

DECEMBER 7, 2011 MINUTES

A regular meeting of the Township of Roxbury Planning Board was held on December 7, 2011, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. After a Salute to the Flag the Chairman read the Open Public Meetings Act.

ROLL CALL:

PRESENT: Mr. Bautz, Mrs. Lutz, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey, Mr. Verge, Mr. Meyers and Mr. Meyer.

ABSENT: Mr. Shadiack

STAFF: Mr. Stern and Mrs. Wiss. Mr. Ferriero, Mr. Germinario were excused.

MINUTES: November 2, 2011

They need clarification and will be put on the next agenda for approval.

RESOLUTIONS:

PBA-11-15 ROXBURY ENTERPRISES, LLC. Block 5002, Lot 3.2 2 Commerce Boulevard Final Site Plan Approval for Bank

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION**

**Decided: November 2, 2011
Memorialized: December 7, 2011**

**IN THE MATTER OF ROXBURY ENTERPRISES, LLC
PHASE I FINAL SITE PLAN APPROVAL
BLOCK 5002, LOT 3
APPLICATION NO. PBA-11-15**

WHEREAS, Roxbury Enterprises, LLC (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for final site plan approval on 10/26/11; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/2/11; and

WHEREAS, it has been determined that the Applicant has complied with all procedural requirements, rules and regulations of the Board, and that all required provisions of procedural compliance have been filed with the Board; and

WHEREAS, the Board makes the following findings and conclusions based upon the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 7.36 acres located in the B-2 Highway Business District. By Resolution memorialized 1/5/11, Applicant was granted preliminary major site plan approval with variances and design waivers to construct a bank and a retail building. The Applicant is now before the Board seeking final site plan approval for Phase 1 of the project, which is the Investors Savings Bank.

2. The development of the subject property to which the Board's decision herein pertains is depicted and described in the following drawings and/or plans:

- Final Major Site Plan drawings, consisting of 16 sheets revised through October 14, 2011, prepared by Joseph Jaworski, PE.

3. The Board's planning and engineering professionals and/or consultants submitted the following reports concerning their respective reviews of the application, which are part of the hearing record:

Russell Stern, PP, dated 10/28/11
Paul Ferriero, PE, dated 10/31/11

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4. In the course of the public hearing, the Applicant was represented by Larry Kron, Esq.

5. The Board finds that the Applicant has constructed the project substantially in accordance with the approved preliminary site plans, subject to the completion of those items set forth in the conditions herein below.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the final site plan as depicted and described in the drawings and/or plans referenced hereinabove.

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the issuance of a permanent certificate of occupancy:

1. The following items shall be completed prior to issuance of a temporary Certificate of Occupancy:

- a) A final as-built survey to confirm the building dimensions, setbacks, lot coverage, etc.
- b) Hairpin parking stall striping
- c) Pavement and pedestrian crosswalk striping
- d) Interior bank curbing
- e) Interior bank decorative sidewalks and handicap ramps
- f) "No Parking Fire Zone" striping
- g) Traffic and directional signs
- h) Factory finished black sign posts
- i) Handicap parking signs and pavement markings
- j) Brick faced trash and recycling enclosure
- k) Irrigation system in the vicinity of the bank
- l) Restriping of Commerce Boulevard in front of Lots 5.01 and 3.02
- m) Commerce Boulevard painted pavement arrows and removal of arrow
- n) "No Left Turn" sign at the northerly exit of PC Richards (Condition 59)
- o) Install concrete sidewalk section west of the site driveway
- p) Repair Commerce Boulevard curb located west of the site driveway
- q) Remove temporary electric service
- r) Freestanding light pole base plate covers
- s) Properly repair/replace gas marker at the intersection of Commerce Boulevard and Ramp 'C'
- t) Remove adjustable mounted flood lights from wooden utility poles along the Lot 4 property line and Commerce Boulevard per Condition 58
- u) Stake trees and provide trees with mulch saucers per detail
- v) Remove dumpsters, containers, portable toilet, construction materials, debris, soil erosion control devices, electrical service, and other temporary construction features
- w) Regrade swale along PC Richards property line to improve flow
- x) A certificate of compliance issued by the Morris County Soil Conservation District

2. The following items shall be bonded prior to issuance of a temporary certificate of occupancy and completed by 5/31/12:

- a) Top course paving
- b) Bank landscaping
- c) Bank benches, trash receptacles and ash urns
- d) Correct ponding along PC Richards property line
- e) Replace existing Columnar Norway Maple located along Commerce Boulevard, across from the future retail building entrance with a similar tree at a minimum 3 inch caliper
- f) Hairpin parking stall striping (redo after top course paving)
- g) Pavement and pedestrian crosswalk striping (redo after top course paving)
- h) "No Parking Fire Zone" striping (redo after top course paving)
- i) Handicap pavement markings (redo after top course paving)

3. All fees, sureties, and escrows shall be submitted by the Applicant and verified by the Land Use Administrator.

4. The following conditions from the 1/5/11 Preliminary Site Plan Resolution are reiterated:

Condition 2 – At this time, the retail building is speculative and future tenant(s) is unknown. Therefore, operational, deliveries, trash/recycling pick-up, architecture, signage, lighting, landscaping and other site specific concerns cannot be addressed. Consequently, an amended site plan approval shall be obtained prior to construction of the retail building to address these issues.

Condition 8 – All construction equipment, materials and debris will be removed from the property prior to the issuance of a Certificate of Occupancy for the bank. Construction equipment and materials for Phase II shall not be permitted on-site until building permits are obtained for the retail building and Phase II construction is ready to begin.

Condition 11 – Architectural compatibility between the two buildings cannot be determined at this time as architecture for the retail use has not been provided. Consequently, architectural style and materials of the two buildings and

freestanding signs will be compatible with one another and will be reviewed by the Planning Board to verify compliance with Section 7.810B at the time of amended site plan for the retail building.

Condition 37 – All off-street parking areas shall be used exclusively for the parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking area (Section 13-8.702S).

Condition 111 – Payment of pro-rata share of off-site and off-tract improvements as determined by the Township Engineer, if applicable.

Condition 112 – As applicable, a mandatory development fee shall be paid prior to the issuance of a Certificate of Occupancy.

5. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

6. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Township and/or any agency thereof.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Roxbury Township Planning Board memorializing the action taken by the Board at its meeting of 11/2/11.

Eugenia Wiss, Secretary

Motioned by Councilman Zoschak and seconded by Mr. Bautz to approve.

Ayes: Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey, Mr. Meyers and Mr. Meyer

Noes: None

PBA-11-10 ROXWOOD ASSOCIATES, LLC. Block 9302, Lot 1 and Block 9401, Lots 1, 12 & 13 Extension of Preliminary Site Plan Application

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Approved: November 2, 2011
Memorialized: December 7, 2011**

**IN THE MATTER OF ROXWOOD ASSOCIATES, LLC
EXTENSION OF PRELIMINARY MAJOR SITE PLAN APPROVAL
BLOCK 9302, LOT 1, AND BLOCK 9401, LOTS 1, 2, AND 13
APPLICATION NO. S-9-06**

WHEREAS, Roxwood Associates, LLC (hereinafter known as the “Applicant”) obtained preliminary major site plan approval (hereinafter referred to as the “Approval”) from the Roxbury Township Planning Board (hereinafter known as the “Planning Board”) on September 20, 2006 (memorialized November 1, 2006), and the Applicant also received a supplemental preliminary major site plan approval on October 6, 2010; and

WHEREAS, development plan which was the subject of the Approval called for three multi-family buildings containing 260 owner-occupied age-restricted condominium units, including 52 integrated affordable units (the “Approved Plan”), in accordance with Ordinance §13-7.1502B, which was adopted pursuant to a Consent Order entered on May 24, 2005, resolving litigation between the Applicant’s predecessor in title as plaintiff and the Board and the Township of Roxbury as defendants; and

WHEREAS, by Resolutions dated September 16, 2009 and October 6, 2010, Applicant was granted two one-year extensions of the Approval pursuant to N.J.S.A. 40:55D-49c, such that the Approval was extended to November 1, 2011; and

WHEREAS, on or about June 30, 2011, the Applicant submitted to the Board an application to convert the Approved Plan to a non-age restricted multi-family rental development with the 52 affordable units segregated in one of the three buildings (the “Conversion Application”), claiming the right to make such a conversion pursuant to the Sarlo Law, N.J.S.A. 45:22A-46.3 *et seq.*

WHEREAS, the Applicant, by letter from its legal counsel Thomas Carroll, Esq. dated September 19, 2011, has requested that the Board recognize a tolling of the Approval pursuant to N.J.S.A. 40:55D-21 due to a temporary water moratorium, or in the alternative that the Board grant additional extensions of the Approval pursuant to N.J.S.A. 40:55D-49d and/or 40:55D-49f; and

WHEREAS, on October 25, 2011, the Applicant submitted an application for final site plan approval, based on the Approved Plan, which application was deemed administratively incomplete;

WHEREAS, a public hearing was held on November 2, 2011, no notice being required, at which the Applicant was represented by Thomas Carroll, Esq.; and

WHEREAS, in connection with the Applicant's requests, the Board makes the following findings and reaches the following conclusions:

1. The Applicant presented the testimony of Stephen Santola, Esq., the Applicant's Vice-President. Mr. Santola testified as to the comprehensiveness of the Approved Plan and the economic conditions which limited the current market demand for age-restricted housing. Mr. Santola stated that the Applicant was committed to implementing the Approved Plan when market conditions improve. He further testified that the Applicant would seek to preserve its development rights under the preliminary site plan approval regardless of its ability to utilize that approval as the basis of a conversion to a non-age-restricted development under the Sarlo Law.

2. Since the Approved Plan pertains to an area of over 50 acres, it potentially qualifies for an extension pursuant to N.J.S.A. 40:55D-49d. The Applicant's testimony is accepted by the Board for the purpose of demonstrating the comprehensiveness of the development and the economic conditions justifying the proposed extension. In weighing the public interest in granting such an extension, however, the Board notes that the site plan use now proposed by the Applicant pursuant to the Conversion Application is contrary to both the current zoning of the property and the Consent Order. Therefore, the Board deems it appropriate to grant an extension of the preliminary site plan approval exclusively as it pertains to the Approved Plan, and not with respect to the amended site plan proposed by the Conversion Application. It is the Board's intention in granting this extension that it not serve as the basis for an application, pursuant to the Sarlo Law, to amend the Approved Plan in a manner that is not consistent with the current zoning and the Consent Order.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board does hereby grant the requested extension of the Applicant's preliminary major site plan approval for an additional period of one year pursuant to N.J.S.A. 40:55D-49d, exclusively as it pertains to the Approved Plan, and not with respect to any amendment to the Approved Plan which is not consistent with Ordinance §13-7.1502B; and

BE IT FURTHER RESOLVED, that this extension shall not provide a basis for a conversion of the Approved Plan pursuant to the Sarlo Law.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of November 2, 2011.

Eugenia Wiss, Secretary

Motioned by Mr. Rilee and seconded by Mr. Bautz to approve.

Ayes: Mr. Bautz, Mrs. Lutz, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Abstain: Mr. Verge and Mr. Meyers

Noes: None

APPLICATIONS:

PBA-09-018 THE PLAZA AT ROXBURY (St. Theresa's R.C. Church) Block 5103, Lot 1 Main Street and Commerce Boulevard

Minor Subdivision and Preliminary Site Plan for Medical Office Building and Bank. This matter was carried to the January 18, 2012 meeting with no further notice.

PBA-11-10 ROXWOOD ASSOCIATES, LLC. Block 9302, Lot 1 and Block 9401, Lots 1, 12 & 13 1550 Route 46

Amended Preliminary Site Plan Application – Sarlo Conversion. The applicant requested that this matter be carried to the January 18, 2012 meeting with no further notice. The meeting was carried to January 18th with no further notice.

OLD BUSINESS:

NEW BUSINESS:

Adopt Resolution for 2012 Meeting Dates & Publication

RESOLUTION
TO PROVIDE ANNUAL NOTICE OF MEETINGS

WHEREAS, the Planning Board of the Township of Roxbury, Morris County, New Jersey, must provide annual notice to all regular meetings to be held by said Board during the calendar year 2012.

NOW, THEREFORE BE IT RESOLVED that the schedule of regular meeting dates annexed hereto as Exhibit A, be and hereby declared to be the official list of dates of regular meetings to be held by the Board for the calendar year 2012 being the first Wednesday and third Wednesday of each month.

BE IT FURTHER RESOLVED that said meetings shall commence at 7:30 p.m; unless otherwise called by the Municipal Building, 1715 Route 46, Ledgewood, New Jersey

EXHIBIT A

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| Wednesday, January 4 Wednesday, January 18 | Wednesday, July 18 |
| Wednesday, February 1 Wednesday, February 15 | Wednesday, August 1 |
| Wednesday, March 7 Wednesday, March 21 | Wednesday, September 5 Wednesday, September 19 |
| Wednesday, April 4 Wednesday, April 18 | Wednesday, October 3 Wednesday, October 17 |
| Wednesday, May 2 Wednesday, May 16 | Wednesday, November 7 |
| Wednesday, June 6 Wednesday, June 20 | Wednesday, December 5 |

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Secretary

Motioned by Mr. Zoschak and seconded by Mr. Bautz to adopt the meeting dates.

Ayes: Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey, Mr. Meyers and Mr. Meyer

Noes: None

MOTION APPROVED.

A motion to adjourn was made at 7:40 p.m.

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary