

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, January 10, 2022 at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ after a salute to the flag, Zoning Board Secretary Tracy Osetec read the “Open Public Meetings Act”.

**BOARD MEMBERS PRESENT**

Ms. Dawson, Mr. Overman, Mr. Klein, Ms. Robortaccio, Mr. Furey, Ms. Dargel, and Dr. Kennedy

*ABSENT:* Mr. D’Amato

**PROFESSIONAL STAFF**

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

**NOMINATIONS FOR BOARD CHAIRMAN**

Ms. Dargel made a motion to nominate Dr. James Kennedy for the position of Zoning Board Chairman, Ms. Robortaccio seconded. *No other nominations were made.*  
*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Furey, yes; Dr. Kennedy, accepted the position as Zoning Board Chairman.

**NOMINATIONS FOR BOARD VICE CHAIRMAN**

Dr. Kennedy asked if there were any nominations for Vice Chairman of the Zoning Board; Ms. Robortaccio made a motion to nominate Ms. Joyce Dargel for the position of Zoning Board Vice Chairman, Dr. Kennedy seconded. *No other nominations were made.*  
*Roll call:* Ms. Robortaccio, yes; Dr. Kennedy, yes; Ms. Dawson, yes; Mr. Overman, yes; Mr. Klein, yes; Mr. Furey, yes; Ms. Dargel, accepted the position as Zoning Board Vice Chairman.

**RESOLUTIONS:**

Ms. Dargel made a motion to memorialize the resolution of appointment of Tracy Osetec as Secretary to the Zoning Board, Ms. Robortaccio seconded.  
*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution appointing Secretary:*

**RESOLUTION AUTHORIZING THE APPOINTMENT OF  
TRACY OSETEC AS SECRETARY  
TO THE ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, there exists a need for the appointment of a Secretary by the Zoning Board of Adjustment of the Township of Roxbury, and

**WHEREAS**, Section 40:55D-1b, Article 9 of the Municipal Land Use Law states that the Zoning Board may employ, or contract for and fix the compensation of experts, and other staff and services as it may deem necessary; and

**WHEREAS**, the Board wishes to retain Tracy Osetec as a Secretary to the Zoning Board of Adjustment,

**NOW, THEREFORE, BE IT RESOLVED** Tracy Osetec is appointed Secretary to the Zoning Board of Adjustment of the Township of Roxbury and this Resolution shall take effect immediately

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution of authorizing the award of contract for professional services to Larry Weiner, Esq., Ms. Robortaccio seconded.  
*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution appointing Board Attorney:*

**RESOLUTION OF THE ZONING BOARD  
OF THE TOWNSHIP OF ROXBURY,  
AUTHORIZING THE AWARD OF A CONTRACT  
FOR PROFESSIONAL SERVICES TO  
LARRY I. WIENER, ESQ.**

**WHEREAS**, the Zoning Board of the Township of Roxbury has a need to retain the services of a Zoning Board Attorney to provide legal counsel to the Board for calendar year 2021 (the Legal Services); and,

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-24, authorizes the Board to contract for the services of and fix the compensations of its legal counsel, subject to the appropriation of funds by the governing body; and,

**WHEREAS**, the Board has determined to award this contract as a professional service without obtaining competitive bids pursuant to N.J.S.A. 19:44A-2.05; and,

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-*et. seq.*) requires that the resolution authorizing the award of contracts for Professional Services without competitive bids and the contract itself must be available for public inspection; and,

**WHEREAS**, Larry I. Wiener, Esq., has submitted a proposal indicating that he will provide the Legal Services at \$145.00 per hour for attorney time, \$80.00 per hour for paralegal time, and \$40.00 per hour for secretarial time; and,

**WHEREAS**, the Chief Financial Officer of the Township of Roxbury has certified that the funds are available for this contract.

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of the Township of Roxbury, that Larry I. Wiener, Esq. is appointed as Zoning Board Attorney for calendar year 2022 and the Zoning Board Chairman is authorized to enter into a contract with Larry I. Wiener, Esq. to perform the Legal Services in accordance with the terms and conditions set forth herein; and

**BE IT FURTHER RESOLVED**, that notice of this action shall be published once in the Township's official newspaper as required by law, and this resolution shall take effect immediately.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Zoning Board of the Township of Roxbury memorializing the action taken at its reorganization meeting of January 10, 2022.

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution of authorizing the award of contract for professional services to Ferriero Engineering, Ms. Robortaccio seconded.  
*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution appointing Board Engineer:*

**RESOLUTION OF THE ZONING BOARD OF THE TOWNSHIP OF ROXBURY  
AUTHORIZING THE AWARD OF A CONTRACT FOR PROFESSIONAL  
SERVICES TOPAUL FERRIERO, P.E. & P.P.  
OF FERRIERO ENGINEERING, INC.**

**WHEREAS**, the Zoning Board of the Township of Roxbury (the “Board”) has a need to retain the services of a Zoning Board Engineer to provide engineering services to the Board for calendar year 2022 (the “Engineering Services”); and

**WHEREAS**, the Municipal Land Use Law, N.J.S.A. 40:55D-24, authorizes the Board to contract for the services of and fix the compensation of its engineering services, subject to the appropriation of funds by the governing body; and

**WHEREAS**, the Board has determined to award this contract as a professional service without obtaining competitive bids pursuant to N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, requires that the resolution authorizing the award of contracts for professional services without competitive bids and the contract itself must be available for public inspection; and

**WHEREAS**, Paul Ferriero, PE & PP of Ferriero Engineering, Inc., has submitted a proposal indicating that he will provide the Engineering Services according to the attached contract; and

**WHEREAS**, the Chief Financial Officer of the Township of Roxbury has certified that the funds are available for this contract.

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of the Township of Roxbury, that Paul Ferriero, PE, and PP is appointed as Zoning Board Engineer for calendar year 2022, and the Zoning Board Chairman is authorized to enter into a contract with Paul Ferriero of Ferriero Engineering, Inc. to perform the Engineering Services in accordance with the terms and conditions set forth in the attached service contract; and

**BE IT FURTHER RESOLVED**, that notice of this action shall be published once in the Township’s official newspaper as required by law, and this Resolution shall take effect immediately.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Zoning Board of the Township of Roxbury memorializing the action taken by the Board at its Reorganization Meeting of January 10, 2022.

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution of authorizing the award of contract for professional services to Lee Klein, Mr. Klein seconded.

*Roll call:* Ms. Dargel, yes; Mr. Klein, yes; Ms. Dawson, yes; Mr. Overman, yes; Ms. Robertaccio, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution appointing Traffic Consultant:*

**RESOLUTION AUTHORIZING THE APPOINTMENT OF LEE KLEIN  
AS CONSULTING TRAFFIC ENGINEER  
TO ROXBURY ZONING BOARD**

**WHEREAS**, there exists a need for the appointment of a consulting traffic engineer by the Zoning Board of the Township of Roxbury to advise the Zoning Board regarding traffic impact associated with development applications, and

**WHEREAS**, the funds for this purpose will be paid out of Applicant's escrow account, and

**WHEREAS**, Section 40:55D-24 of the Municipal Land Use Law states that the Zoning Board may employ, or contract for and fix the compensation of experts, and other staff and services as it may deem necessary; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40:A-11 etc. seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be made available for public inspection; and

**WHEREAS**, the Board wishes to retain Lee Klein as a Consulting Traffic Engineer to advise the Zoning Board regarding traffic impacts associated with development applications on an as-needed basis.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of the Township of Roxbury as follows:

1. Lee Klein is retained to serve as a Consulting Traffic Engineer to the Board, on an as needed basis regarding traffic impacts associated with development applications, at an hourly rate of \$170.00, plus out of pocket expenses.
2. This contract is awarded without competitive bidding as a "Professional Service" under the provisions of the local Public Contracts Law because traffic engineering services are rendered by persons authorized by law to practice a recognized profession.
3. A copy of this resolution shall be published in the official newspaper as designated by the Township Council as required by law.
4. This resolution shall take effect immediately.

The undersigned does hereby certify the foregoing is a true copy of the Resolution of the Roxbury Township Zoning Board memorializing the action taken by the Board at its meeting of January 10, 2022.

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution of authorizing the utilization of municipal professionals for the review of development applications, Ms. Robortaccio seconded.

*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution appointing Township Professionals:*

**RESOLUTION OF THE TOWNSHIP OF ROXBURY,  
COUNTY OF MORRIS, STATE OF NEW JERSEY,  
UTILIZING MUNICIPAL PROFESSIONALS FOR THE REVIEW OF  
DEVELOPMENT APPLICATIONS**

**WHEREAS**, the Zoning Board of the Township of Roxbury has a need to utilize the services of professionals employed by Roxbury Township for the review of development applications pursuant to the provisions of N.J.S.A. 40:55D-53.2; and

**WHEREAS**, the following Roxbury Township professionals will be billed by the municipality to the applicant at the following rates in accordance with N.J.S.A. 40:55D-53.2:

Michael Kobylarz, PE, CME, - \$163.38 per hour  
Planner Russell Stern, AICP, PP, LLA - \$134.46 per hour  
Melanie Michetti, PE, - \$98.96 per hour  
Peter Turnbull, Senior Engineering Aide, - \$64.16

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of the Township of Roxbury, in the County of Morris and State of New Jersey, that the above Township professionals are hereby authorized to review development applications and bill in accordance with N.J.S.A. 40:55D-53.2:

**BE IT FURTHER RESOLVED**, a notice of this action shall be printed once in the legal newspaper of the Township of Roxbury as required by law. This resolution shall take effect immediately.

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution designating newspapers for noticing, Ms. Robortaccio seconded.

*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution designating newspapers:*

**RESOLUTION  
FOR NOTICES & DESIGNATING NEWSPAPERS**

**WHEREAS**, the Zoning Board of Adjustment of the Township of Roxbury, Morris County, New Jersey, is required to select a public place for the posting of notices all regular and special meetings; and

**WHEREAS**, said Board must provide notice of all regular and special meetings to three (3) newspapers, one of which must be the official municipal newspaper.

**NOW, THEREFORE BE IT RESOLVED**, that the public place for the posting of notices of all regular and special meetings of said Board be the bulletin board for the calendar year 2022, located within the Municipal Building of the municipality located at 1715 Route 46, Ledgewood, New Jersey and

**BE IT FURTHER RESOLVED**, that all notices of the meeting of this Board be furnished to the following three newspapers as designated by the Township Council.

**Daily Record, Star Ledger, and Roxbury Register**

**Adopted:** January 10, 2022

Ms. Robortaccio made a motion to memorialize the resolution fixing fees for notice of meeting. Ms. Dargel seconded

*Roll call:* Ms. Robortaccio, yes; Ms. Dargel, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution setting the fees required for mailing notice of meeting to those requesting the same:*

**RESOLUTION FIXING “FEES” FOR NOTICE OF MEETING**

**WHEREAS**, N.J.S. 10:4-6 et. Seq. Known as the “Open Public Meetings Act”, provides for the fixing of a reasonable charge to be paid by any person requesting notification of meetings of the Board of Adjustment.

**NOW, THEREFORE BE IT RESOLVED**, by the Board of Adjustment of the Township of Roxbury that the sum of \$2.50 is hereby fixed as a fee to be paid by anyone requesting that notices of meetings of the Board of Adjustment of the Township of Roxbury for the 2022 calendar year to be mailed to such person; but, as provided in N.J.S.

40:4-19, no charge shall be made to any newspaper requesting the mail of such notices to its business office.

**Adopted:** January 10, 2022

Ms. Dargel made a motion to memorialize the resolution designating newspapers for noticing, Ms. Robortaccio seconded.

*Roll call:* Ms. Dargel, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

*Resolution regarding conflict of interest:*

**RESOLUTION  
CONFLICT OF INTEREST 2022**

**WHEREAS**, the members of the Zoning Board of the Township of Roxbury desire to provide the best possible service to the Township of Roxbury; and

**WHEREAS**, members of the Zoning Board are expected to conduct themselves with respect to matters before the Board in such a manner as to avoid all possibility of a conflict between their private interests and their public duty.

**NOW, THEREFORE, BE IT RESOLVED**, by the present and new members of the Zoning Board of the Township of Roxbury that they will act in a manner to provide the best possible service to the Township of Roxbury and to avoid all conflicts between their private interests and their public duty and to that end have signed Certifications as to all properties that are owned by members of the Zoning Board in Roxbury Township or in other communities which abut the Township of Roxbury and said Certifications will be open for public inspection at the Municipal Building during normal business hours.

**Adopted:** January 10, 2022

Ms. Robortaccio made a motion to memorialize the resolution designating newspapers for noticing, Ms. Dargel seconded.

*Roll call:* Ms. Robortaccio, yes; Ms. Dargel, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Mr. Furey, yes; Dr. Kennedy, yes.

In the matter of Estate of Frank Amato by Sherry Amato Smith, Executrix  
Case No. ZBA-21-028

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

Approved: December 13, 2021  
Memorialized: January 10, 2022

**WHEREAS**, Estate of Frank Amato by Sherry Amato Smith, Executrix has applied to the Board of Adjustment, Township of Roxbury seeking a pre-existing Non-Conforming Certification for premises located at 890 Route 46 and known as Block 5301, Lot 7 on the Tax Map of the Township of Roxbury which premises are in a "B-2" Zone; said proposal required relief from Section 13-7.2502 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. Edward M. Dunne, Esquire represented the Applicant.
2. The Applicant is the Estate of Frank Amato which owns a single-family home and a detached garage. The application has been brought on due to a buyer who wishes to purchase this property but whose lender will need a Certificate of a Non-Conforming Use as to the single-family home. The application was later amended to include approval of the expansion of a non-conforming use for the second story of the non-conforming accessory structure.
3. Applicants received a letter of denial dated November 22, 2021 from Tom Potere, the Zoning Officer.
4. The Applicant submitted a letter from Edward M. Dunne, Esq., dated November 30, 2021, setting forth the history of the property.
5. The matter was heard at a duly noticed public hearing on December 13, 2021. Mr. Dunne provided an overview of the history of the property, noting that while there is evidence to establish that the garage existed prior the zoning ordinance, the second story of the garage did not. The application was amended to seek relief pursuant to N.J.S.A. 40:55D-70D2 for an expansion of a pre-existing nonconforming use.
6. In the application, the narrative explains that the property was purchased by Mr. Amato in 1983 and utilized as a single-family home with a detached garage that had a full bath, hot water and heat until his death in 2020. Mr. Amato lived in the garage and rented the single-family dwelling. Records indicate that the dwelling was built in 1930 and the garage as early as 1966. The B-2 zoning for this property was established in 1965, prohibiting single family homes. No permits were obtained for the construction of the garage. The timing is unclear, but at some point the garage was changed to a “raised ranch” or “apartment”. There is conflicting information regarding the construction and approval of the second story of the garage and no direct proof of when it was constructed. The only direct proof is the commencement of the use of the garage as a dwelling by Mr. Amato in 1983.
7. Mr. Dunne provided an explanation of the 22 exhibits that were submitted to the Board in support of the application, a majority of which were received through an Open Public Records Act request from the Township. The Applicant received and submitted surveys of the property from 1977 and 1983 which show the existing structure on the property, Exhibits A-1 and A-2. A-3 is a copy of the Deed conveying title to Mr. Amato in December of 1983. Exhibits 4 through 9 were property tax records that indicate both the garage and house existed, dating back to 1999, noting that the house was built in 1930.
8. Ryan Sylvia, the listing agent, presented sworn testimony, referring to Exhibits 16, which was a Google Map photo of the front elevation. Exhibit 17 was an historical aerial photo from 1979 that depicted a single-family home with an addition on the side and the garage. Exhibit 18 was various current elevations and Exhibit 19 was a current elevation of the garage. Exhibit 21 was a blurry aerial of the property, depicting a garage without a roof, indicating that the second story was built after 1971. The legibility of the picture was questioned, and Mr. Dunne and Mr. Sylvia agreed that the image was clearer on the computer, confirming their prior testimony. Exhibit 20 depicted a well that was constructed in 1966 on the property, with a drawing that included the garage. There was evidence that it was under construction in 1971 and it was on a 1977 survey completed.
9. Floor plans for the current structure were submitted to the Board. Mr. Sylvia testified that the property is listed as a single-family dwelling, two-bedroom and one bathroom on the second story. The first floor contains a kitchen, living room,

office, mudroom and sunroom. The garage is usable for vehicular parking, with a second story. The space is used for recreational purposes and not living space. The detached garage has a sink, with cabinets and counter, as well as a bathroom but the refrigerator and stove have been removed. There is a toilet on the first-floor of the garage that will be removed, as well as the second-floor shower and tub. The Applicant agreed to limit utility service to the garage. The property is serviced by public sewer.

10. Mr. Dunne explained that there were no building permits available for the garage. A discussion ensued regarding the use of the garage as another dwelling unit. The structure itself predates the zoning and the second story addition is an expansion of a non-conforming use. Mr. Dunne noted that the prior use was an illegal apartment, and the Applicant is trying to convert it back to a garage only.
11. Matthew Flinn, PP, who was accepted as an expert planner, provided sworn testimony regarding the criteria needed to grant relief pursuant to N.J.S.A. 40:55D-70(d)(2) for an expansion of a non-conforming use. Mr. Flinn testified that the dwelling and garage have existed on the site for a long time, and at some time as a two-family use. The Applicant is now seeking to convert it to a single-family dwelling. The single-family use will be a modernization of a small house, adding space for recreation, a home office or storage, resulting in increasing the value of the home and the neighborhood. The property is substantially undersized, creating a hardship to develop this lot for a commercial use. It was noted that 3 of 4 properties in the area are developed with non-conforming residential dwellings. The proposal will result in an aesthetic, as well as practical improvement to the site.
12. At the request of Mr. Stern, the Applicant agreed to remove the debris from the rear yard.
13. No one from the public was present for this application.

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

1. The Board found the witness testimony to be competent and credible. The Applicant's attorney, along with witness testimony, noted that the dwelling existed prior to the enactment of the B-2 Zone that prohibited single family dwellings. The Applicant agreed to remove the downstairs toilet in the garage and restore the use to a single-family dwelling, with detached garage that would provide vehicular parking, recreation, and storage space for the main dwelling.
2. The Planner met the necessary criteria for an expansion of a non-conforming use, pursuant to N.J.S.A 40:55D-70(d)(2), noting that the use has existing for many years and is among other non-conforming uses in the surrounding area. The lot is undersized and could not be developed with a conforming use without creating a hardship for the owner. The proposed use will result in a modernization of a small home, providing additional storage, recreation or office space for the homeowner.
3. The Applicant agreed to remove the debris on the property, improving the aesthetic appeal of the home. A cohesive single-family use will be an improvement for the surrounding area and will no result a detriment to the neighborhood. The proposed use is consistent with the goals of the Municipal Land Use Law, the zone scheme and the Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Roxbury on the 13th day of December 2021 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. Applicant shall remove the debris from the rear of the property.
3. The property shall be used as a single-family dwelling, with the garage utilized in connection with the primary dwelling.
4. There shall be no kitchen, but the sink and running water in the kitchen may remain.
5. The shower/tub shall be removed from the second floor, but the sink and toilet may remain.
6. The toilet on the first floor shall be removed.
7. The electrical service to the second floor of the garage shall be limited to 110-amp service.
8. The gas or electrical service that was connected to the stove/oven shall be capped.
9. Applicant to obtain all building and construction permits and comply with all applicable municipal ordinances

### **MINUTES OF DECEMBER 13<sup>TH</sup>, 2021 MEETING**

Ms. Robortaccio made a motion to approve the minutes of the December 13<sup>th</sup>, 2021, meeting, Ms. Dargel seconded.

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

### **APPLICATIONS:**

**ZBA-21-039 TOWNSHIP OF ROXBURY**, Bulk Variance for property located at 532 Mansel Drive, Landing, Block 11802, Lot 1 in a R-3 zone.

Mr. James Bryce of Murphy & McKeon stepped forward as Attorney for an application presented by the Township for variance relief to accommodate construction of a new single-family dwelling on a lot located at 532 Mansel Drive which is on the corner of Edith Road, designated as Block 11802, Lot 1 in an R-3 zone and is approximately 7,478 sq. ft. in size. Mr. Bryce stated what makes this an interesting application is that this property is currently owned by the Township of Roxbury and the Township is under contract with Morris County Habitat for Humanity to develop the property for affordable housing and is consistent with the Township's Housing Element and Fair Share Plan. Mr. Bryce noted that this property is bisected by the Municipal Boundary Line, and it is his understanding that this application will not be heard before the Mt. Arlington Board of Adjustment, but anything they review would be a condition of this approval.

Mr. Bryce went on to state that he will presenting four witnesses to provide testimony which include the CEO for Habitat for Humanity Ms. Schleicher-Wilson, Chief Construction Officer for Habitat for Humanity, Douglas Wright, Project Engineer, Fred Stewart, and Project Planner, Jessica Caldwell.

Ms. Robortaccio asked how much of the property is located within Mr. Arlington? Mr. Bryce responded about one third of the property.

Mr. Wiener swore in Blanche Schleicher-Wilson of 274 South Salem Street, Randolph, NJ 07869. Ms. Schleicher-Wilson is the CEO of Morris Habitat for Humanity and has been for 18 years. Mr. Bryce asked if Morris Habitat for Humanity was interested in this project? Ms. Schleicher-Wilson replied, yes. Mr. Bryce asked Ms. Schleicher-Wilson generally what was the interest of Habitat for Humanity pertaining to this project? Ms. Schleicher-Wilson replied to build a single affordable housing unit. Mr. Bryce asked Ms. Schleicher-Wilson that in her opinion did this particular property provide an opportunity

to build such a home? Ms. Schleicher-Wilson replied, yes. Mr. Bryce asked Ms. Schleicher-Wilson if this property would in turn be sold? Ms. Schleicher-Wilson replied, yes. Mr. Bryce asked if it would be sold with certain affordability controls? Ms. Schleicher-Wilson replied, yes, Habitat for Humanity is a program where affordable homes are built and put up for sale in the greater Morris County area in addition to portions of Union, Somerset, and Middlesex County to meet their affordable housing obligation. Ms. Schleicher-Wilson went onto testify that this project will be a single-family home which is currently being built by the students at Roxbury High School where it will be transferred to the property. A family will be selected that will meet the income criteria, need, and the ability to maintain payment on a mortgage. Ms. Schleicher-Wilson stated that Habitat for Humanity is the mortgage holder, bank, builder, and community partner. Once the home is completed and on-site, Habitat for Humanity will then sell the home to the family who has been putting in at least 300 hours of sweat equity in lieu of a down payment. The home will be sold at an affordable price which will allow the family to pay only using about 30% of their income. Mr. Bryce asked if there would be affordability restrictions? Ms. Schleicher-Wilson replied, yes there would be a 30-year deed-restriction, although we do offer longer deed restrictions on our properties.

Dr. Kennedy asked what were the restrictions of the deed? Ms. Schleicher-Wilson replied, the 30-year deed restriction means within that timeframe, the family will only be able to sell the home to another income eligible household and that is done thru the administrative agent in the Township. Mr. Bryce noted the benefits of affordable housing go to the Township and Ms. Schleicher-Wilson concurred. Ms. Schleicher-Wilson went on to testify that the homes are built with energy star rated materials and appliances, in addition, green materials are used wherever possible, and training is provided to the family about homeownership and responsibilities associated with it, such as budget and credit counseling. Ms. Schleicher-Wilson further stated in the 37-year history of Habitat for Humanity there has never been a foreclosure on any of the 120 homes that Morris Habitat for Humanity has built.

Mr. Stern asked Ms. Schleicher-Wilson to mention Habitat for Humanity's most recent project in Roxbury. Ms. Schleicher-Wilson went on to state the project is located at 119-121 Main Street in Succasunna that was completed in 2020 which houses 12 families. In addition, Habitat has engaged the community in terms of landscapers, electricians, and other suppliers who so generously donated to the project, and they are donating to the project before the Board as well.

Ms. Dargel asked about the Mt. Laurel obligations associated with this property. Ms. Schleicher-Wilson replied, the home will count as one credit toward the Township's Mt. Laurel obligations.

Ms. Schleicher-Wilson stated that Habitat has had a contract with the Township pertaining to the Mansel Drive project since 2012.

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

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

Mr. Weiner swore in Douglas Wright, Chief Construction Officer for Morris Habitat for Humanity located at 274 South Salem Street, Randolph, NJ 07869. Mr. Wright went on to testify that he oversees the construction program for Morris Habitat for Humanity and has

been with the organization for over 14 years. Mr. Wright stated his role is to work with the professionals such as architects and engineers to design the project and develop budgets and oversee the project on the ground and in the field, or in this case is the interface with Roxbury High School to ensure that the project is to Habitat for Humanity standards. Mr. Bryce asked Mr. Wright if he could describe some of those standards. Mr. Wright replied, Habitat is required to meet all the standards that a market rate builders are required and are expected to exceed them, noting that Habitat is required to do so due to the COAH regulations and in order for the Township to receive the COAH credits the homes must be ADA adaptable and designed with a handicap ramps, green requirements, and energy star requirements where the proposed home will exceed those energy requirements by 30%. Additionally, we pledge to the government to meet indoor air quality standards as well as water savings through the EPA. Mr. Bryce asked Mr. Wright how many bedrooms will be in the home? Mr. Wright replied, three bedrooms and is a single-family home. Mr. Wright went on to testify about the unique opportunity of working with the Roxbury Township High School which is constructing the home at the school where students are learning about Construction and all the aspects involved. The house is being built in a modular fashion where it will be lifted in parts by a crane and the parts will be trucked out to the site where it will be assembled on the foundation by the high school students, the homeowner, and other Habitat volunteers which will complete the house on the site. The students are exposed to the all the trades by working with licensed plumbers, electricians, and other professionals where they may decide it may be a career path they would like to take in the future.

Mr. Wright explained this home was custom designed by an architect who was working with the high school and was specifically designed to fit in the neighborhood and onto the lot. The shape of the house was designed to match the shape of the lot and the size of the home was kept small. The zone requires a garage so to reduce the homes footprint the home design was worked into the grade of the property where the garage placed underneath the home in the basement. In addition, the architect worked with the grades to design the ADA access, noting the parking stall is in the upper portion of the property. It is a modest home in a neighborhood where it will blend in with the other homes and properties. Mr. Klein asked what program at the high school is working on building the home and is it new? Mr. Wright replied, yes, it is called the Design and Fabrication program and Habitat expects to have an on-going relationship with the high school for future projects.

Ms. Dargel remarked that there were several variances being sought. Mr. Wright stated they are due mostly to the undersized lot, but he feels this is a modest home of approximately 1200 sq. ft and it fits nicely on the lot.

Dr. Kennedy stated he would assume that the design of this home was such that the minimal number of variances would be required. Mr. Wright replied, yes, the laundry room which can double as a mud room was placed in the basement and the garage was placed underneath the home to help minimize the footprint. Originally this project was contracted to be a duplex and when trying to come up with a design it became extremely difficult and after speaking with the Township housing liaison there then became an agreement to construct a single-family home to minimize the impact and amount of variances.

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

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

Motion was made to close to the public

Mr. Wiener swore in Mr. Alfred Stewart, Professional Engineer and Land Surveyor of Stewart Surveying and Engineering, LLC located at 459 Route 46, Kenvil, NJ 07850. Mr. Stewart stated he has been before the Roxbury Township Board many times and received his certificate in surveying from the County College of Morris in 1986, received his professional surveyors license from the State of New Jersey, received a BS in Engineering from NJIT in 1996, and engineering license from the State of New Jersey in 1999. Mr. Stewart was accepted as a qualified expert and professional Engineer.

Mr. Stewart asked the Board to look at sheet 1 of the plans he designed dated December 17, 2021, depicting existing conditions, noting the lot is 50 feet wide and 150 feet long cornering on Mansel Drive and Edith Road where the long stem is located along Edith Road. The lot is 7,478 sq. ft. which does not meet zoning regulations where 15,000 sq. ft. is required. Noting the lot is less than half the size of what is required. The setback requirements are 35 feet, but the lot is only 50 feet wide which would eliminate any building on the property. The property utilizes public sewer and water. The property will use existing drainage along both Edith Road and Mansel Drive, noting there are numerous inlets along the roadway. The topography of the property is uphill from Mansel Drive to Edith Road where it gently slopes to where the home is going to be placed then it jumps up in grade to a small plateau near the front area and again jumps up on the easterly portion of the property. There are varying slopes on the property. This property is still comparable in size noting the property across the street is approximately 75 wide and this is a common size for properties in the area.

Mr. Stewart went on to sheet 2 which depicted the slopes on the property showing how the design can work with the grade where there will be a proposed driveway on the Mansel Drive side going into a one-car garage at basement level which allows for a comfortable slope from Mansel Drive into the driveway. The driveway allows for two parking stalls against the home where the garage is on the left-hand side and there will be parking on the right-hand side. The home is placed 48 feet back from Mansel Drive making it even with the home to the north and able to produce two parking stalls and allow for site distance coming off Edith Road onto Mansel Drive. The parking stalls allow for 20 feet and allows at least 28 feet from the right of way and in addition, the driveway is located away from the intersection over towards the north side of the lot which allows sight distance availability as you come down Edith Road approaching Mansel Drive. We are providing a second parking area located off Edith Road for accessibility, noting the home must provide ADA accessibility on the first floor. There will be a raised walkway for ADA accessibility, the walkway will be raised following the grade of the property. For ADA parking, a certain grade must be maintained, which is a 2% slope.

Ms. Dargel asked why not go from the driveway to the front door. Mr. Stewart responded because the grade drops coming down towards Mansel Drive, in addition to try and keep and aesthetically pleasing front door entrance.

Mr. Stewart continued his testimony and discussed the catch basin on Mansel Drive which is located at the low point of the roadway at 1042.1 and the highest point is at 1052 making it about a 10-foot difference. The sight triangle will work very well with property and leaving the last 30 feet undisturbed, noting the buffer of trees in the area will be undisturbed. The applicant is proposing 3 shade trees in the front of the property, 5 cypresses along the driveway, and a foundation screening which will be reviewed by Mr. Stern.

Mr. Stewart went on to testify regarding the drainage on the property, there are 2 drywells being proposed on either side of the driveway and roof leaders from the home will be diverted in those drywells and any overflow from the drywells will go directly into the catch basin with an underground pipe.

Mr. Bryce asked if there were any lighting being proposed. Mr. Stewart replied, just traditional residential light fixtures. Mr. Stewart said upon speaking to Mr. Wright, typical coach light fixtures are being used near the doorways and garage.

Mr. Stewart went on to address the variances being sought for slopes. See slope disturbance table for an outline on what is being disturbed. Mr. Stewart stated that the lot was obtained for utility purposed for Roxbury Township while do a sewer project in the area and the Township was looking into placing a pump house on the site. The spot was used for staging during the project in the early 1990's.

Ms. Dargel asked about the slopes and how they matched with neighboring properties. Mr. Stewart stated the slopes were soil and there was an eight-foot difference.

Mr. Stern addressed Ms. Dargel's concerns and read the the steep slope ordinance criteria, stating that steep slope applications are not often heard before the Board of Adjustment and mainly heard before the Planning Board.

Mr. Stern asked Mr. Stewart if he felt there would be any impacts while excavating. Mr. Stewart replied minimum and stated that all soil erosion and control standards and would be obtaining a certification from the Morris County Soil Conservation District.

Mr. Stern asked Mr. Stewart if he felt there would be any issues with flooding or surface water run-off. Mr. Stewart replied no issues with flooding and surface run-off will be taken care of by re-grading the area around the home and redirecting the runoff towards Mansel Drive.

Mr. Stern asked about any pollution from the potable water supplies. Mr. Stewart replied none.

Mr. Bryce addressed the front yard and rear yard setbacks stating compliance would render the property unbuildable. The lot coverage is 32.2% where 25% is permitted. But we do agree that is a function of the lot size. Mr. Stewart concurred. Mr. Bruce went on to explain where the proposed building coverage is 16.1% where 15% is permitted. Mr. Stewart explained that the home is scaled down and built into the contours to the existing slope patterns. Mr. Bryce stated you are using the slope pattern for the benefit of the development so the homeowner can have a garage.

Ms. Dargel commented that she felt the lot was too small to build a home. Mr. Bryce and Mr. Wiener stated that testimony from the Planner needed to be heard before any determinations can be made.

Mr. Overman asked if there was anything particularly unique to this lot as it pertains to slopes and building coverage. Mr. Stewart replied it is very similar to the whole area. Mr. Overman stated so a house built on the lot can be done, as it has been done throughout the whole development.

Ms. Robortaccio attested that the whole area has lots with almost the same situation as this lot, but at the time they were built, they were not isolated out as this lot currently is.

Ms. Robertaccio stated to build something on this property would not be out of character or stand out like a sore thumb.

Mr. Wiener swore in Ms. Jessica Caldwell of 145 Spring Street, Newton, NJ. Ms. Caldwell went on to state that she has a master's degree in urban and regional planning from Portland State University, Bachelor's Degree in Planning and Public Policy Management from the University of Oregon, Licensed Professional Planner in the State of New Jersey, and has been accepted as a Professional Planner in over 200 Boards.

Ms. Caldwell went on to state the property is located in the R-3 Single Family Residential District at a 15,000 sq. ft. minimum lot size and we are dealing with a lot that is less than half of that lot area, noting that is the key driving factor for most of the variances. Some of the variances are driven by the need to provide ADA accessibility to the building and the fact that the property is located on a corner lot. Steep slopes on the lot are man made slopes due to the fact the area has been disturbed in the past. There are 11 lots within 200 feet of the property that are just under 10% larger or smaller than the subject property, so not only is it common for this area to have an undersized lot but also all the lots are developed. Ms. Caldwell encourage the Board to keep in mind the overall look of the project and the result, one thing to remember that this is an affordable unit and is inherently a beneficial use. It promotes Purpose A of municipal land use law by promoting the general welfare. Mr. Caldwell went on to testify that there has been a lot of effort made to minimize the variances required and that this a modest home where it is not creating a hardship by putting a large home on a small lot.

Dr. Kennedy asked Ms. Caldwell if the proposed home is typical to the surrounding area. Ms. Caldwell replied, yes.

Ms. Dargel asked Ms. Caldwell to address the inherently beneficial clause from the standpoint of COAH. Ms. Caldwell replied that an inherently beneficial use is a use that is deemed by municipal land use law to inherently serve the public good and that is deemed through case law that 100% affordable housing serves the public good.

Mr. Stern stated that this home is not an overdevelopment of this site and as stated in prior expert testimony is a good use of this topography to now be able to have a garage which is required by ordinance and then add in the ADA accessibility. When looking at the purposes of the ordinance the plan has mitigated the concerns fairly. Mr. Stern stated he felt this is a good way to provide affordable housing because it is for sale affordable housing and in the Township housing plan to disperse affordable housing throughout Roxbury and not just jamming it up in one area in the Township while trying to limit densities where we can and we are trying get a mixture of affordable housing through ownership, rentals, inclusionary housing, 100% affordable housing rental and for sale. Mr. Stern stated he believed it was a good project and planning alternative to the original proposal which was a duplex which would have required a larger dwelling size and would have required greater parking areas.

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

Mr. Overman stated he wasn't thrilled with the application at first due the fact it had 10 different variances, but he did some quick calculations and if you took the one strip between Dinah Road and Davesel Road of 38 different lots and you try to make that a conforming lot, you would have to make that 18 lots, so there are 20 more lots stuffed into this space than our ordinance allows, so an undersized lot is pretty meaningless in that

area because everything up there is an undersized lot. So, while this property is not unique, what is unique is that they did not try and overdo it.

Ms. Dargel was not happy with the project because she felt it was an unbuildable lot, but after listening to the testimony stated that the home was inherently good and liked the idea of an affordable house and that the size of the home fits well in the area.

Ms. Robortaccio stated she believed this was a great project and that we must remember when the Shore Hills area was first developed before there were a lot of zoning laws and most of the properties are undersized lots, so building on that lot is not out of character.

Dr. Kennedy made a motion to approve the application, Ms. Robortaccio seconded.  
*Roll call:* Dr. Kennedy, yes; Ms. Robortaccio, yes; Ms. Dawson, yes; Mr. Klein, yes; Mr. Overman, yes; Ms. Dargel, yes; Mr. Furey, yes.

**ZBA-21-033 SEMINARA**, Bulk Variance for property located at 44 Mooney Road, Ledgeswood, Block 9103, Lot 5 in a R-1 zone.

Mr. Wiener swore in Mr. Vincent Seminara of 9 Justine Place, Succasunna, and Mr. Michael Seminara of 44 Mooney Road, Ledgeswood. Mr. M. Seminara stated he would like to build an addition on his home that includes a master bedroom, bathroom, and playroom for their 6-month-old child and any future children to come. Mr. Wiener asked Mr. M. Seminara if he is seeking a set-back variance. Mr. M. Seminara replied, yes. Dr. Kennedy asked if there was a reason that the proposed additional was not flush with the front the home. Mr. M. Seminara replied, the proposed playroom would be very narrow if that were the case due to the fact there is only one window in the kitchen and if the proposed playroom was moved back to become flush with the house it would cover the kitchen window. Mr. Overman asked Mr. M. Seminara if he could possibly create a kitchen window elsewhere in the kitchen. Mr. M. Seminara replied that he has custom kitchen cabinetry and to move the window would be costly. Mr. M. Seminara stated in addition he has a drainage system in the area and the pipe is located just a short distance beyond the kitchen window. Ms. Dargel asked Mr. M. Seminara if he has public sewer and water. Mr. M. Seminara replied no, septic and well. Mr. Overman asked what was above the kitchen. Mr. M. Seminara replied, the attic. Mr. Stern asked how old the home was. Mr. M. Seminara replied it was built in 1957. Mr. Stern asked Mr. M. Seminara if he would be providing landscaping along the front of the addition. Mr. M. Seminara replied yes, he would continue the landscaping as it previously exists now. Mr. V. Seminara went on to state that when the addition is built the siding and roofing will be replaced on the whole house to maintain uniformity.

Mr. Overman stated he is having a hard time deciding on whether to grant the variance due to the fact he had no photos depicting the hardship of not wanting to relocate the kitchen window due to the fact there is custom cabinetry. Mr. Overman asked Mr. M. Seminara if the reason he is proposing the addition be placed in the specific location is due to the fact it will cause the least disturbance to surrounding structures. Mr. M. Seminara replied, yes.

The Board suggested the Seminaras come back to the next meeting with photos of the kitchen and the property to provide a better picture of the existing conditions of the home and revised architecture plans. The Seminaras concurred and requested to be carried to the February 14, 2022 meeting.

**ZBA-21-034 RUNYON**, Bulk Variance for property located at 31 Justine Place, Succasunna, Block 1608, Lot 2 in a R-3 zone.

Mr. Wiener swore in Mr. John Runyon of 31 Justine Place, Succasunna, NJ 07876. Mr. Runyon went on to testify that he would like to build a garage on his property, and he will be removing two sheds currently on the property and use the newly proposed garage for storage. Mr. Stern noted that there were currently three sheds on the property and with the proposed garage space would the third shed be needed. Mr. Runyon replied yes, for miscellaneous items. Mr. Stern asked Mr. Runyon what his intentions were for the driveway as the survey depicts no connection of the paved driveway to the garage. Mr. Runyon replied he would be installing pavers in front of the garage door that will connect to the driveway. Mr. Stern stated that it appears the driveway does not line up with the garage doorway. Mr. Runyon concurred and stated the garage is shifted a bit to the right. Mr. Stern stated the reason he mentioned it is because the additional pavers will increase the impervious coverage on the property. Mr. Stern went on to state that Mr. Runyon was very close to the allowable 25% impervious coverage rate. Dr. Kennedy asked Mr. Runyon what was the size of the shed that will remain on the property and did it meet the required setbacks. Mr. Overman observed the shed to be larger than allowable 50% maximum size of the principal dwelling and that the shed did not meet the required setbacks, noting that an additional two variances would be required.

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

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

Ms. Robortaccio made a motion to approve the application, Ms. Dargel seconded.  
*Roll call:* Ms. Robortaccio, yes; Ms. Dargel, yes; Ms. Dawson, yes; Mr. Overman, yes;  
Mr. Klein, yes; Mr. Furey, yes; Dr. Kennedy, yes.

**ZBA-21-29 MARTINELLI**, Use Variance and Bulk Variance relief for property located at 32 Mapledale Avenue, Kenvil, Block 3709, Lot 7 in a R-3 zone. *Council for Mr. Martinelli stepped forward at the 12-13-21 meeting to request to be carried to the February 14<sup>th</sup>, 2022 meeting with no further notification.*

**ZBA-20-004 SPEICHER**, Minor Subdivision, “D2” Variance for property located at 280 Old Ledgewood Road, Flanders, Block 9303, Lot 1, 3 & 4 in a B1-A zone.  
*Request to be carried to the February 14<sup>th</sup>, 2022 meeting, further notification is required.*

**ZBA-21-007 HOPATCONG DD, LLC**, Use Variance and Preliminary Major Site Plan for property located at 136 Lakeside Blvd, Landing, Block 11001, Lot 5 in a B-1 zone.  
*Request to be carried to the February 14<sup>th</sup>, 2022 meeting with no further notification.*

NEW BUSINESS:  
OLD BUSINESS:  
Motion to adjourn at 8:32 pm

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF ROXBURY  
*Tracy Osetec, Board Secretary*  
*January 10, 2022*