

On Monday, May 10, 2021 a regular remote meeting of the Roxbury Township Zoning Board of Adjustment, originally scheduled to take place at 7:00 pm in the Council Room of the Municipal Building, was instead held remotely via Zoom. The meeting was open to the public via alternate means to provide the ability to listen and the opportunity to be heard during the public portions of the meeting by calling the following teleconference line: 1-929-205-6099 (“Welcome to Zoom”), entering Meeting ID: 87993430631#, Participant ID: # and Password: 140147#. All applications of those applicants who were to appear before the Zoning Board of Adjustment on the aforementioned date were available online via our Township website at www.roxburynj.us. The purpose of the Regular Zoning Board Meeting is to conduct routine business.

BOARD MEMBERS PRESENT

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

ABSENT: Mr. Frequenza

PROFESSIONAL STAFF

Mr. Russell Stern, P.P.
Mr. Larry Wiener, Esq.
Ms. Alyse Hubbard, Esq.

MINUTES OF APRIL 12, 2021 MEETING

Ms. Robortaccio made a motion to approve the minutes of the April 12, 2021 meeting. Mr. Overman seconded.

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

RESOLUTIONS:

ZBA-20-026 TOWNE TOYOTA, Final Site Plan for property located at Arlington Avenue and Kings Parkway, Ledgewood, Block 8602, Lot(s) 12 & 49.01 in the B-2, LI/OR & PO/R zone.

Ms. Dargel made a motion to memorialize the resolution, Mr. Klein seconded.

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

In the matter of Towne Toyota
Case No. ZBA-20-026

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

Approved: April 12, 2021
Memorialized: May 10, 2021

WHEREAS, Towne Toyota has applied to the Board of Adjustment, Township of Roxbury seeking Final Site Plan approval for premises located at Arlington Avenue and Kings Parkway and known as Block 8602, Lots 12 & 49.01 on the Tax Map of the Township of Roxbury which premises are in a “B-2, LI/OR & PO/R” Zone;

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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. Lawrence A. Calli, Esquire represented the Applicant.
2. The Applicant is the owner and operator of Towne Toyota.
3. The Applicant submitted the following documents:
 - a. Zoning Board of Adjustment Application, received November 10, 2020, marked as Exhibit 1.
 - b. Highlighted Tax Map, prepared by Matthew L. Martini, L.S., marked as Exhibit 2.
 - c. Final Site Plan, prepared by Marc G. Walker, P.E., Dykstra Walker Design Group, dated May 5, 2020, containing 3 sheets, marked as Exhibit 3.
 - d. Morris County Soil Conservation District, Final Report of Compliance, dated January 27, 2021, marked as Exhibit 4.
 - e. Deed for Block 8692, Lot 49, dated October 20, 2004, marked as Exhibit 5.
 - f. Deed for Block 8602, Lot 12, dated April 11, 2018, marked as Exhibit 6.
 - g. Confirmatory Deed for Block 243, Lot 12, dated June 22, 2000, marked as Exhibit 7.
4. The Board received the following memorandums:
 - a. Mark Denisiuk, PE, CME, Ferriero Engineering, Inc. dated April 6, 2021, marked as Exhibit 8.
 - b. Russell Stern, Township Planner, dated April 7, 2021, marked as Exhibit 9.
5. A duly noticed public hearing occurred on April 12, 2021 via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled "Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey" issued by the Department of Community Affairs, Division of Local Government Services.
6. Marc Walker, PE, Dykstra Walker Design Group, who was accepted as an expert engineer, and Susan Brauer, the owner and president of Towne Toyota, presented sworn testimony in support of the Application. The Applicant received a Use Variance Preliminary Site Plan Approval on May 8, 2017, Application #ZBA-17-001, and memorialized on July 10, 2017. The Applicant has returned to the Board for Final Site Plan Approval, testifying to the changes that are proposed from the Preliminary Approval.

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7. In reviewing A-1, the site plan, Mr. Walker explained that the proposed circulation has changed; a driveway that was designed to access the Service Center was revised, providing drop off inside the building to eliminate people walking around the site. The markings and arrows on the ground were not constructed. There are two ingress lanes and one egress, with the addition of 4 parking spaces.
8. It was noted that the approved drainage design was not constructed as approved; instead of the proposed drywell system, two 12' x 24' seepage pits full of stones along with inlets were constructed to address the flooding on the property. Mr. Walker opined that the new system was an improvement to what was proposed and that it would address the drainage issue for most storms. A more significant storm would still overflow and the water would follow the existing drainage pattern. The new system was installed without permits and was a construction decision to avoid damaging existing fiberoptics. Details and calculation for the new drainage should be included in the site plan, to be reviewed by the Township Engineer.
9. A permanent generator will be installed near the dumpsters in the rear of the property. The area shall be enclosed and the fence repaired. Additional perennials will be planted and the gravel will be maintained in the storage lots.
10. There are steps in Lot 12 that provide access to the gravel parking area that will be removed. The set of stairs closer to Route 10 will remain.
11. The Applicant agreed to repair the damaged fencing and fence screenings and install new fencing, as required by the Preliminary Site Plan approval. A light study is needed to confirm that all lights are turned off or dimmed by 11:00 pm. Additional landscaping will be installed.
12. During site inspections, both Board members and their professionals noticed cars parked along Arlington Avenue, which is prohibited. The Applicant agreed to police the issue so that vehicles are not parked illegally.

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 witnesses testimony to be competent and credible. The Board determined that Final Major Site Plan approval should be granted, pursuant to N.J.S.A. 40:55D-50, as the Applicant has provided detailed drawings of the site plan, provided the required specifications and conformed to the standards

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established by Section 13-3.9 of the Township's Ordinance and substantially met the conditions of the preliminary approval.

2. The revised drainage system has addressed the flooding problems on the site and the Applicant has agreed to include details and calculations on the plans for the seepage pits and inlets. The Applicant has further agreed to repair damaged fencing, add additional fencing and landscaping and maintain the gravel on site. Finally, the concerns of the Board and the professionals will be addressed by the Applicant, as set forth in the conditions herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April 2021 that the approval of the within application be granted subject, however, to the following conditions:

Per Mr. Stern's report:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. Repair the pothole in Lot 12.
3. Submit the filed Deed Restriction covering all the lots in question to be appropriately signed by all entities in question effectuating a single operation of the properties that results in a *de facto* single ownership. The Deed Restriction shall be reviewed and approved by the Board Attorney and recorded in the chain of title.
4. Install perennials per the Schoor Depalma Supplemental Entrance Planting Plan dated March 27, 2005.
5. Install missing perennials in the service entrance planting end islands.
6. The permanent generator shall be indicated on the plans, within the dumpster enclosure.
7. The temporary generator shall be removed from the property.
8. The dumpster enclosure gates shall be repaired.
9. Install the missing board on the fence adjacent to Lot 51.
10. The LED light at the corner of Lot 51 shall be extinguished when employees leave the premises and no later than 11:00 p.m. The LED light along Kings Parkway shall dim to half power no later than 11:00 pm. Four of the existing lights shall be shut off no later than 11:00 pm. Three existing lights shall remain illuminated as depicted on the lighting exhibit.
11. Applicant shall not display vehicles on the lawn, within Lot 12, as it is in violation of Section 13-7.3505.

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12. All gravel, within Arlington Avenue roadway, sidewalks and paved driveways of the parking lots shall be cleared of gravel and future periodic clearing shall be provided as needed or directed by the Township Engineer.
 13. The on-street loading/unloading of vehicles is prohibited. Unloading of vehicles is only permitted within Block 8602, Lots 12 and 49.01.
 14. Vehicle access to and from Kings Parkway via Block 8602, Lot 49.01 is prohibited.
 15. All vehicle maintenance and repair shall be conducted within the building.
 16. The owner/applicant of Block 8602, Lots 33 and 49.01 shall maintain all outdoor storage yard buffer plantings and fencing.
 17. Landscaping and fencing shall be maintained in accordance with the 2004 Preliminary Site Plan Approval. Damaged fence shall be repaired and dead/missing marginal plants shall be replaced/installed.
- Per Mr. Denisiuk's Report:
18. The Applicant shall provide drywell sizing calculations, drywell details, drainage areas, incoming pipes and soil information. An overflow pipe shall be provided or calculations demonstrating that the drywell will drain in less than 72 hours.
 19. The damaged and leaning signage shall be repaired.
 20. The new inlets along Kings Parkway shall be cleaned of all debris and properly inspected for the presence of low flow channels.
 21. The existing steps from the parking lot at the end of Arlington Avenue shall be removed.
 22. All damaged fence screening on Lots 49, 49.01 and 33 shall be repaired and new fencing shall be installed, as required by Preliminary Resolution.
 23. A night lighting inspection shall be performed to verify if the lighting turns off and dims by 11:00 pm, as required by Preliminary Resolution.
 24. As As-built survey shall be submitted, subject to review and approval by the Township Engineer, prior to the issuance of a Certificate of Occupancy.
 25. Details and calculation for the drainage system shall be added to the site plan for review and approval by the Township Engineer.

ZBA-17-012 KINGTOWN DIESEL. A amended Preliminary Site Plan, “D” Variance for property located at 1470 Route 46 East, Ledgewood, Block 9302, Lot 3 in a B-2 zone.

Ms. Dargel made a motion to memorialize the resolution, Mr. Klein seconded.

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

In the matter of Kingtown Diesel
Case No. ZBA-17-012

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

Approved: April 12, 2021
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WHEREAS, Kingtown Diesel has applied to the Board of Adjustment, Township of Roxbury seeking Amended Preliminary Site Plan Approval and Use Variance relief for premises located at 1470 Route 46 and known as Block 9302, Lot 3 on the Tax Map of the Township of Roxbury which premises are in a “B-2” Zone; and

WHEREAS, the within application had been scheduled for numerous times for a public hearing and the Applicant never proceeded; and

WHEREAS, significant changes have taken place on the property since the original submission that have resulted in necessary revisions to the application and plans, including but not limited to the availability of public water and sewer connections; and

WHEREAS, the Applicant is in need of outside agency approvals, such as the New Jersey Department of Transportation, that will further impact the application; and

WHEREAS, it was determined that the application should be withdrawn and resubmitted with all the necessary approvals and revisions.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 12th day of April 2021 the within application is withdrawn.

APPLICATIONS:

ZBA-21-011 CALANTROPIO, Bulk Variance relief for property located at 82 Lazarus Drive, Ledgewood, Block 8303, Lot 6 in an R-1.8 zone. *Request to be carried to June 14, 2021, no further notification.*

ZBA-20-023 PISANO, Variance relief for property located at 4 Bell Court, Landing, Block 11302, Lot 9 in an R-3 zone. *Request to be carried to June 14, 2021, no further notification.*

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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 June 14, 2021, notification required.*

ZBA-21-006 REED, Bulk Variance relief for property located at 141 Righter Road, Succasunna, Block 3502, Lot 23 in an R-2 zone.

Mr. Wiener swore in Thomas and Christine Reed of 141 Righter Road, Succasunna. Mr. Reed went on to explain that they have an existing 10 x 10 shed located on their property that does not meet the current set back from the principal structure, however the conditions of the property are such that in the rear yard of the property there is a steep slope that would not allow for placement of a shed. In addition, there is an underground sprinkler system that would have to be relocated to allow for placement of a shed and even then the shed would not meet the rear yard set back requirements. Mr. Overman asked Mr. Reed if his property was located on a corner lot. Mr. Reed replied yes, that is correct. Mr. Overman then asked if there are additional limitations due to the fact of the corner lot. Mr. Reed replied yes. Mr. Reed went on to explain that he had taken down one shed that was on the driveway side of the property that was pre-existing prior to purchase of the home. Mr. Reed stated he had applied to have a pool put in the backyard and as part of the application process he was told that shed located along the driveway did not meet the set-back requirements, so he removed it. Dr. Kennedy asked Mr. Reed to refer to Reed Exhibit 4 (Survey) and then asked if the shed that requires a variance is located on a utility easement. Mr. Reed stated that is correct. Dr. Kennedy asked Mr. Reed if he took into consideration placing the shed on an easement. Mr. Reed stated the shed can be moved even closer to the house to get it off of the easement. Mr. Stern asked how close to the home would it be. Mr. Reed replied it will not be 10 feet off of the home as required. Dr. Kennedy also noted the AC units are also located in the area. Ms. Robortaccio stated the shed is already 5 feet from the home and that is why the applicant is before the Board. Mr. Stern asked Mr. Reed if he went to the Township Engineer for a Hold Harmless Agreement. Mr. Reed stated the only person they spoke to at the Township regarding the matter was Tom Potere, Zoning Officer. Mr. Wiener stated the Township Engineer may be able to solve the problem, because we need to find out where the sewer line is located. Mr. Wiener asked Mr. Reed if he would be willing to sign a Hold Harmless Agreement. Mr. Reed replied yes. Dr. Kennedy asked Mr. Reed if he would move the shed to the right of where it is now. Mr. Stern replied they still have the air conditioning unit in the way and then it would be closer to the home. Mr. Stern went onto state that if the Board is satisfied with the 8.3 foot setback they should just require a Hold Harmless Agreement with the Township. Ms. Robortaccio asked if the application could be approved contingent upon obtaining the Hold Harmless Agreement. Mr. Wiener replied yes. Mr. D’Amato asked Mr. Reed if the shed as it sits now easily moveable. Mr. Reed replied it would require placing pipes under it rolling it and the use of jacks. Mr. Reed went on to state it is a wooden shed. Mr. D’Amato stated he is just thinking ahead in case the shed need to be moved and how that would take place. Mr. Overman asked if the shed had to be moved because of the easement, wouldn’t it be because the Township needed to do some work. Ms. Robortaccio asked could they just put it back afterwards. Ms. Robortaccio also stated that she went to the site to do an inspection and noted that the shed is located next to a whole row of very thick shrubs, stating the shed cannot be seen from the street. Dr. Kennedy asked Mr. Reed if there was anyway the shed could be moved to the backyard. Mr. Reed replied the property pitches in the backyard noting a significant elevation change from in front of the deck up to the corner of the property, noting all the yards above the property are all higher. Dr. Kennedy again referred to Exhibit 4 on the survey and asked if the shed could be placed on the slate walkway area located near the deck. Mr. Reed stated that is where the sprinkler system is located and if we were to squeeze the shed in that spot it would be very close to the pool and it would be very close to the property line. Ms. Robortaccio asked the Reeds if they could place the shed between the deck and fence. Mrs. Reed replied the area is very tight and slopes upward.

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. D'Amato made a motion to approve the application with the condition that the applicant obtain a Hold Harmless Agreement from the Township Engineering Department, Dr. Kennedy seconded.

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

ZBA-21-009 MITRO, Bulk Variance relief for property located at 522 Ryerson Road, Landing, Block 11407, Lot 2 in an R-3 zone.

Mr. Wiener swore in Peter Mitro of 522 Ryerson Road, Landing and Matthew Smetana, Architect of 64 Sunset Lake Road, Sparta. Mr. Smetana went on to state he is registered Architect in New Jersey since 1999 and has presented before numerous Land Use Boards and his licenses are all in good standing.

Mr. Mitro testified that his home in an old house and was not built very practically and the upgrades he is proposing will make the home a much more practical place to live. Mr. Wiener asked Mr. Mitro if part of the problem was that the lot is somewhat narrow and the house doesn't seem particularly large. Mr. Mitro replied yes and in addition, the only bathroom in the home is in one of the bedrooms and the back door of the home is located in the other bedroom and neither bedrooms have closets in them. Mr. Mitro went on to state he would like to improve on all of the impracticalities.

Mr. Smetana went on to testify that the existing home on the drawing shows a small living space with an existing bedroom in the front right corner in which you must go thru the bedroom to get to the bathroom. The second bedroom has the exit out to the backyard. What is basically being proposed is to square off the front of the house as well as the back of the house to gain a large kitchen, dining area, and a larger living space and then reworking some of the central space by gaining more closet space, better access to the bedrooms and better access to the bathroom and direct access to the backyard from the main living space. As far as the aesthetics go, the house is a ranch and will remain a ranch, and we will basically be updating the look of the house from the street giving it more curb appeal and nicer front entrance way. Mr. Smetana went on to discuss the site explaining the existing house is non-conforming dwelling by having a side-yard setback on the left-hand side of the home at 9.2 feet, noting the applicant is proposing 10 feet. On the right-hand side of the home the set-back is 10.4 feet and at the front the existing house is 30.6 feet and the applicant is proposing to maintain that. There is plenty of rear yard and the additional variances are needed for impervious coverage because currently there is a large driveway going back to the rear of the property and behind the garage there is a shed and an existing patio. At the front there is an existing concrete pad as well as a walkway. Basically, the proposal is to remove the walkway in the front and remove the patio in the front and in the rear and replace it with the addition. The net impervious is a reduction as to what is currently there, noting it is an undersized lot. The lot requires 15,000 square feet where 7,500 square feet exists. There is also a variance required for building coverage noting the existing building coverage is just at the allowable 15% with a proposed addition the applicant will be at 18.5 percent so it would be 3.5 percent over the allowable. Mr. Smetana went on to show the Board the adjacent properties set-backs. Mr. Overman stated he noticed the framed garage has a set-back of 4.7 feet and was wondering if that was an additional variance. Mr. Smetana stated it is a pre-existing non-conforming garage. Ms. Robortaccio asked if it should be added to the variance list. Mr. Stern replied, when you take a look at the landing area some of these developments predated the ordinance and if you take a look at it, it is a non-conforming lot noting we should just focus on the more recent elements. Mr. Wiener stated it is an existing non-conforming condition. Mr. Stern asked Mr. Smetana regarding the front walkway, stating you will be removing the concrete and paver walkway, but you have a brand-new front entry way, how are you going to get to it. Mr. Smetana replied we will be installing a driveway, it is just tight up against the home vs. the existing walkway. Mr. Stern stated, just a thought for the Board, the applicant is make a substantial amount of the improvements and expanding the home to a practical home, one with much better utility to it and amidst all of this the applicant is reducing impervious coverage, but yet the entry to the home is going to be smack against the home and it really doesn't provide you a nice entry way. Mr. Stern went on to state that he applauds the applicant for trying to reduce impervious coverage under what is currently existing, but you are treating the home a lot nicer now and you are improving it so what not put in a nicer entry way. If it is something you are considering you should

mention that now to the Board. Mr. Smetana replied that the applicant would be open to expanding the amount of impervious coverage to add a little separation maybe with a planter. Mr. Stern stated it would make a nicer entry feature. Ms. Robortaccio asked what the impervious coverage is currently. Mr. Stern replied it is 38.3 % and under the applicant's scenario they drop it to 36.8 %. Ms. Robortaccio asked what was allowable. Mr. Stern replied 25% and the coverage is driven by a detached garage. Mr. Smetana stated perhaps they would add a six-foot-wide walkway and two-to-three-foot buffer off of the home. Mr. Smetana stated the increase in impervious coverage would be .2 %.

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

ZBA-21-010 PALESADO, Bulk Variance relief for property located at 77 S Hillside Avenue, Succasunna, Block 3502, Lot 14 in an R-2 zone.

Mr. Wiener swore in Joseph Palesado of 77 S Hillside Avenue, Succasunna and Alexandra Handel, PE & PP. Ms. Handel stated she is a graduate of Stevens Institute of Technology in 2013 with a Bachelors/Master's Degree and in 2015 graduated NJIT with a Bachelors of Science in Land Surveying and became a Professional Engineer in 2017 and is also a Professional Planner with a license in good standing.

Mr. Palesado went on to testify that he is before the Board to request a variance to install a 10 x 14 shed that is 11 feet high on the side of his home, further noting that the home is situated on a corner lot which has two front yards and he will require a front yard set-back variance and a building coverage variance. Mr. Palesado went on to state that with the shed being 10 x 14 this will add another 140 square feet to the building coverage which will make it 18.8%. The shed itself will be situated in such a way that it will be blocked from view by passing traffic as you are heading south on Hillside Avenue and as you head north it will be blocked by a row of hedges 11 to 13 feet high that runs 180 feet along the side of Alward Drive. Mr. Palesado thought was to put the shed in that location as to keep it blocked from any neighbors or passers by so as not to be a detriment to the public.

Dr. Kennedy asked Mr. Palesado if there were other spots on the property to place the shed where he would not require a variance. Mr. Palesado stated that the right left corner has a bit of a slope which would make it difficult, but the main reason for the selected location is there is a 1,250 gallon drywell that the Township requested be installed while we were building the home for rain run-off. The far right corner has a root situation from a tree situated in the rear corner on my neighbor's property so, we felt the most inconspicuous spot for it would be behind the hedges away from everyone's view which would be set back 90-95 feet from the curb line. Dr. Kennedy stated the house itself is in a u-shape and if you look at the right-hand portion of the u could the shed be place there. Mr. Palesado replied there are bedroom windows are in that location and it wouldn't be the most opportune spot. Ms. Robortaccio asked about the proposed inground pool on the survey. Mr. Palesado replied that it is a semi-inground pool. Ms. Robortaccio asked if the yard needed to be fenced in completely. Mr. Palesado replied that yes, he would be installing a 6 foot vinyl fence around the entire property. Ms. Robortaccio asked if the fence has been previously approved. Mr. Palesado replied yes. Mr. Stern replied the fence was approved in 2018 and it was found that the fence was appropriate considering the existing hedges that ran along Alward Lane.

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. D'Amato made a motion to approve the application, Mr. Overmann seconded.

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

ZBA-21-012 BELL, Bulk Variance relief for property located at 64 Ford Road, Landing, Block 11306, Lot 9 in an R-3 zone.

Mr. Wiener swore in Leslie Bell of 64 Ford Road, Landing. Mr. Bell went on to testified he would like to replace an existing driveway which was installed in 1984 and upon his Zoning Permit Application submission it was revealed that the driveway that is currently existing did not represent what was shown on the property survey. The survey showed a shorter driveway with a carport, noting the carport was taken down right after Mr. Bell purchased the home. In 1984 Mr. Bell installed a driveway after a truck crushed his driveway during a rainstorm and at that time Mr. Bell expanded the driveway to the back of the house and it has remained the same ever since. Mr. Bell went on to state he would like to maintain the footprint of the driveway that currently exists. Mr. Bell stated he has another variance requirement which is a shed set-back of 3 ½ feet where 5 feet is required, noting the shed has been on the property since 1990. Dr. Kennedy asked if there was anyway the shed could be moved to pull it into compliance. Mr. Bell replied he could, but it would be difficult being it is an extremely old and heavy shed that has seen a lot of weather, noting the shed is not on a pad. Mr. Overman asked if there was any other spot the shed could be placed. Mr. Bell replied he could move it forward but there are a lot of above grade maple tree roots all over the property making moving the shed difficult. Ms. Robortaccio stated that upon her on-site visit she can attest the property is on a hill that slopes upward. Ms. Dargel asked why the original expansion on the driveway. Mr. Bell replied to avoid parking on the street and to provide a cleaner access to the back yard as not to walk over dirt and mud and noting it picks up a walkway located in the back and it suits the home and allows for connection of the driveway to the back walkway.

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. D'Amato made a motion to approve the application, Ms. Robortaccio seconded.

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

ZBA-21-015 MULVIHILL, Bulk Variance relief for property located at 2 Summit Lane, Succasunna, Block 5402, Lot 6 in an R-1 zone.

Mr. Wiener swore in Bryan Mulvihill of 2 Summit Lane, Succasunna. Mr. Mulvihill went on to testify that his property is located on a corner lot and he would like to install a 5 or 6 foot privacy fence on his property to secure his four children while in the yard. Dr. Kennedy asked Mr. Mulvihill if it is his intent to secure the yard for the children, then why is the fence only being installed on a portion of the property and how would he provide privacy and security in the rear yard. Mr. Mulvihill stated there is a retaining wall in the rear yard with large rocks and trees and shrubs so the fence would be installed up to that point which forms a natural barrier. Dr. Kennedy asked since the fence installation is primarily for the security of your children and privacy have you explored the possibility of a shorter fence and then installing some type of natural barrier such as a hedge or tree line. Mr. Mulvihill replied he had looked at that option but he felt the fence was more secure, noting a chain link fence can be climbed and feels safer with the 6 foot fence. Mr. Stern asked Mr. Mulvihill what is the area that is shown on your survey that depicts under construction. Mr. Mulvihill replied it is from when he purchased the home the previous homeowner had septic work done. Mr. Stern asked if there was a pool located on the property or fence on the left side of

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Board of Adjustment
May 10, 2021

the property. Mr. Mulvihill replied no. Mr. Stern asked Mr. Mulvihill what type of fence material is being proposed. Mr. Mulvihill replied it would be a six-foot wooden fence that provides privacy. Ms. Robortaccio stated that she did not understand why Mr. Mulvihill is only install fencing on one side of the yard if he is concerned for the safety of his children. Mr. Mulvihill replied because the road is right there and it would provide protection. Ms. Robortaccio stated she noticed in the neighborhood that most of the homes either have shrubs or they have four-foot metal see through fencing, noting she hasn't seen any six-foot fences on the other corner lots. Mr. Mulvihill replied he had a different situation because he has four children. Ms. Robortaccio stated other people have children and this situation can be remediated with a foot fence and shrubbery. Mr. Overman stated when he looks at variances, he always tries to look at what makes this property unique from other properties with respect to its layout and he saw that one of the differences are that it's a corner lot and so part of the point of this fence is because it is along a road, but then that is also one of the reasons that we have a four foot fence requirement so that we do not have six foot high fences along all of the corner lots in town, noting he is trying to explain in his head why this is a good variance and he was not getting that yet. Ms. Dargel stated that she is not a proponent of six-foot fences along the road in general and feels a four-foot fence with shrubbery would suffice. Mr. Mulvihill stated the first house when you enter his development has a six-foot privacy fence and he sees them around town often he feels his fence would be beneficial and look nice. Ms. Robortaccio stated we normally grant a variance because there is no other option, and in this situation, there are other options and the option is a smaller fence with shrubbery. Ms. Dargel stated that if the fence was more situated near the setback line and not up on the road she might be more favorable to the variance. Dr. Kennedy stated that there are other areas along the property where the children can get out and doesn't see how one side of the yard being fenced in is going to accomplish that. Dr. Kennedy ask what type of fence does the neighbor adjacent to your property have along the property line. Mr. Mulvihill replied there is a patch of woods and a chain-link fence. Mr. Mulvihill stated shrubbery would not provide the coverage he would like, noting shrubbery is an additional item that needs maintaining. Ms. Robortaccio replied she understands Mr. Mulvihill's concern but sometimes we have Ordinances and when we have no alternative that is what the variance is for, but there is an alternative. Dr. Kennedy stated his concern is that the applicant's survey doesn't depict well what is on the property. Ms. Robortaccio stated she visited the property and she is basing her decision on her view of it from having viewed the property and the area. Dr. Kennedy stated the applicant can either withdraw the application to see if he has an alternative solution and he can come back at a later date or the Board take a vote now but there is not guarantee it is a vote that would pass. Mr. Mulvihill replied what do you mean by exploring an alternative solution, asking if he installed a four-foot fence he wouldn't need a variance at all. Mr. Mulvihill stated he was very disappointed that he spent all this money and time and now is being denied. Mr. Mulvihill then withdrew his application. Mr. Mulvihill stated he sees several privacy fences six foot in height all around town and his not sure why his home doesn't allow for this variance. Dr. Kennedy stated that each application is reviewed by the Board and is looked at based on the community it resides in and every variance is given with quite a degree of thought and we can't approve based on the fact a neighbor may have put up a fence inappropriately.

Mr. D'Amato made a motion to accept the withdraw of the application without prejudice as consented by the applicant, Ms. Robortaccio seconded.

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

NEW BUSINESS: None

OLD BUSINESS: None

Motion to adjourn at 8:50 pm

ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

Tracy Osetec, Board Secretary

June 3, 2021