

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, February 14, 2022, at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ after a salute to the flag Dr. Kennedy, Chairman read the “Open Public Meetings Act”

BOARD MEMBERS PRESENT

Ms. Dawson, Mr. Overman, Mr. Klein, Mr. D’Amato, Ms. Robortaccio, Mr. Furey, Ms. Dargel, Dr. Kennedy.

ABSENT: None

PROFESSIONAL STAFF

Ms. Alyse Hubbard, Esq.
Mr. Mark Kataryniak, P.E., Ferriero Engineering
Mr. Russell Stern, P.P.

MINUTES OF JANUARY 10, 2022

Ms. Robortaccio made a motion to approve the minutes of the January 10, 2022, 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.

RESOLUTIONS:

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. Klein made a motion to approve this resolution with all the stipulations on record, Ms. Robortaccio seconded.

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

In the matter of Township of Roxbury
Case No. ZBA-21-039

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

Approved: January 10, 2022
Memorialized: February 14, 2022

WHEREAS, Township of Roxbury has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring bulk variance relief for premises located at 532 Mansel Drive and known as Block 11802, Lot 1 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Section 13-7.1301D1, 13-7.1301D2(b), 13-7.1301D3(c), 13-7.1301D4, 13-7.1301D5(a), 13-7.1301D8, 13-7.818G2 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. James Bryce, Esquire represented the Applicant.
2. The Applicant is the Township of Roxbury, who owns the property, but is under contract to sell the property to Habitat for Humanity.
3. The Applicant is proposing to construct a single-family home to be qualified for low/moderate income housing, consistent with the Township’s Housing Element and Fair Share Plan. The home will be constructed by students at Roxbury High School and relocated to the subject property.
4. Applicant submitted the following documents:
 - a. Site Plan prepared by Alfred A. Stewart, Jr., dated 12/17/21 consisting of eight (8) pages.
 - b. Architectural Plans prepared by Babula, Architecture, dated 12/10/21 consisting of eight (8) pages.
5. The Board received a memorandum from Tom Potere, Zoning Officer, dated 12/21/21. Mr. Potere noted the following variances the Applicant needs:

<i>Section</i>	<i>Permitted</i>	<i>Existing</i>	<i>Proposed</i>
§ 13-7.1301D1	Minimum lot area: fifteen thousand (15,000) sq. feet.	7,478 Sq. Ft.	7,478 Sq. Ft.
§ 13-7.1301D2(b)	Minimum lot width at setback: Corner lots: one hundred twenty (120) feet on both streets.	50 ft.	50 ft. (Mansel Dr.)
§ 13-7.1301D3(c)	Minimum lot frontage: Corner lots: one hundred twenty (120) feet on both streets.	40 ft.	40 ft. (Mansel Dr.)
§ 13-7.1301D4	Minimum front yard setback: thirty-five (35) feet, except that when the existing buildings on the same side of the street within two hundred (200) feet form an established line, provided no new building may project closer than twenty-five (25) feet to the front property line. The location of the principal structure buildings shall be compatible with the established character of the surrounding area.	N/A	15.67 ft. (House) 10.67 ft. (Front Covered Porch)
§ 13-7.1301D5(a)	Minimum rear yard setback: Principal building: thirty-five (35) feet.	N/A	8 ft. (House) 3 ft. (Rear Deck)
§ 13-7.1301D8	Maximum impervious coverage: twenty-five (25%) percent of lot area	N/A	32.3%
§ 13-7.1301D8	Maximum building coverage: fifteen (15%) of lot area	N/A	16.1%

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§ 13-7.818G2	Regulations for Development within Steep Slope Areas. Steep Slope Category 15-19.99% Maximum Disturbance 35%	N/A	93.6% Disturbed
§ 13-7.818G2	Regulations for Development within Steep Slope Areas. Steep Slope Category 20-24.99% Maximum Disturbance 35%	N/A	77.7% Disturbed
§ 13-7.818G2	Regulations for Development within Steep Slope Areas. Steep Slope Category 25%+ & ridgelines Maximum Disturbance 3%	N/A	50% Disturbed

6. A duly noticed public hearing was held on January 10, 2022, at which time Blair Wilson, the CEO of Morris Habitat for Humanity (“MHH”), Douglas Wright, the Construction Manager for Habitat for Humanity, Alfred Stewart, P.E., P.L.S, the project engineer, and Jessica Caldwell, P.P., the project planner, presented sworn testimony and were accepted as experts in their respective fields.
7. The subject property is bisected by the municipal boundary with the Borough of Mt. Arlington, with consideration from the Borough, that Board review is not required, but their review conditions will be included in a subject approval.
8. Ms. Wilson testified that MHH is the contract purchaser of the subject property with the intent to build a single-family affordable housing unit, noting that the proposed structure is consistent with other homes that were developed by MHH. The subject property will be sold with affordable housing controls to help the municipality meet its affordable housing obligation. Roxbury High School students are building the home, to be transported to the property, finished on site, and sold to an income qualified family. MHH is also the lender in the transaction that works with the family. The family assists in the on-site construction of the home in lieu of a down payment. There will be a thirty-year deed restriction, limiting the sale of the home to income qualified purchasers. The families are taught about home ownership, from budgeting to all aspects of the construction of the home.
9. MMH has built 120 homes in the greater Morris Area since 1985, without a foreclosure. Most recently, in 2020, MMH constructed a twelve-family structure on Main Street in Succasunna. The local contractors and suppliers donate time and materials to the MMH projects.

10. Mr. Wright oversees the construction of the projects in the field. He testified that the home is being constructed to exceed State regulations. The home will be ADA (“Americans with Disabilities Act”) adaptable, with a ramp. The home will exceed the Energy Star 3.1 requirement by 30% and will be Energy Star Net Zero Ready. The home will meet Federal regulations for indoor air quality standards and water savings through the EPA (“Environmental Protection Agency”).
11. The home is a single-family, three-bedroom home. MMH partnered with Roxbury High School (“RHS”) and in particular, the design and fabrication program that is teaching the students all aspects of constructing the home. The home is being built in a modular fashion, to be lifted by crane and trucked to the site to be finished on the foundation by the RHS students, the homeowners and MHH volunteers. The students are learning trades by working with licensed plumbers and electricians. MHH plans to work RHS for similar future projects.
12. The home was custom designed by an architect, that worked with RHS to be a modest, safe, decent, and affordable home for MHH. The house was designed to meet the shape of the lot and be consistent with the design of the neighborhood. The home was constructed with a garage, as required by the Township, in the basement to reduce the footprint and meet the grade of the property. An ADA space is located on the upper portion of the property for access to the ramp and the home. The witness testified that most of the variances are related to the undersized nature of the lot. The location of the utility room and the parking in the basement of the home was designed to reduce the size of the home and minimize the footprint.
13. Mr. Stewart, referring to the submitted site plan, testified that the subject property is 50 feet wide by 150 feet deep, on the corner of Mansel Drive in Landing and Edith Road in Roxbury, with the longest frontage on Edith Road. The property is 7,478 square feet, where 15,000 square feet is required in the zone. The front and rear yard setback requirements in the zone are 35 feet, which eliminates a building envelope on the property. The lot is similar in size to other lots in the area, which are developed, prohibiting the Applicant from purchasing additional property to enlarge the subject lot.

14. The home will be connected to the public water and sewer systems. There are drainage inlets along Mansel Drive and Edith Road. There are varying slopes on the property requiring relief from the steep slope ordinance. There will be a driveway from Mansel Drive into the home, with two parking stalls in the driveway and a one-car garage. The house is setback 48 feet from Mansel Drive and on the northern side of the property to provide for the off-street parking and adequate sight distance at the intersection of the two roads. A parking area is proposed on Edith Road to provide first floor access per the ADA requirements. The parking area connects to a concrete walkway, then an elevated wood walkway that leads to the deck in the rear of the property for access to the first floor. The walkway is elevated to work with the nine-foot change of grade of the property.
15. The south-western side of the property will be undisturbed, with the trees providing a vegetated buffer. Three shade trees are proposed along the front of the property and five cypresses along the property line next to the driveway. Additional foundation landscaping will be based upon donations and subject to review of the Township Planner. Residential light fixtures are proposed near the doorways and garage door.
16. The roof leaders will tie into the two drywells that are proposed on the southern side of the driveway, which is the lower portion of the property. Overflow from the drywells will be piped into a catch basin.
17. The home is compliant with regard to front yard setback to Mansel Drive, but 15.67 feet from Edith Drive and 8 feet from the northern property line, requiring variance relief as a result of the 50 foot depth of the lot. Additionally, lot area, lot width and lot frontage are existing, non-conforming conditions on the property. The constructed home will result in excess impervious coverage of 32.3%, where 25% is permitted and excess building coverage of 16.1%, where 15% is permitted. The coverage variances are a function of the undersized lot, and the home was designed to reduce the building footprint to minimize the coverage.
18. Referring to Sheet 3 of the submitted site plan, Mr. Stewart testified to the variance required from the Township's steep slopes ordinance. A majority of the steep slopes disturbance is related to the construction of the home and the driveway. The slopes will be

regraded to direct runoff away from the home. As set forth in the Slopes Disturbance Table:

<u>Range</u>	<u>Area</u>	<u>Disturbed Area</u>	<u>Percent Allowed</u>	<u>Percent Disturbed</u>
0-14.99%	4,664.82 sf	4,383.3 sf	100%	94.0%
15-19.99%	1,060.61 sf	992.7 sf	35%	93.6%
20-24.99%	592.58 sf	460.2 sf	15%	77.7%
25% +	1,160.53 sf	579.8 sf	3%	50.0%

Any development on the property would disturb the steep slopes. The home is nominal in size, only 26' x 44', with an approximate 1200 sf footprint, which is modest by today's standards. The design works with the property, avoiding the steep slopes on the southeastern side of the property. There was no exposed ledge rock on the site that created the slopes. Mr. Stewart opined that the slopes were manmade, possibly from some fill from the municipal use of the property in the past and/or the construction of the adjoining property.

19. Mr. Stewart was able to provide a history of the property, testifying that the property was purchased in connection with a utility installation project in the 1990s. The lot was used for the staging of the construction with the possibility of constructing a pump house on the property.
20. Providing an explanation for the steep slope ordinance in the Township, Russell Stern, the Board's Planner, questioned Mr. Stewart regarding the measures taken to mitigate the impact of the slope disturbance on the site. The proposal will include complying with the Soil Erosion and Sediment Control Standards of the Morris County Soil Conservation District. There will be no flooding on the site nor pollution of potable water supplies. The property will be regraded to direct the surface runoff toward Mansel Drive and Edith Road. The roof leaders will be directed into the drywells and the overflow into the catch basin. Mr. Stewart further opined that the site was not a unique natural landform, rather a remainder lot from the subdivision, the development of which will be beneficial to the neighborhood and reduce the existing runoff on the site. The subject property is consistent with the size and slope of the other lots in area.

21. Ms. Caldwell providing the planning justification for the relief sought by the Applicant, noting that the subject property is located in a single-family district, so the proposed use is contemplated by the zone. The fact that the lot area is less than half of the minimum lot area in the zone is the driving factor behind most of the variance relief required for the development. Ms. Caldwell opined that the variances stem from both the hardship and are a better planning alternative. The subject property is a corner lot, with two front yards, that creates a setback issue. The steep slopes are manmade, the land was previously disturbed and the purposes of the steep slopes ordinance are not being impacted by the development. There are eleven lots within 200 feet that are with 10% of the size of the subject property, noting that the size of the lot is typical and are developed.
22. Relief is being sought pursuant to N.J.S.A. 40:55D-70C for the following variance relief:
- a. Undersized Lot Area – existing non-conforming corner lot, all adjacent lots are developed, lot area cannot be changed
 - b. Substandard Lot Width – existing non-conforming lot width, cannot be changed
 - c. Substandard Lot Frontage - existing non-conforming lot frontage, cannot be changed
 - d. Substandard Front Yard Setback (Edith Road) – corner lot with two front yards, compliance results in no building envelope
 - e. Substandard Rear Yard Setback – corner lot with extra-large side yard, configuration of the home on the lot
 - f. Exceeding Maximum Impervious Coverage – the subject lot size is half of the minimum lot size in the zone and the proposed development only exceeds the impervious coverage by 10%
 - g. Exceeding Maximum Building Coverage – *de minimis* variance for a modest residence with a small building footprint and a basement level one car garage
 - h. Steep Slopes Disturbance – the calculation is based on percentage of the lot, if lot size were conforming, there would be less steep slopes disturbance
23. Ms. Caldwell testified that the hardship criteria is met, pursuant to N.J.S.A. 40:55D-70(C)(1) due to the size, shape and undersized nature of the lot supports the positive

criteria. The proposed dwelling is a modest residence; the Applicant is not proposing a large residence on a small lot and creating the hardship. The witness testified with respect to criteria for relief pursuant to N.J.S.A. 40:55D-70(C)(2), to promote purposes of the Municipal Land Use Law (“MLUL”). The proposed use is a single-family affordable housing unit, which has been deemed to be an inherently beneficial use by the New Jersey Courts and thereby, meets Purpose A of the MLUL, by promoting the public good and general welfare. The proposal also meets Purpose E, to guide municipal development to provide appropriate population densities to contribute to the well-being of persons and neighborhoods with a development of a single-family home in the R-3 zone. Purpose G is met by providing sufficient space for a variety of uses to meet the needs of residents by providing an affordable housing unit, as envisioned by the 2005 Master Plan and the Housing Element and Fair Share Plan. Purpose I is also met, to promote a desirable visual environment with a well-designed structure. The efficient use of land, as stated in purpose M, will be met by reducing the size of the structure to fit on the subject undersized lot.

24. The negative criteria is met by improving the current conditions on the site by providing stormwater management measures in connection with a single-family residence that will fit in with the existing neighborhood. The proposed construction will improve the visual appeal of the neighborhood. The proposal will not impair the purpose of the steep slopes ordinance. Any development will result in variance relief and will disturb the existing steep slopes. The building is located where there is a minimum amount of excessive steep slopes. The other variance relief sought is in connection with the size and shape of the existing lot. The existing conditions on the site cannot be changed and the property cannot be developed without variance relief, rendering the property inutile.
25. Ultimately, the witness opined that the proposal of a modest single-family home is a better planning alternative than reducing the size of the structure to reduce the variance relief. The coverage relief is mitigated by the stormwater management on site and some of the coverage stems from the need to meet the ADA access requirements on site.
26. No one from the public was present at the hearing.

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

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. § 13-7.1301D1 - Minimum lot area: 15,000 square feet required, 7,478 Sq. Ft. existing and approved.
 - b. § 13-7.1301D2(b) - Minimum lot width at setback: 120 feet required from both street, 50 feet existing and approved for Mansel Drive
 - c. § 13-7.1301D3(c) – Minimum lot frontage: 120 feet required, 40 feet existing and approved on Mansel Drive
 - d. § 13-7.1301D4 - Minimum front yard setback: 35 feet required, 15.67 ft. (House),10.67 ft. (Front Covered Porch) approved
 - e. § 13-7.1301D5(a) – Minimum Rear Yard Setback: 35 feet required, 8 feet (house) and 3 feet (rear deck) approved
 - f. § 13-7.1301D8 – Maximum Impervious Coverage: 25% permitted, 32.3% approved
 - g. § 13-7.1301D8 – Maximum Building Coverage: 15% permitted, 16.1% approved
 - h. § 13-7.818G2 - Regulations for Development within Steep Slope Areas. Steep Slope Category 15-19.99%, Maximum Disturbance 35% allowed, 93.6% disturbance permitted
 - i. § 13-7.818G2 - Regulations for Development within Steep Slope Areas. Steep Slope Category 20-24.99%, Maximum Disturbance 15% allowed, 77.7% disturbance permitted
 - j. § 13-7.818G2 - Regulations for Development within Steep Slope Areas. Steep Slope Category 25%+, Maximum Disturbance 3% allowed, 50% disturbance permitted
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness,

shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

3. The proposed development is an inherently beneficial use, which is a good option for affordable housing in the Township. The Township is in need of “for sale” affordable units that are distributed throughout the community. The Applicant and the professionals worked diligently to present a good plan for the property and for affordable housing on this lot with the required ADA access and Green Construction. The project is improved by incorporating the RHS program for the construction of the home. The proposed home is not an overdevelopment of the lot and will be good for the community, as it is consistent with the other developed undersized lots in the surrounding area.
4. The proposed development is a good use of the topography, by designing the house with the required garage in the basement that results in the reduction of the building footprint. The parking demand will be handled on site, as on street parking is an issue in the neighborhood. The development will include stormwater management, street trees and foundation landscaping that will improve the existing conditions and visual appeal of the home.
5. Accordingly, the benefits of the construction of the single-family home outweigh the detriments that may result from denying the requested relief deeming the lot inutile. The Board determined that there would be little impact to the surrounding area and the development is consistent with the neighborhood and will be a reduction in the stormwater runoff. Finally, the Board determined that the relief can be granted without substantially impairing the zoning scheme or Master Plan, as testified to by the Applicant’s Planner.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 10th day of January 2022 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 obtain a review of the application or a letter of No Interest from the Borough of Mount Arlington.
3. The final landscaping design is subject to the review and approval the Township Planner.
4. Applicant shall obtain a Certification from the Morris County Soil Conservation District for the Soil Erosion and Sediment Control.
5. The plans shall be updated to reflect the top and bottom of wall grades, as requested by Tom Potere, the Zoning Officer.
6. If needed, a decorative safety fence will be provided along the wall, subject to review by the Township Planner.
7. Applicant shall work with the Township Professionals to address any concerns that arise during construction.

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

Ms. Dargel made a motion to approve this resolution with all the stipulations on record, Mr. Klein seconded.

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

In the matter of John Runyon
Case No. ZBA-21-034

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

Approved: January 10, 2022
Memorialized: February 14, 2022

WHEREAS, John Runyon has applied to the Board of Adjustment, Township of Roxbury for permission to construct a garage requiring variance relief for premises located at 31 Justine Place and known as Block 1608, Lot 2 on the Tax Map of the Township of Roxbury which premises are in a “R-3” Zone; said proposal required relief from Sections 13-7.905A, 13-7.1301D8, 13-7.905A, 13-7.1301D6B of the Roxbury Township Land Use Ordinance; and

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

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Board of Adjustment
February 14, 2022

1. The Applicant is the owner and occupant of the subject premises.
2. The Applicant is proposing to construct an 18'x28' detached garage requiring variance relief.
3. Applicant submitted the following documents:
 - a. Elevation and Floor Plan prepared by Gates Architectural, Design, Inc., dated 4/29/21 consisting of one (1) sheet.
 - b. Survey prepared by David P. Aguanno, dated 6/1/21.
4. Applicants received a letter of denial dated 10/15/21 from Tom Potere, the Zoning Officer.

As noted by Mr. Potere, the Applicants need the following relief:

<i>Section</i>	<i>Permitted</i>	<i>Existing</i>	<i>Proposed</i>
§ 13-7.905A Accessory Building or Structure Setback.	In all residential districts, accessory buildings or structures shall be set back a minimum of ten (10) feet from a principal dwelling.	N/A	8 Feet
§ 13-7.1301D8	Maximum building coverage: fifteen (15%) of lot area	11.076%	16.25%

5. A duly noticed public hearing was held on January 10, 2022, at which time John Runyon presented sworn testimony in support of the application. The subject property is a 75'x130' rectangular lot containing a one-story frame structure, with a wood deck in the rear, a driveway and paver walkway to the front door. There is currently a concrete patio to the southern side of the home in the back yard. The Applicant is proposing to construct an 18'x28' detached garage in which a vehicle will be parking, along with storage of outdoor equipment, including a generator and snowblower. A second story of the garage is proposed second story for additional storage for holiday decorations and other storage, as the basement is finished and not used for storage. The detached garage will be 12 feet from the home and 8 feet from the attached deck.
6. The proposal includes the removal of the patio, which is where the proposed detached garage will be located. There are two existing sheds on the property, the one near the garage will be removed, but the shed in the rear corner of the property will remain. The

existing driveway will be connected to the garage the same pavers that are utilized for the walkways. The bay door will be facing the street, with a man door on the left side.

7. The pavers will increase the impervious coverage on the property, however, based on the calculations of the zoning officer, it will not exceed the impervious coverage permitted in the zone. The rear of the subject property is adjacent to the MUA property and the Black River Preserve; all runoff drains to the rear of the property that follows the slope of the property.
8. The existing shed, in the rear of the property, exceeds the permitted size of the accessory structure, which is 50% of the building footprint of the principal structure, as well as the rear and side yard setback requirements. The existing home is 960 square feet, and the shed is 504 square feet. The shed provides additional storage for the homeowner.
9. No one from the public was in attendance at the hearing.

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

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the following Sections of the municipal zoning ordinance:
 - a. Section 13-7.905A – the accessory structure shall be 10 feet from the principal dwelling, the proposed garage is approved with an 8 foot setback to the principal dwelling
 - b. Section 13-7.1301D8 – maximum building coverage shall not exceed 15% of the lot area, the proposed garage is approved with the building coverage of 16.25%
 - c. Section 13-7.905A – the accessory structure shall not exceed 50% of the building footprint of the principal dwelling, the existing shed is approved at 504 square feet, in excess of the permitted size

- d. Section 13.7-1301D6B – accessory structures shall be set back 5 feet from the rear and side yards, the existing shed is approved with less than a 5 foot side and rear yard setback
2. N.J.S.A. 40:55D-70C(1) indicates that a variance may be granted under its “hardship” provisions, with the hardship being related to the exceptional narrowness, shallowness, shape of the property, unusual topographic conditions or by reason of the location of the existing structures on the property. Under the c(2) subsection, variance relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.
3. The subject lot is fully developed with a modest home, of approximately 900 square feet, that does not have a garage, which is now required in the Township. The proposed garage will provide the necessary storage for the homeowner that does not currently exist on the property, along with additional vehicular parking. The building coverage will be mitigated by the removal of one of the sheds, the patio and the use of pavers on the property. The setback between the garage and the home is a result of the conditions on the site and constructing the garage further into the yard will create additional impervious coverage.
4. Accordingly, the benefits of permitted the detached garage outweigh the detriments that may result from denying the requested relief. The result will be an improved condition for the homeowner and an improved aesthetic appearance of the property that is consistent with the other residential homes. Therefore, it was determined that there would be little impact to the surrounding area and the relief can be granted without substantially impairing the zoning scheme or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 10th day of January 2022 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The subject property shall not exceed the permitted 25% of impervious coverage.

3. The garage shall not be closer than 8 feet to the principal structure.
4. The Applicant shall update the survey to reflect the pavers between the driveway and garage and obtain the necessary construction and zoning permits from the appropriate Township Departments.
5. The detached garage shall be constructed consistent with the plans submitted to the Board and representation made at the public hearing.

EXTENSION:

ZBA-18-009 GRACE BAPTIST CHURCH, Preliminary Major Site Plan for property located at 1500 Route 46, Ledgewood, Block 9302, Lot 2 in a B-2 zone. (*Request for a one-year extension*)

Mr. Chris Colabella, Esq. stepped forward to represent Grace Baptist Church regarding an approval received on January 14, 2019, and resolution memorialization on March 11, 2019. Mr. Colabella explained that immediately after receiving approval, Grace Baptist Church submitted an application to the DOT where there has been a delayed response due to Covid. Mr. Colabella stated that his applicant would like to request a one-year extension to get the project off the ground. Mr. Colabella explained that as a result of the Covid pandemic, there have been multiple obstacles that the church has been confronted with that has made it impossible to proceed with the project.

Ms. Dargel made a motion to approve the request of a one-year extension to March 11, 2023, noting that Covid has created many difficult challenges.

Mr. Klein seconded.

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

APPLICATIONS:

ZBA-21-29 MARTINELLI, Use Variance and Bulk Variance relief for property located at 32 Mapledale Avenue, Kenil, Block 3709, Lot 7 in a R-3 zone.
Request to be carried to the March 14th, 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 March 14th, 2022 meeting, further notification is required.

ZBA-21-004 BLACK RIVER HOLDINGS, LLC & MORGAN DEAN HOLDINGS, LLC . Use Variance, Bulk Variance, Lot Merger, and Preliminary Major Site Plan for property located at 1371, 1373, and 1393 Route 46, Ledgewood, Block 8701, Lot(s) 4, 5, & 6 in a B-2 zone.
Applicant requested to be carried to April 11, 2022 with no further notification.

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.

Mr. Bernd Hefele stepped forward to represent the applicant noting they were not before the Board for a public hearing but merely to provide an update. Mr. Hefele went on to state that the said application was filed over a year ago and tonight he was providing the

Board with an update. Mr. Hefele stated the applicant made an application to the Board seeking approval for a drive thru. Mr. Hefele note his applicant has obtained County approval for the proposed project. Mr. Hefele also stated that the application has not been heard before the Board and is still pending. Mr. Hefele and his applicant have received reports from the Township Planner, Board Engineer, Traffic Consultant, Fire Official and Police Department. Mr. Hefele stated initially the application was made because he felt the idea received some positive reviews and it might work, however based upon the reports received from the Township professionals there was a substantial concern regarding the sizing of the drive thru. Mr. Hefele stated his reason coming before the Board at tonight's meeting was to get feedback from the Board, noting this would be a "D" variance in a B-2 zone where a drive thru is not permitted.

Dr. Kennedy asked Mr. Hefele why he needed the Board's feedback when the Township's professional reports basically spelled it out. Mr. Hefele replied the Board is the Board and the professionals are the professionals, noting it gave us pause before further pursuing the application, but before a complete withdraw, the applicant would like the Boards opinion.

Ms. Robortaccio stated the Board has not heard the application and cannot say what their opinion would be, but the Board gives great credence to their experts and if the experts are telling the Board the application is a problem, the Board would align with the experts.

Mr. Overman stated that he had looked at the reports and some of the plans and was concerned that the property was on the small side for a drive thru operation. Mr. Overman stated when thinking about the drive thru in Flanders, it is one the few drive thrus in the area where there is plenty of room to que in addition to easy access in and out of the property, where the Dunkin Donuts on Lakeside Boulevard is not particularly suited for queuing.

Mr. Stern stated that as Mr. Overman stated the Board has not heard any testimony, but the principal points are that the district does not allow drive thrus, noting in the application a drive thru is being proposed on an undersized lot and in terms of lot width and lot frontage, the property does not have the width to get the traffic aisle such as a by-pass lane that is more than 10 feet in width. All that is available is 20 feet and that 20 feet is restricted by a building wall and a chain link fence on adjoining properties. Larger vehicles would have great difficulty maneuvering around and if a backup was required then you would choke off parking spaces which begin at the seventh or eighth vehicle queuing. The Board would have to look at what the impact would be, such as traffic backing up onto the main roadway. Mr. Stern noted there are other issues including an apartment located upstairs which would require a use variance and there are also coverage variances required. Mr. Stern summed up with there is a lot going on with this very restrictive site.

Mr. Hefele stated he appreciated the comments and merely wanted to provide the Board an update on an application that has not been heard on a public hearing yet. Mr. Hefele requested to be carried to the end of May with further notification required.

ZBA-21-033 SEMINARA, Bulk Variance for property located at 44 Mooney Road, Ledgewood, Block 11903, Lot 21 in a R-3 zone.

Mr. Michael Seminara of 44 Mooney Road stepped back before the Board after being carried from last month's meeting and stated that at the Board's request he has revised his plans and moved the proposed addition back about 3 feet. Mr. Seminara asked the Board

to look at the photos of his kitchen that were submitted noting, the only window in the kitchen cannot be moved due to the newly installed cabinetry.

Mr. Furey stated that the applicant has listened to the Boards suggestions and has come back with a revised plan. Mr. Furey then asked if there were any other items asked by the Board. Mr. Stern asked Mr. Seminara if he would be installing landscaping along the newly installed addition. Mr. Seminara replied yes it will be a continuance of the existing landscaping along the foundation line of the property.

Ms. Robortaccio made a motion to approve the application.

Mr. D'Amato seconded.

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

OLD BUSINESS:

NEW BUSINESS: Mr. Sebastian D'Amato gave his resignation from the Board effective immediately due to the fact he is moving out of state.

OPEN TO THE PUBLIC:

*No discussion of any pending application.

Motion to adjourn at 7:40 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
March 14, 2022