

December 2, 2009 MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on December 2, 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: Joseph Schwab, Robert DeFillippo, Michael Shadiack, Linda Lutz, Richard Zoschak, James Rilee, Charles Bautz, Scott Meyer, Larry Sweeney

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

ABSENT: Andre Verge

Also present, Eugenia Wiss, Board Secretary.

MINUTES:

A motion to approve the minutes of November 4, 2009, was made by Mr. Rilee, seconded by Mr. Bautz

Roll Call: Mr. Schwab, abs., Mr. DeFillippo, abs.; Mrs. Lutz, yes; Mr. Shadiack, yes; Mr. Bautz, yes; Richard Zoschak, yes; Mr. Rilee, yes; Mr. Sweeney, yes; Mr. Meyer, yes.

RESOLUTIONS:

PBA-09-016 Automotive Magic, LLC Block 2701, Lot 1 34 Berkshire Valley Road B-2 Zone Amended Preliminary/Final Site Plan Application. The applicant requested modification of the resolution with respect to the restriction of the illumination of the sign to just the lettering. They want the logo and ACS certification illuminated. Photos of the proposed sign illumination, Exhibit A, were distributed. The applicant, Shawn Gilfillan stated the sign will be illuminated to 11:00 p.m.

A motion to amend Condition 19 to allow the sign as depicted by Exhibit A with the sign being off before midnight and approve the Resolution was made by Mr. Rilee, seconded by Mr. Bautz.

Roll Call: Mr. Schwab, abs., Mr. DeFillippo, yes; Mrs. Lutz, yes; Mr. Shadiack, abs.; Mr. Bautz, yes; Richard Zoschak, yes; Mr. Rilee, yes; Mr. Sweeney, yes; Mr. Meyer, yes.

The corrected Resolution:

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

Decided: November 4, 2009

Memorialized: December 2, 2009

**IN THE MATTER OF AUTOMOTIVE MAGIC, LLC
AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL
BLOCK 2701, LOT 1
APPLICATION NO. PBA-09-016**

WHEREAS, Automotive Magic, LLC (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for amended preliminary and final site plan approval on 9/15/09; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/4/09; 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 108,430 square feet (2.489 acres) located in the B-2 Highway Business District with 126.05 feet of frontage along Berkshire Valley Road. The site is developed with a 6,000 square feet one-story building and a gravel/dirt storage yard previously occupied by Bobcat of North Jersey. This facility formerly operated as a Bobcat dealership involved in the sales, service, parts and rental of Bobcat compact construction equipment.

Initially, Bobcat occupied the property without obtaining site plan approval from the Planning Board. On January 3, 2007 (memorialized February 2, 2007), the Planning Board granted Preliminary Site Plan approval. A number of variances and design waivers were granted as a part of the approval. The applicant did not return to the Board for final site plan approval and did not complete all the improvements required by the Preliminary Site Plan approval.

Prior to Bobcat, an excavating and paving contractor utilized the site and maintained the rear of the property in outdoor storage. The site was also utilized by Stroud Hopler since the early 1960's.

2. The development of the subject property proposed by the Applicant comprises amended preliminary and final site plan approval to utilize the property for automobile repairs with 5 spaces for U-Haul truck and trailer rentals, and parking for vehicles awaiting repair. Automotive repair is a permitted conditional use in the B-2 District. The application form requests approval for occasional used car sales. The main purpose of this request is to obtain a used car license from the State in order to transport cars and test drive unregistered vehicles. While an occasional used car maybe sold, there will be no on-site advertising of this activity. The application will decrease impervious coverage from 52.67% to 43.62% by removing 10,257 square feet of gravel.

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 Suburban Consulting Engineers, Inc.

- Sheet 1, Cover Sheet, signed 9/14/09
- Sheet 2, Existing Conditions and Demolition Plan, dated 8/5/09, signed 10/23/09
- Sheet 3, Site Layout and Grading Plan, dated 8/5/09, signed 10/23/09
- Sheet 4, Landscape and Lighting Plan, dated 5/14/09, signed 10/23/09
- Sheet 5, Soil Erosion and Sediment Control Plan, dated 8/5/09, signed 10/23/09
- Sheet 6, Construction Detail Sheet, dated 8/5/09, signed 10/23/09

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

- Amended Final Site Plan Application, dated 9/15/09
- Suburban Consulting Engineers letter, dated 10/23/09
- Google Image Map of property, dated 10/23/09
- Free-Standing Sign rendering and drawing, received 10/28/09
- Letter of Abigail Montgomery, REHS, Township Health Dept., dated 8/2/05

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 10/29/09

Paul Ferriero, PE, PP, CME, LEED, dated 10/30/09

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

Abigail Montgomery, REHS, Health Dept., dated 8/7/09

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

- David Clark, PE, Applicant's engineer
- Shawn Gilfillan, Applicant's owner

8. The development of the subject property as proposed by the Applicant involves continuation of pre-existing non-conformities as set forth on the Zoning Data Table on Sheet 3 of the plans.

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 variance is necessary from Section 13-8.904 that requires a minimum 30-foot setback between a side property line and a freestanding sign. The applicant proposes a 1-foot setback from the adjoining railroad right-of-way. A similar variance was granted for the Bobcat sign. It should be noted that the proposed 5' x 7' sign is of similar dimensions to the Bobcat sign.

- A variance is necessary from Section 13-8.916D3 that requires a 10-foot sign setback from the proposed right-of-way, while a 4.75 foot setback is provided. A similar variance was granted for the Bobcat sign. It should be noted that the proposed 5' x 7' sign is of similar dimensions to the Bobcat sign.

- A design waiver is necessary from Section 13-8.703 as the proposed loading space is located within a traffic aisle. It is shown for graphic purposes to illustrate that loading will occur within the "private" portion of the site, beyond the gate, and its actual location is dependant upon the level of activity occurring on-site during the time of delivery. The Board has no objection to a non-designated loading area as long as loading activity occurs beyond the gate within the private area of the site.

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 Board finds that the setback variances for the freestanding sign are justified since similar variances were granted for the Bobcat sign, which was a similar dimension. Therefore, the rational and justification for the variances previously granted remain unchanged.

With respect to the design waiver for the loading area, the Board finds that there is no detrimental effect since the loading activity will occur only within the private area of the site.

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 amended preliminary and final site plan approval 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 Section 10 above.

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

1. Revised plans shall locate 4 additional parking stalls in the southerly area of the site where 26 stalls are already depicted, so that a total of 36 parking stalls shall be provided in accordance with Section 13-8.701.

2. Revised plans shall note that no auto body repair work shall be conducted on the site, and that no towing shall be conducted except for vehicles being serviced at the site.

3. Revised plans shall note that no signage advertising used car sales on the site is permitted, and that no more than 5 used cars shall be offered for sale on the site at any time.

4. Revised plans shall note that outdoor storage is limited to vehicles either being serviced or offered for sale, and U-Haul vehicles available for rental.

5. The location of the trash receptacle shall be added to the site plan.

6. Bonding of all incomplete improvements shall be provided.

7. Prior to the occupancy of the building, the following improvements must be complete:

- a. Site lighting
- b. Pavement markings
- c. Traffic control signs
- d. Any County improvements not bonded with Morris County

8. The Zoning Data Table on sheet 3 indicates that relief is required from the vehicular service station conditional use requirements. The deviations cited on the table are related to pre-existing nonconforming side yard setback for the principal building (20.4' existing, 25 feet required) and side and rear yard setbacks for the accessory storage shed. The Zoning Data Table shall be revised as the proposed use does not intensify the nonconforming conditions and therefore does not require variances.

9. Pursuant to Section 13-7.21A04, the operation of a commercial use within 200 feet of a residential district between the hours of 11:00 p.m. and 6:00 a.m. is prohibited.

10. The proposed 400-watt wall light proposed along the rear building elevation shall be replaced with a 250-watt bulb.

11. The Applicant shall verify that the wall light detail on sheet 6 corresponds with the LP-1 light noted on sheet 4.

12. Consistent with the Bobcat approval, the former gravel areas shall be noted for topsoil and seed. (to the north, east and west).

13. Non-stripped gravel parking spaces may be used, as they will be centered on the concrete tire stops.

14. Bobcat's approved outdoor storage, sales and display areas are void with the approval of the subject application.

15. U-Haul rentals, parking and the outdoor storage of vehicles are restricted to the spaces designated on the site plan.

16. Outdoor motor vehicle repairs and outdoor storage of parts or partially dismantled motor vehicles are prohibited (Section 13-7.3507L).

17. Final approval shall be obtained from the Morris County Planning Board for the Berkshire Valley Road improvements prior to issuance of a permanent Certificate of Occupancy.

18. Prior to issuance of a permanent certificate of occupancy, all improvements shall be installed and an updated as-built shall be provided for review and approval by the Board's Engineer.

19. A dimensioned detail of the proposed monument sign, drawn to scale, shall be provided. Illumination shall be as depicted in the rendering entitled "Automotive Magic Kenvil, Freestanding roadside sign (night preview)," which was submitted to the Board on 12/2/09. Sign illumination will be on a timer such that it is turned off at 11 p.m. each night.

20. The proposed monument sign shall be depicted on the site plan drawing and dimensioned from the road right-of-way and side property line. The method and area of sign illumination shall be detailed.

21. 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 Berkshire Valley Road.
- 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 Berkshire Valley Road.
- 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.

22. 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."

23. Except to the extent expressly provided herein, all conditions of the preliminary site plan approval memorialized 2/7/07 shall remain in full force and effect.

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

25. 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.

26. 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.

27. 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.

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

ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

Decided: November 4, 2009
Memorialized: December 2, 2009

IN THE MATTER OF FRESENIUS MEDICAL CARE
AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL
BLOCK 4002, LOT 16
APPLICATION NO. PBA-09-020

WHEREAS, Fresenius Medical Care (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for amended preliminary and final site plan approval on 10/9/09; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/4/09; 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 74,117 square feet (1.702 acres) located in the B-2 Highway Business District at the intersection of Route 46 and Berkshire Valley Road. The site is developed with a one-story 15,494± square feet medical building and 58 parking spaces. The Planning Board granted preliminary site plan approval in 2005 and final site plan approval in 2006. The facility was allowed to operate in accordance with current zoning standards between the hours of 6 AM to 11 PM.

The adjoining property to the west is developed with the Kenvil Hotel, which is a historic site. To the north is a vacant wooded property. Across Berkshire Valley Road to the east is a former supermarket and across Route 46 to the south are a mix of properties including a service station, multi-family dwelling, single-family dwellings and commercial buildings. All properties are zoned B-2 Highway Commercial.

Located across Berkshire Valley Road to the northeast, and within 200 feet of the subject property are residential properties zoned R-3 Residential District.

2. The development of the subject property proposed by the Applicant comprises amended major preliminary and final site plan approval to expand their hours of operation to include overnight dialysis treatment seven days a week. Initially, the program would have 9 to 18 patients coming to the facility three nights a week from 7:30 PM until 5:00 AM. The patients would be getting an extended dialysis treatment and would be able to sleep in the dialysis facility.

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 Knudsen Engineering, Inc.

- Sheet 1, Site Plan, revised 10/24/05

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

- Preliminary/Final Site Plan Application, dated 10/8/09
- Letter of Ken Nelson, Director of Operations, dated 10/9/09
- Letter of Zoning Officer Joseph McDonnell, dated 9/16/09

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 10/27/09

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

A-1 Photos of the site

7. 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:

- Donna Bugliese, RN, Applicant's Clinical Manager
- Arlene Miller, dialysis patient at Applicant's facility

8. 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 13-7.21A04, which prohibits any commercial (office) activity (structure/parking/driveway) from operating between the hours of 11 PM to 6 AM within 200 feet of a residential district. The R-3 Residential District is located approximately 100 feet across Berkshire Valley Road to the northeast.

9. 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 Board finds that relief is warranted because the testimony indicates a significant demand and medical need for an overnight dialysis facility to serve Morris County and vicinity, so that an important public interest will be served by granting this relief. Since patients will all be undergoing treatment between the hours of about 9 p.m. to 5 a.m., there will not be additional traffic and/or associated noise impact that would outweigh this public benefit. Therefore, the variance is justified pursuant to N.J.S.A. 40:55D-70c(2).

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 amended preliminary and final site plan approval 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 Section 9 above. This approval is effective as of 11/4/09.

This approval is subject to the following conditions:

1. The approval of 24/7 operations at the facility is limited to nocturnal dialysis treatment as conducted by this Applicant only. Extended hours are not approved for any other activities on the subject property, and this approval is not transferable to a successor occupant.

2. No trash/recycling pickups shall be scheduled between the hours of 9 p.m. and 7 a.m.

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

4. 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.

A motion to approve the Resolution was made by Mr. Zoschak, seconded by Mr. Bautz. Roll Call: Mr. Schwab, abs., Mr. DeFillippo, yes; Mrs. Lutz, yes; Mr. Shadiack, yes; Mr. Bautz, yes; Richard Zoschak, yes; Mr. Rilee, yes; Mr. Sweeney, yes; Mr. Meyer, yes.

RESOLUTION
TO PROVIDE ANNUAL NOTICE OF MEETINGS

WHEREAS, the Planning Board of the Township of Roxbury, Morris County, New Jersey, must provide annual notice to all regular meetings to be held by said Board during the calendar year 2010.

NOW, THEREFORE BE IT RESOLVED that the schedule of regular meeting dates annexed hereto as Exhibit A, be and hereby declared to be the official list of dates of regular meetings to be held by the Board for the calendar year 2010 being the first Wednesday and third Wednesday of each month.

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

EXHIBIT A

January 6, 2010	July 7, 2010
January 20, 2010	July 21, 2010
February 3, 2010	
February 17, 2010	August 4, 2010
March 3, 2010	September 1, 2010
March 17, 2010	September 15, 2010
April 7, 2010	October 6, 2010
April 21, 2010	October 20, 2010
May 5, 2010	November 3, 2010
May 19, 2010	
June 2, 2010	December 1, 2010
June 16, 2010	

A motion to approve the meeting dates with noted correction was made by Mr. Sweeney, seconded by Mr. Bautz.

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

APPLICATIONS:

PBA-09-014 Blue Vista Consulting, LLC Block 9202, Lots 1,2,9 & 10 256 Mountain Ave.

Amended Preliminary Site Plan – Sign

Extension of Minor Subdivision Approval for a lot line adjustment.

John Wychiskala, Esq. represented the applicant. They had received Preliminary Site Plan approval with variances and minor subdivision approval in February 2009 for a mixed use project that includes office buildings, warehouse space and a “stand-alone”

restaurant. They have no tenants yet but are moving forward obtaining outside agency approvals. They are here now proposing a freestanding sign on Route 206 for the restaurant. They need variances for the number of signs (3) and setbacks caused by the wetlands. The sign approval will help the marketability of the property. The feedback that the client is getting is that the sign is needed because the restaurant does not front on Route 206. Most of their customers will be coming in from Route 80. The proposed sign is 60 sf. and they don't have an exact design for that sign. When a restaurant comes in they would have to come back to the Board for site plan approval and details on the sign would be addressed then.

They also have a minor lot line adjustment for the restaurant pad. They need to record the deed within 190 days of approval (May 6, 2009) and they would like a one year extension for that. It is premature to record the lot line adjustment until they receive all the outside agency approvals.

Engineer and Planner Eric Keller was sworn in and qualified. He had old Exhibit A-2 marked in as A-1, a rendering of proposed conditions for Roxbury Route 80 Commercial Park to give an overview of the project that showed where the proposed and approved signs were. The proposed sign for the restaurant will be north of the Shell station in the southwest frontage corner on Route 206. Exhibit A-2 was more of a detail of where the sign will be located. It is a cantilevered sign with one post. The applicant has been in contact with retail brokers and because the restaurant doesn't have frontage on the main road, the sign is critical. In the original application they had thought of locating the sign on the Shell property but that would be a Zoning Board application. However, Shell was not interested in this. They are restricted by the wetlands so they had a very small area they could use for a sign. They have a three foot area outside the wetland limit. They can't put a second post in because of wetlands. They received permits from the State and they do include disturbance for the sign's location. Exhibit A-3 showed the double-sided monument signs for the project that were approved for the entrance only driveway on the Route 206 on the entrance on Mountain Road. The sign for the restaurant will be on the west or south side of the building and will be difficult to see from 206; it will be more for internal circulation. Mr. Rilee noted that there will probably be a teaser sign on Route 80. The signs were an issue in the original approval and the Township is concerned about signage and the aesthetic effects. The applicant knew the constraints of the site when he proposed a restaurant.

The proposed sign will be much more visual coming off Route 80 and will probably have a directional arrow. Mr. Zoschak didn't think the sign would be effective in the proposed location. A restaurant will probably come in and want a different sign with a logo and the directional arrow will be lost.

Exhibit A-4 was submitted with the packets. Mr. Keller explained the wetlands constraints and the only place that is 20 feet from the wetland limits which includes most of the frontage on Route 206 was where they located the sign. The right of way is narrower on the Shell property. The Shell sign is 32' high with 11 ½ feet of clearance to the ground. They can drop their sign height to 10 ½' to provide some clearance between signs. They will put a foundation and steel post for a metal frame sign with an internally

illuminated acrylic panel. They are seeking four variances: one for a total number of signs, 3; setback to right of way, setback to side line and for a sign located on a lot that doesn't contain the restaurant. The hardship is that the applicant doesn't control the corner, there are wetlands constraints, the property is a unique shape and the right of way is much wider across the frontage. Mr. Rilee didn't think a hardship was proven since they were before the Board and agreed to signage at that time. They thought the signage on Shell was a possibility at that time. Development approval granted an additional sign in the sign packet and this should have been included in the original application as a back up.

If Shell is ever redeveloped, their sign would probably not be permitted. Mr. Keller felt Shell could probably place a future sign in a different location on their lot that would not create a conflict with their proposed sign. He understood that planning along the highway corridor is necessary. The southeast corner is a conservation area and Netcong owns the other nearby property for water facilities.

Mr. Bautz felt the Board addressed the signage at the original hearing and an additional sign was permitted but the proposed sign is in a bad spot and at that hearing they thought they could work around it for the restaurant. They wanted to put the sign at Shell but should have presented this as an alternate plan to the Board if the sign on Shell didn't work out.

Mrs. Lutz asked if there was signage for the restaurants in the Trade Zone on Route 206? Mr. Keller felt that type of shopping center creates a large draw from the rest of the retail traffic; it's a huge complex. Customers will need to rely on learned experience and word of mouth to find this restaurant. The visibility of the restaurant from Route 206 from the south and north is blocked by woods and evergreens and they can't clear the property.

Mr. Rilee felt the applicant knew the constraints of the site and restaurant and they should request signage off Route 80. He hasn't heard the hardship and he would not have supported this sign as part of application.

Mr. DeFillippo wanted to know how would this sign help them find the restaurant off of Route 80 He felt there would be a sign on Route 80 and at the end of the ramp. Also in the other direction it's a learned experience and people will find out about the restaurant. The state should be contacted first before a sign application is made.

Mr. Gary Steinfeld was sworn in. His first choice for the sign would have been on the corner but Shell is going through a corporate change so there are no decision makers. He recalls Shell was the first choice; with the wetlands and setback constraints he didn't even think they could place the sign on their land and then Omland Engineering found this one spot for a sign. Also, economic conditions have changed which made the sign more of an issue. With the down turn in the economy, restaurants and banks that were expanding aggressively have closed. So, more properties are available and the brokers said if they don't have physical presence on Route 206, they will not be able to market this. The property is in a B-1A zone and they want to develop it.

Mr. Zoschak felt the sign could be confusing and Mr. Bautz didn't feel a little sign like this would be sufficient for a restaurant. Mr. Steinfield felt there was good visibility from the north, less so from the south. He should show the proposed sign to the brokers for their opinion.

Mr. Keller presented the rest of the variance testimony. There is no negative criteria, no traffic hazard, they have clear visibility between the Shell sign, and there are not too many signs in this vicinity. There would be one foot of clearance if they lowered the sign. There will be no impact to the zoning ordinance, the size and height are consistent with the ordinance, 60 sf. is appropriate. The setbacks are deficient because of the wetland constraints. The setback from curb is 17' not 25' as required. The sign is restricted solely to the restaurant. The current marketplace requires this sign because they need to identify the restaurant to the traveling public. There is no substantial detriment, there is 240' distance between the monument sign and this proposed sign although it is close to the Shell sign which is nonconforming in a number of ways. The sign on Mountain Road is not visible from this sign. They are trying to meet the needs of a planned development with a variety of different uses.

Mr. Stern's report was addressed in the testimony. They can make the sign compatible and Exhibit A-4 showed a cornice element of the sign. The support of the sign was limited because of wetlands; they could not do a monument sign or externally illuminate it. Mr. Keller noted that there is now a half foot setback because of the large foundation needed to support this sign. They agreed to only use this sign for the restaurant and would include a directional arrow on the sign.

The dimensions for sign were explained, they followed the basic parameters of the zoning ordinance. Generally signs are longer than tall. Mr. Rilee felt the sign if approved would be smaller but the testimony didn't justify granting the variance. The sign was not even part of the land the restaurant is on. Mr. Zoschak thought Shell might be in for a new sign sometime in the future - an LED sign to intensify the visibility. The Zoning Board might relocate the sign which might help the restaurant sign look better.

Mrs. Lutz felt if without sign, the restaurant can't exist, it should have been addressed when they planned their development. Mr. Wychiskala explained a chain restaurant would want this sign and economic conditions have changed since they started this project. Mr. Steinfield thought Shell would cooperate and it wasn't included in the original submission because he didn't think the wetlands would permit a sign but they found this one spot. The sign is more of a dire situation in these economic times because property is off the street. Developing the property benefits them and the township. It will be very difficult sell to a restaurant facility with no visibility on Route 206 without a sign.

The Board did understand this; however, hardship hasn't been proven. They don't want visual clutter and don't know what the sign will ultimately look like.

Mr. Wychiskala asked if it was the look of the sign they don't like or is it having another sign on Route 206? The Board feels it is out of place, not in a good location, eventually will be a logo sign, it shouldn't hang over the shell sign and won't be visible enough. They offered to change the sign dimensions and make it a 10' sign by 5' and redesign it to fit between the Shell posts. From a Planning side this is just advertising and would be visual clutter.

The meeting was open to the public. Valarie Wolf, 254 Mountain Road, has autistic children and the signs and activity bother them. The applicant keeps coming back with more and more requests and she doesn't want the board to keep granting them variances. She didn't think they needed the other sign. People stop at her house now for directions because the signs on Route 206 don't help people find things. No one else from the public commented. The meeting was closed to the public

Mr. Wychiskala and the applicant have heard the comments and withdrew their application for the sign and will perhaps come back with something different. They would like the extension for the lot line approval.

A motion to approve the extension for one year for the lot line adjustment was made by Mr. Rilee, seconded by Mr. Bautz. All were in favor.

PBA-08-015 Cooke, Dwight and Phyllis Block 3801, Lot 70 53 Main Street
Update on Extension of condition of approval.

Mr. Schwab recused himself. The Board previously granted an extension from June to December. A letter was received requesting an additional extension. They are still working on Resolution compliance and had not received a report from the Board engineer. The limit had been established by the Board so they had the discretion to extend the time limit to June 30, 2010.

NEW BUSINESS:

Preservation Area Master Plan Element Discussion: Mr. Stern, Mr. Ferriero and the Engineering department worked together on this document. Townships are required to comply with Highlands Council Master Plan Preservation Area by December 8, 2009. Paul Ferriero was hired to help the Township with plan conformance. There is language in the Resolution that reserves the right to revise, supplement and rescind because there are errors in the Module 1 data. They don't have the Module 2 element with the "build out" yet. The Board doesn't have to act on this element they just have to have a public meeting on this and this meeting was noticed and the documents were available for review. The draft will be submitted by December 8, 2009 for review by the Highlands Council. The Highlands presented a base document and based on guidance from the governing body, this document was prepared solely in terms of the preservation area and does not validate or endorse the conclusions or science behind the Highlands. We don't have the information to endorse it. It is mandated by law. If we don't comply, the DEP will hold up the Township permitting process.

No one from the public was present to comment. The meeting was closed to the public. Roxbury Township will meet the mandated December 8th deadline.

The meeting was adjourned by motion at 9:30 p.m.

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary