

Board of Adjustment 05/10/10

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on May 10, 2010 at 7:00 p.m. with Vice Chairman Edward Data presiding. After a salute to the flag, Mr. Data read the Open Public Meetings Act.

Board Members Present: Ms. Dargel, Mr. Giardina, Mr. Crowley, Ms. Kinback, Mr. Data, Mr. Grossman, Ms. Darling
Absent: Mr. D'Amato, Ms. Robertaccio

Professional Staff Present:

Mr. Russell Stern, P.P.
Mr. Larry Wiener, Esq.
Excused: Mr. John Hansen, P. E

Minutes of 04/12/10

Ms Dargel made a motion to approve the minutes of April 12, 2010, Mr. Crowley seconded.

Roll call: Ms. Dargel, yes; Mr. Crowley, yes; Mr. Giardina, yes; Ms. Kinback, yes; Mr. Data, yes; Mr. Grossman, yes.

RESOLUTIONS:

ZBA-09-00028 METRO, PCS LLC, Use Variance & Site Plan Approval for property located at 7 Orben Drive, Ledgewood Block 8602 Lot 17 in a LI/OR zone.

In the matter of Metro PCS New York, LLC
Case No. ZBA-09-00028

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

Approved: April 12, 2010

Memorialized: May 10, 2010

WHEREAS, Metro PCS New York, LLC have applied to the Board of Adjustment, Township of Roxbury for permission to operate a wireless telecommunication facility for premises located at 7 Orben Drive and known as Block 8602, Lot 17 on the Tax Map of the Township of Roxbury which premises are in a "LI/OR" Zone; said proposal required relief from Section 13-7.3511(B)(3)(c) 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. Joseph O'Neill, Esquire represented the applicant, a provider of wireless telecommunication. The applicant is licensed by the Federal Communication Commission.
2. The subject site is an existing wireless telecommunication facility. Same was approved by the Zoning Board of Adjustment by a resolution adopted 9/10/01, a copy of that resolution is attached hereto.
3. The Board received memorandums from Russell Stern, Township Planner, dated 3/2/10 and John Hansen, Board Engineer, dated 2/26/10.
4. The applicant submitted the following documents:

Prepared by Lulay & Illescas Associates, Inc.

-Sheet Z02, Plot Plan & Zoning Information, dated, 6/19/09, revised 11/9/09

-Sheet Z03, Compound Plan & Details, dated 6/19/09, revised 11/9/09

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- Sheet Z04, Equipment Plan & Elevation, dated 6/19/09, revised 11/9/09
- Sheet Z05, 200 Ft. Radius Map & Property Owners List, dated 6/19/09, revised 11/9/09
- Sheet Z06, Equipment Details, dated 6/19/09
- Sheet Z07, Surrounding Natural Features Map, dated 6/19/09, revised 11/9/09
- 200 Foot Radius

Prepared by Pennoni Associates, Inc.

- Visual Impact Study, dated 2/17/10

Prepared by Pinnacle Telecom Group

- Antenna Site FCC RF Compliance Assessment and Report, dated 8/5/09

Prepared by Daniel Penesso, MetroPCS New York

- Proposed Wireless Telecommunications Facility in Roxbury Township, dated 7/20/09

5. At the time of the public hearing, the Board was presented with a copy of a structural analysis report, dated 6/22/09, prepared by Semaan Engineering Solutions. That report indicated that the existing structure would not meet the requirements of the installation of the proposed extension. Subsequently, the attorney for the applicant advised the Board that the report had inadvertently done an analysis as if the pole was being proposed for 160' monopole (a 35' extension) as opposed to 135' monopole (a 10' extension). Mr. O'Neill advised that he would provide the Board and the Township with an updated certification correcting the mistake. The revised structural report was marked A-1 at the time of the hearing.
6. The applicant's first witness was Syed Mujtaba, an engineer employed by Metro PCS. Mr. Mujtaba testified and was accepted as an expert in the area of wireless communication networks and design. Mr. Mujtaba identified exhibits A -2 and A-3, which were a base map and an overlay. In addition, during the hearing, the following exhibits were identified: A-4 - aerial photo; A-5 - photo simulation 10/14/09 before and after; A-6 - photo simulation from residential property; A-7 - photo simulation NW; A-8 - photo simulation Days Inn; and A-9 - aerial photo 200'.
7. Mr. Mujtaba testified that there was a significant gap in service along Route 80, Route 10, portions of Route 46, and along Landing Road. He then testified that adding the applicant's proposed antennae at 135' would close this gap and promote reliable wireless communication service as contemplated in the applicant's overall plan for its network in the greater Roxbury area. Mr. Mujtaba also testified that the only spot available on the pole at 125' would be at 87'. He testified that, if Metro PCS located its equipment at this height (while conforming to the zoning ordinance), it would, nevertheless, not appreciably improve the gap in service.
8. The applicant previously submitted a report from Pinnacle Telecom Group, which certified that the applicant's proposed additional array of antennae and wireless frequency would still keep the site well within the safety tolerances mandated by the state and federal government even in a worse case scenario.
9. The applicant called its professional engineer, Terrance Lulay. Mr. Lulay had prepared the site plan detail for the proposed equipment cabinet and was also familiar with the existing pole and site. He noted that the proposed equipment cabinet, to be constructed for Metro PCS, would be entirely within the present equipment compound. He testified that Metro PCS used battery backups and there would be no generator and this would be a low intensity site. He reviewed the reports of the professional staff and agreed (as noted below) to address each and every one of the comments raised by the Township Planner and

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Township Engineer. He further testified that the wires for the antenna would be located within the existing monopole and there would be no exterior wires.

10. The applicant's final witness was its professional planner, Ronald Reinertsen of Pennoni Associates. Mr. Reinertsen reviewed the applicable case law and the facts as presented by the applicant. He opined that the proposed addition was entirely consistent with the intent and purpose of the Township's Wireless Communication Ordinance. He further noted that the 2001 approval contemplated an expansion of the existing site to further meet the goal of co-location as opposed to introducing additional monopoles. He also reviewed a series of photo simulations to demonstrate the absence of any material impact that the proposed 10' addition would have to neighboring properties.
11. At the time of the initial public hearing, there were some questions as to the structural analysis that had been done as to the adequacy of the existing monopole to support the extension and the new array of antennae.
12. The matter was carried to the 4/12/10 meeting of the Zoning Board of Adjustment. Prior to that meeting, the applicant's engineering consultants had been in contact with John Hansen, the Board's engineering consultant. The applicant produced no new witnesses, at the time of the hearing, but Mr. Hansen advised the Board that he was satisfied that the applicant's structural analysis had the requisite engineering detail, and based upon same, the existing monopole, with the extension and antennae array, would be structurally sound.
13. As noted, the instant site is just under 12 acres located in the LI/OR Light Industrial/Office Research District. The tract, itself, is bounded to the north by electric transmission lines, a railroad right-of-way, and Interstate Route 80. To the east and south are unimproved LI/OR zoned parcels and to the southwest is a flexible office/warehouse facility.
14. The site is presently developed with an industrial building used by Adam Metal Products as its office manufacturing, warehouse, and distribution facility. The site also includes an existing wireless telecommunications compound and 125' tall monopole located at the southeast property corner. T-Mobile, Sprint and Verizon currently have antennae arrays on the monopole and equipment within the compound. This facility was approved by Court Judgment entered on 9/1/01, with site plan approval granted by the Zoning Board of Adjustment on 9/10/01. A copy of the resolution of approval is attached hereto. That resolution contemplated constructing the facility to allow up to an additional 25' of height for any future wireless carriers.
15. As noted the following relief is required:
 - a. Variance – A “d3” variance is necessary from Section 13-7.3511B3(c) of the Wireless Telecommunications (WT) Technology Ordinance, which restricts the maximum height of any WT tower, including antennas, to no more than 125’.
 - b. Waiver – A design waiver is necessary from Section 13-5.101, as the applicant has not submitted an Environmental Impact Statement.

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 applicant has met its burden of proof under the Municipal Land Use Law and especially the case law as same applies to wireless telecommunication facilities. In this particular case, it was always the intent of the Township that this facility be designed to promote and facilitate a “co-locator”. The applicant's proposal does, in fact, meet that criteria.
2. The applicant has established that there is a significant gap in its wireless coverage in Roxbury Township. The applicant has further established that this particular site, and this particular facility, would provide adequate levels of coverage and mitigate and ameliorate the existing gap in its coverage. Given the fact that this is an existing site, the applicant's

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proposed increase in height is *de minimis* under the circumstances. It alleviates the need for the construction of a brand new monopole and an additional wireless communication facility.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April, 2010 that the approval of the within application be granted subject, however, to the following conditions:

1. Applicant is to comply with all the outstanding conditions of the 10/11/01 resolution of approval not specifically modified or amended by the within approval. The equipment cabinets will have a factory finished sandy gray color and the plans shall be amended to depict same.
2. Tower extension and all tower mounted equipment (antennas, cables, cable bridge, pipe, etc.) will be factory finished to match the color of the existing galvanized steel tower.
3. All telecommunications cable will be installed inside the monopole shaft.
4. The proposed floodlight illuminating the compound will be replaced with a “shoebox” type light mounted on a bronze freestanding pole. Details shall be provided and subject to the approval of the Township Planner.
5. The equipment compound will be serviced by underground electric service.
6. Applicant shall comply with all applicable FCC and New Jersey rules concerning wireless radio frequency emissions.
7. Specifically and reiterating the following conditions are pointed out as points of emphasis as set forth in the 10/11/01 resolution of approval:
 - a. Condition 4 – All lighting shall be manually operated.
 - b. Condition 9 – No fuel or volatile substances will be stored on-site.
 - c. Condition 10:
 - i. Microwave dishes, cones, or other antennas used for the purpose of point-to-point microwave transmission or microwave links are prohibited (Section 13-7.3510B2(a)).
 - ii. Additional side-arm mounted antennas, of any kind, are prohibited (Section 13-7.3510B2(b)).
 - iii. No WT tower shall be lighted except as may be required by State or Federal law (Section 13-7.3510B3(e)).
 - iv. No WT tower shall bear any signs, displays, or advertisements of any kind except as may be required by law (Section 13-7.3510B3(f)).
 - v. WT Technology shall fully conform to all applicable Federal, State and local laws (Section 13-7.3510B6).
 - vi. Routine maintenance of WT Technology shall be limited to the hours of 7:00 a.m. to 7:00 p.m. (Section 13-7.3510B7).
 - vii. The applicant shall submit a copy of its policy regarding co-location with other potential applicants (Section 13-7.3510F1(b)).
 - d. Condition 11 – removal of wireless technology.
 - e. Conditions 12 and 13 – Certification of structural stability/safety remedial action.
8. The permitted hours of construction shall be identified on the plans.
9. Applicant shall obtain a minor soil movement permit from the Township Engineer
10. On-site freshwater wetlands are shown on the survey prepared by KTP Consulting, LLC. Applicant’s environmental professional shall confirm, in writing, that the proposed project is outside of any state regulated areas.
11. The existing septic location shall be shown on the site plan so these components can be protected during construction.
12. A CAD file of the project shall be provided for the site.

Mr. Crowley made a motion to approve the resolution, Ms. Dargel seconded.

Roll call: Mr. Crowley, yes; Ms. Dargel, yes; Mr. Giardina, yes; Ms. Kinback, yes; Mr. Grossman, yes; Ms. Darling, yes.

ZBA 10 004 Matthew Bader Bulk Variance for an expansion of an open front porch & second floor for property located at 14 Condit Street, Succasunna, Block 3401 Lot 30 in a R-2 zone.

In the matter of Matthew Bader
Case No. ZBA-10-004

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

Approved: April 12, 2010

Memorialized: May 10, 2010

WHEREAS, Matthew Bader has applied to the Board of Adjustment, Township of Roxbury for permission to construct a second floor addition and front porch for premises located at 14 Condit Street and known as Block 3401, Lot 30 on the Tax Map of the Township of Roxbury which premises are in a “R-2” Zone; said proposal required relief from Section 13—7.1101.D.4 of the Roxbury Township Land Use Ordinance; and

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

1. The applicant is the owner and occupant of the single-family home on site.
2. The existing home is an older home dating from the 1940's.
3. Applicant received a letter of denial dated 2/8/10 from Joseph McDonnell, the Zoning Officer.
4. Mr. McDonnell noted the following deviation from the zoning ordinance:
Front yard setback - 50' required, 32.7' existing, 25'/32.7' proposed.
5. The applicant was proposing a major renovation to the existing home. Same were depicted on a three-sheet set of plans prepared by Kenneth J. Fox, architect, dated 2/22/10.
6. The applicant presented a series of photos A-1 through A-4 depicting existing conditions as well as other homes in the area.
7. The applicant noted the existing home was clearly outmoded. The inside was unworkable with steep unwieldy steps. He further noted the existing home was located toward the front of this somewhat long and narrow lot. It was thus the location of the existing infrastructure as well as the narrow shape of the lot that limited the practical areas within which to locate a conforming addition.

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 location of the existing infrastructure as well as the narrowness of this lot to be hardships effecting the within premises.
2. The benefits to the proposed aesthetic upgrade of this home, as well as its increased functionality, clearly outweigh the deviations to the zoning ordinance. They will promote and stabilize this neighborhood and be consistent with the type of housing contemplated in the R-2 zone, thus there will not only be a benefit for the instant property, but for other properties in this neighborhood. This is consistent with the intent and purpose of the Township's zoning ordinance.
3. This type of relief will have no significant negative impact on any other property owner.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April, 2010 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required Ordinance.
2. Subject to the payment of any affordable housing contribution, if applicable, to the construction and implementation of the within variance.
3. Front yard setback to be no less than 25 feet to the open porch and 32.7 feet to the proposed addition.

Ms. Kinback made a motion to approve the resolution, Mr. Giardina seconded.
 Roll call: Ms. Kinback, yes; Mr. Giardina, yes; Ms. Dargel, yes; Mr. Crowley, yes; Mr. Grossman, yes; Ms. Darling, yes.

ZBA 10 006 James & Michelle Iannicelli Bulk Variances for an attached garage for property located at 4 Bass Drive, Succasunna, Block 1601 Lot 45 in a R-3 zone.

In the matter of Michelle & James Iannicelli
 Case No. ZBA-10-006

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

Approved: April 12, 2010

Memorialized: May 10, 2010

WHEREAS, Michelle & James Iannicelli have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition onto their existing home for premises located at 4 Bass Drive and known as Block 1601, Lot 45 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D5a, 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:

8. The applicants are the owners and occupants of the single-family home on site.
9. The applicants were proposing to construct an attached two-car garage onto the northeasterly side of their existing home.
10. Applicant received a letter of denial dated 3/8/10, revised 3/18/10 from Tom Potere, the Zoning Officer.
11. As noted by Mr. Potere, the following variances are required:

Proposed	Section	Required	Existing	
Rear Yard	13-7.1301D5a	35 Feet	19' to the rear of the house.	25' to the proposed garage.
Impervious Coverage	13-7.1301D8	25 %	22.75 %	26.5 %
Building Coverage	13-7.1301D8	15 %	12.42 %	15.62 %

12. The applicants submitted a plot plan showing existing site conditions as well as the location of the proposed garage. The applicants also submitted an elevation drawing and an aerial photo of the premises to the Board.

13. It is noted the applicant's home is a corner lot and the actual front is canted towards the corner of Gail Drive and Bass Drive, as seen on the plot plan. The existing driveway comes off of Bass Drive and the proposed garage would be located where the existing driveway is. The garage would be approximately 17' wide by approximately 20' deep as shown on the plans and elevation drawings.
14. The applicants noted that their premises was a corner lot and had numerous built-in hardships because of the front yard requirements. In addition, the applicant's home is canted so that it faces the actual corner. The location makes it very difficult to find a traditional "squared off" direct entry from the street.
15. The applicants also produced a series of seven (7) photos marked A-1 showing similar type of additions in the neighborhood.

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 credible. The lot is a corner lot and, as such, has the built in hardships noted by the applicants. In addition, the Board finds the creation of a garage is consistent with the intent and purpose of the zoning ordinance, which requires one and the applicants have thus eliminated a non-conforming condition.
2. The applicant's proposal is similar to other additions in the neighborhood and will have no adverse impact.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April, 2010 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. Rear yard to the proposed garage to be no less than 25'; total impervious coverage to be no less than 26.5%; and building coverage to be no less than 15.62%.

Mr. Crowley made a motion to approve the resolution, Ms. Kinback seconded.
Roll call: Mr. Crowley, yes; Ms. Kinback, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Grossman, yes; Ms. Darling, yes.

ZBA 10 007 Robert & Taimi Reip Bulk Variances for a detached garage and addition to house for property located at 6 Condit Street, Succasunna, Block 3401 Lot 26 in a R-2 zone.

In the matter of Taimi & Robert Reip
Case No. ZBA-10-007

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

Approved: April 12, 2010

Memorialized: May 10, 2010

WHEREAS, Taimi & Robert Reip have applied to the Board of Adjustment, Township of Roxbury for permission to construct an accessory structure for premises located at 6 Condit Street and known as Block 3401, Lot 26 on the Tax Map of the Township of Roxbury which premises are in a "R-2" Zone; said proposal required relief from Section 13-7.905a, 13-7.1101D6(b), 13-7.1101D8 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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16. The applicants are the owners and occupants of the single-family home on site.
17. The applicants were proposing to construct a detached accessory garage to the rear of the existing home. In addition, the applicants were proposing to “square off” the corner of the existing home by putting in a 3’x5’ addition. The location of the proposed additions, as well as elevation drawings for the garage, were depicted on a plot plan and drawings attached to the application.
18. Applicant received a letter of denial dated 3/12/10 from Tom Potere, the Zoning Officer.
19. As noted by Mr. Potere, the following variances are required:

Proposed	Section	Required	Existing	
Accessory Building Setbacks	13-7905A	Accessory buildings or structures shall be set back a minimum of ten (10) feet from a principal dwelling.		Detached garage will be located 5 feet from the house.
Left Side Yard	13-7.1101D6(b)	Accessory Building 5 Feet setback	3.4’ (Shed)	2 feet
Impervious Coverage	13-7.1101D8	25 %	28.84 %	34.75 %
Building Coverage	13-7.1101D8	15 %	15.33 %	21.24 %

20. The applicants testified there were several features of the property and the infrastructure that resulted in the need for variance relief. They noted the existing house had a full basement and the kitchen windows and kitchen were located in the corner of the house closest to the proposed attached garage. Because of the location of the existing fenestration, attempting to attach the garage to the house in this location would be impractical, unreasonable, and would create the additional need for a re-configuration of the interior of the home.
21. The applicants also noted the location and existence of the driveway, as another feature, which made the proposed location of the garage a better alternative than attempting to attach the existing garage to the house. They also noted that their property was less than half the size contemplated in the R-2 zone district. They also presented a series of photos marked A-1 and A-2 showing existing site conditions as well as other homes in this area of the Township that had similar detached accessory structures.

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 credible. The applicant’s proposed location for this garage is one that works very well with the existing infrastructure. It does not compromise the existing home or interfere with the light and air through the existing windows. It also is in a location that takes advantage of the existing driveway.
2. In creating a garage where none exists, the applicants are, in fact, advancing the intent and purpose of the Roxbury zoning code, which requires each residence to have at least a one-car garage. The applicants are thus removing a non-conformity from the home.
3. The applicant’s proposal is similar to other additions in the neighborhood and will have no adverse impact.

4. While not dispositive of any zoning case, it is significant to note that there were no objectors who appeared on the within application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April, 2010 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 addition is to be sized, located, and constructed as depicted on the drawings attached to the application.
3. Left side yard shall be no less than 2'; impervious coverage not to exceed 34.75%; and total building coverage not to exceed 21.24%.

Ms. Kinback made a motion to approve the resolution, Ms. Dargel seconded.

Roll call: Ms. Kinback, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Crowley, yes; Mr. Grossman, yes; Ms. Darling, yes.

APPLICATIONS:

ZBA-09-00012 WDIFTK, LLC, D Variance / Minor Sub Division for property located at Hillside Avenue, Block 5203 Lot 46, in a R-3 zone. This matter was carried to June 14, 2010, with no further notice at the applicants request.

ZBA-09-00033 Chuck Mound Performance Training, LLC Variance for window signage for property located at 1045 Route 46, Ledgewood Block 6502, Lot 2 in a B-3. Neither Mr. Mound or his representative appeared before the Board. Mr. Stern stated that this application is an ongoing zoning violation. Illegal signs were erected in 2009 and originally the first hearing was scheduled for February 8, 2010. On May 7, 2010 the zoning office received a letter from Mr. Larry Kron, Esq., that his office would no longer be representing Chuck Mound Performance Training. The zoning secretary has tried to contact Mr. Mound, but has had no response. This is an ongoing violation that is not being resolved. Mr. Wiener recommended to the Board denial without prejudice.

Mr. Crowley made a motion to deny without prejudice, Ms. Kinback seconded.

Roll call: Mr. Crowley, yes; Ms. Kinback, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Data, yes; Mr. Grossman, yes; Ms. Darling, yes.

ZBA-10-011 Adam DelGuercio Bulk Variances for an addition and two decks for property located at 119 Mt. Arlington Blvd, Landing Block 11101 Lot 13 in a R-3 zone. Mr. Adam DelGuercio and Mrs. Dana Delguercio of 119 Mt. Arlington Boulevard, Landing were sworn in. Mr. DelGuercio expressed the need to expand their current residence by adding a 304 square foot living room area. The added living room will be 19' X 14'2", and they also plan to construct dormers on the remaining three sides of the second floor for added living space. The existing first and second floor will be reconfigured to maximize living area. The house will remain a single-family residence. Its current condition is in violation with the R-3 zone, side yard setback (Sec. 13-7.1301c) by 2.18' and also building coverage percentage (Sec. 13-7.130D8) the house currently covers 18.5% of the property. The proposed plans would actually reduce the building coverage from 18.5% to 17.71%. The house will remain in the same position as it was built in 1955. There is a large covered porch running the width of the rear of the house which

will be replaced with a new patio and the proposed living room. There will be extremely minimal change to the house's original footprint. They are attempting to enlarge the house not because of cosmetic reasons, but out of necessity. They are expecting their first child in early fall and the house as it stands now can not accommodate another family member. They attempted to sell our house on two occasions in the last two years, because they were aware that if their family was to expand the house would create obstacles. Due to the current housing situation they were unable to sell our house. Their only option to rectify this situation was by building an addition. There was a discussion on the steep stairs in the house. The meeting was Open to the Public; No one stepped forward: Closed to the Public.

Mr. Crowley made a motion to approve this application, Ms. Kinback seconded.
Roll call: Mr. Crowley, yes; Ms. Kinback, yes; Ms. Dargel, yes; Mr. Giardina, yes;
Mr. Data, yes; Mr. Grossman, yes; Ms. Darling, yes.

ZBA-10-002 Joseph Kayser Bulk Variance for property located at 8 Yellow Barn Avenue, Landing Block 11601 Lot 44 in a R-3 zone.

Mr. Bernd Hefele, Esq. and Mr. Thomas Graham, Engineer for the applicant were not present at the start of the hearing. Mr. Kayser proceeded to review with the Board the updated changes to his plans and also Mr. Potere's revised report dated April 29, 2010. At the last meeting they listened to the Board's requests and removed the garage from the house on the lakeside and shortened the house by sixteen feet. Originally the setback in the front of the house needed to be 35 feet, and with the changes made they are now a little over 40 feet from the road which eliminates a variance. The bedroom above the garage was removed; they went from a four bedroom to a three bedroom house.

The garage across the street was modified and moved five feet closer to the road to match the size and location of the other newer garages on the street. The chimney on the side of the house was modified so that now it meets the sideyard setback. The garage height was previously too tall to meet the variance so they removed the cupola as recommended by the Board. The garage was changed from a four car to a two car garage. Mr. Crowley questioned the building coverage going up. Mr. Hefele and Mr. Graham arrived at 7:25 p.m.; Mr. Graham proceeded to explain Exhibit A-7, a color version of the plans (revised date of April 19, 2010) which the Board received in black & white, that shows the variances that were eliminated:

1. Front yard set back
2. Accessory building height
3. The number of vehicle spaces under a garage roof
4. Left side yard set back

Four out of nine variances that were cited by the Zoning officer in his denial letter dated February 16, 2010 were eliminated. They have submitted to the DEP for a flood hazard permit that is required. Building coverage and impervious coverage need variances due to the unique shape of the lot. The lot is smaller and narrower than what is required by Township ordinance. They are seeking a building coverage of 20.4% and this Board has approved for 11 Yellow Barn, 14 Yellow Barn and 15 Yellow Barn, building coverage of 17.6%, 20.5% and 20.7%. So the 20.4% request is in line with what has been approved previously. There was a discussion on the increase of building coverage and the size of the driveway on the lake side of the road. They also, discussed the steep slope disturbance and

grading around the garage area. Mr. Graham stated all this information is summarized on sheet two of his letter of resubmission dated April 20, 2010. Mr. Stern stated that in Mr. Potere's revised letter dated April 29, 2010, no accessory building shall be permitted in a front yard; that is a variance and the set back of the accessory garage normally is 35 feet but going down to 25 feet is permitted. The detached garage utility will be electric only. To be clear: there will be no water line extended to the garage. The garage will be used for personal storage. The garage is proposed to have a second floor storage loft with a center ceiling height of 7 feet. If the board approves of this application, there should be a condition set forth as to what the second floor loft can be used for. As several application particulars require variances an engineering scale an as-built is needed and would delineate the constructed development. This should include final grading, drainage, setbacks, building and lot coverage, and also building heights. Mandatory residential development fees are required with this application. Mr. Graham stated that if there are any further comments by the Township Engineer they would be complied with. They will provide DEP approval to all the appropriate offices. The one utility pole will be replaced with two new ones on each side of the house. The meeting was Open to the Public: No one stepped forward: Closed to the Public.

Mr. Crowley made a motion to approve this application, with stipulations set forth on the record. Mr. Giardina seconded.

Roll call: Mr. Crowley, yes; Mr. Giardina, yes; Ms. Dargel, yes; Ms. Kinback, yes; Mr. Data, yes; Mr. Grossman, yes; Ms. Darling, yes.

REVIEW 2009 ANNUAL ZONING REPORT:

Mr. Stern stated the annual Zoning Report is a mandatory requirement set forth by the Municipal Land Use Law that the Zoning Board provide a report to the Governing Body related to the development activity that had occurred before the Board that year and identify areas of concern that they may wish the Council to consider in terms of zoning modification and provisions. 2009 total applications were thirty-five, eighteen were residential and as usual the R-3 zone received the majority of variance applications.

There were four Final Site Plan applications:

- | | |
|--------------------------|-----------|
| 1. 109 Main Street | R-3 zone |
| 2. Kingtown Diesel | B-2 zone |
| 3. Cornerstone Financial | B-1A zone |
| 4. Mohr | B-1A zone |

There was a discussion on the report and the new recently signed legislation - The Time of Decision Rule.

Mr. Crowley made a motion to approve this report, Ms. Kinback seconded.

Roll call: Mr. Crowley, yes; Ms. Kinback, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Data, yes; Mr. Grossman, yes; Ms. Darling, yes.

The meeting was adjourned by motion at 8:00 p.m.

Township of Roxbury
Zoning Board Secretary,
Dolores Tardive