

JULY 15, 2009, MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on July 15, 2009, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. with Chairman Scott Meyer presiding. After a Salute to the Flag the Chairman read the "Open Public Meetings Act".

BOARD MEMBERS PRESENT: Michael Shadiack, Linda Lutz, Richard Zoschak, Charlie Bautz, James Rilee, Joseph Schwab, Robert DeFillippo and Chairman Scott Meyer

LATE: Andre Verge (7:40 P.M.)

ABSENT: Larry Sweeney

PROFESSIONAL STAFF PRESENT: Tom Germinario, Esq., John Hansen for Paul Ferriero, P.E.; Russell Stern, P.P.

Also present, Eugenia Wiss, Board Secretary.

DISCUSSION ON SIDEWALKS by Rick Blood, Roxbury Township Director of Public Works

Mr. Blood is involved in maintaining sidewalks after they are designed and built and he had a slide presentation to bring some issues to the Board's attention. They are focusing on new sidewalk construction in key areas like schools, parks, libraries, retail and business centers and transportation hubs to determine their needs and where there are gaps. The benefits are obviously safe pedestrian access; decrease in vehicle trips and to encourage alternative forms of transportation. They have identified priorities for municipal facility access: the Library, Franklin, Lincoln and Roosevelt Schools; commercial areas like Commerce Boulevard where the residents of Willow Walk and The Meadows have requested access to shopping; and also Routes 10 and 46 where sidewalk gaps need to be filled in. These gaps were illustrated on a map. They have been pursuing grants for sidewalks. They also have been in communication with the Director of Transportation for the schools to find out what sidewalks would save them transportation costs. An example would be Meeker Street where there is a lot of Board of Education property. They can work together for mutual benefit to eliminate bus routes. (Mr. Verge arrived at 7:40 p.m.).

They received a grant and extended the sidewalk along Landing Road Station on Lakeside Boulevard but this should be extended more. Additional areas will be determined in the future. A goal is to infill sidewalks into community and retail facilities.

The funding mechanism could be direct developer's contributions to priority areas instead of installing non-contiguous sidewalks. The Board could make a recommendation to the developer and the legality of this was discussed. The contribution could go into a sidewalk fund for a certain district but this was still under

legal determination. Mr. DeFillippo said applicants still resist sidewalk installation but it is a code requirement. Mr. Stern said they could opt to contribute to fill a gap in a priority area. They could address this in the Resolution. The Board needs to require the sidewalks in the infill areas on major thoroughfares like Hillside and Eyland but some rural areas would not be practical. Mr. Meyer suggested an overlay zone where they could assist property owners in paying for the sidewalks as a capital improvement fund. Mr. Rilee was concerned about the legalities of the requirement. The Township will use the sidewalk plan presented to apply for grants for sidewalk construction.

To manage future costs the Planning and Zoning Boards need to explore alternative locations for sidewalk and street tree locations and examine the practicality of single side of the road sidewalks in residential areas. One side of the street would reduce the maintenance. In the older developments trees have to be removed to fix the sidewalks and they are assessing where single sidewalks are feasible to eliminate tree removal. They also are implementing root cutting and root barrier installation in conjunction with slab jacking in newer developments. Root barriers are now a requirement.

An example of the repair to a sidewalk and replacement of a tree was \$1,402. To save the tree sometimes the sidewalk can be moved. There are 617 addresses on file to be repaired down from 800 when Mr. Blood started. 1,789 slabs and 698 trees are affected and the cost to taxpayers was over \$600,000 and they have an annual budget of \$50,000 for this. Slab jacking eliminates the most "trip hazards" but can't be used for large "trip hazards". He illustrated slab jacking that is the most economical way to fix sidewalks.

If new streets are planned, a new design needs to be implemented to prevent these future problems. The ordinance is silent on if it is the Township's or homeowner's responsibility to repair the sidewalks so the Township takes responsibility. Ten or 20% of the homeowners will take responsibility for the repair if their insurance requires that they repair it instead of waiting for the Township to do it.

Trees need to be planted eight feet from the sidewalk and we need to be selective about what trees can be planted. The larger the planting area the better, maybe the sidewalks should be set closer to the curve and the tree could go further into the homeowner's property with an easement.

The Board appreciated that Mr. Blood had the foresight to look ahead and bring this matter to their attention.

MINUTES:

A motion to approve the minutes of June 17, 2009, was made by Mr. Zoschak, seconded by Mr. Verge

Roll Call: Mr. Shadiack, yes; Mr. Zoschak, yes; Mr. Verge, yes; Mr. DeFillippo, yes; Mrs. Lutz, yes, Mr. Schwab, yes; Mr. Meyer, yes

RESOLUTIONS:

PBA-09-002 Wong Ki Chung Block 3103, Lot 5 103 South Hillside Avenue
Minor Subdivision and Variance Application.

ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

Decided: June 17, 2009
Memorialized: July 15, 2009

IN THE MATTER OF WOON KI CHUNG
MINOR SUBDIVISION AND VARIANCE APPROVAL
BLOCK 3103, LOT 5
APPLICATION NO. PBA-09-002

WHEREAS, Woon Ki Chung (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision approval with variances on 10/22/08; and

WHEREAS, the application was deemed complete by the Board, and public hearings were held on 3/18/09 and 6/17/09; 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 43,401 square feet (0.996 acres) located within the R-2 Residence District (25,000 square feet minimum lot size requirement). It is an interior lot with frontage on South Hillside Avenue. The property is developed with a two-story single-family dwelling that is currently under renovation. The home exhibits a nonconforming rear yard setback of 47.13 feet (50 feet required). Public water and sewer serve the dwelling. The property frontage lacks curbs and sidewalks.

2. The development of the subject property proposed by the Applicant comprises minor subdivision approval to create one new single-family lot from the existing 43,401 square foot parcel. Proposed Lot 5.1 will encompass 20,823 square feet after right-of-way dedication. The remaining Lot 5.0, containing the existing dwelling, will encompass 20,825 square feet after right-of-way dedication. Both lots do not comply with the minimum R-2 District lot size requirement of 25,000 square feet. Both Lots 5.0 and 5.1 are only 83.3% of the R-2 lot area requirement. The new parcel (Lot 5.1) will be developed with a single-family dwelling serviced by public water and sewer.

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

Prepared by Michael J. Spillane

- Sheet 1, Cover Sheet, dated 10/10/08, revised 6/4/09
- Sheet 2, Minor Subdivision, dated 12/04/06, revised 6/4/09
- Sheet 3, Sight Profile, dated 4/25/07, revised 6/4/09
- Sheet 4, Details, dated 10/10/08, revised 6/4/09

4. In support of the application, the Applicant submitted the following documents, which are part of the hearing record:

- Morris County Planning Board Subdivision Report, dated 11/19/08

5. 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, AICP, CLA, dated 3/12/09,
updated 6/9/09

Paul Ferriero, PE, PP, CME, LEED, dated 3/11/09
and 6/12/09

6. Township officials and/or agencies submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Michael Kobylarz, PE, PP, CME, Township Engineer,
dated 3/11/09 and 6/10/09

7. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Aerial photo of neighborhood of subject property
- A-2 Architectural plans for proposed new dwelling
- A-3 Architectural plans for existing dwelling

8. In the course of the public hearings, the Applicant was represented by Larry Kron, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Eric Snyder, PP, planning expert
Woon Ki Chung, Applicant/owner

9. The development of the subject property as proposed by the Applicant involves continuation of pre-existing non-conformities with respect to rear yard setback for the existing dwelling (§13-7.1101D4, 50 ft. required, 47.13 ft. existing).

10. The development of the subject property as proposed by the Applicant requires relief from the following land use provisions of the Township ordinances:

A. Variances are necessary from Section 13-7.1101D1 which requires a minimum lot area of 25,000 square feet while Lot 5 is proposed at 20,825 square feet and Lot 5.1 at 20,823 square feet. Both lots only satisfy 83.3% of the required lot area.

B. A variance is necessary from Section 13-7.1101D2 which requires a minimum lot width of 125 feet. The Applicant proposes a 109.59 feet lot width for Lot 5.0 and 109.58 feet for Lot 5.1. Both lots satisfy 87.2% of the minimum lot width requirement.

C. A variance is necessary from Section 13-7.1101D3 which requires a minimum lot frontage of 110 feet. The Applicant proposes 109.59 feet of frontage for Lot 5.0 and 109.58 feet for Lot 5.1.

D. A design waiver is necessary from Section 13-8.612P, for not providing a concrete driveway apron.

E. A design waiver is necessary from Section 13-8.804 as street trees are not provided.

F. A design waiver from Section 13-8.610C is necessary as the sidewalk will be located closer than 5.5ft. from the front face of the curb.

11. Based on the hearing record, the Board has made the following findings relative to the variances and/or design waivers sought by the Applicant:

The variances for lot area, width and frontage are warranted pursuant to N.J.S.A. 40:55D-70(c)(2) as the benefits of deviation from the Ordinance requirements outweigh the detriment. Benefits include efficient use of land, improved visual impact with in-fill of a vacant area and reduced stormwater runoff with installation of drywells for the existing dwelling. The proposed new dwelling has been reduced in size and is consistent with the character of the neighborhood.

The design waiver for not providing a concrete driveway apron is not objectionable, since such aprons are not present in this area. The design waiver for street trees will be mitigated by preserving some of the existing vegetation and locating street trees outside the right-of-way where they do not conflict with existing trees. The design waiver for sidewalk closer than 5.5 ft. to the curb is justified to preserve existing vegetation.

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the minor subdivision plan as depicted and described in the drawings and/or plans referenced hereinabove. In connection with this approval, the Board grants relief from land use provisions of the Township ordinances in accordance with Sections 10 and 11 above.

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the filing of the minor subdivision deeds:

1. As a condition precedent of this approval, Applicant shall obtain all required approvals, waivers, and/or exemptions with respect to the NJ Highlands Water Protection and Planning Act, the Highlands Regional Master Plan, and the COAH Scarce Resources Restraint applicable to Highlands municipalities, and shall submit to the Board evidence of such approvals, waivers and/or exemptions, which evidence must be deemed satisfactory by the Board Attorney, the Board Engineer and the Township Planner.

2. Minor subdivision deeds shall be reviewed and approved by the Board's Attorney and Engineer prior to filing. Deeds shall include the following recital: "Pursuant to N.J.S.A. 40:55D-47, the minor subdivision referred to in the within Deed was approved by the Roxbury Township Planning Board on [date] and memorialized by Resolution on [date]."

3. The floor area of the new dwelling on Lot 5.1 shall not exceed 2800 sq. ft. (including garage) within a footprint not to exceed 1600 sq. ft. (including garage). The architectural design will be similar to the existing house on Lot 5.0, but with a side-loaded garage.

4. Per ordinance, street trees shall be specified at a minimum 2½ to 3" caliper. Also a typical tree height of 13 to 15 feet shall be provided. The Township Planner shall be contacted regarding street tree species and location outside the right-of-way.

5. Detailed grading/drainage plans shall be submitted to the Township Engineer for review and approval prior to obtaining building permits (Section 13-8.204C).

6. The proposed drywell and driveway turnaround on Lot 5.0 shall be installed prior to filing deeds.

7. The installation/construction of road widening, sidewalks, curbs and street trees, as well as removal of the shed, shall occur prior to filing deeds.

8. Utility service is to be provided underground, as noted on sheet 2.

9. The Applicant shall receive sewer capacity allocation from the Governing Body (Section 13-8.501).

10. Lot numbers shall be verified by the Township Tax Assessor.

11. The road right-of-way dedication shall be provided to the satisfaction of the Morris County Planning Board.

12. The Applicant shall comply with Section 13-2.402A, Lot Line Revision Fee, prior to the filing of minor subdivision deeds.

13. On Sheet 1 – Cover Sheet:

(i) Prior to the submission of the plans for signature by the Board, the cover sheet shall be signed by the property owner.

(ii) Note 7 states that there are no trees or wooded areas within 100 feet of the property. This is contrary to the aerial photograph that was submitted as well as the trees shown on sheet 2 and the note shall be removed from the plan.

14. On Sheet 2 – Minor Subdivision:

(i) Lot closure calculations and deed descriptions shall be provided for review.

(ii) The plan shows a well for the existing dwelling as well as a water line connection to the public water in South Hillside Avenue. If there is an existing well and it is to be abandoned, the plan shall note that it is to be sealed in accordance with local and state requirements. If there is not an existing well, it shall be removed from the plan.

(iii) An individual lot grading plan shall be submitted so that the detailed grading and driveway design can be evaluated.

(iv) The curb along the frontage shall extend to the southern end of the existing lot with a depressed curb across the driveway. The depressed curb at the proposed driveway shall also be labeled.

(v) The size, slope and material shall be labeled on the piping from the leaders to the drywell on the existing dwelling.

15. On Sheet 4 – Details:

(i) Since a separate lot development plan will not be submitted for the remainder lot, the connection piping to the drywell shall be shown.

(ii) The plan notes that the drywells are to be a minimum of 2 feet above the seasonal high water table and that the depth to the seasonal high water table and bedrock is greater than 10 feet. The basis for this conclusion shall be provided. According to the Morris County Soil Survey, the soil is classified as Bartley with a seasonal high water table to 2 to 4 feet below grade and bedrock from 6 to greater than 10 feet below grade. A soil lot/permeability test shall be completed prior to the filing of any deeds.

(iii) Road opening permits will be required from Morris County for the utility connections. Trench repair and pavement details will need to be approved by the County.

(iv) Utility connection details shall be approved by the Township Engineer.

16. Right of way shall be dedicated to the County in accordance with their standards. The road shall be physically widened to be consistent with the adjoining property on the northeasterly side and continued with the same width from the road centerline to the southwesterly property corner. In addition, the proposed curb and sidewalk shall also be shown to be a consistent distance from the road centerline along the entire frontage of the proposed lots. A transition shall be provided starting at the southwesterly property corner to meet the existing roadway just prior to the existing utility pole in front of Lot 4.

17. The "Sanitary Connection Detail" shall be revised to specify a Romac "CB" Sewer Saddle. A note shall be added to the detail stating that the existing sanitary sewer main shall be core drilled and the saddle installed. A Right of Way Excavation Permit shall be required from the Township Engineer for this connection. The concrete encasement on the sanitary sewer main may be eliminated.

18. An engineering inspection escrow fee will be required prior to site disturbance.

19. The following construction mitigation measures are hereby made applicable to this project:

- A. Elimination of anti-vandalism horns on equipment.
- B. Work hours shall be limited from 7:00 a.m. to 5:00 p.m. Monday through Saturday. No work shall take place on Sundays or holidays except on an emergency basis. The holidays which shall be observed for purposes of this condition shall be New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. The Applicant shall maintain personnel on site to whom incidents of noise disturbance shall be reported and said personnel shall be authorized to take measures to minimize said disturbances. As used in this section, "work" shall include both interior and exterior construction.
- C. Anti-litter regulations shall be imposed on site.
- D. The Applicant shall establish regulations for the safe and proper transfer and transport of fuel on site.
- E. Tracking mats shall be located by the Morris County Soil Conservation District and the Township Engineer in such places as to minimize the tracking of dirt and mud onto South Hillside Avenue.

- F. Clean-up and wash-down of trucks and equipment shall be required before leaving the construction site.
- G. Adequate provisions for safe control of employee parking including employees of the contractors and sub-contractors shall be required on site during construction.
- H. During construction, all construction traffic shall enter and exit the site exclusively from South Hillside Avenue.
- I. Violation of any of these construction mitigation measures may result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Township Engineer.

20. Prior to disturbance of the subject property, the Applicant shall comply, to the extent applicable, with the provisions of Ordinance Chapter XVII, "Soil Removal and Soil Relocation."

21. Pursuant to Section 13-7.829, the Applicant shall pay a mandatory development fee equal to one percent (1.0%) of the total equalized assessed valuation of the residential development. Fifty percent (50%) of the fee shall be posted prior to the issuance of any building permit and the remainder paid prior to the issuance of a certificate of occupancy.

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

23. 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.

24. If the Soil Conservation District, Morris County Planning Board, or any other governmental body from which approval is necessary causes, through their examination of the plans as recited in this resolution, any revisions to said plans then, in that event, same shall be submitted to the Planning Board Engineer. If the Planning Board Engineer deems said revisions to be significant, the Applicant shall return to the Planning Board for further review and approval.

25. Revised plans shall be submitted within 60 days and must be deemed complete to the satisfaction of the Board Engineer within 6 months of the date of memorialization. Failure on the part of the Applicant to satisfy this or any other condition of this resolution will result in referral of this matter back to the Planning Board for purposes of deeming the approval null and void.

A motion to approve the Resolution with corrections as noted by Mr. Germinario was made by Mr. Zoschak, seconded by Mrs. Lutz.

Roll Call: Mr. Shadiack, yes; Mrs. Lutz, yes; Mr. Zoschak, yes; Mr. Verge, yes; Mr. DeFillippo, yes; Mr. Meyer, yes

PBA-09-006 - Skeparoski, Jovan Block 2613, Lot 9, Route 46 and North First Avenue
Minor Subdivision and Preliminary Site Plan Application

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

Decided: June 17, 2009
Memorialized: July 15, 2009

**IN THE MATTER OF JOVAN SKEPAROSKI
MINOR SUBDIVISION AND PRELIMINARY/FINAL SITE PLAN AND
VARIANCE APPROVAL
BLOCK 2613, LOT 9
APPLICATION NO. PBA-09-006**

WHEREAS, Jovan Skeparoski (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision and preliminary/final site plan and variance approval on 1/29/09; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 6/17/09; 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 a 15,500 square feet through lot with road frontage on Route 46 and North First Avenue. A zoning boundary line runs through the middle of the property and parallel to the two roads. The property towards North First Avenue is zoned R-4 Residence and towards Route 46 is zoned B-2 Highway Business District. The North First Avenue portion of the site is developed with a single-family dwelling. The Route 46 half of the site is vacant, but previously contained the Model Dairy.

Adjoining properties along North First Avenue are similarly zoned R-4. Adjoining properties along Route 46 are also zoned B-2 and are developed with one-story office buildings.

2. The development of the subject property proposed by the Applicant comprises minor subdivision and preliminary major site plan approvals. The Applicant proposes subdividing the tract along the R-4/B-2 zone boundary to create a 5,000 square feet lot (Lot 9.01) along Route 46 that is entirely zoned B-2, and a 10,500 square feet lot (Lot 9.02) for the existing home along North First Avenue that is entirely zone R-4. Lot 9.01 does not meet the minimum B-2 lot size requirement of 10,000 square feet and Lot 9.02 exceeds the minimum R-4 lot area requirement of 7,500 square feet. Preliminary site plan approval is requested to develop Lot 9.01 with a 990 square feet one-story office building with four (4) parking spaces. The floor area ratio is 0.198 (0.20 permitted) and lot coverage is 58.08% (60% permitted). Public sewer and water will service the building.

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

Prepared by Wunner Engineering Associates

- Sheet 1, Cover Sheet, dated 12/02/08, revised 3/20/09
- Sheet 2, Minor Subdivision Map, dated 12/02/08, revised 3/20/09
- Sheet 3, Site Plan Grading and Drainage, dated 12/02/08, 3/20/09
- Sheet 4, Site Plan Soil Erosion & Sediment Control, dated 12/02/08, revised 3/20/09
- Sheet 5, Soil Erosion & Sediment Control Notes and Detail Sheet, dated 12/02/08, revised 3/20/09
- Sheet 6, Site Plan Lighting and Landscaping, dated 12/02/08, revised 3/20/09

- Sheet 7, Boundary and Topographic Survey, dated 12/02/08, revised 3/20/09
- Sheet 8, Construction Detail Sheet, dated 12/02/08, revised 3/20/09

Prepared by V.C.A. Group

- Sheet A1, Floor Plan and Elevations, dated 1/7/07, revised 3/24/09

4. In support of the application, the Applicant submitted the following documents, which are part of the hearing record:

- Letter of David Krueger, dated 12/17/08 regarding wetlands
- Letter of Melanie Michetti, PE, dated 5/20/08 regarding water/sewer capacity
- Morris County Planning Board Exemption Notice, dated 1/9/09

5. 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, AICP, CLA, dated 6/5/09

Paul Ferriero, PE, PP, CME, LEED, dated 6/11/09

6. Township officials and/or agencies submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Michael Pellek, Fire Official, dated 5/27/09

Abigail Montgomery, Health Dept., dated 6/8/09

7. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Photo of proposed Lot 9.01
- A-2 Photo of properties across Route 46 from subject property
- A-3 Photo of Bl. 2613, Lot 5
- A-4 Photo of Bl. 2613, Lot 10
- A-5 Photo of Bl. 2612, Lot 20
- A-6 Photo of Bl. 2613, Lot 11
- A-7 Photo from proposed Lot 9.01 looking east
- A-8 Photo from proposed Lot 9.01 looking west
- A-9 Photo of 6' fence on zone line of subject property
- A-10 Photo of Bl. 2613, Lot 8
- A-11 Photo of existing home on proposed Lot 9.02
- A-12 Colored version of Sheet 3, Site Grading &

Drainage

- A-13 NJDOT Access Permit dated 2/27/09
- A-14 Colored Architectural Perspective of Proposed Office Building
- A-15 Colored Architectural Perspective of Proposed Office Building
- A-16 Colored Architectural Front Elevation of Proposed Office Building

8. In the course of the public hearings, the Applicant was represented by Edward Dunne, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Nicholas Wunner, PE, engineering expert
Jovan Skeparoski, Applicant

9. The development of the subject property as proposed by the Applicant requires relief from the following land use provisions of the Township ordinances:

A. A variance is necessary from Section 13-7.2502D1, as a minimum lot area of 10,000 square feet is required while the Applicant proposes a 5,000 square feet lot.

B. A variance is necessary from Section 13-7.2502D12, as a minimum lot width at setback of 100 feet is required while the Route 46 lot width is 50 feet.

C. A variance is necessary from Section 13-7.2502D3, as a minimum lot frontage of 100 feet is required while the Route 46 lot frontage is 50 feet.

D. A variance is necessary from Section 13-7.2502D5, as a minimum rear yard setback of 20 feet is required while a 15 feet setback is proposed.

E. A variance is necessary from Section 13-7.2502D10, as a minimum 10 feet parking setback is required between the front building wall while the Applicant proposes a 5 feet setback.

F. A variance is necessary from Section 13-7.21A01, as a minimum 35 feet wide landscaped buffer area is required adjacent to the R-4 district boundary to the rear of the site, while the Applicant proposes a row of 8 to 10 feet high evergreen trees within the 15-foot rear yard setback.

G. A design waiver is necessary from Section 13-8.610A, as the Applicant does not provide sidewalks along North First Avenue.

H. A design waiver is necessary from Section 13-8.608A, as curbs are not provided along North First Avenue.

I. A design waiver is necessary from Sections 13-8.612J and 13-8.702E, as a minimum driveway setback of 10 feet is required from adjoining Lot 10 while an approximate 4 feet setback is proposed.

J. A design waiver is necessary from Section 13-8.702E as a 24 feet wide two-way driveway is required while a 20-foot width is proposed.

K. A design waiver is necessary from Section 13-8.702F, as parking shall be setback a minimum of 20 feet from the right-of-way, while the Applicant proposes a 4 feet setback. Relief is also needed as parking shall be located no closer than 10 feet to a side property line while an approximate 4 feet setback is proposed to the east and west.

L. A design waiver is necessary from Section 13-8.702H, as parking shall be no closer than 6 feet to the front building elevation while the Applicant proposes a 5 feet setback.

M. A design waiver is necessary from Section 13-8.702I, as a 6 feet wide sidewalk is required along the front building elevation while a 5 feet sidewalk is provided.

N. A design waiver is necessary from Section 13-8.703B, as a parcel delivery and pick-up space have not been provided.

O. A design waiver is necessary from Section 13-8.610 as the Route 46 sidewalk will not have a 5.5 ft. setback from the face of curb.

P. A design waiver is necessary from Section 13-8.707F, the proposed light intensity exceeds 0.3 foot-candles along the easterly and westerly property lines.

Q. A design waiver is necessary from Section 13-8.804 as street trees have not been provided along North First Avenue and Route 46.

R. A design waiver is necessary from Section 13-8.806.2A, as a 25 feet wide continuous landscape buffer is not provided along the rear R-4 District property line.

S. A design waiver is necessary from Section 13-8.807A as a planted buffer is not provided between the parking lot/traffic aisle and the adjoining easterly property.

T. A design waiver is necessary from Section 13-8.807D, as the Applicant has not provided one shade tree for the 4 proposed parking spaces.

U. A design waiver is necessary from Sections 13-8.702N and 13-8.807E, as planting end islands with shade trees have not been provided on either side of the parking bay.

V. A design waiver is necessary from Section 13-8.707F for light intensity exceeding 0.3 foot-candles at the property line.

W. A design waiver is necessary from Section 13-8.804 as street trees have not been provided along North First Avenue and Route 46.

X. A design waiver is necessary from Section 13-8.806.2A, as a 25 feet wide continuous landscape buffer is not provided along the rear R-4 District property line.

Y. A design waiver is necessary from Section 13-8.807A as a planted buffer is not provided between the parking lot/traffic aisle and the adjoining easterly property.

Z. A design waiver is necessary from Section 13-8.807D, as the Applicant has not provided one shade tree for the 4 proposed parking spaces.

AA. A design waiver is necessary from Sections 13-8.702N and 13-8.807E, as planting end islands with shade trees have not been provided on either side of the parking bay.

10. Based on the hearing record, the Board has made the following findings relative to the variances and/or design waivers sought by the Applicant:

The variances for proposed Lot 9.01 for lot area, lot width at setback, lot frontage, rear yard setback, parking setback, and residential district buffer are warranted pursuant to N.J.S.A. 40:55D-70(c)(1), due to the exceptional practical difficulties of compliance due the configuration of the subject property and its division by a zone line which creates an undersized lot area in the B-2 zone which is not usable without this relief. The Board also finds that the surrounding properties exhibit similar non-conformities with respect to lot areas, widths and setbacks, such that the proposed development will be in character with the existing neighborhood. The several design waivers are justified on the same basis, with the exception of waivers for sidewalk and curbing along North First Avenue, which is not objectionable due to the absence of same in that area. The effect of granting this relief is mitigated by the fencing between proposed Lots 9.01 and 9.02 and the extensive landscaping to be provided.

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

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

hereinabove. In connection with this approval, the Board grants relief from land use provisions of the Township ordinances in accordance with Sections 9 and 10 above.

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the filing of the minor subdivision deeds:

1. As a condition precedent of this approval, Applicant shall obtain all required approvals, waivers, and/or exemptions with respect to the NJ Highlands Water Protection and Planning Act, the Highlands Regional Master Plan, and the COAH Scarce Resources Restraint applicable to Highlands municipalities, and shall submit to the Board evidence of such approvals, waivers and/or exemptions, which evidence must be deemed satisfactory by the Board Attorney, the Board Engineer and the Township Planner.

2. Minor subdivision deeds shall be reviewed and approved by the Board's Attorney and Engineer prior to filing. Deeds shall include the following recital: "Pursuant to N.J.S.A. 40:55D-47, the minor subdivision referred to in the within Deed was approved by the Roxbury Township Planning Board on [date] and memorialized by Resolution on [date]."

3. Since the Board is granting simultaneous preliminary and final site plan approval, all site plan improvements shall be bonded, in an amount to be determined by the Board Engineer, prior to issuance of a building permit. Prior to issuance of a Certificate of Occupancy, site improvements shall be inspected by the Board's Engineer and the Township Planner and an as-built plan shall be submitted.

4. Pursuant to Section 13-7.21A04, office operation shall not be conducted between the hours of 11:00 pm and 6:00 am of the following day within 200 feet of a residential district.

5. Pursuant to Section 13-8.500, the drawings shall note that all electric, telephone and cable televisions lines shall be installed underground.

6. On sheet one, under general note 12, it is stated that trash receptacles shall be internal to the proposed building. The engineering drawing shall note that trash and recyclables shall be stored indoors.

7. Sheet one should note that there will be no rooftop mechanical equipment.

8. The site plan shall note that the Applicant will comply with Section 13-7.812, Communication Antennas.

9. The Applicant shall obtain water and sewer capacity allocation from the Township Engineer and authorization by the Governing Body.

10. Sidewalk along Route 46 shall match the sidewalk in front of Lot 6 to the west.

11. The Applicant shall provide sidewalk along Route 46.

12. Lettering on the wall-mounted sign shall be specified as individually mounted letters.

13. Proposed plantings along the R-4 District property line shall be modified to the satisfaction of the Township Planner.

14. Between the parking lot/traffic aisle and adjoining property to the east, Applicant shall plant perennials and 3 upright ornamental trees as required by the Township Planner.

15. The landscape plan shall depict the existing plants (Yews and Juniper) along the easterly property line (Lot 10).

16. Landscaping shall be provided to accent driveway openings (Section 13-8.807M). Plants shall be kept low (maximum height of 30 inches) so as not to obstruct sight lines.

17. Landscaping shall be provided between the road and parking stall.

18. The existing Privet hedge shall be noted for preservation and pruned down to a uniform height and width. The hedge shall also be removed from between the road and first parking space.

19. The landscape plans shall note that existing Privet hedge along the westerly property line will be pruned of deadwood and volunteer plants within the hedge (Norway Maple, Spirea, Barberry, etc.) will be removed.

20. If the existing hedge is removed due to construction, then a replacement hedge shall be provided. Plant species, size and spacing shall be subject to review and approval by the Township Planner.

21. Per Section 13-8.805, plan will note that two hose bibs shall be provided for irrigation of landscaping, one in front of the building and one in the rear.

22. The landscape plan shall note whether lawn areas will be seed or sod.

23. Note 1 of the Soil Preparation Notes shall specify topsoil at a minimum depth of 6 inches (Section 13-8.803A).

24. In accordance with Section 13-8.807K, plans shall note that, "The view of utility areas, mechanical equipment, transformers and meters shall be screened from adjoining lots and street lines with landscaping. Open access to the equipment shall be maintained."

25. Planting notes shall specify "All plant materials, planting practices and specifications shall be in accordance with the American Standard for Nursery Stock promulgated by the American Association of Nurserymen Standards."

26. Planting details shall be revised to only depict tree stakes. Guy wires shall be removed.

27. The landscape plan shall note that the Applicant should remove tree wires and stakes one year after the date of installation.

28. A shade tree shall be provided in the front yard of the existing dwelling on Lot 9.02.

29. The Township Planner shall be contacted for additional landscape comments prior to revisions.

30. A revised landscape plan will be submitted and subject to the review and approval of the Township Planner.

31. On Sheet 2 – Minor Subdivision: Lot closure calculations and deed descriptions must be submitted for review.

32. On Sheet 3 – Site Plan – Grading and Drainage:

(i) The slope of the sidewalk into the building appears to be too great to provide ADA compliant access. A five foot wide level area needs to be provided in front of the door and the slope of the sidewalk, based on the grades shown, is 8.4%.

(ii) The front canopy and columns at the building entrance shall be shown on the plan.

(iii) In general, the slope of the parking lot is very flat and any irregularities may result in areas of ponding. The slope from the proposed inlet to the north side of the parking lot shall be increased. Under ADA standards, this could be up to 2%. This would raise the northern curb line and reduce the slope of the sidewalk to the building.

(iv) Additional spot grades shall be provided along the entrance curbs to ensure adequate drainage, especially at the point where the runoff from the adjoining property flows to the right of way next to the subject property.

(v) Additional top of curb elevations shall be added along the eastern curb line to ensure it does not impede runoff from the adjoining lot.

(vi) The drop curb at the entrance shall be labeled to be flush.

33. On Sheets 4 and 5 – Soil Erosion and Sediment Control Plan and Details: These plans should be certified by the Morris County Soil Conservation District.

34. On Sheet 6 – Lighting and Landscaping Plan:

(i) The parking lot light fixture shall be relocated to the west side of the parking lot. This will allow it to be placed at the striping between stalls and will reduce the likelihood of it being struck by vehicles backing out of parking stalls.

(ii) Fixture height shall be reduced to 16 feet in order to adjust the lighting pattern and reduce the spillover. The Isolux shall be redone to reflect these changes.

35. On Sheet 8 – Construction Details:

(i) The sanitary sewer connection details shall be subject to the approval of the Township Engineer.

(ii) The handicapped parking sign shall include a van accessible plate.

(iii) A detail shall be provided for a cast iron clean out cover where the cleanouts are in pavement.

(iv) The drywells shall be noted to have traffic bearing covers.

36. The freestanding sign shall be removed from the Engineering and Architectural Plans.

37. The following construction mitigation measures are hereby made applicable to this project:

A. Elimination of anti-vandalism horns on equipment.

B. Work hours shall be limited from 7:00 a.m. to 5:00 p.m. Monday through Saturday. No work shall take place on Sundays or holidays except on an emergency basis. The holidays which shall be observed for purposes of this condition shall be New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. The Applicant shall maintain personnel on site to whom incidents of noise disturbance shall be reported and said personnel shall be authorized to take measures to minimize

said disturbances. As used in this section, “work” shall include both interior and exterior construction.

- C. Anti-litter regulations shall be imposed on site.
- D. The Applicant shall establish regulations for the safe and proper transfer and transport of fuel on site.
- E. Tracking mats shall be located by the Morris County Soil Conservation District and the Township Engineer in such places as to minimize the tracking of dirt and mud onto Route 46.
- F. Clean-up and wash-down of trucks and equipment shall be required before leaving the construction site.
- G. Adequate provisions for safe control of employee parking including employees of the contractors and sub-contractors shall be required on site during construction.
- H. During construction, all construction traffic shall enter and exit the site exclusively from Route 46.
- I. Violation of any of these construction mitigation measures may result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Township Engineer.

38. Prior to disturbance of the subject property, the Applicant shall comply, to the extent applicable, with the provisions of Ordinance Chapter XVII, “Soil Removal and Soil Relocation.”

39. The Applicant shall obtain from the Township Engineer a determination of required off-tract improvements and Applicant’s pro-rata contribution with respect thereto, pursuant to Ordinances §13-4.6 and 13-4.7. Said contribution shall be paid in full prior to issuance of a building permit.

40. Applicant shall pay a mandatory development fee in accordance with the State statute N.J.S.A. 40:55-8.4, or if the statutory contribution is not required, then in accordance with Ordinance Section 13-7.829.

41. Applicant shall source separate and recycle all mandated material as required by the Municipal Recycling Ordinance and the Morris County Solid Waste Management Plan both during construction and for the duration of occupancy.

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

43. 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.

44. If the Soil Conservation District, Morris County Planning Board, or any other governmental body from which approval is necessary causes, through their examination of the plans as recited in this resolution, any revisions to said plans then, in that event, same shall be submitted to the Planning Board Engineer. If the Planning Board Engineer deems said revisions to be significant, the Applicant shall return to the Planning Board for further review and approval.

45. Revised plans shall be submitted within 60 days and must be deemed complete to the satisfaction of the Board Engineer within 6 months of the date of memorialization. Failure on the part of

the Applicant to satisfy this or any other condition of this resolution will result in referral of this matter back to the Planning Board for purposes of deeming the approval null and void.

A motion to approve the Resolution with corrections as noted by Mr. Germinario was made by Mr. Zoschak, seconded by Mr. DeFillippo

Roll Call: Mr. Shadiack, yes; Mrs. Lutz, yes; Mr. Zoschak, yes; Mr. Verge, yes; Mr. DeFillippo, yes; Mr. Meyer, yes

KBC Properties, LLC. (Kuiken Brothers Lumber) Route 10 East Block 1905, Lots 11 & 13

Extension of Approval of Soil Movement Permit

**ROXBURY TOWNSHIP PLANNING BOARD
MAJOR SOIL REMOVAL/RELOCATION
PERMIT EXTENSION**

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

1. Applicant/Permittee: KBC Properties, LLC
2. Application Number: PB-08—0011
3. Property Identification: Block 1905, Lots 11 and 13
4. Subdivision/Site Plan Approval Date(s): Preliminary Major Site Plan 7/11/07
5. Major Soil Permit Approval Date: 6/4/08
6. Extension Approval Date: 6/17/09
7. Extension Expiration Date: 6/4/10
8. This permit extension is subject to all terms and conditions of the original permit except as follows:
N/A

A motion to approve the Resolution was made by Mr. Schadiack, seconded by Mr. Bautz.

Roll Call: Mr. Shadiack, yes; Mr. Zoschak, yes; Mr. Bautz, yes; Mrs. Lutz, yes; Mr. Verge, yes; Mr. DeFillippo, yes; Mr. Schwab, yes; Mr. Meyer, yes

APPLICATIONS:

PBA-09-003 William Farley, Dell Avenue (Old Dell Ave. and Berkshire Valley Road) Block 7002, Lot 3,4,5. Major Subdivision to create six lots in R-2 Zone. This matter was carried from the June 17, 2009 meeting. This matter was carried to the September 2, 2009 Planning Board meeting with no further notice.

PBA-09-008 Francisco, Alan Block 11002, Lot 43 318 Kingsland Road
Steep Slope and Minor Site Plan Application with variances for a wall and parking.

Engineer Jeff Careaga was present but the applicant was not. Mr. Germinario explained that Mr. Careaga could not be his own expert so the applicant had to be here when he was qualified as an expert. They can discuss the factual part of the application only.

Mr. Careaga had received extensive review letters from Mr. Stern and Ferriero Engineering and understood that the installation needs to be redesigned according to the reports. They will extend the driveway and move the wall away from the property line, provide the design details and a cross section of the property. The applicant had started construction of the wall and wanted to salvage as much as possible. They will try and lower the wall as much as possible.

Mr. Careaga showed the Board the present access which is backing down the driveway through a shared driveway that is sometimes blocked by the neighbors. The slope is too steep especially in the winter. Mr. Careaga saw the letter from Township Engineer Melanie Michetti dated July 15, 2009, regarding modifications to the grinder pump due to the installation of the hot tub. The modifications to the grinder pump would have voided the warrantee of the grinder pump and Mr. Careaga will advise the applicant of this. Mr. Stern said they powered the hot tub with the electric from the grinder pump and did not get permits for the hot tub. They will locate that line on the revisions. They also did not get permits for a shed on the property. Mr. Stern submitted photos marked Exhibit B-1, B-2 and B-3 that showed the shed and old guardrail.

The technical reports need to be addressed and the plans need to be revised. Mr. Hansen wanted the trees shown on the plans and they should be considered in the design of the wall.

This matter will be continued to the September 2, 2009, meeting with no further notice.

PBA-08-015 Cooke, Dwight and Phyllis Block 3801, Lot 70 53 Main Street
Request for extension of condition of approval

Condition one of the Resolution of site plan approval dated January 7, 2009 stated that all site improvements be installed no later than August 1st, 2009. Mr. Cooke sent a letter dated June 18, 2009 that indicated that the work could not be completed by the August date and requested an extension to the end of 2009.

Mr. Cooke was sworn in and said he did not have the finances to do the job by the original date. The plans have been submitted to the Board and the County and he is not sure of the final cost.

Mr. Germinario felt it should be extended to the last meeting in December instead of to the end of the year. He can report to the Board at the December 2, 2009 meeting.

Mr. Cooke has the property on the market but if he can finance the work and get it done he will take it off.

A motion to extend this to the December 2, 2009 Planning Board meeting was made by Mr. Zoschak, seconded by Mr. Bautz

Mr. Shadiack, yes; Mr. Bautz, yes; Mrs. Lutz, yes; Mr. Bautz, yes; Mr. Verge, yes; Mr. Zoschak, yes; Mr. Schwab, yes; Mr. DeFillippo, yes; Mr. Meyer, yes

NEW BUSINESS:

There will be a Master Plan Meeting on July 16, 2009 and Mrs. Lutz of the Economic Development Committee will make a presentation on the B-3 District and there will be discussion on the Main Street Improvement Plan and the changes to the Land Use Element. If the Master Plan Committee signs off, it will be presented sometime in September.

At least five Board members were unavailable for the meeting on August 5th. There was a discussion on having a meeting on a different date in August but it was decided that the August 5th meeting would be cancelled and the next meeting would be held on September 2, 2008.

CORRESPONDENCE:

Chester Township Ordinance 2009-10
Mine Hill Township Ordinance 9-09
Netcong Borough Ordinance 2009-10 and 2009-11
Randolph Township Ordinance 14-09, 15-09 and 17-09
Rockaway Township Ordinance 09-13

The meeting was adjourned by motion at 8:30 p.m.

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary