

**TOWNSHIP OF WASHINGTON  
BERGEN COUNTY, NEW JERSEY  
ZONING BOARD OF ADJUSTMENT**

RESOLUTION ZB-22-13

WHEREAS, LORRAINE RUBINO (the “Applicant”) has applied to the Zoning Board of Adjustment of the Township of Washington for variance relief from the zoning code to grant the Applicant a variance with regard to the Applicant’s construction of a patio in the rear yard. The property is known as 397 Fern Street and designated as Lots 19 and 50, Block 4308 on the Tax and Assessment Map of the Township of Washington. The subject property is classified as an “interior lot” and is situated in the “Class B” Zoning District and is located on the east side of Fern Street. Lot 19 has a street address of 397 Fern Street, while Lot 50 has frontage on Walnut Street. Lot 19 exhibits a total frontage of 50.00 feet with a lot depth of 100.00 feet for a total lot area of 5,000.00 square feet. Lot 50 exhibits a total frontage of 25.00 feet with a lot depth of 100.00 feet for a total lot area of 2,500.00 square feet. The two (2) lots have a total lot area of 7,500.00 square feet. The Applicant seeks variance approval for a 41.62% impervious coverage where a maximum of 30.00% is permitted and where a variance of 30.47% was approved by this Board in 2020. The Application is found to conform with all other applicable zoning criteria for the “Class B Zone” and all other approved variances that were granted as per the Board’s Resolution, dated October 20, 2020. The Applicant is represented by Nicholas G. Sekas, Esq., of the Sekas Law Group; and

WHEREAS, the Township of Washington Zoning Board of Adjustment has carefully considered the testimony of the Applicant, Lorraine Rubino, the Applicant’s Surveyor, Louis J. Weber, and evidence presented by the Applicants and their professionals and Board

discussion and comments during the general public hearing held on July 19, 2022 via electronic means and in compliance with the Open Public Meetings Act, prior to which time the Applicant presented proof of notice and publication as required by law, and;

WHEREAS, the Township of Washington Zoning Board of Adjustment has reviewed the following:

- a. Township of Washington Application for Variance by applicant, Lorraine Rubino, dated May 11, 2022 and consisting of twenty-four (24) sheets;
- b. The report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury Engineering, Inc. dated October 27, 2021 and consisting of three (3) sheets;
- c. As-Built Survey prepared by Louis J. Weber & Associates, Louis J. Weber, P.L.S. dated March 30, 2021 and last revised on May 12, 2021 and consisting of one (1) sheet and marked into evidence as Exhibit A-1;
- d. Site Plan/Site Grading Plan/Lot Consolidation Plan/Soil Erosion and Sediment Control Plan/Construction Details prepared by Costa Engineering Corporation, Robert L. Costa, P.E., P.P. and David Jamiolkowski, P.L.S. dated February 3, 2020 and last revised October 29, 2020 and consisting of five (5) sheets and marked into evidence as Exhibit A-2;
- e. Affidavit of Mailing with proof of publication, prepared by Nicholas G. Sekas., Esq., dated June 24, 2020 and consisting of twenty (20) sheets;

WHEREAS, the Township of Washington Zoning Board of Adjustment has made the

following findings of fact and conclusions of law:

1. The property designated as Lots 19 and Lot 50, Block 430 has two (2) story residential dwelling with ancillary site improvements and is located in the “Class B” residential zone. The Applicant’s proposed use of the property is a permitted use in the “Class B” Zone;

2. At the public hearing held on July 19, 2022, the Applicant’s Attorney, Nicholas G. Sekas, Esq. advised the Board that the Applicant was previously granted Site Plan and Variance approval by this Board in 2020. He advised that as per the Board Resolution, dated October 20, 2020 the Applicant was granted a variance for an impervious coverage of 30.47%. However, Mr. Sekas advised that there was a misunderstanding by the contractor as to the patio with a grill station that was constructed after the Applicant received the Board’s approval. The Applicant’s approved plans had a 600 square foot paver style patio, however, the contractor misread the plans and built a paver patio and grill station that was 655.36 square feet which then increased the impervious coverage beyond what was approved to 41.62%

3. The Applicant’s Surveyor, Louis J. Weber, P.L.S, was sworn in and accepted by the Board as an expert witness. Mr. Weber testified that the Applicant did not make any modifications to the plans that were approved by the Board and the Applicant did not learn of the mistake until it was discovered during the issuance of the Final Certificate of Occupancy. He testified that the patio is not on the property lines, it is on the setback lines from another drawing, which is what was misunderstood by the construction crew. He testified that there have not been any complaints from neighbors and the grill station is already installed and integrated with the patio. He testified that it would be a hardship if the Applicant had to remove it as it would be a very expensive to remove since it was already built. He testified that the

patio does not impose or infringe on any of the adjacent properties as the property is fenced in, so you do not notice it. He testified that the Applicant has lived in the house for over 18 months with no complaints from neighbors.

4. The Board's Engineer, Paul Azzolina, PE, CME, advised the Board that the original resolution had a specific requirement for an impervious coverage of no more than 30.47% and the actual impervious coverage with the patio is 41.62% which was too much for him to approve the Certificate of Occupancy. He agrees with the Applicant's calculation and has no objection to the Board granting the Variance as he was not aware of any complaints from neighbors and the property is fenced in. He advised that there were no drainage or nuisance issues and the rear lot that was purchased from the Township is undeveloped.

WHEREAS, the Zoning Board of Adjustment of the Township of Washington has determined that the Applicant has satisfied the criteria for granting a C variance and has accepted the testimony of the Applicant and their expert witnesses that it would be a hardship for the Applicant to remove the grill station in order to comply with the previously approved impervious coverage. In addition, the property is fenced in and there have not been any complaints from neighbors since the Applicant moved into the property approximately eighteen (18) months ago.

WHEREAS, members of the public were invited to ask questions of the Applicant after testimony was given, and all questions offered by members of the public were answered to the satisfaction of the Zoning Board of Adjustment;

WHEREAS, the Zoning Board of Adjustment has determined that the relief requested by the Applicants can be granted without substantial detriment to the public good

and without substantially impairing the intent purpose of the Zoning Ordinance of the Township of Washington, the enforcement of which would result in practical difficulty and unnecessary hardship in the use of applicants' property. Moreover, the Board finds that the plan represents a better planning alternative with the least impact on the property as a whole, and is not out of character, and is not likely to be a substantial detrimental impact upon any other properties in the neighborhood, and would blend into the surrounding properties;

NOW THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Washington on this 16<sup>th</sup> day of August, 2022 that based upon the findings of fact, testimony presented and documents submitted for review as previously set forth, the application of Lorraine Rubino is hereby granted to allow a maximum impervious coverage of 41.62% in conformity with the plans submitted to this Board as amended at the hearing.;

BE IT FURTHER RESOLVED that the Applicant shall comply with all of the stipulations made during the hearing on this Application as set forth herein and on the record before the Board.

BE IT FURTHER RESOLVED the Applicant's failure to comply with conditions set forth in this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of either a building permit and/or Certificate of Occupancy of the premises, subject to reasonable notice and the opportunity to cure.

BE IT FURTHER RESOLVED that pursuant to the Code of the Township of Washington, the variances granted will expire within one (1) year from the date of this Resolution if construction is not commenced, however, this Board reserves the right to grant extensions of time from this Resolution if circumstances warrant the same;

BE IT FURTHER RESOLVED, that the Secretary of the Zoning Board of Adjustment of the Township of Washington is hereby directed to mail a copy of this Resolution to applicant; to furnish a copy to the building department; to file a copy of this Resolution with the Township of Washington Clerk; and to cause a notice of this determination of the Zoning Board of Adjustment to be published in the official newspaper of the Township of Washington within ten (10) days of the date hereof and thereafter published according to law.

BY THE BOARD

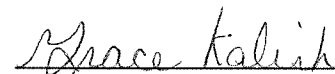
Dated: August 16, 2022

BY:

A handwritten signature in black ink, appearing to read "Said Toro", written over a horizontal line.

Said Toro, Chairman

Certified to be a true copy of the Resolution adopted by the Zoning Board of Adjustments of the Township of Washington at its meeting on Tuesday, August 16, 2022.

A handwritten signature in black ink, appearing to read "Grace Kalish", written over a horizontal line.

Grace Kalish, Secretary

BOARD	MOTION	SECOND	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Callandrillo			X				
Capasso		X	X				
Hanna	X		X				
LaGratta					X		
Mahoney						X	
Roberto						X	
Toro			X				