

On Monday, June 14, 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: 84409664840#, Participant ID: # and Password: 225142#. 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. Frequenza, Mr. Overman, Mr. Klein, Mr. D’Amato, Ms. Robortaccio, Mr. Furey, Ms. Dargel and Dr. Kennedy

ABSENT: None

PROFESSIONAL STAFF

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

MINUTES OF MAY 10, 2021 MEETING

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

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

RESOLUTIONS:

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

Ms. Robortaccio made a motion to memorialize the resolution, Mr. Overman seconded.

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

In the matter of Thomas P. Reed
Case No. ZBA-21-006

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

Approved: May 10, 2021
Memorialized: June 14, 2021

WHEREAS, Thomas P. Reed has applied to the Board of Adjustment, Township of Roxbury for *ex post facto* approval for the construction of a shed for premises located at 141 Righter Road and known as Block 3502, Lot 32 on the Tax Map of the Township of Roxbury which premises are in a “R-2” Zone; said proposal required relief from Section 13-7.905A of the Roxbury Township Land Use Ordinance; and

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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. The Applicant is the owner and occupant of the subject premises.
2. The Applicant constructed a shed on their property that requires variance relief from Section 13-7.950A.
3. The Applicant submitted the following documentation:
 - a. Exhibit 1 – Application
 - b. Exhibit 2 – Tax Map
 - c. Exhibit 3 – Formal Denial by Tom Potere, dated April 27, 2021
 - d. Exhibit 4 – Survey, prepared by Lakeland Surveying, dated April 5, 2021
 - e. Exhibit 5 – Survey showing approved pool, prepared by Lakeland Surveying, dated April 5, 2021
4. As noted in the letter of denial dated April 27, 2021 from Tom Potere, the Zoning Officer, the following relief is required
 - a. Accessory Building or Structure Setback – 10’ permitted; 5’ existing and proposed
5. A duly noticed public hearing occurred on May 10, 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. Thomas Reed presented sworn testimony in support of the application. The subject property is a corner lot that contains a single-family home that fronts on Righter Road, with a second frontage on Clearfield Road. There is an existing shed on the northern side of the house that is 5 feet from the primary structure, the home, where 6 feet is required.
7. The Applicant sought zoning approval for the construction of an above-ground pool and the Zoning Officer noted that the existing shed was located too close to the principal structure. The Applicant testified that there are limitations as to where the shed can be located because the property is a corner lot, which eliminates two of the yard areas. The property slopes in some areas and there is an underground sprinkler

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system that restricts the options of relocating the shed. The shed was constructed near the existing air conditioner unit, outside of the fenced in yard. A row of shrubs screens the shed from the roadway.

8. There is a 20-foot-wide utility easement that runs along the northern boundary of the property, and the shed encroaches on the easement. If it were to be moved out of the easement area, it would be closer to the house. The Applicant agreed to enter into a Hold Harmless Agreement to protect the Township from any damage or injury that may occur if access through the easement is required.
9. There was no one from the public in attendance for this application.

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

1. The Board found the witness testimony to be competent and credible. Relief can be granted pursuant to N.J.S.A. 40:55D-70C from the Section 13-7.905A of the municipal zoning ordinance to allow the shed to be 5 feet from the principal structure.
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 property is developed corner lot with restrictions on where the subject shed could be relocated in a conforming manner. The shed is screened from view of the roadway and has existed on the property without any impact to the nearby neighbors. The benefits of allowing the shed to be 5 feet from the primary structure outweigh the detriments that may result from denying the requested relief, as the shed provides storage for outdoor equipment and tools.
4. It was determined that there would be little impact to the surrounding area and the shed is not visible to the neighbors. The relief can be granted without substantially impairing the zoning scheme or Master Plan, as the relief is *de minimis* in nature.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 10th day of May 2021 that the approval of the within application be granted subject, however, to the following conditions:

1. Payment of all fees, sureties, and escrows required by ordinance.
2. The Applicant shall enter into a Hold Harmless Agreement, subject to review and approval of the Township's Engineer.

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

Ms. Dargel made a motion to memorialize the resolution, Mr. D'Amato seconded.

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

In the matter of Peter Mitro
Case No. ZBA-21-009

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

Approved: May 10, 2021
Memorialized: June 14, 2021

WHEREAS, Peter Mitro has applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring variance relief for premises located at 522 Ryerson Road and known as Block 11407, 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 13-7.1301D4, 13-7.1301D8 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:

10. The Applicant is the owner and occupant of the subject premises.
11. The Applicant is proposing an addition to an existing single family dwelling to enlarge the living area.
12. The Applicant submitted the following:
 - a. Exhibit 1 – Application
 - b. Exhibit 2 – Tax Map
 - c. Exhibit 3 – Formal Denial Report, prepared by Tom Potere
 - d. Exhibit 4 – Survey, undated, with Additions Drawn by Matthew Smetana, AIA

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- e. Exhibit 5 – Calculation Sheet, prepared by Matthew Smetana
 - f. Exhibit 6 – Architectural Drawings, prepared by Matthew Smetana, dated March 25, 2021
13. Applicant received a letter of denial dated March 31, 2021 revised April 27, 2021 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
- a. Section 13-7.1301D4 - Front Yard Setback – 35’ required, 30.6’ existing and proposed
 - b. Section 13-7.1301D4 - Maximum Lot Coverage – 25% required, 38.3% existing, 36.8% proposed
 - c. Section 13-7.1301D8 - Maximum Building Coverage – 15% required, 15.1% existing, 18.5% proposed
14. A duly noticed public hearing occurred on May 10, 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.
15. Peter Mitro, the Applicant, and Matthew Smetana, AIA, who was accepted as an expert architect. The subject property is a narrow, undersized lot that contains a single-family home, with a driveway to the rear of the property and a detached garage. The existing dwelling contains two bedrooms and one bathroom and has an unusual configuration; the rear patio is accessed from one bedroom and the bathroom is accessed from another bathroom. Additionally, there are no closets throughout the house and the laundry room is located within the living space.
16. The Applicant is proposing to add two additions and reconfigure the layout to modernize the home. An addition in the front of the home will enlarge the living room and the addition in the rear of the home will relocate the kitchen and enlarge the bathroom. Closets are proposed in the bedrooms and the hallways. The back yard will be accessed from the kitchen.
17. The exterior of the home will be improved with a peaked roof to add to the aesthetic appearance. Sliding glass doors will be added to the rear of the home for visual appeal. The front yard setback is consistent with the surrounding homes in the area.

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18. The proposal includes removing the existing shed and patio and reconfiguring the walkways. The result will be a decrease in lot coverage and an increase in building coverage, however, both are in excess of what is permitted. The front yard setback remains the same distance of 30.6 feet, but there is a horizontal expansion of the non-conforming setback.
19. There was no one from the public in attendance for this application.

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

5. 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. Front Yard Setback – 35’ required, 30.6’ existing and approved
 - b. Maximum Lot Coverage – 25% required, 38.3% existing, 36.8% approved
 - c. Maximum Building Coverage – 15% required, 15.1% existing, 18.5% approved
6. 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.
7. The relief can be granted, as the lot is undersized and narrow, with the existing dwelling located within the front yard setback, as are other homes in the area. The proposed addition will improve the practicality of the home with improvements that modernize the home. The requested deviations are *de minimis*, and the benefits of granting the variances outweigh the detriments that may result from denying the requested relief.
8. It was determined that there would be little impact to the surrounding area and would improve the aesthetic appearance of the home and the neighborhood. Accordingly, 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 May 2021 that the approval of the within application be granted subject, however, to the following conditions:

3. Payment of all fees, sureties, and escrows required by ordinance.
4. Shed behind the garage shall be removed.
5. The addition shall be constructed as indicated on the plans and presented to the Board during the hearing.
6. The front yard setback shall not be less than 30.6 feet. The maximum lot coverage shall not exceed 36.8%.

The maximum building coverage shall not exceed 18.5%.

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.

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

In the matter of Joseph Palesado
Case No. ZBA-21-010

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

Approved: May 10, 2021
Memorialized: June 14, 2021

WHEREAS, Joseph Palesado has applied to the Board of Adjustment, Township of Roxbury for permission to construct a shed requiring variance relief for premises located at 77 South Hillside Avenue and known as Block 3502, Lot 14 on the Tax Map of the Township of Roxbury which premises are in a "R-2" Zone; said proposal required relief from Sections 13-7.1101D8 & 13-7.810.1B 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:

20. The Applicant is the owner and occupant of the subject premises.
21. The Applicant is proposing to construct a 10'x14', 11' tall shed requiring variance relief.
22. Applicant submitted the following documents with the application (Exhibit 1):
 - a. Exhibit 2 – Tax Map
 - b. Exhibit 3 – Formal Denial Report, prepared by Tom Potere, dated March 26, 2021

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- c. Exhibit 4 – Variance Map prepared by Alexandra Handel, PE,PP of Petry Engineering, LLC dated 3/19/21 revised 4/8/21 consisting of one (1) sheet.
 - d. Exhibit 5 – Resolution for ZBA-18-003, approved on May 14, 2018, memorialized June 11, 2018, which included approval of the 6’ high privacy fence
23. As noted by Mr. Potere in the letter of denial dated March 26, 2021, the Applicant needs the following relief:
 - a. Maximum Building Coverage – 15% permitted, 18.1% existing, 18.8% proposed
 - b. Accessory Building – No accessory building shall be permitted in a front yard – proposed 10’x14’,11’ tall shed
24. A duly noticed public hearing occurred on May 10, 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.
25. Joseph Palesado, the Applicant, and Alexandra Handel, PE, PP, who was accepted as an expert in the fields of surveying, engineering and planning, presented sworn testimony in support of the application. The subject property is a corner lot, with the house facing South Hillside Avenue and the second frontage on Alward Lane. The Applicant is proposing a 10’x14’x11’ shed on the side of their home, which is within the front yard on the Alward Lane side of the property.
26. The shed would be located within the existing white, PVC 6’ high privacy fence, which encloses the back yard. There is a row of hedges beyond the fence that provides additional screening. The shed would not be visible from the neighbor, as it will be blocked by the home. The top of the shed would be above the fence and will be seen from the road. The proposed location is the most inconspicuous place on the property.
27. The property has slopes that make construction of the shed in another location difficult. There is an existing drywell on the property that captures the stormwater runoff on site.
28. The addition of the shed will result in a *de minimis* increase in building coverage from 18.1% to 18.8%, where 15% is permitted.

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29. There was no one from the public in attendance for this application.

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

9. 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 Section of the municipal zoning ordinance.
10. 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.
11. The subject property is corner lot, with 2 front yards, which creates a hardship for the Applicant with regard to the construction of the shed. The proposed location is screened by the fence and hedges and out of the view of the adjacent neighbor.
12. The benefits of permitting the increase in building coverage outweigh the detriments that may result from denying the requested relief. The shed will provide storage for the property owner and is *de minimis* in nature.
13. It was determined that there would be little impact to the surrounding area and the proposed location is the best option for the Applicant. 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 May 2021 that the approval of the within application be granted subject, however, to the following conditions:

7. Payment of all fees, sureties, and escrows required by ordinance.
8. The shed shall be installed as indicated on the plans and presented to the Board during the hearing.

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. D'Amato made a motion to memorialize the resolution, 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.

In the matter of Leslie C. Bell
Case No. ZBA-21-012

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

Approved: May 10, 2021
Memorialized: June 14, 2021

WHEREAS, Leslie C. Bell has applied to the Board of Adjustment, Township of Roxbury for permission to expand the driveway requiring a variance for premises located at 64 Ford Road and known as Block 11306, Lot 9 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Sections 13-7.1301D8 & 13-7.1301D6(b) 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:

30. The Applicant is the owner and occupant of the subject premises.
31. The Applicant is proposing to repave and expand the driveway. The following were submitted with the application (Exhibit 1):
 - a. Exhibit 2 – Tax Map
 - b. Exhibit 3 – Formal Denial Report, prepared by Tom Potere, dated November 6, 2020
 - c. Exhibit 4 – Calculation sheet for building and lot coverage
 - d. Exhibit 5 - Survey of the property driveway, revised by Les Bell, November 9, 2020
 - e. Exhibit 6 – Survey of the existing driveway, prepared by Frank J. Kowalick, dated April 5, 1982, marked up to indicate changes
 - f. Exhibit 7 - 7 photographs of the subject property
32. As noted by Mr. Potere, in the letter of denial dated November 6, 2020, the Applicant needs the following relief:

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- a. Maximum Impervious Coverage – 25% required, 24.29% existing, 27.77% proposed
 - b. Side Yard Setback (for shed) - 5' required, 3.5' existing and proposed
33. A duly noticed public hearing occurred on May 10, 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.
34. Leslie Bell presented sworn testimony in support of the application. The subject property contains an existing dwelling, with a driveway that extends along the western side of the property with a walkway to the rear of the house, and a shed in the back yard. The driveway is in need of repair and the Applicant is seeking approval to repave the driveway in the same configuration. The existing shed in the rear of the property is 3.5' from the side yard, where a 5 foot setback is required. Based on the coverage calculation, the total impervious coverage is 27.77%, where only 25% is permitted.
35. The Applicant purchased the home in 1982 and there was a carport on the property. In 1984, the carport was removed and the driveway was replaced. The shed was constructed in 1990 and has remained the same since then. The Board determined that these conditions were all pre-existing and there have been no complaints from the neighboring property owners.
36. The Applicant testified that there is no other location for the shed, as the current location is the level area in the rear yard and there is a septic tank that restricts the ability to move it to another location. Additionally, the existing terrain creates a challenge to bring in the equipment required to move the shed.
37. There was no one from the public in attendance for this application.

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

14. 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:

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- a. Section 13-7.1301D8 - Maximum Impervious Coverage: 25% required, 24.29% existing, 27.77% approved
 - b. Section 13-7.1301D6(b)Side Yard Setback (for shed) - 5' required, 3.5' existing and approved
15. 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.
16. Accordingly, relief can be granted, as the driveway is an existing condition on the property that is not being reconfigured. The driveway is in disrepair and in need of replacement. The shed has existed for many years without complaint. There is no conforming location that the shed could be moved to, based on the terrain and the septic tank.
17. The benefits of granting the deviations outweigh the detriments that may result from denying the requested relief. It was determined that there would be little impact to the surrounding area, as these are existing conditions on the property. 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 May 2021 that the approval of the within application be granted subject, however, to the following conditions:

9. Payment of all fees, sureties, and escrows required by ordinance.
10. The Applicant shall obtain any necessary permits from the construction department.
11. The impervious coverage shall not exceed 27.77% and the setback shall not be less than 3.5 feet.

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. Klein made a motion to memorialize the resolution, Mr. D’Amato seconded.

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

In the matter of Bryan Mulvihill
Case No. ZBA-21-015

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

Approved: May 10, 2021
Memorialized: June 14, 2021

WHEREAS, Bryan Mulvihill has applied to the Board of Adjustment, Township of Roxbury for permission to construct a 6’ fence requiring variance relief for premises located at 2 Summit Lane and known as Block 5402, Lot 6 on the Tax Map of the Township of Roxbury which premises are in a “R-1” Zone; said proposal required relief from Section 13-8.809B 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 a 6’ wooden privacy fence as depicted on the marked-up survey prepared by Marc J. Cifone, dated 8/25/20.
3. Applicant received a letter of denial dated 3/26/21 from Tom Potere, the Zoning Officer. As noted by Mr. Potere, the Applicant needs the following relief:
 - a. Fences, Walls and Retaining Walls – No fence or wall shall exceed 6’ in height within the side or rear yards for corner lots.
4. A duly noticed public hearing occurred on May 10, 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.
5. Bryan Mulvihill presented sworn testimony in support of the application. During the course of the hearing, the Board raised concerns about the proposed fence and indicated that they were not in favor of granting the requested relief. The Applicant chose to withdraw the application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 10th day of May 2021 that the within application has been withdrawn, without prejudice.

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 July 12, 2021, no further notification required.*

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 July 12, 2021, no further notification required.*

ZBA-20-023 PISANO, Bulk Variance relief for property located at 4 Bell Court, Landing, Block 11302, Lot 9 in an R-3 zone.

Mr. Pisano of 43 South Lakeside Avenue, Lake Hopatcong came back before the Board with revised plans explaining that his original Board application was for the construction of a pavilion on his property located at 4 Bell Court. Mr. Pisano took into consideration the Board’s suggestion to revise the plans for the pavilion and subsequently came into compliance with the Township Ordinance and obtained a Zoning Permit. Mr. Pisano came back before the Board with the request for a variance in placing a shed in his second front yard. Mr. Pisano has a paper street behind his property causing him to have two front yards. Mr. Pisano would like to move a currently existing shed located on the property which is hindering the construction of his pavilion. Mr. Pisano went on to state that the only location the shed could be placed is what is his second front yard (rear yard).

Mr. Wiener swore in Andrew Dour of 17 Bell Court, Landing, NJ. Mr. Dour stated that he had no objection to Mr. Pisano placement of the shed. Mr. Pisano asked Mr. Dour to identify his block and lot on Exhibit labeled Tax Map. Mr. Dour stated he is located on Lot 2.

Dr. Kennedy stated that he appreciated the applicant’s effort to take into consideration the Board’s suggestions and modify his plans.

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. 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.

ZBA-21-013 CELENTANO, Variance relief for property located at 4 Highland Avenue, Succasunna, Block 4902, Lot 6 in an R-3 zone.

Mr. Wiener swore in Diane and Greg Celentano of 4 Highland Avenue, Succasunna, NJ. Mr. Wiener then swore in Kenneth Fox of Fox Architects. Mr. Celentano stated that he would like to build a second story addition with a bedroom, bathroom, closet, and a small loft/office are above the existing non-conforming garage. Mr. Celentano went on to testify that the second story will not extend out past the front of the existing garage, but it will extend over the front door and create a safer front entrance, in addition, the need for the 3rd bedroom is because the Celentano’s are expecting their

second child. Mr. Celentano stated they currently only have two bedrooms and currently his wife has started a fully remote position and is working out of their dining room.

Mr. Stern stated that the variance that is required for the second story addition over the pre-existing non-conforming front yard setback is not coming any closer to the roadway, they are just putting more mass into the non-conforming area noting in this particular application it is rather de minimis but a variance none the less.

Mr. Fox went on to testify that he and the Celentano's did look at other options on the property and on the home to construct the addition and he wanted to note that fact to the Board. Mr. Fox went onto show the Board the architectural plans explain the need to get the structure of the addition to a load bearing wall which is between the family room and the vaulted ceiling. Mr. Fox stated the proposed location for the addition is the most feasible spot noting there are no other pre-existing non-conformities on the lot. Mr. Fox stated the applicant is asking for a C-1 variance due to the positioning of the existing house on the lot and there is no negative impact with the other properties and will fit in well.

Dr. Kennedy asked if the height of the proposed addition is comparable to other homes in the area. Mr. Fox replied yes.

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

ZBA-21-016 GUARINO. Bulk Variance relief for property located at 25 Silver Springs Drive, Landing, Block 11601, Lot 16 in an R-3 zone.

Mr. Wiener swore in Mark Merlo and Teresa Guarino of 25 Silver Springs Drive, Landing and William and Jaime Byrne of 10 Main Street, Chester, NJ. Mr. Byrne went on to state he has testified before many land use boards as a profession Architect and his license is up to date and he has previously been accepted as an expert witness. Ms. Byrne went onto state she works at 10 Main Street, Chester as an associate AIA.

Ms. Guarino went on to testify that she purchased the home in 1989 and has resided at the residence for over 30 years and during that time has developed very strong friendships with her neighbors and feels a sense of community and because of those reasons she has decided to renovate the home with plans to retire there. Ms. Guarino stated that she has three adult children, and their family is growing. Ms. Guarino went on to testify that the existing home is currently very small, and it needs a lot of work such as a new roof, updated electricity, new bathrooms, new plumbing, new kitchen, new windows, and new siding. In addition, the home is lacking sufficient closet space, it has a partial unfinished basement with low ceiling height with limited storage space. The home is located in the Silver Springs section of Landing on a dead-end street with a 6-acre wooded area in the rear of the property which is undeveloped and is owned by Silver Springs Drive homeowners in good standing with the association share in ownership of the property.

Mr. Byrne testified the house as it exists today is a two-story home with rather limited square footage and was designed initially as a vacation home and what is being proposed is an addition that will

extend into the front yard set-back between the house that exists today and the Silver Springs Drive frontage. The addition is outlined on the drawings shows that it falls in the front yard portion where there is some building envelope to work with and meets the right-side set-back of 10 feet and on the left side aligns with the existing portion of the home which is 7 feet from the property line. The second additional structure being proposed exists to the rear side of the property and this structure is a covered deck. The structure is an existing deck being proposed that it be covered by a roof, noting the orientation of the lot is such that the afternoon and evening sun is very direct into the back of the home. The applicants feel the covered deck would be a nice asset to the home, noting there are no set-back issues.

Mr. Byrne went on to testify regarding the floor plans stating the addition on the first floor would encompass the foyer, coat closet, bathroom, pantry, and a breakfast room. Mr. Byrne further stated that on the second floor it is proposed to add a bedroom, new stairway, laundry room, and a study.

Mr. Byrne address the exterior of the home they are proposing a lake style home in keeping with the area.

Mr. Byrne stated that what is being proposed requires several variances such as a set-back variance for the left side of the home, building coverage overage of about 10 noting it is not for massing but for mainly the covered deck which has positive criteria by extending living space to the outside drawing the homeowner to their neighbors and community in general, and finally impervious coverage which is at 42% when 25% is allowed. Mr. Byrne stated the applicant is removing an existing second shed to reduce some of the impervious coverage. The lot contains 9,207 sq. ft. and the required lot area for the zone is 15,000 sq. ft. making the lot 60% of the size required. Mr. Byrne went on to testify that he feels while the lot coverage is on the high side based on the zone requirement, but it is mitigated by the 6-acre wooded lot that is adjacent to the applicant's property, and it is his opinion that the variance would have minimal impact on the neighborhood.

Dr. Kennedy asked Mr. Byrne if he had an opportunity to read the Lake Hopatcong Commission's report. Mr. Byrne replied yes in detail and commented as far as lot coverage is concerned, he hopefully addresses some of their concerns in his testimony. Dr. Kennedy stated that the Board relies on the Lake Hopatcong Commission to guide the Board in their decision and very rarely has the Board received a report back from the Commission requesting that the application be denied. Dr. Kennedy stated the Board looks at the report very carefully and as you know in NJ there is a requirement when dealing with stormwater runoff and he is concerned about the size of the newly proposed addition where stormwater runoff is concerned. Dr. Kennedy stated that this is a small lot suited for a summer home, not a larger size home, even though to the left and to the right are larger homes they have a much larger lot size than the applicant.

Ms. Robortaccio stated that as she interprets the Lake Hopatcong Commissions report, they are not opposed to an addition, but you will need to go back and design an addition that falls within the 31% impervious coverage. The property is already over the allowable 25% and going to a proposed 41% is a big jump. Ms. Robortaccio asked the applicant and their architect if they looked at another way to reduce the impervious coverage. Mr. Byrne replied that he did identify a couple of areas where the impervious coverage can be reduced by removing the existing walkway that runs down the side of the house.

Mr. Stern made an observation based upon the Chairman's comment regarding the size of the building staring from the front covered entryway to the rear porch it is a length of 95 feet, making the comment that it is significant. Looking at the total living space and for the existing the drawings state 1,637 square feet of living area and proposed is 3,031 so to the Chairman's point this is a significant increase. Mr. Byrne stated the body of the house is 64 feet front to back. Mr. Stern stated a concern is blockage of the lake view.

Mr. Merlo stated he didn't consider the deck as part of the length of the home because it does not have mass to it and it doesn't obstruct the view of the lake. Mr. Merlo further stated we had the neighbors review the plans and they are in support of the project.

Ms. Robortaccio asked the applicant if they are going to address the stormwater issues as suggested by Township Engineer, Mike Kobylarz. Dr. Kennedy reiterated will the applicant be able to address the drainage request with the size of the dwelling being proposed. Dr. Kennedy stated it seems that that there is not much area to install drainage with such a large addition.

Ms. Guarino stated the reason she brought up the 6 acres adjacent to her property was that the property absorbs a lot of the stormwater noting there are no structures on the lot, and it is flat. Ms. Guarino went on to note that her property is flat as well and the water has a place to go which is the 6-acre lot behind her property and they have never had a problem with water run-off. Ms. Guarino stated that is concerned about water run-off as she has seen a weed problem develop as of late and she understands how run-off can affect the lake water. Ms. Robortaccio stated the Township Engineer is requesting a run-off collection system i.e., a drywell and the Lake Hopatcong Commission is also requesting stormwater infrastructure on the property. Ms. Robortaccio then asked if the applicant would be willing to install such a system. Mr. Byrne replied yes and there would be ample room to install a drywell between the proposed addition and the existing masonry garage, noting there is 35 feet of land in that location. Mr. Byrne stated his concern would be as you get closer to the lake the ledge rock gets closer to the surface and that is why the applicant's home is built on a partial basement because in the basement on the back portion of the home the ledge rock rises up to within a few feet of the floor above. Mr. Byrne stated that is why the front yard area is the best spot to install the drywell system. Dr. Kennedy visited the property, and he observed an incline going back toward the lake and not toward the garage in the front yard area. Mr. Byrne replied that back in the corner towards the addition it seems to be fairly flat. Ms. Robortaccio asked Mr. Byrne if he was going to have an Engineer draw up plans. Mr. Furey asked the applicants if they had a full depth basement. Mr. Merlo replied no it is probably six and a half to seven feet at most, but it is $\frac{3}{4}$ due to the ledge rock. Mr. Furey stated it is potential that the applicants may have ledge rock five feet or seven feet below grade. Mr. Merlo replied yes on the lake side but not on the street side. Mr. Furey asked where Mr. Byrne is proposing to place the drywell, will there be ledge rock there? Mr. Byrne replied in his estimation the answer is no because the ledge rock is higher towards the lake and seems to drop down as you near Silver Springs Drive. Mr. Furey stated the applicants have a report from the Township Engineer and the Lake Commission, will they be able to meet the request of both? Mr. Byrne replied that the applicant would be willing to accept a condition of any approval. Mr. Furey then asked if the applicants would be willing to reduce the impervious coverage. Mr. Byrne replied yes, by removing the walkway along the house and removal of the second shed. Mr. Furey asked how confident are you that you would be able to reduce the impervious coverage down to 38% or 35%. Mr. Byrne replied that he 100% confident he could get the impervious coverage down to 38% and confident he could get it to 35%. Ms. Robortaccio asked what if the applicant comes back before the Board with an engineering plan reflecting a drywell and new numbers for the impervious coverage. Dr. Kennedy stated he preferred that the applicant come back with new plans. Mr. Furey and Ms. Robortaccio concurred. Ms. Dargel stated she was very concerned that the impervious coverage was almost double of what is allowed. Mr. Stern suggested that the applicant also come back with photos of the adjacent properties and of the lakefront area of the property noting it would be helpful in the Board's analysis of the application. Mr. Wiener suggested that we hear from the neighbors who would like to comment on the application.

Motion was made to open to the public for comments:

Lisa Cavanaugh came forward requesting to make a comment. Mr. Wiener swore in Lisa Cavanaugh of 23 Silver Springs Drive, Landing. Ms. Cavanaugh stated that she lives next door to the applicants, and she supports the addition being proposed as the applicants have been very forthcoming in their proposed plans and asked the neighbors their opinions on the matter. Ms.

Cavanagh stated she has been a neighbor of Ms. Guarino for 30 years and she understands the Board's concerns, she believes Ms. Guarino's proposed addition is very similar to other additions around the lake.

Mr. Wiener then swore in Jacqueline Namath of 23 Silver Springs Drive, Landing. Ms. Namath stated she is in favor of the Ms. Guarino's proposed plans and that Ms. Guarino is a considerate neighbor.

Mr. Thomas McGowan came forward to make a comment. Mr. Wiener swore in Thomas H. McGowan of 27 Silver Springs Drive, Landing. Mr. McGowan stated he is a third-generation owner, and his grandparents were founding members of the Silver Springs Association and he is in favor of Ms. Guarino's application, and he feels the application is consistent with the style of the neighborhood.

Motion was made to close to the public

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

The applicants requested to be carried to the July 12, 2021 meeting with an extension to the end of August 2021.

ZBA-21-014 MEYER. Bulk Variance relief for property located at 19 Honeyman Drive, Succasunna, Block 3005, Lot 18 in an R-3 zone.

Mr. Wiener swore in Jennifer and Jason Meyer of 19 Honeyman Drive, Succasunna, NJ. Mr. Meyer went on to testify that he purchased the home 9 years ago and there was a sunroom attached to the home that they would like to convert to an all-seasons room and add an addition above it. Mr. Meyer went on to state that he has two sons, and the family is in need of an additional bathroom for his wife and an additional bedroom. Mr. Meyer stated while applying for a zoning permit this opened up Pandora's box for zoning violations with an existing pool that was installed without permits in the late 80s or early 90s and Mr. Meyer added a shed not knowing he needed a permit, and he already had an existing shed and was unaware of the limit of accessory structures in the yard. Mr. Meyer went on to state that he really needs both sheds as one holds his lawnmower and other lawn equipment, and the second shed holds the pool equipment. Mr. Meyer went on to testify that unbeknownst to him his pool and shed are in the front yard because he is located on a corner lot. Mr. Meyer stated it was suggested that he apply for a variance for all the non-conforming items on the property along with the proposed addition.

Mr. Wiener asked the applicants what variances are required for the proposed addition. Mr. Meyer replied, coverage on impervious coverage. Mr. Wiener asked the applicants is there any accessory item that they can possibly bring into compliance to eliminate one of the variances. The Meyers explained the need for both sheds, noting that they have yard toys for their young children, pool equipment, and lawn equipment. Mr. Meyer explained if they removed the pool shed, the logistics of retrieving pool toys etc. while in the pool area lends itself to a safety issue. Mr. Meyer stated he would not want to leave the pool area unattended with his small children.

Dr. Kennedy asked Mr. Meyer to look at Exhibit 4 and asked about the retaining wall on the right-hand side of the property between the play area and the pool area. Mr. Meyer replied it is a 3-foot retaining wall, noting the yard is divided into two sections.

Ms. Robertaccio asked the Meyers to look at Exhibit 4 and referred to the impervious coverage calculation that showed 31.62%, noting on the survey on page 1 of the plans shows an impervious of

27.8%. Mr. Meyer stated he believed there is a discrepancy by the survey, noting Mr. Potere went back and forth regarding the impervious coverage numbers and landed on the 27.8 %. Mr. Stern stated that upon looking at the survey, the surveyor included the pool as part of impervious coverage and the pool is exempt. Mr. Stern stated there are a lot of variances associated with this property and he found another which an existing fence installed six-foot fence in 2007 that sits back 10 feet from the front yard set back line.

Ms. Robortaccio asked if the second shed is on a concrete base. Mr. Meyer replied no it is on river rock. Ms. Robortaccio asked if the shed can be moved 1.5 feet to come into compliance with the 5-foot set back.

Mr. Stern asked if the applicant would install landscaping between the road and the fence to mitigate the impact of the 6-foot fence along Honeyman Drive. The Meyers replied yes.

Dr. Kennedy asked the Meyers to explain what their plans are for the proposed addition. Ms. Meyer stated they are not expanding the footprint of the home but going up over the existing structure.

Mr. D'Amato asked if the small shed by the pool was within the fence line. Mr. Meyer replied. Mr. D'Amato then asked if the other shed is on the other side of the hardscape. Mr. Meyer replied yes. Mr. D'Amato then asked if the fence around the pool is at a higher elevation on that side. Mr. Meyer replied yes by 2.5 feet.

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 with the condition that the applicant moves the shed form 3.5 feet to 5 feet and will include a variance for the pre-existing 6 foot fence and landscaping to be installed along the fence line on Honeyman Drive, Mr. D'Amato seconded.

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

NEW BUSINESS: Discussion on reinstallation of in-person Zoning Board meetings.

OLD BUSINESS: None

Motion to adjourn at 9:03 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
June 3, 2021