

NOTICE is hereby given by the Board of Adjustment of the Township of Roxbury that a Regular meeting of the Board of Adjustment will be held on Monday, March 9, 2020 at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ & the following action may or may not be taken:

BOARD MEMBERS PRESENT

Ms. Houtz, Mr. Overman Mr. Klein, Mr. D'Amato, Dr. Kennedy, Ms. Robortaccio, and Ms. Dargel

ABSENT:

Mr. Fuery

PROFESSIONAL STAFF

Mr. Mark Denisiuk, P.E., Ferriero Engineering

Mr. Russell Stern, P.P.

Mr. Larry Wiener, Esq.

MINUTES OF JANUARY 13, 2020 MEETING

Ms. Robortaccio made a motion to approve the minutes of January 13, 2020, Mr. Klein seconded.

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

MINUTES OF JANUARY 13, 2020 EXECUTIVE SESSION MEETING

Mr. D'Amato made a motion to approve the executive session minutes of January 13, 2020, Dr. Kennedy seconded. Roll call: Mr. D'Amato, yes; Dr. Kennedy, yes; Ms. Houtz, yes; Mr. Overman, yes; Mr. Klein, yes; Ms. Robortaccio, yes; Ms. Dargel, yes. *(Note: Mr. Wiener stated executive meeting minutes will not be available to the public until the conclusion of the aforementioned matter past any appeal.)*

RESOLUTIONS:

None

APPLICATIONS:

ZBA-19-005 NATIONAL EXPRESS BUS. Minor site plan, for property located at 3 Howard Place, Ledgewood, Block 8901, Lot 11 in a OR-5 zone. *Carried to April 13, 2020 with no further notice.*

ZBA-17-012 KINGTOWN DIESEL. Amended Preliminary Site Plan, "D" Variance for property located at 1470 Route 46 East, Ledgewood, Block 9302, Lot 3 in a B-2 zone. *Carried to April 13, 2020 with no further notice.*

ZBA-20-002 FLGX NJ, LLC. Final Major Site Plan, for property located at Mt. Arlington Road, Ledgewood, Block 8801, Lot 14 in an OR-5 zone.

Joshua Gorsky of the Law Office of Mandebaum Salsburg stepped forward on behalf of the applicant. Mr. Gorsky stated the applicant is before the board tonight to seek final major site plan approval for the development of an outdoor treetop adventure park. The last time the applicant was before the board was two years ago for preliminary major site plan approval. He stated the applicant feels they are in substantial compliance with both of the reports issued by the board professionals.

Ms. Dargel wanted to clarify for the record that she would be able to vote on the current application even though she voted against the original preliminary major site plan two years ago. Mr. Wiener, Board Attorney confirmed Ms. Dargel would be able to vote on the current final major site plan application.

Ms. Dargel swore in Jeffrey Careaga of Careaga Engineering located at Route 46 Budd Lake NJ. Mr. Careaga currently works as a Professional Engineer in NJ and has done so for approximately 30 years. He has testified before this board numerous times and will provide expert Civil Engineering testimony. Mr. Careaga went on to testify that the project is substantially complete and all construction was virtually identical to the board approved plans with no major changes. Per the reports from Mr. Stern and Mr. Ferriero there are punch list items and it is the applicant's intent to conform to all terms and conditions.

Mr. Stern asked Mr. Careaga if it was the applicant's intention to complete the outstanding items and pull a temporary certificate of occupancy for the building and hold off on the rides until DCA approval is obtained. Mr. Careaga replied yes and the DCA could take a while but, the applicant would like to utilize the facility in the meantime except for the rides.

Ms. Dargel asked Mr. Careaga if there were any changes from preliminary site plan approval. Mr. Careaga replied no.

Mr. Stern stated the applicant is trying to obtain DCA approval, but the State of New Jersey has been busy with the American Dream site.

Ms. Dargel stated that for the public's information the applicant's site is built, but there are permits needed for amusement, just as any other amusement park.

Mr. Denisiuk stated he agrees the site is built substantially to the preliminary plan and there are a number of punch list items. Mr. Careaga responded that within a month the punch list items will be completed. Mr. Wiener, Board Attorney then asked Mr. Careaga if it is the applicant's position that they can get the punch list items done in thirty days. Mr. Careaga replied that is correct.

Mr. Stern asked is that with the exception of landscaping to replace the dead and marginal landscaping. Mr. Stern further stated could the applicant complete the landscaping by May 30, 2020. Mr. Careaga replied yes May, 30, 2020 is fine.

Mr. Denisiuk commented that he asked for as-built basin calculations and retaining wall calculations and would that be completed within the 30 days. Mr. Careaga replied they are complete right now, but the applicant is waiting to give a final submission when they complete everything.

Mr. Overman asked the applicant while they are awaiting DCA approval, will there be any activity on site. Mr. Careaga replied the only activity will be limited to the applicant's management getting the facility ready, but there will be no customers at the site.

Ms. Robbortaccio commented that she was very impressed with the Fire Official's report of the facility and kudos to the applicant.

Ms. Dargel made a motion to open discussion to the public as it pertained to questions for Mr. Careaga:

Ms. Dargel swore in Township resident Lynne Pinto of 51 Mt. Arlington Road, Ledgewood, NJ. Ms. Pinto stepped forward and stated that it was her understanding that the applicant was not going to have lights on the facility. She noticed there were solar panels and wanted to know what the hours of the

facility were. She stated she was under the impression the facility was only open during daylight hours. Mr. Careaga replied the facility's hours of operation are 8:00 am to 9:00 pm.

Ms. Dargel asked if the facility was open year round. Mr. Careaga replied weather permitting, but not during the snow.

Mr. Stern asked if customers are on the course in the dark. Mr. Careaga replied no.

Ms. Dargel asked what happens up until 9:00 pm on the site. Mr. Careaga asked if questions pertaining to site operations could be directed to the representatives from the company itself about its daily operations. Ms. Dargel agreed.

Ms. Pinto stepped forward again and asked if the landscaping slides down onto her property line will it then be fixed. Mr. Careaga stated he doesn't believe the landscaping will be sliding down to anyone's property line but, if there is any disruption of landscape it would be fixed. Ms. Pinto further stated her concern for the resident's septic system being compromised from excess water flow that happened during the summer. Mr. Careaga stated the water run-off happened during construction and does not anticipate it happening now that the site is complete. Ms. Pinto went on to state that she has driveway damage due to storage of construction material and overuse by construction vehicles. She wanted to know if this was going to be address by the applicant. Mr. Careaga replied he wasn't sure that was an engineering issue but, more of a construction operation issue. He went further on to say the road wasn't open the public during construction operations and utilization of Ms. Pinto's driveway was something that should not have occurred. Ms. Pinto went on to say that the residents neighboring the property were told the facility was only to be open March to November and there were to be no nighttime hours and now they facility is approved to be open all year round including lights. Mr. Careaga replied that the park will be closed at sunset and any lights in the parking lot are for staff and customers while they are leaving.

Ms. Dargel swore in Jason Salmon of 15 Salmon Lane, Ledgewood, NJ who resides on an adjoining property. Mr. Salmon asked how many people are anticipated to attend the facility and is there any type of barrier preventing visitors from wandering off of the property. Mr. Careaga replied there is no barrier.

Ms. Dargel made a motion to close discussion to the public as it pertained to testimony from Mr. Careaga.

Ms. Dargel swore in Michael Coffman of 9399 South Priest Drive, Tempe, AZ one of the owners of Flagstaff Extreme. Mr. Coffman went on to testify that Flagstaff Extreme has courses in Arizona, Tampa, Florida and the New Jersey facility is there third course. Mr. Coffman went on to address the hours of operation. Mr. Stern stated per the resolution from 2012 the hours of operation are limited to 8:00 am - 9:00 pm. Ms. Dargel asked Mr. Coffman if it was his intent to be open daily from 8:00 am to 9:00 pm. Mr. Coffman replied that daylight hours trump the operation and there is no lighting on the course what so ever. In addition, the operations are limited by nature such as lightening. If lightening occurs operations must be stopped as well as when the sun goes down. Ms. Dargel asked if it were snowing or during an ice storm would you be open? Mr. Coffman replied that there Arizona site sometimes has two feet of snow that has fallen and the next day may be a sunny 40 degree day, in this case the facility would be open. He further stated that in New Jersey the public may be interested in coming to the site under those types of conditions and the applicant would be open for business. Ms. Dargel further stated that this site could be possibly open 7 days a week 365 days a year. Mr. Coffman replied yes and wanted to address a prior question about the number of guests anticipated to be visiting the site. Mr. Coffman noted that their Flagstaff facility has a 35,000 a year attendance rate and that they are hoping for the same in New Jersey location. Ms. Dargel stated that is approximately 100 people a day.

Mr. Overman asked if you close at sundown at what time do you issue the last pass for the day? Mr. Coffman replied three hours prior to closing. Mr. Overman asked could that be written into the resolution for clarification. Mr. Stern replied that this application has been approved at preliminary site plan.

Mr. Coffman stated Flagstaff Extreme has a very high safety record.

Mr. Kennedy stated he is assuming the DCA will establish safety guidelines and rules for your operations. Mr. Kennedy further asked at what point are the lights turned off at the facility. Mr. Coffman replied after all employees have left. He reiterated that the parking lot lights and road lights are for the safe exit of employees and guests and there are no lights on the course.

Mr. D'Amato asked if the facility will notify buses if the site closes early because of weather. Mr. Coffman replied yes they manage the guests that are on site as well as guests that are pending. Flagstaff has software to give up to date weather alerts.

Mr. D'Amato asked does a typical experience on the course take three hours. Mr. Coffman replied yes and we pull people off course due to weather and dusk.

Ms. Houtz asked Mr. Coffman if there is a possibility of putting fencing around the perimeter of the property. Mr. Coffman replied no, that there is over 40 acres of property and they have no plans of putting up fencing. Ms. Houtz asked Mr. Coffman if he was concerned of people wandering in after hours. Mr. Coffman replied that the course ladders are lifted before close of business and that if someone wandered onto the property they would not be able to use the course. Ms. Houtz asked the applicant if they had security cameras. Mr. Coffman replied there are cameras on building, but, not the course. Mr. Overman asked Mr. Coffman how thick is the buffer between the property and the course. Mr. Coffman replied 100-200 feet.

Mr. Gorsky stated it would be safe to say that guests will be under close supervision by staff while moving thru the obstacle course. Mr. Coffman replied the applicant has highly trained and skilled personnel and the site is heavily regulated and properly managed. Mr. Gorsky stated it is highly unlikely for guests to be wandering onto a neighboring property.

Mr. Denisiuk asked if the water and sewer are connected to the site. Mr. Coffman replied yes, but the water was a bit of a challenge.

Ms. Dargel made a motion to open discussion to the public as it pertained to questions for Mr. Coffman:

Ms. Dargel swore in Tom Salmon of 11 Salmon Lane, Ledgewood, NJ. Mr. Salmon stated he resided on an adjoining property and could he expect a noise problem. Mr. Coffman replied he doesn't want to state that it is absolutely silent on site but, generally the guests have an athletic focus, some encouraging words to a friend but, nothing that would be considered a noise problem. In addition, there is no music on site. Tom Salmon further asked can you keep debris from blowing onto neighboring properties. Mr. Coffman replied that if debris blows onto neighboring properties they will clean it up and in general they maintain a clean site.

Ms. Pinto stepped forward and asked about the poles on site close to her backyard. Mr. Coffman stated there are no solar panels in that location and assumed Ms. Pinto was speaking of the platforms that are part of the course. In addition, there are vinyl coated pads so people do not slam into the tree upon entry onto the platform. Ms. Pinto then went onto ask will there be a landscape buffer or a fence. Mr. Coffman replied there will be no additional landscaping and noted the design was completed per plan.

Ms. Dargel swore in Daniel Frederick of 36 Mt. Arlington Road, Ledgewood. Mr. Frederick asked Mr. Coffman a question regarding noise on the course. He asked how close are the residences to his other zip line properties and do they receive noise complaints. Mr. Coffman replied that the Arizona course is not as close to the residences as in New Jersey and in the Florida course is not near any residences and they do not receive any noise complaints.

Ms. Dargel motioned to close the public portion questioning of Mr. Coffman.

Ms. Dargel motioned to open to the public any opinions or comments on the application FLGX. She also noted that the application was a preliminary major site plan application approved by the board and the applicant is now in for final site plan approval and its purpose is to determine if the applicant has completed the application as approved and meets the approval conditions.

Ms. Pinto asked if there were going to be food or snacks served. Mr. Stern replied there was a restriction in the 2018 resolution prohibiting a restaurant on site. Mr. Gorsky stated it was his understanding there would be vending machines on site to serve small snacks and drinks. Ms. Pinto further asked if school bus aged children would be coming to the course. Mr. Coffman replied yes, but there is an age and height restriction.

Ms. Pinto asked if visitors have to make a left coming out of the site. Mr. Coffman replied yes. She further stated it's a dangerous intersection and a traffic light may be needed.

Ms. Dargel motioned to close the public opinion portion of the meeting as it pertained to FLGX.

Mr. Gorsky made his summation that the applicant is in compliance with the preliminary major site plan and has not deviated from the prior approval and plans. In addition, applicant will comply with both compliance reports issued by Mr. Stern and Mr. Denisiuk in full satisfaction.

Mr. D'Amato made a motion to approve final site plan stipulating all the items agreed to on the record by the professionals, in addition the hours in the resolution, and all other conditions of the prior preliminary approval, including all other government agency approvals. Ms. Robortaccio seconded.

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

ZBA-19-027 ANDRUTCHUK, Variance relief for property located at 13 King Road, Landing, Block 11909, Lot 3 in an R-2 zone.

Mr. Andrutchuk resides at 26 Farmhouse Lane, Morristown, NJ 07960 and is the applicant and potential buyer of 13 King Road, Landing, NJ.

Mr. Andrutchuk testified that he was before the board on October 2019 to present a single family new construction on 13 King Road in Landing. He stated he will be addressing the board engineering letter, lake association letter, and zoning board of adjustment questions. He further stated that a few changes to the site have been made as and that he is not trying to build something that is outside of the current street scape.

Mr. Andrutchuk went on to address the board questions on why the proposed home was so close to the lake and if the power lines that run across the property could be moved. He stated he contacted the power company and confirmed that the power lines are not going to be moved. In addition, he could not obtain anything in writing from the power company but, if there were any inquiries regarding the matter, JCPL would be available via phone to answer any questions.

Mr. Andrutchuk further testified regarding the prior rendering submission showing two parking spots on the driveway. He noted that the additional spot is to be able to do a k-turn due to the long length of the driveway. He then addressed the lake associations concerns by agreeing to a planting buffer by the lake for any run off. He noted that his engineer re-drew a new plot plan to be more accurate. In addition, he stated he changed the driveway material to pavers instead of asphalt to reduce the impervious lot coverage percentage. Mr. Stern noted that the applicant added two dry wells and three rain gardens. Mr. Andrutchuk noted by doing this he would be covering double the water consumption for water run-off.

Ms. Dargel asked if there were any other changes from the original application. Mr. Andrutchuk replied no.

Mr. Overman asked if the in-ground pool and shed will be removed from the property. Mr. Andrutchuk replied yes, and will follow the removal requirements of the Township of Roxbury.

Mr. Stern asked if the architectural drawings dated August 18, 2019 are still the most current set of drawings. Mr. Andrutchuk replied yes and no changes have been made to the architectural drawings.

Mr. Stern stated that there is a variance for the accessory building (the garage) located in the front yard, noting the drawings only provide the garage door elevation. The drawings show it has a stone face base course and it is Mr. Stern's recommendation to wrap stone around the garage since it is in the front yard. Mr. Andrutchuk stated he would be wrapping the garage base course as well as the foundation of the principal dwelling with cultured stone.

Mr. Stern noted that the applicant has addressed all of the board's comments from the last hearing.

Dr. Kennedy asked if there are any engineering issues. Mr. Andrutchuk replied that one issue that the Engineer has brought up was the property has a low pressure sewer system and it wasn't on the original plot plan. It needed to be located, as well as, the main shut off to make sure it was not going to be disturbed during construction. It subsequently was located and put on the plot plan. Mr. Stern asked Mr. Andrutchuk to confirm he addressed all three engineering comments. Mr. Andrutchuk replied yes. Mr. Wiener stated it will be a condition of the resolution compliance.

Ms. Dargel motioned to open discussion to the public.

Robert Drexler of 11 King Road, Landing stepped forward to testify that he shares a portion of the driveway located at 13 King Road, Landing and noted that it has been shared since 1920. Mr. Andrutchuk stated he will put pavers that grass can grow thru on the portion of the driveway that is shared by Mr. Drexler so he can continue to enter his driveway as he always has. Mr. Andrutchuk stated it will aesthetically look clean that way.

Ms. Dargel asked Mr. Drexler if he needs access to 13 King Road to enter his own property and is an easement required. Mr. Andrutchuk stated he believed an easement was not required because this was not the only access to the property. Mr. Andrutchuk further stated he and Mr. Drexler have come to an agreement as to the continued use of the driveway and wish to be good neighbors.

Mr. Andrutchuk further testified that 13 King Road is considered a corner lot due to the fact it has a right-of-way running alongside it. He wanted to confirm that it was not on the denial letter and wanted to confirm he would not have a future issue. Mr. Stern noted the property has two front yards and the right-of-way is known as Road #4, it is one of the many access ways to the lake. Mr. Andrutchuk stated he was told it was a Fire Department access.

Township of Roxbury
Board of Adjustment
March 9, 2020

Ms. Dargel made a motion to close the public portion.

Ms. Robortaccio made a motion to approve the application including the addition of a front yard setback requirement due to Road #4 making the property a corner lot. Mr. D'Amato seconded.

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

ZBA-20-001 ARTEAGA, Variance relief for property located at 12 Kadel Drive, Succasunna, Block 3003, Lot 2 in an R-3 zone.

Joseph Arteaga of 12 Kadel Drive and Julie Arteaga stepped forward to testify they would like to put an in-ground pool and patio on their property noting they have impervious coverage issues. Mr. Arteaga stated he has an injury that requires water therapy and he attends the YMCA currently for the therapy and it would be more convenient to be able to do the therapy at home. He also stated his father-in-law has moved in with his family causing the applicant to turn his garage into an apartment. Due to the fact the garage was being used as a living space the applicant had to then install a garage as per code. The additional garage then caused the homeowner to have an impervious coverage issue when it came to his pool and patio application.

Ms. Robortaccio questioned the applicant if the shed on the plan is part of the application. Mr. Arteaga replied no; the shed has been removed.

Mr. Stern stated that Tom Potere, Zoning Officer will recalculate the impervious coverage with the removal of the shed.

Mr. Wiener stated he can note in the resolution that the shed will be removed.

Ms. Dargel motioned to open discussion to the public.

No one stepped forward.

Public portion closed

Mr. D'Amato made a motion to approve the application with the stipulation that applicant notes that on the plan it shows that there is a shed on the property, but the shed has since been removed. Dr. Kennedy seconded.

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

OLD BUSINESS:

Pending litigation dismissed by applicant and case is over.

Motion to adjourn 8:32 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
March 9, 2020