellano have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 78 Emmans Road and known as Block 6001, Lot 42 on the Tax Map of the Township of Roxbury which premises are in a “R-1” Zone; said proposal required relief from Section 13-7.1001D6(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:

15. The Applicants are the owners and occupants of the subject premises. The existing premises are a single-family home.
16. The Applicants submitted an architectural plan prepared by Kenneth Fox, architect, dated August 28, 2020 consisting of two (2) sheets.
17. The application was reviewed by Tom Potere, the Zoning Officer. Mr. Potere issued a final review of the zoning restrictions on the property dated September 15, 2020. Mr. Potere noted the Applicant’s proposed addition violated the side yard setback requirements – 20’ is the minimum, the Applicant was proposing 16.7’ thus, a variance was triggered.
18. A duly noticed public hearing occurred on October 5, 2020 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy’s statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

19. Vincent and Janine Castellano presented sworn testimony at the public hearing in support of the application. The subject premises are a somewhat larger lot approximately 1.5 acre in size. The lot is very deep between 360'-376' on each side yard with the width of the front yard being 175' and 175.79' in the rear. The rear of the property is encumbered with steep slopes, with drainage issues, creating a hardship for the Applicants. Other proposed locations would require additional interior renovations to the home. An addition to the side of the home would be a practical solution to allow the Applicants to add additional living space and a gym.
20. As noted, the improvements to the home were proposed on the northeasterly side of the property. The proposed two-story addition would be added to the existing dwelling. It would maintain a 51.5' conforming front yard setback; the side yard would be reduced to a non-conforming 16.7'. This is the only area where a variance is required. The addition, as depicted, is 18' wide in the front and rear and 35' in the lower level and 27' in the upper level. Those dimensions were depicted on the architectural plan submitted by Mr. Fox.
21. There is a tree buffer between the subject property and the adjacent lot that mitigates the impact of the addition on the neighbors.

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 exhibits and testimony presented, by the Applicant, to be competent and credible.
2. The location of the existing dwelling along with the location of the driveway, constitute a hardship in developing the house. In addition, analyzing the impact of the variance versus what appears to be a much more well thought out addition has elements of a "C2" or flexible variance.
3. The Board finds that the architectural plan and exhibits presented to the Board indicate that, if this house is to be expanded in a reasonable manner, the one presented, by the Applicant, certainly is well thought out and well suited to the design presented by the architect. The side yard deviation, while reduced by 50%, still leaves a side yard of over 16'.
4. It is also noted that there is a sufficient buffer between the two homes.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 5th day of October 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. Addition to be designed and located as depicted on the plans submitted with the application. The side yard setback shall be no less than 16.7', as requested.
10. The proposed addition requires review and approval by the Board of Health to confirm the existing septic system is sufficient.
11. Applicant shall pay the Mandatory Affordable Housing Fee prior to the issuance of construction permits.

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-20-004 SPEICHER, Minor Subdivision, "D-2" Variance for property located at 280 Old Ledgewood Road, Flanders, Block 9303, Lot 1, 3 & 4 in an B1-A zone.

Michael Selvaggi, Attorney for Mr. Speicher testified that Mr. Speicher is applying for a minor subdivision, as well as an expansion of a pre-existing non-conforming use which requires "D" variance relief, as well as a minor site plan. Mr. Selvaggi continue to testify that the properties are a series of odd shaped lots that abut the Mt. Olive Township border and the goal is to make the lot lines one lot and to amend the boundary line between Mt. Olive Township and Roxbury Township. Mr. Selvaggi noted that Mr. Stern in his report correctly sited that the applicant will need to submit a similar application to Mt. Olive Township to adjust the lot lines.

Ms. Dargel swore in Michael W. Speicher of 55 Naughtright Road, Long Valley, NJ. Mr. Selvaggi proceeded to ask Mr. Speicher if he owned Lots 1, 3, and 4 in Block 9304, Mr. Speicher replied; yes. Mr. Selvaggi then stated that similarly in Mt. Olive Township, Mr. Speicher owns Lots 16 in Block 1603 and Lots 19 and 20 in Block 42 and Mr. Speicher concurred. Mr. Selvaggi asked Mr. Speicher how long has he owned the seven lots, Mr. Speicher replied; the first three lots were purchased in 2006 and the lots in Mt. Olive were purchased in approximately 2014. Mr. Selvaggi asked Mr. Speicher if it was his intent to merge the Roxbury Township lots, Mr. Speicher replied; yes he would like to merge the lots and create one lot and amend the site plan to correct the Town line that has been an issue since the construction of Route 80. Mr. Selvaggi asked Mr. Speicher to describe what is currently on the Roxbury lots, Mr. Speicher replied; there is a tenant residing on one of the lots that maintains a large footprint of the lot that contains a building and outdoor storage. Mr. Speicher further explained the tenant is a Tire Service Center that sells, changes, and repairs tires and that they have resided on the property for three years. Mr. Selvaggi asked if the tenant had applied for a zoning permit, Mr. Speicher replied; yes. In addition, Mr. Speicher stated the tenant has a small fleet of service trucks that reside at the site.

Mr. Selvaggi asked Mr. Speicher if he had an opportunity to review Mr. Stern's report, Mr. Speicher replied; yes. Mr. Selvaggi asked Mr. Speicher about Mr. Stern's observation of excessive amounts of tires on the property. Mr. Speicher explained the tenant moves the tires out quickly, but they also take in a

tremendous amount of tires. Mr. Speicher further stated that the tires taken in during the day are moved behind the back of the building, then loaded into trailers to go out with the old tires and return with new ones. Mr. Selvaggi further testified that upon review of Mr. Stern's report, as well as the Health Department report, they depict tires are being stored in the front of the building. Mr. Speicher stated he did notice that the tires do accumulate in the front of the building, but are taken to the rear of the building. Mr. Selvaggi asked Mr. Speicher the time frame in which the tires were transferred from the front to the back of the building. Mr. Speicher replied; fairly quickly, he noted that there are constantly a large load of tires in the front of the building, but, they are loaded to the back and into a trailer to be sent out. Mr. Stern interjected stating at the time of his site inspection at about 3:00 pm, there were hundreds of tires in the rear and to the sides of the building, he further noted that the Abby Montgomery, Roxbury Township Health Inspection was out to the site earlier in the day and there were hundreds of tires as well. Mr. Speicher did agree that there were quite a few tires on the property and put a call into his tenant to ask why there was such a build-up of tires, he noted that the tenant explained to him there has been a problem with shipping due to the fact some of the drivers had contracted COVID. Discussion continued with Mr. Speicher acknowledging the Health Department's concern regarding water building up in the tires causing a possible mosquito issue; he agreed he will address the issue with the tenant. Mr. Selvaggi asked Mr. Speicher if the tenant would have an issue designating an area at the end of the day where the tires can be placed and covered as not to cause the aforementioned issues. Mr. Speicher replied; he did not see an issue and will speak with the tenant to relay the Township's concerns and come up with a remedy.

Mr. Selvaggi asked Mr. Speicher if trucks come in later in the night requiring tire service do they park their vehicle on the lot overnight. Mr. Speicher replied; occasionally there are trucks parked on the lot overnight as well as the tenant's service trucks. Mr. Selvaggi asked if the site can be seen from the road, Mr. Speicher replied; no, it cannot be seen from the road or Route 80. Mr. Selvaggi went on to ask if the area where the trucks are being parked is a fenced in area. Mr. Speicher replied; no, there is no fence on Lot 4. There is a fence between Lot 4 and 5 for security reasons, due to the fact Mr. Speicher had a past issue with theft on a few of the trucks parked on the property. Mr. Speicher noted that he and the tenant did discuss installing a fence around the septic system.

Mr. Selvaggi addressed the issue raised by Mr. Stern's in his report regarding the Mt. Olive side of the application. Mr. Selvaggi then explained it was like the chicken or the egg scenario and that somebody had to go first, Mr. Speicher chose Roxbury. Mr. Speicher stated he wanted to get the town line squared away and get the improvements done on Lot 4 to meet all the zoning regulations. Mr. Selvaggi stated that with respect to the town line issue, he approached the Governing Body and said they had no objections to the location of the line. Ms. Dargel asked which Governing Body did he approach, Mr. Selvaggi replied both Roxbury and Mt. Olive. Mr. Stern then asked if he received a response back from the Governing Body, Mr. Selvaggi replied that on April 22, 2015 a letter was written to Mr. Semrau and Mr. Bucco about the town line issue and their direction to Mr. Speicher was to submit to the respective Township Boards to make sure they did not have a concern, then return the Board's findings to Mr. Bucco/Mr. Semrau. Mr. Stern requested that Mr. Selvaggi forward the letter from Mr. Semrau/Mr. Bucco to his office.

Mr. Stern noted that Mr. Speicher's application was forwarded to the office of Michael Kobylarz, Roxbury Township Engineer who has a surveyor on staff, and they are in agreement with the municipal boundary as it pertains to this parcel. In no manner are they saying you can take an extension of the line down to Chester for example, but they are saying it is acceptable for this application. Mr. Selvaggi stated on May 11, 2015, the late Gene Bazinski, Mt. Olive Municipal Engineer concurred that the boundary line based on the general parcel map be utilized by both Townships for purposes of the sub-division and he had recommended once the approval is received, it is then requested the Tax Assessor amend the Tax Map accordingly. Mr. Selvaggi affirmed he would send the aforementioned memorandums to Mr. Stern.

Mr. Stern.

Mr. Stern asked Mr. Speicher to go over his proposal for Lots, 19, 20 and 2 on the drawings for the proposed site layout plan and inquired about the storage and other items, on Lot 20, in particular, the gravel and trailers that are going to be removed. In addition, Mr. Stern asked Mr. Speicher to give testimony on the adjoining Mt. Olive lots. Mr. Speicher testified that once the town line is straightened out and the site plan is approved by Roxbury Township, he will then address the Mt. Olive side. Mr. Stern noted that on Sheet 3 in the upper right hand corner it shows what the municipalities believe to be the lot line and bottom section shows where Mt. Olive has depicted it and above that it shows where Roxbury has depicted it, then shows the 1871 corporation line which was plotted by Mr. Secco and finally there is a depiction of the lot line done off of the Route 80 maps.

Ms. Dargel asked if Mr. Speicher would address Mr. Stern's questions regarding Sheet 3 and the adjoining Lot 3 as it pertains to the removal of gravel and trailers. Mr. Stern then asked if it was the intent of Mr. Speicher to remove an area of gravel and then replace it with topsoil, seed, and mulch. Mr. Speicher stated it is his intent to remove the gravel and meet all the requirements of the new site plan and then work on a development plan for Mt. Olive. Mr. Speicher went on to testify that there will be no migration between the two lots and that the Roxbury property will be delineated and only accessed through the approved driveway.

Ms. Dargel questioned the fact that the building on Lot 4 transcends both Townships. Mr. Selvaggi replied it will not when the town line is corrected. Dr. Kennedy asked if the lot line change will have any effect on the zoning and are Roxbury and Mt. Olive zoned the same way. Mr. Selvaggi replied that each Municipality has its own zoning, there are similarities, but they are different and as far as the permitted uses, there are some that overlap on what Roxbury allows vs. Mt. Olive. Dr. Kennedy further asked where Roxbury is annexing what used to be in Mt. Olive, which is now going to be in Roxbury, is there anything that is not going to conform to the current Zoning Ordinance. Mr. Selvaggi explained that the only lots that are going to be most impacted are the smaller Lots 1 and 3; they will be combined with Lot 4, so the only use of the property will be the tire shop which is there per the Roxbury Township 2017 Zoning Permit. He further stated there will be no other uses of Roxbury Township land that are separate and apart from the tire shop.

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

Motion was made to close to the public

Ms. Dargel swore in Mr. James Glasson of Civil Engineering Incorporated, 1 Cove Street, Budd Lake, NJ. Mr. Glasson stated he is a registered Professional Engineer in the State of New Jersey for over 25 years, and also holds a Professional Engineering license in the State of Pennsylvania.

Mr. Glasson testified there are three lots as part of the subdivision, Lot 1 which is 58,071 sq. ft., Lot 3 which is 49,682 sq. ft., and Lot 4 which is 66,733 sq. ft., Lot 1 does not have frontage on Old Ledgewood Road, but does have frontage on the Route 80 corridor, Lot 3 is the middle lot which is triangular in shape and has 140 feet of frontage on Old Ledgewood Road, but does not front on Route 80, and Lot 4 has 150 feet of frontage on Route 80 and another 150 feet of frontage on Old Ledgewood Road. All three lots are in the B1-A Zone which requires a minimum size of 20,000 sq. ft. and has a principal building set-back of 40 foot front 10 foot side, and 20 foot rear, has a maximum impervious coverage of 50% and a maximum floor area of .125 and a width and frontage requirement of 125 feet. Lot 4 is a developed lot with a metal building on it that is 5,815 sq. ft. and is 96 ft. wide by 60 ft. deep, it sits within all the required set-backs, and sits 264 ft. back from Old Ledgewood Road and has a 26 ft. left-side set back and a 27 ft. right-set back and sits 112 ft. off the rear, where the rear requirement is 20 ft. Right now the building has a first floor and 5,351 sq. ft. of service bay area, there are three service bays which have large garage doors that provide service for the truck tire service, there also is a small office space of 460

sq. ft., in addition, there is a small second floor mezzanine which mirrors the office and is part storage area. The building height is 23.74 feet, the zone allows a height of 28 feet. There is an unpaved driveway access on the far right hand side of Lot 4 and a paved access way from Old Ledgewood Road that travels to a large paved area in the front. The sides have a paved aisle way to a portion of the rear that is paved and a portion of the rear that is gravel. Mr. Stern had spoken about the gravel on Lots 3 and 1 and on Lot 3 there is a large area of gravel, and there is a leader that goes to it and as part of the proposal we are going to remove connection and the gravel then topsoil, seed, and mulch the area. Applicant will make Lots 1 and 3 vacant parcels. This property is served by a septic and well and has an incurrent impervious coverage of 70.5%. The original site plan approval is for 58.55% when the zone allowed 50%.

Mr. Glasson spoke about the colorized rendering *Exhibit 15 (Sub-Division Plat)*, he stated looking at the right side of the rendering that says existing lot with comparison to various Township boundary lines, the pink, blue, and green are the lots as they exist today, the red lines represent the Tax Map lines, both Mt. Olive and Roxbury which are different and then what the applicant believes to be the correct line, the 1871 corporation line that says as verified and surveyed by Edward Secco. The difference is what the applicant is looking for in the Township line to be corrected. The applicant is proposing to take a portion of Lot 3 which 5,137 sq. ft. and a portion of Lot 1 which is 5,821 sq. ft. area and add those to what is currently Lot 4 and increase it from 66,733 sq. ft. to 77,733 sq. ft.

Mr. Glasson then addressed *Exhibit 16* which is the proposed Site Layout Plan that is depicted in the upper left of the sheet. The triangular additions of Lots 1 and 3 are now vacant and any improvements would be moved off those lots. There are items depicted in red and shaded in red that are areas we are proposing to change on the newly configured Lot 4 and there are a number of items where we are proposing to square off the front portion of the parking lot and pull all the gravel off the left side line, having a 5 ft. offset along the left side line. There is a portion of gravel proposed as a new edge of gravel on the lower left of that Lot. Mr. Glasson further stated the applicant has some noted parking spaces coming out from the building right now with a handicap spot, it is roughly depicted, the same as depicted on the George Mohr site plan, we tried to put them in that area but, technically, they would fall within an easement that runs down the property to give access to Lot 5. Mr. Denisiuk, PE pointed out that they should not be put in the easement. Mr. Glasson stated, they will be moved further out into the front and he will get those on revised plans. Parking is based on a 14 space requirement that was calculated based on the number of bays that was included in both the planner and engineers report.

Mr. Glasson continued his testimony on the other items noted which are the 20 ft. x 40 ft. loading zone in the back of the building for trailers that abuts the garage door. There is a 18 ft. x 16 ft. dumpster pad in the back left that is fenced in. The plan depicts an overall impervious coverage back down below the Mohr coverage because they have added additional lot area, and have taken out the gravel along the sideline, which has reduced the impervious coverage back down to 58.1 below the George Mohr site plan of 58.5. Although, there is still more impervious coverage because of the additional area of Lots 1 and 3, the applicant has taken the difference in coverage which is about 4,000 sq. ft. and the entire roof area building which is 5,800 sq. ft. and have them infiltrated into a dry well system in the back, so that we are reducing are impervious coverage by accounting for a drywell system for a roof area from what was approved on the original site plan. Mr. Stern asked if the impervious coverage calculations included the gravel. Mr. Glasson replied; yes, the impervious coverage includes all the gravel, all the roof areas, and everything depicted on the Site Layout Plan. The right hand side has a complete impervious coverage calculation, the number comes out to 45,186 sq. ft., per the Duffard Plan, Mr. Glasson's sheet 2, had a total coverage of 41,519 sq. ft., making it slightly more, about 4,000 sq. ft. more, but, this lot now has more area because of the sub-division, I have taken 5,000 sq. ft. (the roof area) and taken that to a drywell, so now the actual run off from this property has been reduced.

Dr. Kennedy asked Mr. Stern, if the parking as well as the handicap parking is per code. Mr. Stern replied yes; it was reviewed, hence the request for calculations related to service bays because the way code is written is you have to work out both of them and provide whichever figure is the highest, but with the size of the parking lot it should not be a problem providing that quantity of parking. Mr. Glasson stated he came up with 14 spaces based upon his calculations. Mr. Stern asked if 14 was the higher number, Mr. Glasson replied; yes and noted he would move the spaces out of the easement and move them on the left side and front portion of the paved area away from the building and put the handicap space up against the building nearest the garage doors. Mark Denisiuk concurred with Mr. Glasson's parking space calculations (based on three bays and the small office space), Mr. Denisiuk also noted one space would need to be an ADA parking space. Mr. Glasson stated he will show them on the revised plans.

Mr. Stern asked a question regarding Lot 3 and if it was identified that all the gravel was to be removed as well as the trailers, and should the Board approve this application, it will be a condition of the approval (*to assure the site is cleaned up*). Just curious, Lot 20 is in Mt. Olive Township, is that the one that does not have frontage on a roadway, but is connected to the other properties owned by Mr. Speicher, and what is being proposed for that Lot. Mr. Stern further asked, if the gravel will remain and is Mr. Speicher going before the Mt. Olive Planning or Zoning Board. Mr. Selvaggi replied; I believe that is what Mr. Speicher has planned right now, but for now I am not sure if he is going to remove it because he may come up with something he is going to do on that property. Mr. Speicher testified that after we do the work on the Roxbury Township lots, we will submit to the Mt. Olive Planning Board for a proposed project.

Mr. Furey asked there is a site plan that bisects the two Townships and was it his understanding that they are trying to establish the Township Line and then trying to define it on the plan as well as trying to conform with our requirements on the property. Mr. Furey asked further on how it would work with Mt. Olive. Mr. Stern replied; that should the Board approve this application, it will require Mt. Olive Planning Board or Zoning Board of Adjustment approval, the Municipal Boundary line pursuant to the Bucco 2015 memo requires Council approval, so there is a lot of work between the two municipalities to be done. Mr. Stern explained, the applicant had to start somewhere and that they are starting with Roxbury Township because it is where the building is located and will remain predominately. Mr. Stern stated he assumed the bulk of the taxes are paid to Roxbury Township because it is where most of improvements are located. Mr. Selvaggi replied; that is precisely why we chose to go with Roxbury first, there is an established business and the bulk of which is in Roxbury. He further stated when Mr. Speicher files the application in Mt. Olive, Roxbury Township will receive a copy of the application. Mr. Selvaggi stated Mr. Speicher will have to incorporate any conditions in the approvals granted in with that. Mr. Selvaggi stated, admittedly, if Mt. Olive take exceptions to it, that would be the risk we they are running, but, we feel pretty comfortable that Mt. Olive is going to defer to Roxbury with respect to Lot 4 since for all practical purposes it impact Roxbury more than it does them.

Mr. Furey noted that from site plan improvement perspective, the Township will be able to opine on what they are saying and vice versa. Mr. Selvaggi stated that Roxbury will receive a copy the application and the notice. Mr. Selvaggi continued to testify that Roxbury Township can impose conditions and they will be incorporated in the Mt. Olive application. If we deviate from that well then shame on us and you would have every right to participate and even show up at the Mt. Olive meeting to voice your objection. Mr. Selvaggi asked if Mr. Speicher had a chance to review Mark Denisiuk's report dated 11-0-2020. Mr. Speicher replied; yes.

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

Application was carried to December 14, 2020 with no further notice with a request for extension to January 31, 2021 via letter from Mr. Selvaggi, Attorney for Mr. Speicher.

ZBA-20-017 DEMAIO. Variance relief for property located at 14 Robinson Avenue, Succasunna, Block 4901, Lot 30 in an R-3 zone.

Ms. Dargel swore in Phillip G. DeMaio who resides at 14 Robinson Avenue, Succasunna, NJ. Mr. Mark Brancato, Attorney at Law represented Mr. DeMaio. Mr. Brancato asked Mr. DeMaio how long he has owned the property at 14 Robinson Avenue, Mr. DeMaio replied; just over 2 years. Mr. Brancato further testified that looking at the property survey, the front of the home faces Robinson Avenue and the rear of the home fronts on Righter Road. Mr. DeMaio concurred. Mr. Brancato asked if he were to stand on the deck in the rear of the home would he see Righter Road. Mr. DeMaio replied; you cannot see the actual street, but you can see the cars passing by due to the fact there is a fence in the rear yard. Mr. Brancato asked if it were a solid fence. Mr. DeMaio replied; yes. Mr. Brancato further testified that the application before the Board is to construct a deck in the rear of the house that would extend out 12 feet, putting it at 28 feet from the rear property line. Mr. DeMaio replied; correct. Mr. Brancato stated the Municipality has identified this property as a thru-lot causing the front yard setback to apply which is 40 feet. Mr. Brancato then asked Mr. DeMaio if the distance from the rear of the house to Righter Road is 40 feet as depicted on the survey. Mr. DeMaio replied; yes. Mr. Brancato asked Mr. DeMaio if he put the deck in a different location such as the northern corner of the home or is there a bilco door located there? Mr. DeMaio replied; yes, there is a set of bilco doors that lead into the basement in the northern corner. Mr. Brancato then asked Mr. DeMaio if he would not be able to put the deck in that location. Mr. DeMaio replied; correct. Mr. Brancato posed the question if he were walking on Righter Road would the deck be visible from Righter Road. Mr. DeMaio replied; no it would not. Mr. Brancato asked why that was. Mr. DeMaio replied because of the rear yard fence. Mr. Brancato summed up with the deck as he sees it would only fit on the southerly side of the home extending into the side yard. Mr. DeMaio replied; correct. Mr. Brancato asked if there was a paver patio on the property. Mr. DeMaio replied; yes. Mr. Brancato asked if the deck will occupy or cover a portion of the patio. Mr. DeMaio replied; no, it will not. Mr. Brancato asked if you stood on the front of Robinson Avenue, would the proposed deck be visible. Mr. DeMaio replied; very slightly, you would have to look from a very sharp angle from a long distance. Mr. Brancato asked if the rear yard fence was something Mr. DeMaio installed or was it in place when at time of purchase. Mr. DeMaio replied; it was installed by him. Mr. Brancato asked what type of material is the fence made of. Mr. DeMaio replied; white vinyl.

Mr. Stern asked Mr. DeMaio if he knew what year the home was built. Mr. DeMaio replied; he believed in 1953. Mr. Stern then asked Mr. DeMaio if his home was in existence prior to the creation of Righter Road. Mr. DeMaio replied; he was not sure. Mr. Stern stated he believed that it was a situation where the homes on Robinson Avenue were built and the Righter Road extension was put in afterward. He noted if you look at some of the old Zoning Maps, it does not show a continuation of Righter Road behind Robinson Avenue.

Mr. Brancato summarized stating the property is unique by the fact it is a thru-lot with two front yards and while we want to respect the intent of the Master Plan to protect the streetscape of the thru-street such as Righter Road, in this particular application, the thru-street would be of zero concern because of the existence of the fence. If the Board would assume the fence would be removed at some point, the presence of the deck would be such that it would still be 28 feet set-back from the roadway. All the lots in the neighborhood are similarly situated, noting this particular lot is pushed back on the property from the Robinson Avenue side which makes it a shorter rear yard and a hardship.

Mr. Overman stated he had looked at aerial views of the area and in 1953 Righter Road was not constructed in the area of Robinson Avenue, but noted in 1961 its construction had begun.

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

Motion was made to close to the public

Mr. Overman made a motion to approve the application, Dr. Kennedy seconded.

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

ZBA-20-022 DEBONA, Variance relief for property located at 1 Kelly Drive, Succasunna, Block 4801, Lot 8 in an R-2 zone.

Ms. Dargel swore in Paula and Bruce DeBona of 46 Musiker Avenue, Randolph, NJ. Mrs. DeBona testified that the home on 1 Kelly Drive is resided in by their daughter Amelia and her four children. Mrs. DeBona stated she bought the home approximately a year and a half ago and would like to install an above ground pool that is 15.5 ft. x 30 ft. and replace the existing deck with a slightly larger deck that will partially wrap around the pool. The size of the new deck will be 27 ft. x 39 ft. The existing deck was there when the house was built in 1992, and it extends approximately 17.2 ft. into the 50 ft. setback, so it is 32.8 ft. from the rear yard and the R-2 zone a 50 yard set-back is required. With the pool and the expanded deck, the setback would be reduced from the existing 32.8 ft. to 15 ft. and the 15ft. is keeping with the distance required for a pool from the rear yard if it were not next to the deck.

The applicant stated they are looking to replace the deck with a two-tiered deck that will step down from the house to meet the height of the pool. *Exhibit 4 page 1* shows the pool and the lower tier of the deck and the upper tier of the proposed deck. *Exhibit 4 page 2* shows the applicant is proposing a 4 ft. railing around the lower part of the deck, which is near the pool and a 3ft. railing on the upper part of the deck. Mrs. DeBona feels the variance should be granted because the property is located on a corner lot of Sara Lane and Kelly Drive. The house faces Kelly Drive and the driveway comes off from Sara Drive and sits back from Sara Lane by 60 ft., so it reduces the backyard. In addition, the lot is an undersized lot, the R-2 zone requires 25,000 sq. ft. and this lot is just under 17,000 sq. ft. Mrs. DeBona further stated that due to the pandemic families are now taking staycations and would she like to put in a pool for her daughter and grandchildren to enjoy. This application also is with keeping with the character of the neighborhood, noting a lot of the homes have pools and have extended decks, as customary to a residential accessory use.

Ms. Houtz asked Mrs. DeBona to speak about the railings to be installed on the deck and half of the pool. Ms. Houtz notes the half of the pool does not have a fence and on the survey it does not show any fencing in the yard. Mrs. DeBona stated the height of the pool is 4 ft. 7 inches. Ms. Dargel stated that believed the Ordinance states a pool that is 48 inches or higher does not require a fence. Mr. Stern stated it shall be confirmed by the Construction Official at the time of permit application.

Dr. Kennedy asked about the placement of the pool. Perhaps another placement of the pool would eliminate some of the variances. Mrs. DeBona replied we wanted to place the pool near the deck for obvious reasons and we did not want to move it any closer to the left as to impose on the neighbors.

Mr. Stern asked if there will be landscaping parallel to the Sara Lane side for privacy along the deck and pool. Mrs. DeBona replied it is their intention to install some landscaping on the side of property facing Sara Lane.

Mr. Overman asked if there is greenery on the rear year. Mrs. DeBona replied yes; there is a row of Arborvitae.

Ms. Dargel swore in Amelia DeBona of 1 Kelly Drive, Succasunna, NJ. Ms. DeBona stated that there is a row of large evergreen trees in her rear yard that runs the entire length of the yard. Ms. DeBona stated it blocks the view into the rear neighbor's yard. Mr. Stern asked if Ms. DeBona would agree to provide landscaping along the deck to buffer the pool and the deck from Sara Lane. Ms. DeBona replied; absolutely.

Mr. Stern made an observation that while technically the applicant requires a variance because the front of the house is on Kelly Drive, that is where the main entry to the house is, but if the main entry were on Sara Lane they would not be before the Board, because they would be complying with a minimum 10 ft. setback. Mr. Stern stated the impact is rather minor.

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, Mr. Klein seconded.

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

ZBA-20-021 BADGLEY, Variance relief for property located at 516 Ryerson Road, Landing, Block 11407, Lot 5 in an R-3 zone.

Ms. Dargel swore in Daniel Badgley of 11 Magnolia Drive, New Providence, NJ. Mr. Badgley stated he bought the property known as 516 Ryerson Road, Landing in 2006 and he resided there with his wife until 2014. Since 2015, the house was rented until a couple of months ago. Mr. Badgley continued to testify that Tropical Storm Isaias came through at the beginning of August 2020 and a very large tree limb came down in the backyard striking the existing patio and the wood steps that lead into the back northeast corner of the house. Mr. Badgley stated instead of repairing a very old patio and steps, he decided it would be a good idea to build a deck in place of those items. Mr. Badgley stated during the permit process he found out that a deck attached to the home was not in compliance with side yard setback, which is 10 ft. Mr. Badgley further stated the house was built in 1949 and currently is located 8 ft. from the side yard, so the house itself is a pre-existing non-conforming. Mr. Badgley noted his application is for a 16 ft. x 20 ft. deck in the rear yard and it is 8 ft. from the side property line. Mr. Badgley noted that the deck would not be visible to any neighbors except to the South.

Ms. Dargel asked about the denial letter that states the proposed deck will be 8 ft. off the side yard and then 5 ft. to the steps, but on the plan, she did not see any steps that look like they are extending into the 8 ft. setback. Mr. Badgley replied; the edge of the deck and the proposed steps of the deck would be in line with the north side of the house, which is 8 ft. from the property line. What is on the denial letter is in regards to the 5 ft. measurement is the concrete landing. Noting, from the edge of the new concrete landing for the new deck would be 5 ft. from the property line, but, asked if that is exempt. Mr. Stern concurred that it is exempt. Mr. Stern then asked the height of the floor of the deck. Mr. Badgley replied on the north side it would be 12-14 inches and on the south side it would be a grade change of 4 feet. The grade slopes away from north to south.

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, Mr. Overman seconded.

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

NEW BUSINESS:

Proposed Zoning Board of Adjustment Meeting Dates for Year 2021

Dr. Kennedy made a motion to approve the dates, Mr. Klein seconded.

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

OLD BUSINESS:

None

Motion to adjourn 9:14 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
December 1, 2020