

NOVEMBER 4, 2009, MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on November 4, 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, Andre Verge, James Rilee, Charles Bautz, Scott Meyer, Larry Sweeney

ABSENT: Joseph Schwab, Robert DeFillippo

EXCUSED: Paul Ferriero, P.E.

PROFESSIONAL STAFF PRESENT: Tom Germinario, Esq., Russell Stern, P.P.

Also present, Eugenia Wiss, Board Secretary.

MINUTES:

A motion to approve the minutes of October 21, 2009, was made by Mr. Shadiack, seconded by Mr. Rilee

Roll Call: Mr. Zoschak, yes; Mrs. Lutz, yes; Mr. Shadiack, yes; Mr. Bautz, yes; Andre Verge, yes; Mr. Rilee, yes; Mr. Sweeney, abs.; Mr. Meyer, abs.

RESOLUTIONS:

PBA-09-009 Seeger, Jeff 278 Berkshire Valley Road Block 13001, Lot 3
Minor Subdivision in the R-2 Zone.

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

Decided: October 22, 2009
Memorialized: November 4, 2009

**IN THE MATTER OF JEFFREY SEEGER
MINOR SUBDIVISION APPROVAL
BLOCK 13001, LOT 3
APPLICATION NO. PBA-09009**

WHEREAS, Jeffrey Seeger (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision approval on 9/8/09; and

WHEREAS, the application was deemed complete by the Board, and public hearings were held on 10/7/09 and 10/21/09; 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 82,307 square feet (1.89 acres) located within the R-2 Residence District (25,000 square feet minimum lot size requirement). Road frontage is on Berkshire Valley Road and Birch Lane. Birch Lane is a dedicated road with a 12.3 to 14 feet wide cartway. The property is developed with a one-story single-family dwelling that faces Berkshire Valley Road. The home exhibits a nonconforming front yard setback of 37.1 feet in relation to Berkshire Valley Road and 30.5 feet from Birch Lane (50 feet required). The property has a nonconforming two-car detached garage located in the front yard of Birch Lane and a nonconforming lot width of 142.2 feet (150 feet required) along Berkshire Valley Road. The home is served by private well and septic. The property frontage lacks curbs and sidewalks. The parcel is located entirely within the Highlands Preservation Area and is surrounded by single family dwellings similarly zoned R-2 Residence District.

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 82,307 square foot parcel. Proposed Lot 3.01 will encompass 54,044.3 square feet (1.241 acres) after right-of-way dedication. The remainder of Lot 3, containing the existing dwelling, will encompass 26,561.9 square feet (0.610 acres) after right-of-way dedication. The new parcel will be developed with a single-family dwelling serviced by private well, septic and a stormwater infiltrator disposal field.

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 Careaga Engineering, Inc.

- Sheet 1, Cover Sheet, dated 4/22/09,
revised 6/26/09
- Sheet C-2, Existing Conditions, dated 4/22/09,
revised 6/26/09
- Sheet 3, Minor Subdivision, dated 4/22/09,
revised 6/26/09
- Sheet 4, Site/Grading Plan, dated 4/22/09,
revised 6/26/09
- Sheet 5, Soil Erosion & Sediment Control Plan,
dated 4/17/09, revised 6/26/09

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

- Minor Site Plan and Variance Application,
dated 4/27/09
- Soil Erosion Application, dated 4/27/09
- Highlands Applicability Application,
dated 9/4/09

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 9/30/09

Paul Ferriero, PE, PP, CME, LEED, dated 10/4/09

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 10/2/09

Abigail Montgomery, REHS, Health Dept., dated 9/15/09

Michael Pellek, Fire Official, dated 9/14/09

Ptl. Gregg Prendergast, Police Dept., dated 9/16/09

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 the site and surrounding area

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

Jeffrey Seeger, Applicant
Jeffrey Carreaga, PE, Applicant's engineer

9. The development of the subject property as proposed by the Applicant involves continuation, without intensification, of the following pre-existing non-conformities:

- accessory building (garage) frontyard setback
(50 ft. required, 17.1 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 variance is necessary from Section 13-7.1101D2 which requires a minimum corner lot width of 150 feet. As a result of Berkshire Valley Road dedication the pre-existing nonconforming lot width will be reduced to 141.5 feet.
- A variance is necessary from Section 13-7.1101D3 which requires a minimum corner lot frontage of 150 feet. As a result of Berkshire Valley Road dedication the pre-existing nonconforming frontage will be reduced 145.51 feet.
- A variance is necessary from Section 13-7.1101D4, which requires a minimum front yard setback of 50 feet. As a result of Berkshire Valley Road dedication the pre-existing nonconforming front yard setback of 37.1 feet will be reduced to 28.8 feet (50 feet required).
- Design waivers are necessary from Section 13-8.602 that requires a right-way-width of 50 feet and cartway width of 30 feet. A right-of-way width of 40 feet was accepted for dedication by the Governing Body in 1996.
- Design waivers are necessary from Sections 13-8.608 and 13-8.610A as curbs and sidewalks, respectively, are not provided. Curbs and sidewalks are not present along either road.
- A design waiver is necessary from Section 13-8.804 as street trees are not provided 40 feet on center within the right-of-way. A formal street tree planting

does not exist along either road.

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 variance relief is justified because it involves intensification of existing nonconformities resulting from required roadway dedication. The design waivers are consistent with the existing character of the surrounding area.

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 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. An access easement shall be granted to the Township for maintenance of the detention/infiltration basin, which shall be filed concurrently with the minor subdivision deeds. The easement shall be approved by the Board Attorney and Board Engineer.

2. A wetlands/transition area presence/absence determination by a qualified wetlands consultant shall be submitted to the Board Engineer. If regulated wetlands/transition areas are determined to exist on the property, all requisite wetlands permits shall be obtained prior to issuance of a building permit.

3. The deed for Lot 3.01 will contain a reference to this Resolution stating that, in lieu of the installation of a deck on the rear of the dwelling, an at-grade patio may be installed. This shall not preclude Applicant or his successors in title from subsequently seeking variance relief to install a deck.

4. A Highlands Exemption (or other equivalent Highlands approval) shall be obtained.

5. Morris County Planning Board approval shall be obtained.

6. Metes and Bounds descriptions and lot closure calculations shall be reviewed and approved by the Board Engineer. Separate deeds of dedication for Berkshire Valley Road and Birch Lane must be prepared.

7. A maintenance manual for the stormwater infiltration system serving the proposed dwelling must be prepared by a licensed engineer and reviewed by the Board Engineer. Approved Maintenance Manual shall be attached to the deed for the newly created lot.

8. A drainage plan for the poorly drained areas of the property must be prepared by a licensed engineer and reviewed and approved by the Township Engineer and any other outside agency having jurisdiction. The drainage plan will include extension of the stormwater infiltrator disposal field to handle runoff from the surrounding area.

9. The subdivision plans must be signed by the owner.

10. The location of the existing septic disposal system serving the remaining lot must be shown on the subdivision plans.

11. Prior to obtaining a building permit, a Lot Development Plan must be prepared by a licensed engineer and reviewed and approved by the Township Engineer. The Lot development plan to include a stormwater management infiltration system as presented at the hearings.

12. Prior to any land disturbance, the limit of disturbance and property lines must be staked in the field.

13. Prior to framing of the new dwelling, a foundation location survey must be submitted to the building department.

14. Revised plans shall quantify the proposed area of disturbance and impervious coverage.

15. The existing septic for Lot 3 shall be located and depicted on all drawings.

16. Two (2) shade trees (2 ½ to 3" caliper, 13 to 15' ht.) shall be provided in relation to the Birch Lane frontage at a location determined by the Applicant.

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

18. A minimum 6" topsoil cover and seed shall be provided for the proposed stormwater infiltrator disposal field.

19. Underground electric service should be provided to the new dwelling. Note plans accordingly. Pursuant to Section 8.500B, the minor subdivision is exempt from this requirement if homes adjoining both sides of Lot 3.01 are serviced by overhead connections from Birch Lane.

20. The drawings shall note that debris piles (logs, wood, stone, dirt, trash, etc.) located within the property and along the road right-of-way will be removed prior to the issuance of a temporary or permanent certificate of occupancy.

21. To the extent feasible, tree removal shall be limited to the 20,188 square feet area Total Disturbance area depicted on the Soil Erosion and Sediment Control Plan. To the extent practical, individual specimen trees within this area shall be preserved.

22. The Applicant shall comply with the Township's Tree Conservation Ordinance (Section 13-11), as applicable.

23. The municipally owned parcel located at the northwest quadrant of the Berkshire Valley Road/Little Lane intersection shall be labeled as zoned GU.

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

25. Minor subdivision deeds and deed descriptions for both lots shall be submitted for review and approval by the Board Engineer and Board Attorney.

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

27. Sheet 2, Note 3 shall be amended to state that there are no "public or non-public community wells," etc.

28. 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].”

29. 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 Birch Lane.
- 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 Birch Lane.
- 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.

30. 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.”

31. 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.

32. The Applicant shall pay a mandatory development fee as required by Section 13-7.829.

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

34. 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.

35. 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.

36. 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.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Roxbury Township Planning Board memorializing the action taken by the Board at its meeting of 10/21/09.

A motion to approve the Resolution was made by Mr. Zoschak, seconded by Mr. Verge.

Roll Call: Mr. Shadiack, yes; Mr. Sweeney, abs., Mr. Zoschak, yes; Mrs. Lutz, yes; Mr. Bautz, yes; Andre Verge, yes; Mr. Rilee, yes; Mr. Meyer, abs.

PBA-09-010 Ribe, Odd and Gudrun 9 Larsen Drive Block 3104, Lot 1 in R-2 Zone
Minor Subdivision and variance application.

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

Decided: October 22, 2009
Memorialized: November 4, 2009

**IN THE MATTER OF ODD AND GUDRUN RIBE
MINOR SUBDIVISION APPROVAL
BLOCK 3104, LOT 1
APPLICATION NO. PBA-09-010**

WHEREAS, Odd and Gudrun Ribe (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision approval on 10/14/09; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 10/21/09; 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 corner lot encompassing 25,065 square feet (0.575 acres) located within the R-2 Residence District (25,000 square feet minimum lot size requirement). The site is developed with a one-story single-family dwelling and detached garage. Right-of-way widths along Larsen Drive are 40 feet to the west and 42.5 feet to the north with a cartway of 29.6 feet to the west and 33 feet to the north. The parcel has a pre-existing nonconforming front yard setback of 27 feet and 45.7 feet (50 feet required), a nonconforming accessory

front yard setback of 28.5 feet (50 feet required) as well as, an insufficient lot width of 125 feet (150 feet required). Public water and sewer serve the home. The property frontage lacks sidewalks and a formal street tree planting. Concrete curb is located along the applicant's frontage.

Surrounding properties are similarly zoned R-2 and developed with single-family dwellings. Located across Larsen Drive to the west is a newly constructed 2½ story single-family dwelling situated on a 12,542 square foot lot (Lot 24.02) that received minor subdivision approval from the Planning Board in 2003. The remainder parcel (Lot 24.01) encompasses 12,267 square feet. At this time the tax map has not been updated to depict the new parcel.

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 25,065 square foot parcel. Proposed Lot 1.01 will encompass 12,500 square feet (0.287 acres). The remainder of Lot 1, containing the existing dwelling, will encompass 12,564.9 square feet (0.288 acres). The R-2 District requires a minimum lot size of 25,000 square feet. The new parcel will be developed with a single-family dwelling serviced by public water (Roxbury Water Company) 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 Careaga Engineering, Inc.

- Sheet 1, Cover Sheet, dated 5/1/09, revised 7/16/09
- Sheet 2, Existing Conditions, dated 6/26/09, revised 7/16/09
- Sheet 3, Site/Grading Plan, dated 5/1/09, revised 7/16/09
- Sheet 4, Soil Erosion & Sediment Control Plan, dated 5/1/09, revised 7/16/09

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

- Minor Subdivision and Variance Applications,
received 10/14/09
- Morris County Planning Board Exemption Notice,
dated 5/26/09
- Roxbury Water Co. Memo, dated 7/7/09
- Letter of Larry Kron, Esq., dated 6/25/09,
with enclosures

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 10/15/09

Paul Ferriero, PE, PP, CME, LEED, dated 10/16/09

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 10/15/09

Abigail Montgomery, REHS, Health Dept., dated 9/15/09

Michael Pellek, Fire Official, dated 9/14/09

Ptl. Gregg Predergast, Traffic Safety Bureau,
dated 9/16/09

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

- A-1 Deed dated 8/17/55 from Bennett M. Rettedal to Gudrun Omina Rettedal
- A-2 Deed dated 10/1/58 from Gudrun Omina Ribe, formerly Gudrun Omina Rettedal, and Odd Ribe, her husband, to Odd Ribe and Gudrun Omina Ribe, his wife
- A-3 Property Survey for Gudrun Omini Rettedal, dated 9/14/56, referencing filed subdivision map Nov. 1949
- A-4 Roxbury Water Co. letter "Re: Larsen Drive – Water Main Extension," undated
- A-5 Roxbury Water Co. Invoice for water main installation, 15 Larsen Drive, dated 8/1/02 marked "Paid" 9/13/02
- A-6 Roxbury Water Co. Invoice for water main installation 9 Larsen Drive, dated 8/1/02 marked "Paid" 9/13/02
- A-7 Letter of Michael Kobylarz, PE, Township Engineer, dated 7/2/09

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:

Jeffrey Careaga, PE, Applicant's engineer
Gudrun Ribe, Applicant

9. Ordinance Section 13-7.1101D, requires a minimum lot size of 25,000 square feet, while Applicant proposes two lots with areas of 12,565 square feet (Lot 1 – existing home) and 12,500 square feet (Lot 1.01). In reviewing the subdivision file for Lot 24, Block 3103, the Township Planner found an approved signed map dated December 6, 1949 depicting the applicant's parcel subdivided into two lots, as is currently proposed. He also found a concrete monument in the general location of the proposed subdivision line.

It appears that the two lots were merged by operation of laws pursuant to the holding of *Loechner v. Campoli*, 49 N.J. 504 (1967). The holding of that case indicates that the Board should approve the re-subdivision of these lots in their pre-merger configuration and grant the bulk variances associated with the pre-merger configuration. In this case, the record indicates that the filed subdivision map 1949 provided for a two-lot configuration identical to what the Applicant is now proposing.

10. The development of the subject property as proposed by the Applicant requires relief from the following land use provisions of the Township ordinances, with respect to which the Board has made the following findings:

– A variance is necessary from Section 13-7.1101D.2 as a minimum interior lot width of 125 feet is required for Lot 1.01, while the applicant proposes 100 feet. Additionally, remaining Lot 1 requires a lot width of 150 feet as a corner lot while 125 feet is proposed in relation to the northerly frontage (pre-existing condition) and 103.17 feet in relation to the westerly frontage.

– A variance is necessary from Section 13-7.1101D.3 as a minimum lot frontage

of 110 feet is required while Lot 1.01 is proposed at 100 feet. Additionally, remaining Lot 1 is proposed at approximately 120 feet in relation to the northerly frontage (pre-existing condition) and 93 feet in relation to the westerly frontage.

- A variance is necessary from Section 13-7.1101D.5 as a minimum rear yard setback of 50 feet is required while the proposed property line will create a 20 feet setback on Lot 1. Impacts of this nonconformity are somewhat mitigated as the parcel is already developed with concrete patios that are located in a manner that will not impact proposed lot 1.01.

- A variance is necessary from Section 13-7.1101D.5, as Applicant seeks a 42 foot rear yard setback for Lot 1.01 to accommodate a deck as well as increasing the depth of the dwelling.

- A variance is necessary from Section 13-7.1101D.8 which allows a maximum impervious coverage of 25%. Lot 1 is currently conforming. However, by subdividing the parcel it will create a nonconforming impervious coverage of 28.5%. The Board finds that the proposed paved areas on the site are not excessive.

- A design waiver is necessary from Section 13-8.602A as a 50' wide right-of-way (25' half width) is required while a 40' wide width (20' half-width) in relation to the west and 42.5 feet in relation to the north is existing. The Planning Board did not require additional right-of-way dedication when the 2003 minor subdivision approval was granted for Lot 24, Block 3103.

- A design waiver is necessary from Section 13-8.610A, as sidewalks are not provided. The Board has no objection, as sidewalks are not present within the development.

- A design waiver is necessary from Section 13-8.804 as street trees are not provided. The Board has no objection as this neighborhood does not have a formal street tree planting.

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 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. The existing shade tree and evergreen located on Lot 1.01 along Larsen Drive shall be preserved.
2. As noted in the September 15, 2009 memorandum from the Health Department, the Applicant shall demonstrate that the abandoned well was properly abandoned by a licensed well driller certified to seal wells by producing a well abandonment form.
3. Detailed grading/drainage plans shall be submitted to the Township Engineer for review and approval prior to obtaining building permits (Section 13-8.204C).
4. Underground electric service shall be provided to the new dwelling. Note plans accordingly.
5. Damaged curb shall be repaired as directed by the Township Engineer.
6. Lot numbers shall be verified by the Township Tax Assessor.

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

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

9. A Right-of-Way Excavation Permit will be required for the proposed driveway opening and any utility connection as applicable. A detail for the proposed concrete drop curb shall be shown on the plan. The existing curb is to be completely removed as required for the driveway opening and new full depth depressed concrete curb installed. Steel rebar shall be used and dowelled into the existing curb in order to provide a secure connection with the new curb.

10. An engineering inspection fee will be required for the site work and is to be paid prior to commencing site construction.

11. The proposed grading on the easterly side of the dwelling shall be corrected. (The 760 contour joins the 762 contour).

12. Applicant shall comply with Morris County Planning Board correspondence dated 5/26/2009.

13. Metes and Bounds descriptions and lot closure calculations shall be reviewed and approved by the Board Engineer.

14. A maintenance manual for the stormwater infiltration system serving the proposed dwelling must be prepared by a licensed engineer and reviewed by the Board Engineer. The approved Maintenance Manual shall be referenced in the deed for the newly created lot.

15. The subdivision plans must be signed by the owner.

16. The sequence of construction must be revised on the subdivision plans to provide a realistic time frame for construction.

17. Prior to obtaining a building permit, a Lot Development Plan must be prepared by a licensed engineer and reviewed and approved by the Township Engineer. The Lot development plan to include a stormwater management infiltration system as presented at the hearings, water and sewer connection details, and trench/pavement repair details.

18. A right of way permit for the proposed driveway and utility connections must be obtained from the Township Engineer.

19. 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]."

20. 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 Larsen Drive.
- 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 Larsen Drive.
- 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.

21. 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."

22. The Applicant shall pay a mandatory development fee as required by Section 13-7.829.

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

24. 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.

25. 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.

26. 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.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Roxbury Township Planning Board memorializing the action taken by the Board at its meeting of 10/21/09.

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

Roll Call: Mr. Shadiack, yes; Mr. Sweeney, abs., Mr. Zoschak, yes; Mrs. Lutz, yes, Mr. Bautz, yes; Andre Verge, yes; Mr. Rilee, yes; Mr. Meyer, abs.

NEW APPLICATIONS:

PBA-09-016 Automotive Magic, LLC Block 2701, Lot 1 34 Berkshire Valley Road B-2 Zone Amended Preliminary/Final Site Plan Application

Mr. Shadiack recused himself from this application. Steve Aspero, Esq. represented the applicant. He was last here on behalf of the Bobcat of North Jersey application for this property. The Bobcat business has returned to Totowa, their principal place because it was a tough year. The owner of the property has agreed to allow Automotive Magic to open up his operation on this site. They are seeking amended and preliminary final site plan approval for an automotive repairs business which is a permitted use in the zone. Their engineer, Mr. Clark, was sworn in and qualified and explained the site plan. The site is surrounded by a number of zones, an Open Space district, a rail line, OR-5, B-2 and R-3 zones. He showed the existing conditions plan, Sheet 2 of 6. A number of items had been installed as per the previous site plan approval: the access driveway, landscaping improvements, curbing, handicap parking and signage. The existing one-story masonry structure won't change. There is existing lighting and a concrete pad. The proposed improvements were shown on Sheet 3 of 6. The lot area is 107,333 sf and they are giving up or gave up some property to the county. They have submitted an application to the County and will submit any revised plans to them. Some landscaping and site work has been done, but plantings need to be done in the rear of the property and they would like to move the fence but it will still be 10' off the property line with landscaping in front. The six existing parking spaces in the front will remain. There are plantings and a fence between the residential property and the elevation screens this area also. The loading area is at the side of the facility and was not for customer access. They would like to repave the frontage and are proposing paving in the future with some gravel to remain in the back. He will maintain the existing trees and reclaim an existing gravel area and seed that. He will do the seeding that was approved. The storage shed in the back will remain. They would like an additional light installed and they agreed to reduce the wattage to 250. The residential buffer is evergreen and deciduous trees with a six foot fence to the south.

Mr. Stern's report of October 29, 2009 was discussed. They agree to everything in his report. Mr. Gilfilin of Automotive Magic was sworn in. He wants to repair cars and has grown out of their facility. He fixes up used, damaged cars and resells them. He rents U-Hauls and that brings in new business to him. He will have box trucks, two or three on the property, a trailer and new trucks. He has two loaner cars for customers. He wants six lifts and nine spaces inside. He does no body work and presently doesn't have a license for resale. He will apply for a resale license but this will not be a sales operation and there will be no signage on the cars. He needs a license to test drive. If approved by the Board, there will be restrictions on this.

Mr. Meyer was concerned with three businesses on one property. Bobcat had sales, repairs and rental. Mr. Giliflin wants a nice, clean, successful business. If it becomes a used car sales business they would have no advertising on site. He will not store junk cars on the premises. He agreed to have only five cars at one time on the lot and the front of the lot will be for his customers' use and he will not have cars for sale there. He will keep his cars in the back.

They have 32 parking spaces and 36 are required. They will comply with 36 spaces and so no waiver was required. They will revise the zoning table. The waste oil storage is inside and is pumped. They do not tow at this time. He would only tow his vehicles that he is servicing in the future. He would have to come back if it became a towing business. He is relocating the fence for better maintenance of the evergreens. His hours of operation are 8 a.m. to 6 or 7 p.m., Monday through Friday, occasional Saturdays and they will be closed on Sunday. The U-Haul storage is restricted to marked spots on the drawing, five spaces. There will be no outdoor repairs or other outdoor storage, no tires, bricks, etc. When the plan is approved he has to comply with the site plan. He does not do car washing on the premises and sends them to a car wash. There will be no boat storage on the property but he can keep his boat inside if he wants to.

The attorney and engineer have no objection to simultaneous preliminary and final approval because the majority of the improvements are done. No bonding is recommended but no C.O. will be issued until all improvements are installed. Since he wants to move in quickly, they would agree to make it effective upon approval. The revised drawing will have to be received before the Zoning Permit is issued.

The Board had a rendering of the signage that is internally lit and the location was granted a variance. The main concern of the Board engineer was that the improvements were finished on the site.

The meeting was open to public. No one from the public commented. The meeting was closed to the public.

A motion to approve the application, effective upon approval not memorialization with revised drawings submitted and County approval for the C.O. was made by Mr. Rilee, seconded by Mr. Bautz.

Roll Call: Mr. Shadiack, abs.; Mr. Sweeney, yes, Mr. Zoschak, yes; Mrs. Lutz, yes, Mr. Bautz, yes; Andre Verge, yes; Mr. Rilee, yes; Mr. Meyer, yes.

PBA-09-020 Fresenius Medical Care Block 4002, Lot 16 677 Route 46
B-2 Zone Amended Preliminary/ Final Site Plan Application

Larry Kron, Esq. represented the applicant. Fresenius occupies a building that received site plan approval in 2005 and 2006 to operate between 6 a.m. and 11 p.m. The property is within 100 feet of a residential zone that is across the road. They would like to operate a nocturnal dialysis service there 24 hours a day, seven days a week.

Donna Buglisi, the Clinical Manager of Dialysis, was sworn in. She is an RN in charge of 100 patients and 35 staff members. She explained that patients get regular dialysis 3 days a week for 3 1/2 to 4 hours. The treatment removes toxins from the blood. The nocturnal dialysis is for those who don't get enough dialysis in 3-4 hours. It is easier for patients especially for those who work. There are no nocturnal centers in NJ. They will start out with 9 patients; it is a pilot. It is very expensive for Forsenius to do this but the goal is for the patients. They think there is a large need for this and would like to expand to 18 patients 6 days a week. Nurses and technicians would be there approximately 7 p.m. to 7 a.m. The patients would come in 8-9 p.m. and leave between 5-6 a.m. After 9 p.m. and before 5 a.m. there would be no one leaving. They would start out three days a week but would like the ability to expand. There will be no impact to parking and patients will drive themselves or a family member would drive them. Pictures of neighboring properties were distributed to the Board.

The statistics are amazing on the nocturnal dialysis and its benefits. The patients sleep during the process. High risk patients would not be nocturnal and all patients would have to be approved. They are offering this to stable patients who are working or as an alternative for patients who are not getting adequate treatment during the day. There is a lot less stress with this longer nocturnal treatment. Their patients come from this area, Morris and Sussex County. The 24 hour approval would be for dialysis treatment only and this will be specific in the approval.

Mrs. Miller, who is a patient, testified and said she was very interested in nocturnal dialysis. When kidneys fail the only way to come off dialysis is with a kidney transplant. She works and is very limited on food and liquids. She now has to go to dialysis after work. The process of dialysis is very wearing on the heart. With the slower nocturnal dialysis she will be able to eat more food and liquids and have more of a normal life. It would give patients more time with their family and friends. She has an article that was on the internet about the benefits of nocturnal dialysis for the Board's information.

Mr. Kron said they will not be generating any traffic and it won't affect the neighbors as Route 46 and Berkshire Valley Road are very busy. The impact will be minimal.

The meeting was open to the public. Michael Paladino, 14 Berkshire Valley Road, was sworn in. While he sympathizes, he doesn't want 24 hours a day dialysis. They have complained about the sirens going in and out and the garbage collector comes in to empty the dumpster at 5 a.m. and makes a lot of noise. The ambulances and patients make noise. They have another facility in Parsippany and he thinks they should use that one for this.

Mrs. Miller wasn't aware of any complaints and apologized for that. She will take care of the dumpster's noise and she will try and correct any other problems. She will get the garbage collected later in the morning. During off hours the ambulances should not use sirens.

The Board understood his concerns but felt the impacts would be minimal and the benefits outweigh the detriments. They will include in the Resolution that the garbage collectors cannot be there before 7 a.m. They can't guarantee that there will be no sirens at night. The patients will not arrive by ambulance as this is not an emergency service. It should be a quiet facility. He can get an appointment to look at the facility and if there are any complaints in the future, they should ask for the manager.

No one else from the public commented. The meeting was closed to the public.

A motion to approve effective immediately with the trash pickup change was made by Mr. Rilee, seconded by Mr. Bautz.

Roll Call: Mr. Shadiack, yes; Mr. Sweeney, yes, Mr. Zoschak, yes; Mrs. Lutz, yes, Mr. Bautz, yes; Andre Verge, yes; Mr. Rilee, yes; Mr. Meyer, yes.

NEW BUSINESS:

At the last Master Plan Committee meeting they discussed the application process and how we can expedite the process. They have initiated changes of use to be approved by the Zoning Officer and some site plan waivers. Tonight, they deemed the applications complete because there was no sense in delaying applications, especially urgent ones. Mr. Germinario will make a flow chart and note the MLUL mandates and time lines will also be noted. Then they can start tweaking the process. The Board authorized this work and the funds were in the budget because applications were down. The EDC (Economic Development Committee) is in favor of this.

Board members were encouraged to go to the League of Municipalities Conference and educational sessions and can request reimbursement for registration from the Township.

The meeting was adjourned by motion at 8:55 p.m.

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary