

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on the above date at 7:00 p.m. with Chairperson Gail Robortaccio presiding. After a salute to the Flag, the Chairperson read the "Open Public Meetings Act".

BOARD MEMBERS PRESENT: Joyce Dargel, Barbara Kinback, Sebastian D'Amato, Edward Data, John Wetzel, Kenneth Grossman, Mark Crowley, Gail Robortaccio.

ABSENT: Peter Giardina

PROFESSIONAL STAFF PRESENT: Larry Wiener, Esq.

Also present: Dorrie Fox, Land Use Administrator

RESOLUTIONS

ZBA-08-22- WOODMONT REALTY RT. 46, LLC - AMENDED SITE PLAN - RT 46, BLOCK 9603, LOT 3 IN A OB ZONE

In the matter of Woodmont Realty Rt. 46, LLC
Case No. ZBA-08-22

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

Approved: August 11, 2008
Memorialized: September 15, 2008

WHEREAS, Woodmont Realty, Rt. 46, LLC has applied to the Board of Adjustment, Township of Roxbury for amended site plan approval and related relief for premises located at 1751 Route 46 and known as Block 9603, Lot 3 on the Tax Map of the Township of Roxbury which premises are in a "OB" Zone; said proposal is in accordance with the requirements 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. Douglas R. Henshaw, Esquire appeared on behalf of the applicant.
2. The applicant is the owner and developer of the subject premises.
3. The applicant previously received "d" variance relief and preliminary site plan approval. The applicant is presently seeking amended site plan approval and ancillary relief.
4. The applicant will also require a major soil moving permit.
5. The applicant submitted the following documents:

Prepared by Ritter & Plante Associates, LLC – most recently revised 6/2/08

- Sheet 1, Site Location Plan
- Sheet 2, Existing Features Plan
- Sheet 3, Demolition Plan
- Sheet 4, Site Plan
- Sheet 5, Grading and Utility Plan
- Sheet 6, Landscape Plan
- Sheet 7, Erosion & Sediment Control Plan
- Sheet 8, Construction Details Plan "A"

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- Sheet 9, Construction Details Plan “B”
- Sheet 10, Construction Details Plan “C”
- Sheet 11, Construction Details Plan “D”
- Sheet 12, Profiles Plan
- Sheet 13, Cross Sections of Route 46
- Sheet 14, Curb Profiles
- Sheet 15, Lighting Point Grid Plan
- Sheet 16, Retaining Wall Reinforcement
- Sheet 1 of 2, Tree Removal Plan
- Sheet 2 of 2, Tree Replacement Plan
- Sheet 1 of 2, Existing Drainage Plan
- Sheet 2 of 2, Proposed Drainage Plan

Prepared by Ritter & Plante Associates, LLC – most recently revised 7/9/08

- Major Highway Access Plan, Sheet 1, Site Location Plan
- Major Highway Access Plan, Sheet 2, Site Plan
- Major Highway Access Plan, Sheet 3, Grading Plan
- Major Highway Access Plan, Sheet 4, Major Highway Access Plan
- Major Highway Access Plan, Sheet 5, Construction Details Plan
- Major Highway Access Plan, Sheet 6, Traffic Control Plan
- Major Highway Access Plan, Sheet 7, Sight Distance Plan & Profile
- Major Highway Access Plan, Sheet 8, Structures within 500’ Plan

Prepared by Albert Dattoli, Architect

- Sheet 1 of 1, Floor Plan and Elevations, revised 7/3/07
6. The Board received the following reports from the professional staff:
 - a. Russell Stern, Township Planner, dated 8/7/08
 - b. John Hansen, Board Engineer, dated 8/7/08
 7. The subject property encompasses just over seven (7) acres and is located in the OB Office Building District. The property is unimproved and is partially wooded with a pond and some wetlands located at the northeasterly property corner.
 8. The property is irregularly shaped and is somewhat triangular. The northerly side of the property (the rear) borders Route 80 and is steeply embanked. In 2003, the Zoning Board of Adjustment granted the applicant a use variance, which contemplated a one-story 40,000 sq. ft. flexible office/warehouse building. It was then envisioned that at least 40% of the building would be used for office space. Due to parking constraints, the building would have a maximum office use of 85% with the rest of the space designated for warehouse use. Since the OB Zone prohibits warehouse use, a “d” variance was required. In the present iteration, the applicant stated the maximum office use would now be 69%, which would leave 31% for warehouse use. The minimum office use would be 40%.
 9. As originally proposed, there would be two ingress/egress drives servicing the building with one-way circulation along the easterly side and a two-way drive along the westerly side. The site and the building will be serviced by public sewer and water. Some existing billboard signs along the eastern portion of the site will be removed prior to the issue of a Certificate of Occupancy.
 10. As a result of New Jersey Department of Transportation requirements, the applicant is requesting amended major preliminary site plan approval. The present plan

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modifications include consolidation of the two access drives into one modified access drive at the center of the building. The parking lot configuration on the east and west ends of the building are modified to provide for improved truck access around the building. The westerly traffic aisle was widened from 24' to 39'.

11. It is also noted the Route 46 median is being re-configured, sidewalks are being added on Route 46, and one loading bay would be eliminated.
12. During the course of the 8/11/08 hearing, the applicant offered the testimony of John Kieser, vice president of Woodmont Realty; David Plante, its professional engineer; and Gary Dean, its traffic engineer. The applicant's witnesses reviewed the reports of the Township professional staff and also expanded upon the changes that have been made to the site plan.
13. In addition, the Board had the benefit of Gary Anderson, the Board's traffic consultant (Mr. Anderson being affiliated with John Desch) at the 8/11/08 hearing. Mr. Anderson was there to review the testimony provided by Mr. Dean and to give the Board the benefit of his expertise.

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 finds the revised plans are a newer and improved version of the prior plan. The traffic circulation, the site layout, and traffic impact are all adequately addressed. The plan will properly implement the relief previously granted to the applicant.
2. The Board notes that the applicant, for illustration purposes in its DOT application, made reference to a theoretical 10,500 sq. ft. potential day care center being on-site. The Board notes and reiterates that this was merely a theoretical estimation provided to NJDOT and in no way has the Board approved any such operation or use on-site and any such proposal would require further land use approvals. As noted by the Board's Consulting Engineer at the public hearing, the applicant essentially addressed potential future NJDOT access permit issues by planning for same at the present time as opposed to re-applying to NJDOT in the future. He likened it to putting a five bedroom septic system on a proposed three bedroom home.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Roxbury on the 11th day of August, 2008 that the approval of the within application be granted subject, however, to the following conditions:

1. This approval is specifically subject to the review and approval of all other governmental agencies and or subdivisions thereof with joint and/or concurrent jurisdiction over the subject application including but not limited to the New Jersey Department of Transportation and New Jersey Department of Environmental Protection.
2. This approval is subject to all other conditions of prior approval(s) not specifically modified herein.
3. Applicant shall close the existing median opening located across from the applicant's westerly property line. The median shall be a grass median with curbing as approved by NJDOT and the plans shall be modified accordingly.
4. The applicant shall provide a modified landscaping plan with additional detailed plantings with further focus on the area by the retaining wall closest to Route 46 and the adjoining westerly property line and decorative steel fencing along the front, easterly and westerly retaining walls. (Same was addressed in comment #7 by the Township Planner). Said revised plans shall be subject to the review and approval of the Township Planner. The plans shall be modified to provide an irrigation sprinkling system. The irrigation plan shall be reviewed and approved by the Township Planner and the plans modified accordingly.

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5. The westerly length of the lower tier retaining wall shall be reduced. The exact details to be reviewed and approved by the Township Planner.
6. The maximum range of office warehouse use shall be revised to reflect that the maximum office use shall be no more than 69%.
7. Applicant shall locate street trees across from the former westerly driveway opening.
8. Applicant shall verify tree removal calculations as a result of the additional disturbance along the westerly property line.
9. Applicant shall remain responsible for the payment of all fees, sureties, and escrows required by Ordinance including but not limited to the mandatory non-residential development fee.
10. Applicant shall revise the plans to correct the noted gross floor area as well as the proposed impervious coverage (see comments 2 & 3 of the 8/7/08 report of John Hansen).
11. Applicant shall revise the amount of building mounted lighting along the front façade. Applicant's revised plans shall be reviewed and approved by the Board's Engineering Consultant.
12. The new parking layout shall be reviewed and approved by the Township Fire Official.
13. Applicant shall provide additional spot grades at the southeasterly corner of the parking area and the plans shall be revised accordingly.

Ms. Dargel made a motion to approve the resolution. Ms. Kinback seconded.

Roll as follows: Ms. Dargel, yes; Ms. Kinback, yes; Mr. D'Amato, yes; Mr. Wetzel, yes; Mr. Crowley, yes; Ms. Robertaccio, yes.

ZBA-08-23 – WOODMONT REALTY RT. 46, LLC – SOIL APPLICATION FOR PROPERTY LOCATED ON RT 46, BLOCK 9603, LOT 3 IN OB ZONE

ROXBURY TOWNSHIP ZONING BOARD OF ADJUSTMENT

MAJOR SOIL REMOVAL/RELOCATION PERMIT

Pursuant to Chapter XVII of the General Ordinances of the Township of Roxbury, Article 17-1 et.seq. (the "Ordinance"), the Roxbury Township Zoning Board of Adjustment (the "Board"), having conducted a public hearing with public notice pursuant to the Ordinance, does hereby grant to the Applicant identified herein a Major Soil Permit, subject to the terms and conditions enumerated herein below.

1. Applicant/Permittee: Woodmont Realty, Rt. 46, LLC
2. Application Number: ZBA-08-23
3. Property Identification: 1751 Route 46
4. Subdivision/Site Plan Approval Date(s): N/A
5. Major Soil Permit Approval Date: 9/15/08
6. Effective Date: 9/15/08
7. Findings of Fact:
 - a. The Board has received an Application consistent with the requirements of Ordinance Section 17-6, and the Applicant has paid the application fee pursuant to ordinance Section 17-7.1.

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- b. Proof of adequate notice of this Application, pursuant to Ordinance Section 17-6.5, has been furnished to the Board.
 - c. A public hearing was conducted in accordance with the Ordinance and with opportunity for comment by interested members of the public on the following dates: 8/11/08
 - d. In granting this Permit, the Board has considered the factors enumerated in Section 17-6.6 of the Ordinance. The Board has received and considered the following documents in connection with this Application: (1) soil moving application dated 6/20/08; (2) soil movements stockpile plan revised to 6/20/08; (3) earthwork calculations by Ritter & Plante Associates, LLC, Philadelphia, PA, dated 6/2/08; and (4) reports of the Zoning Board Engineer, John E. Hansen, 9/4/08.
 - e. The Board has made the following additional findings of fact:
 - i. The Applicant intends to import 11,576 cubic yards (c.y.) of soil.
 - ii. The Applicant proposes to relocate within the site 25,071 c.y. of soil.
 - iii. The Applicant intends to obtain fill from the Continental Housing Project on Shippenport Road.
 - iv. The route of truck travel to Applicant's site from the borrow site to the disposal site will be: North from the borrow site on Shippenport to Route 46 East to jughandle to Westbound Route 46 to the site. (Same to be modified, if necessary, as a result of a problem discerned by the Township Engineer/Manager and/or Police Chief.)
 - v. The Applicant has agreed to comply with the recommendations contained in the report of the Zoning Board of Adjustment's Engineer dated 9/4/08.
 - vi. Pursuant to Section 17-9d of the Ordinance, the Board finds that circumstances warrant the restriction of the hours of soil moving operations to 8:00 a.m. to 4:00 p.m. on weekdays and 8:00 a.m. to 12:00 noon on Saturdays (with such operations prohibited on Sundays and legal holidays).
8. Conditions of Approval: This Permit is granted subject to the following terms and conditions:
- a. Applicant shall post a performance guarantee, consistent with the requirements of Ordinance Section 17-8, in an amount indicated in Subparagraph H.5 below, as determined by the Board Engineer based on quantity of soil moved at the rate of \$0.15 per cubic yard of material moved.
 - b. This Permit shall remain valid for a term of one year from the Effective Date specified in Paragraph 6 hereinabove, subject to extension thereafter in accordance with Ordinance Section 17-9c.
 - c. The Applicant shall pay the engineering review and inspection fees as required in Ordinance Section 17-7.3.
 - d. This approval shall not become effective until: (i) Applicant has paid outstanding property taxes and assessments due or delinquent as of the

- date hereof, (ii) all conditions of the preliminary approval necessary to ensure the proper performance of soil movement operations are fulfilled to the satisfaction of the Board Engineer, and (iii) NJDEP, NJDOT and Soil Conservation District approval is received.
- e. Applicant shall comply with (i) "Hours of Operation" established pursuant to Ordinance Section 17-9d; (ii) "General Terms and Conditions of Operation" stipulated in Section 17-10; (iii) "Topsoil Restrictions", pursuant to Section 17-11; (iv) "Depth of Excavation; pursuant to Section 17-12; and (v) "Final Grades", pursuant to Section 17-13.
 - f. Applicant grants to the Township Engineer and/or his duly authorized agents, the right of entry to the property to conduct inspections to determine compliance with this Permit.
 - g. This approval is subject to all outside agency review, as may have jurisdiction over this matter.
 - h. This Permit is subject to the following additional terms and conditions:
 - i. All fill Woodmont Realty Soil 08-23.doc will be imported from the Continental Housing Project on Shippenport Road.
 - ii. The route of truck travel to Applicant's site from the borrow site/to the disposal site shall be: North from the borrow site on Shippenport Road to Route 46 East to jughandle to Westbound Route 46 to the site.
 - iii. The Erosion Control Plan shall be modified to indicate the following note: "Notwithstanding the approved Erosion and Sediment Control Plan, the Applicant shall implement all measures needed to satisfactorily control erosion, dust, and sediment transport as may be reasonably determined by the Township Engineer during construction".
 - iv. Applicant shall post fees as follows: \$250.00 application fee, \$5,247.05 soil movement fee, inspection fee included with the Township Engineering inspection fees pursuant to Section 13-1.402 of the Township Ordinance.
 - v. Per Section 17-8 of the Ordinance, Applicant shall post a performance bond in the amount of \$3,000.00.
 - vi. Applicant shall place hay bales on the site to supplement planned silt fencing for erosion control to the satisfaction of the Planning Board Engineer.
 - vii. In accordance with Ordinance Section 17-6.1(t), the Applicant shall stake out interior improvements with appropriate cut sheets to the satisfaction of the Township Engineer.
 - viii. To the extent this approval modifies the approval granted "The Villages", same is noted and so modified.

The undersigned does hereby certify that the foregoing is an accurate recitation of the action taken by the Zoning Board on the approval date designated herein above.

Mr. D'Amato made a motion to approve the Major Soil Removal/Relocation Permit.

Mr. Data seconded.

Roll as follows: Mr. D'Amato, yes; Mr. Data, yes; Ms. Dargel, yes; Ms. Kinback, yes; Mr. Wetzell, yes; Mr. Crowley, yes; Ms. Robertaccio, yes.

ZBA-08-24 – PAUL COUSINEAU – VARIANCE FOR CONVERSION OF GARAGE TO PLAYROOM /GARAGE FOR PROPERTY LOCATED ON 75 FORD ROAD, BLOCK 11305, LOT 17, IN A R-3 ZONE.

In the matter of Robin & Paul Cousineau
Case No. ZBA-08-24

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

**Denied: August 11, 2008
Memorialized: September 15, 2008**

WHEREAS, Robin & Paul Cousineau have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition eliminating a garage resulting in creating a structure in violation of the Zoning Ordinance for premises located at 75 Ford Road and known as Block 11305, Lot 17 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal required relief from Section 13-8.700.E 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:

14. The applicants are the owners and occupants of the single-family home on site.
15. The applicants were proposing to construct an addition in the area of the existing garage, which would be turned into a playroom. The present 26'x12' garage would be converted into a 16'x12' playroom in the rear and a 9.7'x12' open area – a "half garage".
16. Applicants received a letter of denial dated 6/12/08 from Joseph McDonnell, the Zoning Officer.
17. The proposed "garage" would be 10'x12' or essentially half a garage.
18. As noted, Township Zoning Ordinance requires that all residences have at least a one-car garage. (It should be noted that, if a residence had been constructed prior to the garage requirement, there is no requirement to add a garage. In this particular case, the applicant's were proposing an addition that would create a variance by eliminating the garage.)
19. During the course of the public hearing, the applicants testified that the variance was necessary to create a playroom or recreation room for the applicant's two children. The applicants acknowledged that there already was a recreation room in the subject premises, but stated they needed additional space due to the amount of "clutter" created by their two young children. They stated that they did not use the garage and were willing to leave the overhead door on so that it would have the appearance of a garage. They argued that the Ordinance did not really specify the size of the garage and thus, their 10'x12' space behind the overhead door could still be construed as complying with the Ordinance. They even suggested that some of the micro cars now on the road (Smart Car) could even fit into this space.

WHEREAS, the Board has determined that the relief requested by the applicant **cannot** 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 notes the purpose of the Ordinance requiring a garage is to promote on-site off-street parking and for storage of personal items. A residential garage is a garage that can accommodate a normal sized automobile. For reference, the Board notes parking spaces are traditionally 9'x18' or 10'x20'. The applicant's proposal would essentially result in eliminating a garage or winding up with a garage that would be limited to extremely small vehicles such as a Smart Car or a golf cart. Clearly, this would defeat the intent and purpose of the Ordinance.
2. Having made the determination that the applicant's proposal does not comply with the Ordinance, the Board further finds the applicants did not articulate any basis for the grant of the proposed variance. In essence, the applicant's request was to accommodate (understandably so for their purposes) their own vision for what they wanted the house to be. But the applicants did not provide any of the proofs required to grant a "c" variance. There was nothing peculiar or exceptional about the property that would suggest that the required relief should be granted. This was not a situation where the topography essentially prevented the garage from being a useable space. The existing garage provides indoor on-site parking as well as a storage area for the various accessories that go with owning a single-family home in the suburbs.
3. While it is understandable that the applicants were frustrated with the Ordinance and how it relates and affects what they wanted to do with the house, nevertheless, the Ordinance is in place and the intent and spirit behind the Ordinance clearly is to promote, encourage, and mandate garages in residential zones. Eliminating the garage and creating a non-conforming condition is clearly antithetical to the Ordinance. A net result would clearly have a negative impact in that the goals and benefits of the garage requirement would be vitiated by the grant of this relief.
4. While the Board is certainly sympathetic to the personal needs of the applicants, those needs cannot be reconciled with the grant of the requested relief. The Board further notes that, during the public hearing, some suggestions were made to the applicants to find a way to re-configure the proposed addition so as to promote the use of the existing garage and nevertheless, find a way to use a portion as additional living space, if the applicants so desired. The Board continues to respectfully suggest to the applicants that they consider this option in the future.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Roxbury on the 11th day of August, 2008 that the within application be denied.

Ms. Dargel made a motion to approve the resolution of denial. Mr. Wetzel seconded.

Roll as follows: Ms. Dargel, yes; Mr. Wetzel, yes; Mr. Crowley, yes; Mrs. Robortaccio, yes.

**ZBA-08-25 –TIM THIEL & DENISE WOOSTER – VARIANCE SET
BACK/ADDITION - 33 GORDON ROAD, BLOCK 12501, LOT 8, IN A R-1
ZONE**

In the matter of Denise Wooster & Tim Thiel
Case No. ZBA-08-25

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

Approved: August 11, 2008
Memorialized: September 15, 2008

WHEREAS, Denise Wooster & Tim Thiel have applied to the Board of Adjustment, Township of Roxbury for permission to construct an addition requiring dimensional variance relief for premises located at 33 Gordon Road and known as Block 12501, Lot 8 on the Tax Map of the Township of Roxbury which premises are in a "R-1" Zone; said proposal required relief from Section 13-7.1001.D.5.a, 13-7.1001.D, 13-7.7B 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 applicants are the owners and occupants of the single-family home on site.
21. The applicants were proposing an extensive renovation of the existing premises. Same would include a right side building expansion as well as an in-ground swimming pool.
22. Applicant received a letter of denial dated 7/25/08 from Joseph McDonnell, the Zoning Officer.
23. The applicant's plans were set forth on a land design surveying exhibit which included architectural elevations with the proposed home as well as a plot plan showing the location of the proposed improvements. The plans were dated 6/20/08. The applicant testified that the proposed improvements for the home would be in accordance with the plans submitted with the application.
24. The applicants presented exhibit A-1 which was a copy of a 1990 approval which permitted the original development of the subject premises.
25. As noted, the following variances are necessary to implement the applicant's proposed improvements:
 - a. Front yard setback – 50' required; existing – 25' to the raised deck, 33.7' to the foundation; proposed 28' to the expanded deck, 44' to the expanded foundation
 - b. Number of stories – maximum permitted 2 ½; existing and proposed 3
 - c. Non-conforming structure – only conforming additions permitted; the existing non-conforming additions would be continued and, as noted above, expanded
26. It is noted the subject premises is a corner lot with frontage on Gordon Road and Country Lane. Driveway access to the premises is via Country Lane.

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 finds the applicant's property has several built-in hardships. One of those hardships relate to the fact that the premises are a corner lot and thus are encumbered with two front yards. In addition, the lot is a long narrow lot and the existing infrastructure is located in the southwesterly corner of the premises. These conditions are the primary reasons why variance relief was necessary in the first instance to develop the premises and at the present time to add and update the subject home. The number of stories and the setback dimensions are existing conditions that will be expanded. This proposal will have little or no impact on any adjoining property, and, in fact, the enhancement to the subject property should have a salutary affect on the neighborhood and surrounding area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Roxbury on the 11th day of August, 2008 that the approval of the within application be granted subject, however, to the following conditions:

1. Addition to be sized, located, and constructed as depicted on the drawings attached to the application. The proposed front yard setback to be 28' to the expanded deck, 44' to the foundation.

2. Swimming pool to comply with all building safety codes relative to the construction of swimming pools (i.e.; fence in accordance with Township Ordinance).

Ms. Dargel made a motion to approve the resolution. Mr. Crowley seconded.

Roll as follows: Ms. Dargel, yes; Mr. Crowley, yes; Ms. Kinback, yes; Mr. D'Amato, yes; Mr. Wetzel, yes; Ms. Robortaccio, yes.

AGENDA

ZBA-08-16-MARIO TOLEDO-VARIANCE FOR INGROUND POOL IN FRONT YARD LOCATED ON SUNSET TERRACE, BLOCK 2103, LOT 1, IN A R-4 ZONE.

Applicant has requested to carry to the October 16th meeting, without any further notice.

Ms. Dargel made a motion to carry without further notice. Mr. Wetzel seconded.

Roll as follows: Ms. Dargel, yes; Mr. Wetzel, yes; Ms. Kinback, yes; Mr. D'Amato, yes; Mr. Data, yes; Mr. Crowley, yes; Ms. Robortaccio, yes.

ZBA-08-26-FRANK & ANGELA SARINELLI – FRONT YARD SET BACK VARIANCE AT 44 FIRST STREET, KENVIL, BLOCK 2503, LOT 7 IN A R-4 ZONE.

Mr. Frank Sarinelli was sworn in by Mr. Wiener along with Mr. Frank Sarinelli Senior.

Mr. Sarinelli is proposing an 8 ft porch on the front of his house with a cover. The house had been in disrepair and he would like to do some work to repair the porch.

Mr. Crowley asked if Mr. Sarinelli's home is a one story cape, Mr. Sarinelli is coming in for a porch with an overhang, is the addition going to be above the overhang?

Mr. Sarinelli stated the addition is going to be a 3 ft. cantilever over the porch with a 5' overhang. He did not know the setback of his neighboring houses and is not sure if they meet or are conforming to the set back requirements of the Township.

Mr. Crowley asked if the proposed porch would be in line with the other houses, or would Mr. Sarinelli's porch be further out compared to his neighbors.

Mr. Sarinelli stated that his neighbor's porch extends out further than the front of his house.

Mr. Crowley stated Mr. Sarinelli house is at 25.8 feet right now. So if his neighbors porch is further out in front of Mr. Sarinelli, than would Mr. Sarinelli become pretty close to the front of his neighbors porch in that line.

Mr. Sarinelli Sr. stated most homes are single family cape style homes with either no dormer or maybe perhaps one dormer on the front. Almost the entire neighborhood was built with the same set back, around the same time (1940). Most of the homes if not all of them have been improved, either with full second floors, porches or decks in the back. This would really fit the aesthetics of the area. Pretty much the same as what other improvements have been made in the neighborhood. The purposed porch when it's in will not come out much further than the neighbors, so it still looks like the houses are in line.

Mrs. Dargel asked about the three sheds on the property. On the drawing it shows a plastic shed, a wood fence, a rail tie and a framed shed.

Mr. Sarinelli stated they are actually his neighbor's sheds and he instructed him to remove them from his property.

The two wooden fences on the property have been there since house was built. The unfinished side is rotted and will be coming out.

A new shed (10 X 12) was going to be built in the back property Mr. Sarinelli stated.

Mr. Crowley questioned the steps on the front of the purposed porch, will they be within 17.8 ft or are they coming out further than the 17.8 ft?

Mr. Sarinelli stated that will be within the total.

Mr. Crowley questioned the steps will stick out how far? Where is the porch minus the steps, where does the porch begin? An 8ft porch would say that the steps are further out than the 17.8ft.

Mr. Sarinelli stated it will be 8 ft total at the end of the steps, 6½' with two steps.

Mr. Stern stated this is very important because the way it is drawn on Mr. Yeager's drawings it depicts a 10ft. deep porch, then with a couple feet for the stairs. So what you're saying is the porch will come out from the face of the existing first story wall at 6 ½ ft. then you have the stairs?

Mr. Sarinelli stated yes. It will be 8ft total. The porch will come out 8ft with the steps.

Ms. Dargel asked if the steps are counted as a set back.

Mr. Stern said it depends on the width of the stairs and as long as they are uncovered they do not count.

Mr. Sarinelli stated the steps will be uncovered.

Mr. Crowley said we can approve this as not being more than 17.8ft including the steps, we understand its 8ft with the steps.

Mrs. Robortaccio stated the steps have to be in that 8ft.

Mr. Stern said the second floor will come three feet out towards the road. The second story addition will be a variance.

PUBLIC PORTION OPENED

Open meeting to the public

PUBLIC PORTION CLOSED

Ms. Robortaccio would like to accept an amendment that the proposed porch will go no further than 17.8ft. from the porch including steps and 22.8ft. for the second story cantilever and two existing sheds will be removed.

Ms. Dargel made a motion to approve the application. Mr. Crowley seconded.

Roll as follows: Ms. Dargel, yes; Mr. Crowley, yes; Ms. Kinback, yes; Mr. D'Amato, yes; Mr. Data, yes; Mr. Wetzel, yes; Ms. Robortaccio, yes.

ZBA-07-33 - MOUNTAIN LANDSCAPING – USE AND SITE PLAN FOR PROPERTY LOCATED AT LANDING ROAD, BLOCK 9601, LOT 5 IN LI/OR ZONE.

Larry Kron Attorney for the applicant stated plans have been revised since last meeting and also submitted Environmental Impact Statement done by:

Ms. Sharon Wander
28 Warren Road
Newton, NJ 07860

Ms. Wander has a BA in English, a BS in Wildlife Management from Cooke College and a PHD in Ecology from Rutgers. Ms. Wander is self employed as an Environmental Consultant since 1986. Ms. Sharon Wander was sworn in.

Ms. Wander submitted a written report for the board. The proposed project is somewhat of an elaboration of an existing use, which are the activities of a landscaping firm. Mountain Landscaping is purposing to continue their use of maintaining and parking vehicles on the site and storing various landscaping materials. Mountain Landscape plans to install a new storage building and convert an existing residency to an office and there are various other minor structural things such as sheds coming down and a small addition going in. Basically it is a continuation of an existing use on a site that is largely developed at present. The company employs twenty five people and anticipates having five actively at work full time on the site in the future. Customers do not come to this site; it is for storage and maintenance only. Customers use there main facility on Route 46. There hours of operation are 7:00a.m. - 7:00p.m. They have a small peak in the morning when trucks are leaving for job sites and some may come in for repair; there is occasionally delivery of materials maybe two to three times a week by dump truck. The

company also does snow removal. All vehicles are fueled off site. The site has an existing septic system which has been documented as functioning normally by Peach Brothers Septic Contractors. There is an existing well and the proposed use will not require any further water use from that well. They have contracts already for disposing of trash (Gary Gray Trucking Company). They have concrete and organic material from jobs that will be recycled with Ranell Recycling of Sparta. The site is quite suitable for the use since it already is being used for the same purpose. The site has been inspected three times. A wetland inspection was done in January 2008 to see if there were any wetland issues, if any permits would be required and again twice in March 2008, in regard to the environmental impact statement. The soils are mapped as urban land which indicates a disturbed site which has been basically leveled and is largely used for business or residential purposes. There are very small areas of undisturbed soil along southwestern and northwestern property lines that are probably rock out crop. These will not experience any disturbance as a result of this project. The site is mostly level, there are a couple of terraces in the northwestern corner and a short steep slope going down to the ramp that connects Shippenport and Ledgewood Landing Road. The site plan indicates the various slopes. With regard to the geology we are in highland physiographic province and we are on proxy and granite. Official deposits are glacial till. There isn't a lot of vegetation on the site. There are a few scattered areas of trees along the southwestern property line where there are some matured trees there and also a little bit in the northern corner. There is very little surface water on the site. There is an intermittent stream that crosses the extreme northern corner of the site which crosses under the ramp from Ledgewood Landing Road to Shippenport Road; there is an isolated circle with no outlet. The stream forms a little pond that goes nowhere. Some small ditches run down to the edge of the ramp; the water accumulates there and doesn't run anywhere. There is an inlet in front of the house that captures road run off that comes off of Ledgewood Landing Road and takes it back out into the roadway storm water system. There were no storm water calculations done for this project since the impervious surface is going to be reduced a few percent points as a result of the project, so no storm water management was required. There are no wetlands or wetland transition areas on the site. Subsurface water: Rockaway soils usually have a water table deeper than 10 feet and an excavation was made on the site to 12 feet and no water was encountered. A high water table will not be a problem. There are no scenic or historic features on the site. The existing development features are a 1,934 square foot shop building where they do repair and maintenance of vehicles and a 1,634 square foot residence which is purposed to be converted to an office. There is a commercial roofing operation on a small lot that is bordered on three sides by the subject property and there are residential buildings on the other sides; except for Lot 2, to the northwest which is vacant forestry area. No analysis of air, water or noise quality was done because nothing to that effect is going to change on the site. Parts of the lot which are impervious gravel will be restored to grass; and there will be drywells to capture roof run off from the new building. There will be screening of the adjacent residential lots with vegetation, fencing and just a general sprucing up of the buildings on site. The shop will be resided as well as a shed. Some of the older sheds are going to be removed. Since there is so little change in the use of the site, there are not going to be any unavoidable adverse impacts here, either on or off site. On drainage plans; basically the drywells are the only drainage improvement to be put in. No change to energy use on site. Originally in terms of alternatives to this project the applicant purposed a smaller storage building but the board requested a larger one so that

more equipment could be kept inside and out of sight. Very little in the way of hazardous and toxic substances will be stored on site. There are some petroleum based substances associated with the shop, petroleum products, anti freeze, etc. when it's removed from the vehicles it will be captured and stored in drums. There are spill respond kits kept in the shop to deal with any unexpected spills of such materials. None of the landscaping materials to be stored are toxic. Salt will be stored for the salt disbursement during snow storms. Mountain Landscape is going to install an enclosure to cover the salt. One possibility is a steel frame enclosure covered with a polypropylene tarp-like cover. It would be very secure and put on a concrete asphalt covered pad. The permits required are the Municipal Site Plan approval which is this application, the County Site Plan which is to be submitted and the Soil Erosion Sediment Control which is pending from the Natural Resource Conservation Service. The Health Department has been provided a report documenting that the septic system is functioning normally. The Township ordinance has a list of performance standards that will be met: all electric or electronic devices will meet Federal standards; no activities involving fire or explosion hazards other than storage of fuel and gas cans which will be kept securely in a fuel locker. There will be no fueling of vehicles on site. There is no new exterior lighting to cause glare; no heat is going to be produced other than for the heating of buildings; no discharge of any untreated industrial waste into any body of water and all the methods of sewerage and industrial waste treatment and disposal will be approved by the Township. Anything rodents may be attracted to will be stored indoors. There will be no unusual noise levels on the site, no production of odors; no radio activity; no smoke other than exhaust of vehicles. The applicant will provide the Township Health Department and Construction Department with a list of hazardous toxic substance which again is quite short.

Ms. Dargel asked that in the testimony Ms. Wander stated the use was not changing it would be essentially the same use it was before, Ms. Dargel stated that to the best of her knowledge at least a couple years ago it was used as a vehicle junk yard. Was Ms. Wander aware of that?

Ms. Wander said she saw it in its current use as landscaping storage.

Ms. Dargel asked Ms. Wander how long she presumed it was used for landscaping storage and if Ms. Wander had known it was for several years used as a vehicle junk yard (at least thirty years to Ms. Dargel knowledge), would that affect any of her testimony?

Ms. Wander said she didn't think so; the current use is probably less objectionable than an auto storage yard.

Ms. Dargel asked as far as Ms. Wanders Ecological Impact Statement; if she knew about an underground tank would that have changed her opinion.

Ms. Wander said if it was still in the ground she would have certainly mentioned that it needed to be checked and possibly removed, but that is not her field of expertise.

Ms. Dargel asked about a 12 (foot) hole on the property; was it there to remove the tank did Ms. Wander know anything about the tank; did she know if the tank was removed or not?

Ms. Wander said she was given a report that stated an underground tank was removed.

Ms. Dargel questioned the intermittent stream being a wetlands issue but it has no association to the wetlands.

Ms. Dargel questioned behind the auto body shop there is a propane tank. Will that tank remain there?

Ms. Wander said she didn't know; wasn't really sure; but would assume so.

Ms. Dargel asked if the propane tank would it be a danger or hazardous.

Ms. Wander said she doesn't think it's hazardous she has one in her own back yard.

Ms. Dargel questioned about the snow removal, Mountain Landscape had said the first time they met with the board that there may be some trucks leaving at 3:00 a.m. also, many of the trucks are going to be off site and would be positioned in other places. Was Ms. Wander aware of this?

Ms. Wander stated she was told when a storm threatened the trucks were preloaded on site assuming this is during the day and pre-positioned off site if the storm was due at night.

Ms. Dargel stated so to the best of Ms. Wander knowledge there would be no trucks leaving the site after 7:00 p.m. or before 7:00 a.m.

Ms. Wander stated that was her understanding.

Ms. Dargel questioned the removal of some mature trees on the southwestern side.

Ms. Wander stated there are a few mature oaks along the southwest side.

Ms. Dargel questioned if there were to be dump trucks at the site, did Ms. Wander still maintain there would be no vibrations from the trucks that would affect the neighboring properties?

Ms. Wander was not sure that dump trucks produce vibrations maybe some noise and didn't think that what they will be doing on site would cause vibrations.

Ms. Dargel questioned if Mountain Landscape would be in compliance with the Township noise ordinance.

Mr. Stern stated Mountain Landscape would have to comply and the Township Health Department would be responsible to enforce that.

Mr. D'Amato asked about the stream to nowhere that goes into a pond, does road water go into the same pond.

Ms. Wander stated: there are inlets along the ramp that probably discharge into the same spot.

Mr. D'Amato asked Ms. Wander if she would consider that no more hazardous liquids from a rain would get into the pond. Would there be anything worse from the site, then what comes off from the road?

Ms. Wander stated; it probably is rather equivalent given the discharges from vehicle traffic on the site that gets washed off. Run off from the driveway into the site goes down the short steep slope to before the ramp. There's a long depression before the ramp and it accumulates down in there it doesn't go into the other depression across the ramp. It is infiltrating into the ground which is as good a filter as you could ask for.

Mr. D'Amato asked; were any of the soils analyzed for past contaminates.

Ms. Wander stated; that is in the process of being done right now. It had to be done for the mortgage to be approved.

Mr. Wiener asked if it was a phase one being done.

Mr. Kron stated that phase one is being done currently; we'll likely have to do a phase two as well.

Mr. Wiener asked Ms. Wander if she saw the results of a phase one and was told there is going to be a phase two study would that have any impact on her testimony.

Ms. Wander said that if there was contaminated soil on the site obviously it would have to be removed.

Mr. Wiener stated that once the investigations were done that would be a better time for Ms. Wander's Environmental Impact Statement report than what we have gotten presently.

Ms. Wander said her Environmental Impact Statement report is really concerned with the impacts from the purposed project not from past impacts on the site.

Mr. Crowley asked about the environmental impact on the landscaping trucks being undercover in a building verses being outside on gravel.

Ms. Wander said that there could be contaminates from vehicles there is no getting around that which could certainly impact the soil just as probably the pervious uses have done so. The trucks should not just be undercover, but also on pavement. A paved, covered garage of some sort would be ideal and she didn't feel it's a major concern.

Mr. Crowley was concerned about this, and thought that the trucks should be on something that can capture any run off. Would Ms. Wander recommend the trucks be covered?

Ms. Wander said yes; it would be a benefit.

Ms. Robortaccio questioned on page two an existing cesspool; is that the same as a septic?

Ms. Wander stated it is not a septic disposal field, it is a tank. It's an old fashioned kind of septic tank; not a septic disposal field.

Mr. Stern stated; that in his report from March 6th the septic system was a Board of Health issue also the well which the Board of Health would have to inspect.

Mr. Stern confirmed that there will be no customers to the site; no fueling of vehicles on the site, proposed use will not require any more water than the existing demand, the siding and existing shed will remain, salt storage to be covered, and no outdoor repairs of equipment.

Ms. Kinback asked where the trucks get washed.

The smaller ones go to Roxbury car wash, the larger ones they go to an establishment on Route 94 in Newton.

OPEN TO THE PUBLIC

No one from public for this witness.

CLOSED TO THE PUBLIC.

Discussion, on Landscaping Plan which Mr. Stern and the Board had just received.

Marked into exhibit (A-19), for overview of Landscaping Plan and shipment of materials.

Mr. Hathaway, was previously sworn in, and gave the board an overview of the plan. This landscaping plan is an evolution of all the plans that the board has previously seen. Comments from Mr. Stern on areas which he thought were lacking, filling up islands that had been created from the changed application and trying to buffer the southwest neighbor appropriately. Going down the south side of the property a large hedge row was changed to an 8 foot high fence to buffer the upper neighbor and a 6 foot board on board fence going the remainder of that property line. Adding landscaping, plant material that was not on the last application the boulders were removed from the north side of the property, more buffering with evergreens.

Ms. Robortaccio stated that pool was still on this plan at a prior meeting Mr. Hathaway testified that the pool would be removed and a fountain would be proposed.

Mr. Hathaway stated that is correct. I intend to reinvent it as a koi pond.

Ms. Robortaccio stated it must reflect that on the plans.

Mr. Stern stated he is satisfied and they are addressing areas of concern although he will meet with the applicant to go through the memos and over a few other items of concern.

Mr. Eric Snyder was previously sworn in and testified to the changes to increase buffering and adding landscaping, moving boulders and cleaning up and removing sheds; Although you do not have a detail of the siding that will be installed on all the buildings that is the intent, there will be a shift in storage of the larger trucks for a better buffer. Lighting will remain and will have limited impact. Outside parking would be the same as any other parking area or lot. And that phase one study should give a benchmark of how the vehicles have had an effect / impact on the site. The details will be submitted for another meeting. This testimony is based upon the plans last submitted; revised Aug 19, 2008.

George Gloede, Engineer (previously sworn in) clarified one issue the parking on the gravel this area is actually going to be paved in front of the existing shop area all the way to the back area where all the small vehicles will be parked.

Mr. Hathaway stated the driveway distance has been increased from the home located on the easterly corner of the property on Ledgewood Landing Road, the additional landscaping and fencing is designed to address some of Mr. Stern's comments.

Mr. Data questioned the P bin on the A-19 exhibit. It is for salt and will there be a cover?

Ms. Robortaccio stated there is a discrepancy in the plans, in the amount of bins on the plans.

Mr. Stern said it will be rectified and addressed. There will be a meeting with the professional staff.

Ms. Robortaccio stated the Board was concerned with the dragging on of this application after being here in June and now coming back in September and to have so many things that don't reconcile and so many things missing is a serious problem. The Board fully expects that by the next time they are scheduled everything will be complete so that our Engineer and Planner can review them in a reasonable amount of time.

Ms. Kinback asked if phase one will be completed by the next meeting?

Mr. Hathaway stated; he thought so. There is a clean up that has to be satisfied from 1970's.

Mr. Wiener asked; if that clean-up was on site. Is this clean up on the DEP web site? It may or may not have relevance to this application. If it was an open clean up it would have some impact.

Mr. Hathaway said it was transmission oil that went into the storm drain the clean up was never resolved and is still an open case with the DEP from the 1970's.

Ms. Robortaccio asked Ms. Wander if she had known that would it have affected her environmental report.

Ms. Wander said she was not aware of the spill, assuming that Mr. Hathaway was able to meditate the site, the impact of his project would be a positive one in terms that the soils would be cleaned up on the site.

Mr. Wiener stated the Board needs to know more information about the spill.

OPEN TO THE PUBLIC.

No questions from the public.

CLOSED TO THE PUBLIC.

Mr. Stern made a motion the applicant be carried to November 10, 2008 no further notice.

ZBA-08-23 – WOODMONT REALTY RT. 46, LLC – SOIL APPLICATION FOR PROPERTY LOCATED ON RT 46, BLOCK 9603, LOT 3 IN OB ZONE

Mr. Wiener went over the resolution. There was a discussion on the soil removal and traffic concerns.

A condition of approval will be a pre-construction meeting as per Mr. Stern.

Mr. D'Amato made a motion to approve the Major Soil Removal/Relocation Permit.
Mr. Data seconded.

Roll as follows: Mr. D'Amato, yes; Mr. Data, yes; Ms. Dargel, yes; Ms. Kinback, yes; Mr. Wetzel, yes; Mr. Crowley, yes; Ms. Robortaccio, yes.

The meeting was adjourned by motion at 9:32 p.m.

Dolores Tardive, Secretary