

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, March 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, Ms. Robortaccio, Mr. Furey, and Dr. Kennedy.

ABSENT: Mr. Klein, Ms. Dargel

PROFESSIONAL STAFF

Ms. Alyse Hubbard, Esq.

Mr. Russell Stern, P.P.

MINUTES OF FEBRUARY 14, 2022

Ms. Robortaccio made a motion to approve the minutes of the February 14, 2022,

Mr. Furey seconded.

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

RESOLUTIONS:

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. Furey made a motion to approve the request of a one-year extension to March 11, 2023. Ms. Robortaccio seconded.

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

In the matter of Grace Baptist Church

Case No. ZBA-18-009

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

Approved: February 14, 2022

Memorialized: March 14, 2022

WHEREAS, Grace Baptist Church previously applied to the Board of Adjustment, Township of Roxbury for permission to expand the parking lot for premises located at Route 46 and known as Block 9602, Lot 2 on the Tax Map of the Township of Roxbury which premises are in a “B2” Zone; said proposal required relief from Section 13-7.3503A6, 13-7.818, 13-7.2502D10, 13-8.700D, 13-8.702H, 13-8.702A, 13-8.702K, 13-8.702N, 13-8.807E, 13-8.703A, 13-8.707D, 13-8.804, 13.8-807, 13-8.807C, 13-8.807D, and 13-8.807L of the Roxbury Township Land Use Ordinance; and

WHEREAS, the Applicant was represented by Chris Colabella, Esq., who appeared at the Board's public hearing on February 14, 2022.

WHEREAS, the Applicant received approval from the Board on January 14, 2019 to relocate the parking lot, pursuant to N.J.S.A. 40:55D-70D(3), as an expansion of a non-conforming use.

WHEREAS, the Board approved said application, which was memorialized in a resolution adopted on March 11, 2019.

WHEREAS, as a Condition of Approval, the Applicant was required to obtain a permit from the New Jersey Department of Transportation for the sidewalk proposed along Route 46, as well as any utilities that were proposed on the Right-of-Way.

WHEREAS, the Applicant applied for the required approvals, but the issuance of the permits was delayed due the Covid-19 Pandemic.

WHEREAS, the Applicant is requesting a one-year extension from the protection afforded under the subject approval, as set forth in N.J.S.A. 40:55D-49.

WHEREAS, the Board finds sufficient cause to grant the Applicant's request for a one year extension to March 11, 2023.

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

Ms. Robortaccio made a motion to memorialize the resolution. Mr. Furey seconded. Roll call: Ms. Robortaccio, yes; Mr. Furey, yes; Ms. Dawson, yes; Mr. Overman, yes; Dr. Kennedy, yes.

*In the matter of Michael Seminara
Case No. ZBA-21-033*

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

Approved: February 14, 2022
Memorialized: March 14, 2022

WHEREAS, Michael Seminara has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 44 Mooney Road and known as Block 9103, Lot 5 on the Tax Map of the Township of Roxbury which premises are in a "R-1" Zone; said proposal required relief from Section 13-7.1001D4 of the Roxbury Township Land Use Ordinance; and

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

1. The Applicant is the owner and occupant of the subject premises.
2. The Applicant is proposing to construct an addition
3. Applicant submitted the following documents:
 - a. Architectural Plans prepared by Coppa Montalbano Architects, dated January 2, 2021 consisting of four (4) sheets, revised February 3, 2022.
 - b. Surveys prepared by Mountain View Layout, date March 22, 2021, with the addition sketched on the survey, one received with the original packet, and one received on February 4, 2022.
 - c. Photographs of the kitchen, exterior side of the home where the addition is proposed and an aerial photo of the property.
4. Applicant received a letter of denial dated December 22, 2021 revised February 9, 2022 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Section 13-7.1001D4: Minimum Front Yard Setback – 50’ permitted, 31.4’ existing; 23.75’ proposed (*December 22, 2021*)
 - b. Section 13-7.1001D4: Minimum Front Yard Setback – 50’ permitted, 31.4’ existing, 26 feet proposed (*February 9, 2022*)
5. The subject property is an oversized lot, consisting of 89,378.37 square feet, where 40,250 square feet is required in the R-1 Zone. The existing dwelling is situated 32.3 feet from the front yard, where the required setback is 50 feet, but otherwise has conforming setbacks. The proposed addition would be located on the eastern side of the home, with a 23.75-foot setback.
6. Duly noticed public hearings were conducted on January 10, 2022 and February 14, 2022, at which time Michael Seminara, the Applicant, and his father, Vincent Seminara, presented sworn testimony in support of the application. The Applicant is proposing an addition that would contain a master suite and den to accommodate their growing family. The existing dwelling could not structurally support a second story addition, so the proposed addition will expand the single-story structure and the existing non-conforming setback. The bay window in the dining room is being removed and will become the access into the hallway of the addition. The addition will have the same siding and roof shingles as the existing dwelling.
7. Based on the interior layout of the kitchen and the window above the sink, which provides the only natural light, the addition could not be shifted back to create a larger setback. The

Applicant recently completed a custom remodeling of the kitchen, and it would impose a burden to relocate the sink and window to shift the addition toward the rear of house. There is also a patio on the side and rear of the house, a with pond, firepit, and outdoor barbeque area that prohibits constructing the addition in the rear of the home. The home is currently serviced by a private septic in the rear of the home, a well, which is under the patio, and there is a gray water discharge pipe near the kitchen. The west side of the home has a concrete patio and the stairs to the basement. The proposed location of the addition will result in the least amount of disturbance and is least challenging location.

8. At the conclusion of the January 10, 2022 hearing, the Applicant carried the meeting to February 14, 2022. Revised plans were submitted on February 14, 2022, which changed the design of the addition from approximately 30'x33' to 40'x30'10" and increased the setback from 23.75' to 26'. The result is that the house will be setback 36' from the Mooney Road Right-of-Way, which is greater than the prevailing setbacks in the area. There is a grade drop along the proposed addition. The Applicant will add landscaping to lessen the impact of the addition.
9. The Applicant opined that based on the configuration of the home on the property and the existing conditions on site, a hardship exists that prohibits the construction of an addition in a conforming location. The revised, proposed design results in a modest 1,100 square foot addition of the master suite, a den and an unfinished basement.
10. There was no one from the public 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 Section 13-7.1001D4 of the municipal zoning ordinance, permitting the construction of an addition with a 26-foot front yard setback, where 50 feet is required.
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. The subject property is developed with a single-story dwelling within the required 50-foot setback. The existing improvements and utilities create a hardship for the Applicant, as there is no other practical location for the addition

without creating an undue burden. The setback is consistent with or greater than the prevailing setbacks in the area.

3. Accordingly, the Board determined the benefits of permitting the addition outweigh the detriments that may result from denying the requested relief. The Applicant redesigned the addition to increase the setback and will plant scrubs along the foundation of the addition to mitigate the impact. There will be little impact from the roadway, as the addition will be setback 36 feet from the right-of-way. It was concluded 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 14th day of February 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 the necessary zoning and construction permits prior to construction.
3. Applicant shall obtain all required outside agency approval, including, but not limited to the Board of Health.
4. The addition shall be constructed consistent with the plans submitted to the Board and the representations made at the public hearing.
5. Applicant shall plant landscaping along the foundation of the addition. Same shall be reviewed and approved by the Township Planner.

EXTENSION:

ZBA-22-010 WOODMONT REALTY RT. 46, LLC, Preliminary Major Site Plan for property located at 1751 Route 46, Ledgewood, Block 9603, Lot 3 & 4 in a GU zone.

Mr. Lawrence Calli, Esq. stepped forward to represent Woodmont Realty Route 46, LLC, and stated that said application was heard before the Board several years ago for a flex space building where the Board saw fit to approve it, noting nothing has been constructed yet. Mr. Calli stated it has been very tough to find the right occupant, but the owner is on the cusp of finding the right tenant with a peak interest in the property. Mr. Calli stated the reason the applicant is before the Board for a request for extension as opposed to just relying on rights of the statute is because under the local ordinance there is a provision where the use variance is voided after a year of non-activity. The applicant would rather not lose the benefit of the approval in place, noting all the work done to date is relatively substantial. There have been six figures of work done to date as well as other agency entitlements that are in place and continue to be vested. Mr. Calli stated because of the lapsing of the 2020 permit extension act due to the pandemic, the applicant must return to the Board to seek another 1-year extension.

Dr. Kennedy made a motion to approve the request for a 1-year extension.
Ms. Robertaccio seconded.

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

APPLICATIONS:

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 April 11th, 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. *Request to be carried to the April 11th, 2022 meeting, with no further notice required.*

ZBA-21-029 MARTINELLI, Use Variance and Bulk Variance relief for property located at 32 Mapledale Avenue, Succasunna, Block 3709, Lot 7 in a R-3 zone. *Request to be carried to the April 11th, 2022 meeting, with no further notice 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. *Withdraw of application by request of applicant.*

ZBA-21-036 BEVERAGE, Bulk Variance relief for property located at 45 Silver Springs Drive, Landing, Block 11601, Lot 30 in a R-3 zone. *Request to be carried to the April 11th, 2022 meeting, due to insufficient noticing.*

ZBA-21-030 VANDE VELDE, Bulk Variance relief for property located at 20 Sunset Lane, Landing, Block 11903, Lot 21 in a R-3 zone.

Ms. Hubbard swore in Mr. Erik Vande Velde, homeowner and Daniel Conroy, tenant. Mr. Vande Velde testified that he is seeking approval to place a shed on the property in place of an existing shed, noting he does not have a garage. Mr. Vande Velde explained he has a what is considered two front yards, which prohibits him from placing a shed in his backyard. Mr. Vande Velde installed the shed without permits due to the fact he did not know he need one, but once he found out he needed one, he immediately started the process to do so. Mr. Vande Velde feels the shed beautifies his property.

Mr. Vande Velde addressed the use variance aspect of the application. Mr. Vande Velde asked the Board to look at the pictures taken by the Township Zoning Officer, Tom Potere which shows a large printer and laminator. Mr. Vande Velde explained he sold those items due to the exorbitant operating cost and they are no longer in the shed.

Ms. Hubbard asked what is currently in the shed. Mr. Vande Velde replied, dirt bikes and a work bench. Dr. Kennedy asked if all the items the Zoning Officer had seen in a site visit have been removed. Mr. Vande Velde replied, yes. Dr. Kennedy then asked what the intent of the use of the shed is. Mr. Vande Velde replied, as a workshop to work on his son's motorcycles, he also stated that he sometimes uses it as a man-cave. Ms. Robortaccio stated that it cannot be used as a man-cave, that is not what a shed is intended to be used for. Mr. Vande Velde stated that he needs a computer in the shed because to trouble shoot motorcycles now a days, a computer must be used.

Dr. Kennedy asked Mr. Stern to read the description of a shed in a residential district. Mr. Stern read it to be “private residential tool sheds”. Mr. Vande Velde stated that he has a lot of tools in the shed.

Dr. Kennedy asked Mr. Vande Velde while in the process of repair the motorcycles, etc., there are many chemicals that probably are used, and what is the intent for storage and disposal of those items. Mr. Vande Velde replied, he works part time at Cycle Exchange and can dispose of the chemicals at work, otherwise he will be storing the chemicals in his home.

Ms. Hubbard asked if any Construction permits were obtained. Mr. Vande Velde replied not initially, but after the fact. Mr. Stern about the second shed on the property and if it would remain. Mr. Vande Velde stated he would be removing the second shed.

Mr. Furey asked Mr. Vande Velde if he could provide a history of newly constructed shed. Mr. Vande Velde stated he purchased a new shed in September of 2021 and began building a base for the shed to sit on. At the end of 2021 the shed was installed on the base. Mr. Furey asked when it was discovered that a permit was required. Mr. Vande Velde replied very shortly after it was installed. Mr. Vande Velde stated the Zoning Officer let him know a permit was required.

Mr. Stern stated that he provided a site inspection on Thursday, March 10th where he saw a pickup truck with a snowplow and salt spreader and asked Mr. Vande Velde if he was housing such equipment on his property, noting that it was prohibited to do so. Mr. Vande Velde stated that snow plowing was a side job for him and the night before Mr. Stern’s visit he had housed the vehicle on his property due to impending inclement weather. Mr. Vande Velde stated he does not own the vehicle or the salter.

Mr. Overman went over the variances being sought by Mr. Vande Velde. Mr. Overman stated what is unique is the fact that the property has two front yards, an accessory structure in the front yard is prohibited. Additionally, there is a possible variance of running a business out of the newly constructed shed. Mr. Vande Velde stated that he is not running a business out of the shed and is only using it to store motor bikes and tools associated with the repair of them. Mr. Overman stated the last variance being sought is setback variance where the second shed is closer than the allowable 6 feet. Mr. Vande Velde stated he will be removing the second shed to alleviate the variance.

Ms. Robortaccio stated that during her site inspection she could not get her vehicle out of the street due to the fact Mr. Vande Velde was blocking the road with his truck. She asked if he often parked on the street where it would block cars from driving in the area. Mr. Vande Velde replied no, it was parked there for a few minutes, and he came out to move it when he saw Ms. Robortaccio unable to pass by.

Dr. Kennedy stated his concerns are the material/chemical used for the maintenance of the motorbikes and he would like to applicant to make sure they are maintained inside the shed and that there is no external storage of chemicals on the property.

Mr. Stern stated that before the Board can decide on how to rule in this matter, he feels the applicant should come back next meeting with a revised survey depicting what exactly was built and what surrounds the newly installed shed as well as the stairs and ramp going into it. In addition, the relocation of the compressor.

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

A request to be carried to the April 11, 2022 meeting by the applicant has been made, no further notification required.

ZBA-21-038 BULL. Bulk Variance relief for property located at 6 Robinson Avenue, Succasunna, Block 4901, Lot 34 in a R-3 zone.

Ms. Hubbard swore in Dennis A. Bull of 6 Robinson Avenue, Succasunna. Mr. Bull stepped forward and stated he is before the Board seeking a variance for the installation of an inground pool and fence. Mr. Bull stated his backyard fronts Righter Road causing him to have two front yards, noting that accessory structures are not allowed in the front yard. Mr. Bull stated that he would like to install a 4-foot or 5-foot decorative metal fence along with landscape vegetation to screen the yard in lieu of a white vinyl fence. Mr. Bull also stated that he would keep with the current fence line of existing fences on neighboring properties.

Ms. Robortaccio asked if he would be installing a 4 or 5 foot fence, noting maybe the 5 foot fence would be a better safety option due to the large volume of traffic on the road.

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

ZBA-21-037 RUETER. Bulk Variance relief for property located at 11 West Maple Avenue, Succasunna, Block 2801, Lot 59 in a R-4 zone.

Ms. Hubbard swore in James and Samantha Rueter of 11 West Maple Avenue, Succasunna and William Byrne, Licensed Architect of 10 Main Street, Chester, NJ.

Mr. Rueter stepped forward and explained he and his wife are looking to remodel their home and they require a variance for front yard setback for a portico. Mr. Overman stated that the applicant has an existing front porch and is not changing the footprint of it but would like to cover it. Mr. Rueter concurred.

Mr. Byrne testified that the house is maintaining its current footprint and the only exception is the porch where the applicant would like to cover it. Mr. Byrne feels the portico will make the home more attractive as well as more functional. Mr. Byrne stated the porch in its existing condition is awkward in its layout and is not very functional. Mr. Byrne went on to testify that the positive criteria in this case far outweighs the negative criteria, noting it a safer approach to the home.

Dr. Kennedy remarked that the porch is a good location for the children to wait in inclement while waiting for the school bus.

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

ZBA-21-035 PIERSON, Bulk Variance relief for property located at 29 Sunset Lane, Landing, Block 11904, Lot 5 in a R-3 zone.

Ms. Hubbard swore Greg and Stephanie Pierson of 29 Sunset Lane, Landing. Mr. Pierson stepped forward and testified that he and his wife are proposing to replace their 18' x 19' dilapidated garage with a new one, noting that it is too small for a car to be parked in and is like an oversized shed. Mr. Pierson went on to testify that the garage he is proposing is a foot wider than the existing one and moved back three feet from the street. Mr. Pierson stated the reason for the three feet was because during larger snowstorms the plow trucks push the snow up against the door of the existing garage. In addition, the footage will allow for an additional parking space in front of the garage which is needed due to a lack of driveway.

Ms. Robortaccio asked Mr. Pierson about the grinder pump located directly behind the garage and how would it be accessed if needed. Mr. Pierson replied that even with the new proposal there is plenty of room to access the pump.

Ms. Robortaccio asked Mr. Pierson why he would not propose to place the garage on the opposite side of the property. Mr. Pierson replied that there is a large tree in the area and the proposed garage would still be close to the property line. Mr. Pierson also stated that placement of the garage on the opposite side would place the garage in front of the home taking away from the appearance of the home.

Ms. Robortaccio asked Mr. Pierson if he considered what would happen if the Township had to dig up the floor of the garage to access the piping to the grinder pump. Ms. Robortaccio stated she is just trying to put your best interest first. Mr. Pierson stated he appreciated that and would come back with revised plans and speak with the Township Engineering department regarding the grinder pump location and piping associated with it. Mr. Pierson requested to be carried to the May 9, 2022 meeting with no further notification.

OLD BUSINESS:

NEW BUSINESS:

OPEN TO THE PUBLIC:

*No discussion of any pending application.

Motion to adjourn at 9:00 pm

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