

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on September 12, 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.

BOARD MEMBERS PRESENT: Ms. Darling, Mr. Grossman, Ms. Dargel, Mr. Giardina, Ms. Robortaccio, Ms. Kinback, Mr. Crowley, Mr. Data.

ABSENT: Mr. Damato

PROFESSIONAL STAFF:

Mr. John Hansen, P.E. – Excused

Mr. Russell Stern, P.P.

Mr. Larry Wiener, Esq.

Minutes of 08/08/11

Ms. Dargel made a motion to approve the minutes of August 8, 2011. Ms. Robortaccio seconded.

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

RESOLUTIONS:

ZBA-11-011 Petersen, Bulk Variance for property located at 24 Main Street, Succasunna Block 1901, Lot 7 in a R-4 zone.

In the matter of Eric Petersen

Case No. ZBA-11-011

RESOLUTION OF FINDINGS AND CONCLUSIONS

BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

RESOLUTION OF DENIAL

Denied: August 8, 2011

Memorialized: September 12, 2011

WHEREAS, Eric Petersen has applied to the Board of Adjustment, Township of Roxbury for permission to construct a detached garage requiring dimensional variance relief for premises located at 24 Main Street and known as Block 1901, Lot 7 on the Tax Map of the Township of Roxbury which premises are in a “R-4” Zone; said proposal required relief from Section 13-7.905C 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 to construct a 28’x42’ structure – a 2-car garage.
3. Applicant received a letter of denial dated 5/5/11 from Erik Brachman, the Zoning Officer.
4. A public hearing was conducted on 8/8/11. At the time of the initial public hearing, the applicant was proposing to construct a 28’x42’ garage. The proposed structure and its location were depicted on plans attached to the application.
5. As noted by the Zoning Code Enforcement Officer, the applicant’s proposal results in a substantial deviation from Section 13-7.905C of the zoning ordinance. That section limits accessory structures to be no more than 50% of the principal building. The applicant’s proposal would result in the proposed accessory structure being over 155% of the existing structure. In

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essence, the proposed structure would be three times the size of a permitted structure (50% vs. 155%).

6. The applicant stated that the instant structure would take the place of an existing shed type structure in the rear yard. The rear yard presently has two accessory structures – there is a shed in the southwesterly corner and the aforementioned structure along the southeasterly rear yard boundary line (this is the structure that was to be removed).
7. The applicant stated the garage was to be utilized for the storage of the applicant’s substantial collection of vintage automobiles. While the structure would have two overhead doors, there would be room to store four motor vehicles and various other equipment including a loft area.
8. The applicant stated there was no existing garage on-site and the formal off-street parking consisted of a driveway located along the southeasterly front yard running from the front boundary to the rear of the house. Same was depicted on a plot plan attached to the application.
9. During the course of the public hearing, several Board members questioned the applicant as to the need for an accessory structure that had the footprint and size of a single family home. The applicant stated that he did not have the money to expand the rather modest home at the present time, but needed an immediate accessory structure in order to house the automobiles. He stated the alternative was to sell the house.

WHEREAS, the Board has determined that the relief requested by the applicant **cannot** 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 Township ordinance, limiting the size of accessory structures, is designed to promote a proper planning environment. The purpose of the ordinance is to define the principal structure as just that - a principal and most significant improvement on site and to limit accessory structures to a clearly subordinate status.
2. The burden of proof in any variance application rests with the applicant. The applicant did not articulate any of the reasons that would give rise to the grant of a variance in accordance with the Municipal Land Use Law. The applicant could have constructed a conforming structure on-site. The applicant could also have asked for a much less ambitious structure with perhaps some modest variance relief.
3. During several colloquies with Board members, the applicant did not offer any alternatives other than what was presented at the public hearing. The applicant does not have to offer any alternatives and the Board, as it did in the instant case, will vote on what is actually presented by the applicant.
4. Clearly, the proposed structure would be an incongruent structure in this neighborhood. It would fly in the face of the zoning restrictions and dominate the lot. It would essentially become the principal structure on-site and dominate the rear yard from a visual, planning, and zoning perspective. This proposal would have a significant negative impact both on the ordinance and on surrounding properties. There would be substantial mass in the rear yard that would impair what would otherwise be essentially an open area and viewscape. While there might be justification for some modest variance relief, given the small size of the existing house, the instant proposal clearly would eviscerate a well thought out plan for the development of this lot that respects the purpose and intent of the zoning ordinance. Clearly, the personal needs of the applicant do not rise to the level of a hardship justifying the nature of the relief sought. The applicant’s plan is totally antagonistic to the idea of principal and subordinate accessory structures.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 8th day of August, 2011 that the within application be denied.

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Ms. Dargel made a motion to approve the Resolution of Denial, Mr. Crowley seconded.
 Roll call: Ms. Dargel, yes; Mr. Crowley, yes; Mr. Giardina, yes; Ms. Robortaccio, yes; Mr. Data, yes.

ZBA-11-012 Rivera, Variance for property located at 18 North Second Avenue, Kenvil Block 2614, Lot 14 in a R-4 zone.

In the matter of Benjamin Rivera
 Case No. ZBA-11-012

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

Approved: August 8, 2011
 Memorialized: September 12, 2011

WHEREAS, Benjamin Rivera has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring dimensional variance relief for premises located at 18 North Second Avenue and known as Block 2614, Lot 14 on the Tax Map of the Township of Roxbury which premises are in a “R-4” Zone; said proposal required relief from Section 13-7.7C 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 to construct a second story addition. The proposed second story addition would be approximately 16’x15.5’ in size. Same were depicted on a set of drawings submitted with the application. Essentially, the applicant would be constructing within the existing footprint.
3. Applicant received a letter of denial dated 6/20/11 revised to 8/8/11 from Erik Brachman, the Zoning Officer.
4. As noted by Mr. Brachman, the applicant needs the following relief:

	Section	Required	Existing	Proposed
Lot Area		7,500 sq ft	4,000 sq ft	No Change for 2 nd Story Addition
Lot Width				
Lot Frontage				
Rear Yard				
Front Yard				
Right Side Yard		10 feet	4.4 feet	No Change for 2 nd Story Addition
Left Side Yard				
Impervious Coverage		35%	71%	No Change for 2 nd Story Addition
Building Coverage		20%	52%	No Change for 2 nd Story Addition
Accessory structure				
Pools				
Building Height		Less Than 35 feet	20’ 8”	25’ 10”
Accessory Building				
Other: EXPANDING NON-CONFORMING STRUCTURE	13-7.7C			

5. There was some question as to the extent of the existing impervious coverage. Mr. Brachman's report calculated impervious coverage at 71%. In any event, the Board notes that the within application does not involve any increment in existing coverage and further notes that this type of lot will always have an inherent problem in complying with an impervious coverage regulation, as the lot is only 4,000 sq. ft. in size in a 7,500 sq. ft. zone. Essentially, it is just over 53% of the anticipated lot size. (If the lot had been conforming, the infrastructure on-site would probably be just over 35% maximum impervious coverage.) In any event, as noted, this application does not involve any further increment in impervious coverage.
6. The applicants noted the subject premises were quite limited in size and the proposed addition would be an efficient way to upgrade the utility of the house and, at the same time, enhance its architectural features.

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 subject premises have a built-in hardship. As noted, the lot, itself, is just a little over half the size of what is required in the zone. A small lot, such as this, makes it extremely difficult to locate a reasonably sized home without running afoul of the zoning ordinance.
2. The applicant's proposal will enhance and re-adapt a rather small home into a much more functional and aesthetically appealing structure. This will have a positive impact both on the subject lot and the surrounding properties. It will also provide an opportunity to re-utilize existing infrastructure.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 8th day of August, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. House is to be size, located, and built as depicted on the drawings submitted with the application. There shall be no change in any of the lot dimensions or existing impervious coverage.
2. The siding and roofing materials shall be blended into the existing home. Prior to the start of construction, the applicant shall demonstrate to the construction official compliance with this condition of the resolution.

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

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

APPLICATIONS:

ZBA-10-010 LaRoy, Use Variance & Site Plan Approval for property located at Ledgewood Landing Shipping Port Road, Landing, Block 10101, Lot 18, 19 & 20, in a B-1A zone.
Carried to Thursday, October 13, 2011 with no further notice.

ZBA-10-014 Vogel, Bulk Variance for property located at 4 Wills Lane, Wharton, Block 12901, Lot 44, in a R-1 zone.

Jillian Vogel and Robert Vogel, 4 Wills Lane, Wharton, were sworn in. Mrs. Vogel explained that they would like to improve their property by adding a shed (garage) large enough to hold a twenty six foot rowing shell. The two constrains they have on their property that prevent them from doing this are the current impervious coverage existing on the property and the location of

where they want to place the shed (garage). When the house was built in 2007 it was incorrectly zoned as an R-2 zone which allows 25% impervious coverage. The house is actually in an R-1 zone which allows 20% impervious coverage. The house together with Wills Lane which counts as impervious coverage exceeded the allowable coverage percentage when it was built. This coverage issue prevents them from making improvements to their property. The second issue, the location of where the shed (garage) can be placed on the property is very limited. Because this is a corner lot, taking into account neighboring property lines, the slope of the property, the septic system and access to the road it makes sense to place the shed (garage) next to the existing two car garage although the town requires a 10' set back from the principle dwelling. They want to be compliant with the Township regulations, therefore, they are asking for permission to be 1.7% over their current existing impervious coverage and a variance to place the garage three feet from the existing garage. When the structure is complete, it will match the existing house both in color and in style and improve the appeal of the property. It was noted that the Construction department has no objection to the floor being constructed with pressure treated wood. There was a discussion on this structure being a garage or a shed and what the floor should be, concrete or wood. The three feet between the house and the garage will be landscaped. There was a discussion on the denial letter dated August 3rd and if car ports are allowed in Roxbury Township. Open to the Public: Mr. Richard Crammond, Chairman of the Historic Advisory Committee, stated that because this property is adjacent to Berkshire Valley Road which is within the guidelines of the property lines for the Historic District in Lower Berkshire Valley and because this is a modern house, it is not of sufficient historic interest to our committee other than to be compatible and intergraded into the general architectural streetscape of the neighborhood. No one else stepped forward: Closed to the Public.

Mr. Crowley made a motion to approve the application with a concrete or non combustible floor and the finish of the garage should match the house color and siding. Ms. Kinback seconded. Roll call: Mr. Crowley, yes; Ms. Kinback, yes; Mr. Grossman, yes; Ms. Dargel, yes; Mr. Giardina, yes; Ms. Robortaccio, yes; Mr. Data, yes.

ZBA-11-013 Sydor, Bulk Variance for property located at 113 Eyland Avenue, Succasunna Block 1703, Lot 20 in a R-2 zone.

Jill Sydor & Michael Sydor, 113 Eyland Avenue, Succasunna were sworn in. This variance is to add an addition to the existing detached garage. The existing garage and the property's principle building coverage is currently at 49% the limit is 50%, a variance is needed to go to 89%. There was a discussion on alternate plans for this project because 89% is such a high amount, to minimize it. The house was built in 1840. This addition is to be used for a work space; the intended structure is 48 ft in length with a 20 X 12 section only accessible through the yard and a 16 X 36 section accessible from either the yard or the garage. A covered patio would run the length of the front of the structure visually connecting it to the existing patio. No water or sewer will be hooked up in the garage. This will improve the utility of the outdoor space without altering any of the original features of the house. There was a discussion on the partitions which divide up the space in the garage, also machinery and the work that will be done in the garage. The garage was built in 2002 and has always been used as a hobby shop. The two car garage also has a large storage area; the entire garage is filled with wood-working equipment. One concern that the Board has is that this is a massive structure along a property line, although the trees do seclude the area now; if for some reason they go away, neighbors will only see

this massive structure about 70 ft along the property line. This workshop is huge; coverage is going from 49% to 89%. The lot is beautifully landscaped with lots of room, but the structure is solely on the left side of your property and is big. Mr. Sydor stated that the challenge to do the site work is significant whatever is built, a small or large structure they will still have to pay the same amount of money in terms of site preparation in order to get the building equipment in and to restore the landscaping afterward. There was a discussion on other options. Ms. Robortaccio explained this is way out of character for a residential area, and in the future, what if the property is sold? There was a discussion on the size of the building and some alternative ideas of reducing the size of the garage. The Board was polled. Open to the Public: No one stepped forward. Closed to the Public. Mr. Crowley made a motion that the applicant come back before the Board on Monday, November 14th, 2011 with an alternative plan, with no further notice. Ms. Dargel seconded.

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

OLD BUSINESS:

Valley Auto Wreckers There was a discussion on the property appearance along with the number of vehicles & boats stored so close to the roadway in front of the business. Mr. Stern stated that before this meeting he had contacted Mr. Dunn, attorney for the applicant, and was told that the applicant is working on an application with plans to come before the Board in October (2011) and our Zoning Officer will be going out to this location to introduce himself and inform Valley Auto Wreckers of the parameters they need to abide by.

New Business:

American Christian School will be coming before the Board seeking a conditional use variance.

Motion to adjourn the meeting was made at 8:06 p.m.

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY

Dolores Tardive,
Board Secretary
September 12, 2011