

Board of Adjustment 07/11/11

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on July 11, 2011 at 7:00 p.m. with Chairman Edward Data presiding. After a salute to the flag, Mr. Data read the Open Public Meetings Act.

PRESENT: Mr. Crowley, Ms. Dargel, Mr. Data, Mr. Giardina, Mr. Grossman, Ms. Robertaccio

ARRIVED LATE: 7:02 P.M. Ms. Darling

ABSENT: Mr. Damato, Ms. Kinback

PROFESSIONAL STAFF:

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

Minutes of 06/13/11

Ms. Dargel made a motion to approve the minutes of June 13, 2011. Mr. Crowley seconded. Roll call: Ms. Dargel, yes; Mr. Crowley, yes; Ms. Darling, yes; Mr. Grossman, yes; Mr. Data, yes.

RESOLUTIONS:

ZBA-11-006 Babinska, Bulk Variance for property located at 63 King Road, Landing, Block 11912, Lot 5 in a R-3 zone.

In the matter of Anna Babinska
Case No. ZBA-11-006

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

Approved: June 13, 2011
Memorialized: July 11, 2011

WHEREAS, Anna Babinska has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition for premises located at 63 King Road, Landing and known as Block 11912, Lot 5 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Section 13-7.1301.D.6.b, 13-7.1301.D.8, 13-7.810.1B, 13-7.1301.D.6a, 13-7.1301.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 applicant was proposing a significant renovation of the existing home. The proposed renovation was depicted on a set of preliminary plans prepared by Joseph Gates, dated 3/3/11. The applicant would be making some improvements to the existing home and would be replacing and redoing the existing garage.
3. Applicant received a letter of denial dated 4/18/11 from Joseph McDonnell, the Zoning Officer.
4. The applicant's proposal results in the need for the following relief:

Board of Adjustment 07/11/11

	Section	Required	Existing	Proposed
Left Side Yard (garage)	13-7.1301.D.6.b	5 feet	4.97 feet	4.97 feet
Impervious Coverage	13-7.1301.D.8	25 %	35.43 %	38.37 %
Building Coverage	13-7.1301.D.8	15 %	17.71 %	20.63 %
Accessory structure	13-7.810.1B	No accessory structure permitted in the front yard.	20'x 20' detached garage	24' x 32' 2 – car detached garage.
Left Side Yard (dwelling)	13-7.1301D6a	10 feet	2.27 feet	2.27 feet
Front Yard Setback (garage)	13-7.1301.D.4	35 feet	42.8 feet	30.83 feet

5. The subject premises are a lakefront property thus, the front yard of the home is what most people would ordinarily consider their rear yard and the front yard functions in many ways as a rear yard. The proposed accessory garage is a location that is very common in lakefront homes in Roxbury Township.
6. The applicant’s architect, Joseph Gates, testified as to the need to do the addition, as proposed. He further noted the existing infrastructure, topography, and proximity of the lake are all conditions that triggered the need for the variances mentioned.

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’s architect, Joseph Gates, to be credible and convincing. The infrastructure on-site, the shape of the lot, and the topography and its proximity to the lake are all factors contributing to the need and form the basis of the affirmative criteria necessary for the grant of the variances.
2. The location of an accessory garage in the front yard is a typical feature of lakefront homes and is common in this area of the Township.
3. The applicant’s proposal takes advantage of the existing infrastructure and site conditions and provides an efficient and well thought out plan to upgrade the existing home. The variances, while seemingly numerous, are not, in fact, gross deviations from the existing conditions.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of June, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of affordable housing fees, if applicable.
2. Payment of all fees, sureties, and escrows required by Ordinance.
3. The accessory garage shall only be supplied with electricity. There shall be no other utility.
4. The addition shall be sized, located, and constructed as depicted on the Gates architectural drawing submitted with the application.

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

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

ZBA-11-007 Curtiss, Bulk Variance for property located at 11 Richards Avenue, Succasunna, Block 3704, Lot 21 in a R-3 zone.

In the matter of Steven & Kelly Curtiss
Case No. ZBA-11-007

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

Approved: June 13, 2011
Memorialized: July 11, 2011

WHEREAS, Steven & Kelly Curtiss have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition onto their existing home for premises located at 11 Richards Avenue and known as Block 3704, Lot 21 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301.D.4, 13-7.1301.D.6, 13-7.1301.D.8 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 single-family home on site.
2. Applicants were proposing to construct an addition onto their existing home.
3. The applicants submitted a plot plan and elevation showing how the addition would look on-site and how the interior would function.
4. Applicant received a letter of denial dated 5/2/11 from Joseph McDonnell, the Zoning Officer. The applicant’s proposal results in the need for the following:

Proposed	Section	Required	Existing
Front Yard Setback (Cov. Stoop)	13-7.1301.D.4	35 feet	Uncovered Stoop 24 feet
Front Yard Setback (Garage)	13-7.1301.D.4	35 feet	N/A
Side Yard Setback (Right side attached garage & shed)	13-7.1301.D.6	10 feet	12.35 feet
Side Yard Setback (Aggregate)	13-7.1301.D.6	14.8 feet	19.69 feet
Impervious Coverage	13-7.1301.D.8	25 %	27.8 %
Building Coverage	13-7.1301.D.8	15 %	17.92 %

5. The applicant stated the existing home was significantly undersized by current standards. The proposed addition would make the home more functional and provide extra living space for the applicant’s growing family.
6. The applicant noted that he was life long resident of the Township of Roxbury as well as an active duty member of the Roxbury Township Police Department. The applicant desired to remain in Roxbury and felt it would be advantageous both to him and the public to remain a Roxbury resident especially while employed by the Police Department.

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 applicant’s proposal is very similar to other upgrades that have been made in this area of Roxbury Township.

Board of Adjustment 07/11/11

2. The proposed addition is a thoughtful re-adaptation of the existing home. The existing home is quite modest, extremely undersized, and lacking many ordinary amenities such as multiple bathrooms.
3. The grant of the variances requested will provide an opportunity for an aesthetic upgrade of the subject premises which will have a positive impact both on the neighborhood and advance the purposes of the Township's municipal zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of June, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. Addition to be sized and located as depicted on the plot plan and elevation drawings submitted with the application. The addition shall be blended into the existing home.
2. Payment of all fees, sureties, and escrows required by Ordinance.
3. Payment of all affordable housing fees, if applicable.

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

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

ZBA-11-008 Raynolds, Bulk Variance for property located at 143 Mt. Arlington Boulevard, Landing, Block 11101, Lot 20 in a R-3 zone.

In the matter of John & Renata Raynolds

Case No. ZBA-11-008

RESOLUTION OF FINDINGS AND CONCLUSIONS

BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

RESOLUTION

Approved: June 13, 2011

Memorialized: July 11, 2011

WHEREAS, John & Renata Raynolds have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition for premises located at 143 Mt. Arlington Boulevard and known as Block 11101, Lot 20 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Section 13-7.1301.D.4, 13-7.1301.D.8a, 13-7.1301.D.7a, 13.7.819 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 single-family home on site.
2. The applicants were proposing a significant renovation to the existing home.
3. Applicant received a letter of denial dated 5/20/11 from Erik Brachman, the Zoning Officer.
4. As noted by Mr. Brachman, the applicants need the following relief:
 - a. Front Yard Setback – 35' required, 23.3' existing and proposed
 - b. Impervious Coverage – 25% required, 32% existing, 33.20% proposed
 - c. Building Height – 2 ½ stories max., 3 stories existing and proposed
 - d. Distance to Lake – 50' required, 26.25' to bulkhead existing and proposed
5. The applicant's architect, Joseph Gates testified at the public hearing. Mr. Gates had previously submitted one sheet Preliminary Design Plan, dated 5/13/11, revised 5/20/11.
6. At the public hearing, he introduced A-1, a colorized rendering of the plan and A-2, a photo of the site.
7. Mr. Gates noted many of the irregularities were due to the premises being a lakefront house. He defined the irregularities with lakefront homes noting that many lakefront homes were designs so that the true front yard was on the lake and the rear yard on the street side. Thus, it was nothing

8. out of the ordinary about locating the proposed garage where it was depicted on the plans. He stated the 8'x10' addition, at the basement level of the single family home, would allow the applicants to construct a two story addition over the existing structure and a new one story portion of the basement. He further noted the addition would not extend any closer to the lake or street than the existing structure and the roof would match the existing roof in appearance and height. Mr. Gates also noted the steep slope of the site. He noted that from the side the house it would still appear as a one story house from the street. Viewing it from the street, one would assume the house was a ranch style house. Mr. Gates also reviewed the pattern of similar upgrades and additions in this area of Roxbury Township and stated that what the applicant was proposing would be harmonious with those upgrades.

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's architect, Joseph Gates, to be credible and convincing.
2. The Board finds the relief requested by the applicant attributable to the location of the existing infrastructure on-site. In addition, the sloping of the nature of the property lends itself to the type of addition proposed by the applicant. The amenities proposed are reasonable. The house that will be created is far from oversized and the re-adaptation of this existing structure will have a positive impact on the neighborhood and the intent and purpose of the Township zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of June, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. Addition to be sized and located as depicted on the drawing submitted with the application.
2. The home shall, in accordance with testimony provided by the applicant at the public hearing, always be maintained as a fully integrated single family home; it is noted this home has an upper and lower kitchen. There shall be no two family use of the premises.
3. Payment of all fees, sureties, and escrows required by Ordinance.
4. Payment of all affordable housing fees, if applicable.

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

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

ZBA-11-009 Acosta, Bulk Variance for property located at 7 Pine Street, Kenvil, Block 7101, Lot 10 in a I-3 zone.

In the matter of Diana C. Acosta
Case No. ZBA-11-009

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

Approved: June 13, 2011
Memorialized: July 11, 2011

WHEREAS, Diana C. Acosta has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring a "C" variance for premises located at 7 Pine Street and known as Block 7101, Lot 10 on the Tax Map of the Township of Roxbury which premises are in a "I-3" Zone; said proposal required relief from Section 13-7.3002.D.5 of the Roxbury Township Land Use Ordinance; and

Board of Adjustment 07/11/11

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

7. The applicant is the owner and occupant of the single-family home on site.
8. The applicant was proposing to construct a gazebo in the rear yard of the subject premises.
9. Applicant received a letter of denial dated 5/17/11 from Erik Brachman, the Zoning Officer.
10. As noted by Mr. Brachman, the I-3 zone requires a setback of 50'. The existing setback is 19' and this new addition would be 14'.
11. As noted, the house is a non-conforming use and a non-conforming zone. However, under the zoning ordinance, these types of variances are treated as dimensional relief.
12. The applicant submitted a plot plan showing the location of the proposed gazebo and a drawing of the gazebo (on which construction had already begun).
13. The instant application was to essentially allow the applicant to finish construction.

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 proposed gazebo to be a modest amenity. The proposed location will have no adverse impact on the zone plan and zone scheme.
2. The variance relief is *de minimis* under the circumstances.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 13th day of June, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. Applicant to secure all necessary permits and inspections for the gazebo
2. Gazebo to be sized and located as depicted on the plot plan attached to the application.
3. Gazebo shall not be used for habitation, but as a freestanding structure associated with on-site residential activities.
4. There shall be no utilities servicing the gazebo.

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

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

APPLICATIONS:

ZBA-09-00012 WDIFTK, LLC, 120 Day Extension, for property located at Hillside Avenue, Succasunna, Block 5203 Lot 46, in a R-3 zone.

The applicants attorney, Mr. Ronald Heymann, in a letter dated June 16, 2011 stated that the applicant had previously requested a 90-day extension to be able to continue to work towards completing several of the issues contained within the Resolution. Mr. Heymann is concerned that they may not be able to resolve all the conditions prior to the expiration of the 90-day extension and is therefore requesting an additional 120-day extension. Mr. Wiener stated the 120 day extension will be from the present day on.

Ms. Dargel made a motion to approve the 120 day extension, Ms. Robortaccio seconded.

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

ZBA-11-010 Woodmont Properties, Sign (banner), Variance for property located at 1705 Route 46, Ledgewood, Block 9603, Lot 6 in a B-2 zone.

Mr. Peter J. Wolfson, Esq. of Bromberg & Newman, 100 Southgate Parkway, Morristown, NJ represented the applicant, and explained that the request for a temporary rental banner sign on the property noted was previously approved for this building in March of 2006. It was erected and removed in accordance with the requirements of the approval. The building is 61,000 sq. ft. and has approximately 40,000 sq. ft. empty. The request is that a banner be allowed to go on the back of the building facing Route 80 to generate some interest in the building. The Board previously approved a sign that was 150 square feet (5' X 30'). Mr. Michael Witmond, Woodmont Properties, 1 Main Street Chatham NJ, was sworn in, and explained to the Board the submitted photo of the new banner which is larger; we are proposing an 8' by 30' to be placed in the same location as the original sign. There will be no additional wording but the lettering will be larger. There was a discussion on the original sign size and location Mr. Stern stated that when the project was developed it was a B-2 zone but this has changed and the property is now considered a GU zone. The Board agreed that with the landscaping growth the larger sign would be safer for the public to be able to read.

Open to the Public: No one stepped forward. Closed to the Public.

Mr. Crowley made a motion to approve the application with the same conditions as the original Resolution with the exception, that the new banner be larger (240 sq. ft.).

Ms. Robortaccio seconded.

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

ZBA-08-023 Woodmont Properties Extension of Soil Movement Permit for property located at Route 46 West, Ledgewood, Block 9603 Lot 3 & 4, in a OB zone.

Mr. Peter J. Wolfson, Esq. of Bromberg & Newman, 100 Southgate Parkway, Morristown, NJ represented the applicant, Mr. John Kieser, 1 Main Street, Chatham, NJ and David Plante, project engineer of Ritter & Plante Associates, 4220 Main Street Philadelphia, PA 19127 were sworn in. Mr. Kieser gave a brief history of the project. Which received preliminary approval on September, 2008 for a flex office building at the same meeting the initial major soil moving permit was approved. The site plan was granted compliance in May, 2010 in July of 2010 Township Engineer Michael Kobylarz granted an extension of the soil movement permit through July 8, 2011. On July 21, 2010 Michael Kobylarz granted a revised Permit upon the posting of \$5,616.00 performance bond and verifying that the limit of disturbance line on the Work Plan was consistent with the perimeter of disturbance line depicted on the 6/21/10 Soil Movement Work Plan that was approved by the Township Engineer. A pre-construction meeting was held in September of 2010 and since have found soil at a reasonable price and are now asking the Boards permission to extend the Soil Movement Permit and allow us to bring this soil on to the site and move ahead with the work. The expiration date for the amended preliminary site plan approval is September 15, 2011. We would like the Boards permission to bring soil from Parsippany on to the site, although we may not construct the building at this time. Mr. David Plante, Project Engineer gave direct testimony on exhibit A-1, Soil Movement Permit Plan, dated

Board of Adjustment 07/11/11

July 8, 2011. There was a discussion on the first application for the Soil Movement permit that was prepared in 2008 a total of 11,500 cubic yards of fill would be needed to be imported to the site. Mr. Plante explained the grading plan to show approximately what the grades will be after the 10,000 cubic yards of fill are imported and placed as fill for the building pad. A construction entrance will be required. We will strip the top soil from the site before we place the fill and pile it at the west end of the site. A silt fence will be installed around the perimeter. The maximum height of fill will be around eight feet, the average will be three ½ to four feet with about 1 ½ acres of disturbance in the center of the site. We are stepping out of sequence to bring the fill in without proceeding with construction of the utilities and other site improvements. There was a discussion on the stripping and stock piling of topsoil on the site.

In review of John Hansen report dated July 7, 2011

- 1.) The previous approval required soil importation and site construction be done concurrently. This constitutes a phased approach to the soil movement, phase I would be the application currently before the Board & phase II would be the soil movement and construction of the remainder of the project.
 - 2.) When will phase II be implemented?
 - a) Stormwater management – a stormwater management basin is required.
 - b) Grading & Soil Erosion Control - measures will be detailed on the plans.
 - c) Visual Impacts – the grading will be 30 ft back to provide a desirable visual appearance from Route 46. Temporary fill stock pile will be limited to five feet in height.
 - d) Timing – Time span will be two weeks.
 - e) Future Maintenance – on going maintenance will be taken care of and we plan to be back before the Board in one year.
 - 3.) Written approval is needed from New Jersey Department of Environmental Protection we will comply with all NJDEP requirements.
- * Mr. Thomas Germinario, Planning Board Attorney, letter to Mr. John Kieser dated July 5, 2011 was discussed. A letter from NJDEP will be needed.
- 4.) The fill is coming from a construction site in Parsippany. Route with approval from the Township Engineer may travel Route 10 to Route 46 directly into the site.
 - 5.) Eleven trees will be removed.
 - 6.) The perimeter of the soil movement limit will be staked prior to any land disturbance.
 - 7.) Hours of operation 8am to 4pm on weekdays, 8am to 12 noon on Saturday. No Sunday or holiday hours.
 - 8.) Approval will be required by the Morris County Soil Conservation District.
 - 9.) Agree to all fees.
 - 10.) All applicable conditions of the prior soil movement resolution will be carried forth in an approving resolution for this application.

Open to the Public: No one stepped forward. Closed to the Public.

Mr. Wiener stated that this application is an Extension and Modification of a Soil Movement Permit.

Mr. Crowley made a motion with all the conditions and stipulations set forth on the record and The time frame will begin on memorialization of the Resolution. Ms. Robortaccio seconded.

Board of Adjustment 07/11/11

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

ZBA-08-022 Woodmont Properties Extension of Preliminary Site Plan Approval for property located at Route 46 West, Ledgewood, Block 9603 Lot 3 & 4, in a OB zone.

Mr. Peter J. Wolfson, Esq. of Bromberg & Newman, 100 Southgate Parkway, Morristown, NJ represented the applicant, Mr. John Kieser, 1 Main Street, Chatham, NJ. The request is for a one year extension on the approval that was granted by this Board three years ago which expires on September 15, 2011. To be extended to September 15, 2012.

Open to the Public. No one stepped forward. Closed to the Public.

Ms. Dargel made a motion to approve the extension of the preliminary site plan, Mr. Crowley seconded.

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

ZBA-11-011 Petersen, Bulk Variance for property located at 24 Main Street, Succasunna Block 1901, Lot 7 in a R-4 zone. *Carried to August 8, 2011 with no further notice.*

Motion to adjourn the meeting was made at 8:28 pm

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

Dolores Tardive,

Board Secretary

July 11, 2011