

Board of Adjustment 03/14/11

Regular meeting of the Board of Adjustment of the Township of Roxbury was held on March 14, 2011 at 7:00 p.m. with Chairman Edward Data presiding. After a salute to the flag, Mr. Data read the Open Public Meetings Act.

PRESENT: Ms. Darling, Mr. Grossman, Ms. Dargel, Mr. Giardina, Ms. Robortaccio, Mr. Crowley, Ms. Kinback, Mr. Data.
LATE: Mr. Damato, arrived at 7:03 p.m.
ABSENT: None.

Professional Staff Present:

Mr. John Hansen, P. E.
Mr. Russell Stern, P.P.
Mr. Larry Wiener, Esq.

MINUTES OF 02/14/11

Ms. Dargel made a motion to approve the minutes of February 14, 2011. Ms. Robotaccio seconded.

Roll call: Ms. Dargel, yes; Ms. Robortaccio, yes; Mr. Grossman, yes; Mr. Giardina, yes; Ms. Kinback, yes; Mr. Crowley, yes; Mr. Data, yes.

RESOLUTION:

ZBA-11-001 Clay Oven / Ashirwad Foods, Use & Bulk Variance for property located at 1140 Route 46 East, Ledgewood, Block 6501, Lot 17 in a B-2 zone.

In the matter of Clay Oven/Ashirwad Foods
Case No. ZBA-11-001

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

Approved: February 14, 2011
Memorialized: March 14, 2011

WHEREAS, Clay Oven/Ashirwad Foods have applied to the Board of Adjustment, Township of Roxbury for permission to obtain use variance, bulk variance, and site plan approval for premises located at 1140 Route 46 East and known as Block 6501, Lot 17 on the Tax Map of the Township of Roxbury which premises are in a “B-2” Zone; said proposal required relief from Section 13-7.2502D8 & 13-8.905B of the Roxbury Township Land Use Ordinance; and

WHEREAS, the Board, after carefully considering the evidence presented by the applicant and having conducted a public hearing has made the following factual findings:

1. Alan Hantman, Esquire represented the applicant.
2. The applicant is the tenant, owner and operator of the restaurant located on-site. The other principal occupant is a motel.
3. Applicant received a letter of denial dated 1/26/11 from Tom Potere, the Zoning Officer for the following reasons:

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	Section	Required	Existing	Proposed
Floor Area Ratio - F.A.R.	13-7.2502D8	.20 Maximum	.24	.255
Signage	13-8.905B	There shall not be more than one (1) facade or wall sign as herein regulated to each separate tenant of the premises except where the tenant's unit fronts on two (2) streets, then one (1) facade or wall sign shall be permitted per frontage.	1 Wall mount light sign box 36.66 Sq. Ft.	1 Wall mount light sign box 8.84 sq. Ft. on the proposed vestibule area.

4. Prior to the public hearing, the applicant submitted the following exhibits:

Prepared by Dharam Mehta, R.A.

Sheet S-1, Amended Site Plan Showing New Vestibule, dated 1/25/11
 Sheet A-1, Front/Side Elevation of Proposed Foyer addition, dated 1/25/11
 Sheet A-2, New proposed Vestibule/Landscape, dated 1/25/11

Prepared by Stewart Surveying & Engineering, LLC.

Sheet 2, Boundary/Topographic Survey & Final Site Plan, dated 4/14/04, revised 1/31/06
 Sheet 2, Map of Property, revised 1/31/06

5. The applicant is presently seeking “D” variance approval for a 48 square foot foyer addition and an 8.4’ square foot illuminated sign above the foyer entrance. The applicant’s proposed enclosed foyer/vestibule is located in the vicinity of a former open canopy entry.
6. The subject property encompasses 79,352 square feet and is located in the B-2 Highway Business District Zone along eastbound Route 46. The site is improved with a one and partially two story motel and the one story restaurant that is the subject of this application. The restaurant was recently renovated due to fire damage. The premises are serviced by public utilities.
7. As noted, the instant request is for a modest addition and an additional modest sign. Impervious coverage would be reduced from 59.6% to 58.99% by replacing pavement with curbed planting beds in an area adjacent to the restaurant and depicted on the plan submitted with the application. Floor area ratio would be increased from 0.254 to 0.255.
8. The applicant’s architect, Dharam Mehta, testified at the public hearing. Mr. Mehta identified three exhibits – A-1 (S1 of a site plan set); A-2 (prior site plan); and A-3 (a photoboard of before and after photos from the site). Mr. Mehta noted the “D” variance was necessitated as a result of the increase in 1/100th of a percent of floor area ratio. He also noted the “C” variance for the sign was necessary as only one wall sign was permitted. He noted the second sign would clearly identify the restaurant entrance so as not to confuse same with the motel entrance.

WHEREAS, the Board has determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Roxbury for the following reasons:

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1. The Board finds the applicant's request for floor area ratio relief to be *de minimis*. The requested relief is virtually imperceptible and adds a degree of aesthetics and functionality that benefit the subject property. The vestibule will also provide an enhanced level of energy efficiency for the site.
2. The requested sign relief is for a minimal sign of 8 square feet. Given the nature of the site and its location and orientation towards Route 46, the requested relief for sign coverage is clearly warranted. The Board takes note of the comments of the Township Planner and his lack of any objection to the sign due to its small size and location.
3. This relief will provide an enhancement of the site and add to its general functionality, utility, and aesthetics.
4. The modified site plan and the increment in "green areas" will also inure to the benefit of the site.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 14th day of February, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. The approved site plan is modified to incorporate the changes noted herein and as depicted on the exhibits introduced into evidence and the exhibits attached to the application.
2. Subject to all conditions of the prior resolutions affecting this site except as specifically modified herein.
3. Payment of all fees, sureties, and escrows required by Ordinance.
4. The final landscaping plan shall be reviewed and approved by the Township Planner.
5. Handicap parking and signage shall be provided to the satisfaction of the Township Engineer or Construction Official.
6. A Belgian block curb construction detail with associated pavement restoration shall be provided.
7. Parking stalls shall be re-striped as needed.
8. Damaged board on board fence and gates associated with the trash/recycling enclosure shall be replaced.
9. The background color of the sign will match the Route 46 sign color.
10. All of the outstanding conditions related to a certificate of occupancy for the restaurant shall be completed prior to the issuance of a certificate of occupancy except those items which are weather related and/or bonded.

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

Roll call: Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Grossman, yes; Mr. Giardina, yes; Ms. Kinback, yes; Mr. Crowley, yes; Mr. Data, yes.

Mr. Damato arrived at 7:03 p.m.

EXTENSION:

ZBA-09-00012 WDIFTK, LLC D Variance / Minor Sub Division for property located at Hillside Avenue, Succasunna, Block 5203 Lot 46, in a R-3 zone.

The applicants attorney, Mr. Ronald Heymann by correspondence dated March 11, 2011 had requested a 90 day extension of approval.

Ms. Robortaccio made a motion to grant a 90 day extension. Mr. Damato seconded.

Roll call: Ms. Robortaccio, yes; Mr. Damato, yes; Ms. Dargel, yes; Mr. Giardina, yes; Ms. Kinback, yes; Mr. Crowley, yes; Mr. Data, yes.

APPLICATION:

ZBA-10-010 LaRoy, Use Variance & Site Plan Approval for property located at Ledgewood Landing Shippenport Road, Landing, Block 10101, Lot 18, 19 & 20, in a B-1A zone.

Mr. Paul Nusbaum, attorney for the applicant; gave a brief overview of what the applicant is requesting. The applicant wants to merge Lots 18, 19, 19.01 and 20 located on Shippenport Road into one parcel and requests D variances and preliminary major site plan approvals to develop the site with a three-story self-storage facility encompassing 75,000 square feet. Because of the upward sloping topography, a first floor access is provided at the front of the building and second story access at the rear the third story will be accessed by elevator. This will be a self storage facility with an apartment for a full time attendant to live on the site. It is a permitted conditional use in the B-1/A zone, they are before the Zoning Board because the application does not comply with the conditional use criteria and therefore requires three variances; 1) for not having direct highway access, 2) for a three story structure because a maximum two story structure is permitted, and 3) parking setback to the rear of the building (five feet is required).

Mr. Marc G. Walker, P.E., Dykstra Walker Design, 21 Bowling Green Parkway, Suite 204 Lake Hopatcong, NJ was sworn in and qualified by the Board. Dykstra Walker Design has done the environmental, survey and engineering work on this project. Exhibit A-1 dated 03/10/2011, is an aerial exhibit that shows the property and roads that surround it. Exhibit A-2, dated 03/14/2011, shows all the existing conditions and highlights the boundaries of the property. Exhibit A-3, dated 03/10/2011, is a colorized exhibit of the site layout plan and shows some of the surrounding area. Exhibit A-4, sheet seven of eight in the plan set revision dated 03/03/2011, is the slope analysis map. In reference to exhibit A-1 and A-2, the property consists of a total of 11.7 acres however, the amount of useable area on this property is extremely limited. The green area on exhibit A-2 is land that is restricted by the DEP for freshwater wetlands. The site is mostly wooded and contains steep slopes. The primary access to the site is through Shippenport Road which fronts the property along with Ledgewood Landing Road and also an interchange ramp to Route 80. The Conrail Erie-Lackawanna Railroad borders the property to the east. There was a discussion on the primary entrance to the site. Exhibit A-1 is an aerial photograph that shows the sites relationship to the highway network. There was a discussion on the traffic on Route 80, Route 46 and Shippenport Road during rush hour. The driveway configuration was explained and how it is to operate and function safely. The only point of access on to the site will be from the S-C ramp. As you come into the site and go to the front door, you will be able to park in one of the eighteen parking spaces in the front of the building. In the building there will be a lobby, the care-takers apartment and a small area for sales of boxes, tape and other supplies. There will be three levels; the first level is accessed by the main parking lot in the front of the building, so the front of the building has three stories, the back of the building has two stories as the grade goes higher from the front to the rear. The entire rear portion of the building will be fenced in with a four foot high aluminum fence to secure the area. You will need an access key to enter through the gate. Twenty-one storage units will have direct access by overhead doors along the rear building elevation. There was more discussion on the proposed site entrance and on truck circulation at the site. The only way out when exiting the site is by making a right hand turn on to

Shippenport Road and this will be properly signed in the area. The proposed sidewalk along the front parking area has been reduced from ten feet wide to six feet wide allowing more space for landscaping between the sidewalk and building. Bollards have been added to the plan to protect the proposed trash/recycling enclosure and the corner of the building at the rear. Details for the proposed signage are depicted on the architectural plans. The building parking is only for people who are using the storage facility. Retail parking should not be needed. Mr. Stern stated that the property lots need to be checked.

Open to the Public: No one stepped forward. Closed to the Public.

Mr. Joseph Staigar, P.E., P.P. 17 Tremont Drive, East Hanover, NJ 07936 was sworn in and qualified by the Board. This traffic impact analysis report was prepared on June 3, 2008, the Township received it February 9, 2009 and the Board members received it in the January packet. In order to examine the existing traffic conditions in the vicinity of the subject property, manual turning movements counts were conducted during the weekday morning and evening peak commuter hours at the intersection of Shippenport Road with the Landing Road jughandle. The peak hour of traffic volumes occurred 7:00 a.m. to 9:00 a.m. and from 5:00 p.m. to 6:00 p.m. Traffic volumes at other times of the day are generally lower than during the peak hours identified. There was a discussion on generated traffic attributed to the proposed Self Storage unit. The design of the layout is such that two-way traffic flow is intended for passenger cars only. Trucks can only travel around the building in a clockwise direction. Mr. Staigar stated that the distance from the exit to the center of the railroad trestle is about 225 feet, you can see underneath the trestle for about another fifty feet, for a total of 275 feet of sight distance. There was a discussion on the gate at the entrance of the storage building. The distance between the gate and the roadway is thirty feet. Signage will be put up to alert people a key is needed to enter. There will be no thoroughfare allowed; an attendant will be on the premises at all times. There was a discussion on auctions that may be held at the facility for non-paid units and how to accommodate the individuals who may attend this function. There are existing facilities in the area and they have not had any problems with auctions.

Open to the public: No one stepped forward. Closed to the public.

There was a discussion on the new development (Well Fleet) that is being worked on now along Shippenport Road and when that opens the added traffic. The Township has approved the Well Fleet project, there will be 161 houses built in this new development and the roads are to be worked on. This does not affect LaRoy, Self Storage facility which is zoned as a B-1 district.

Traffic Expert Harold Maltz reviewed his report dated March 12, 2011. The new design is much better and all his previous concerns were addressed. He recommends that a Curve Warning sign with supplemental advisory speed plaque be posted facing Shippenport Road northbound drivers, prior to the horizontal curve in Shippenport Road located east of the railroad bridge. Details of all non-standard signs color and size should be added to the Construction Details Sheet. Everything has been addressed and agreed to.

Open to the Public: No one stepped forward. Closed to the Public.

Mr. Staigar stated the site is adequately designed to accommodate safe and efficient traffic flow and the parking supply will easily meet the parking demands of the proposed use for staff and drop-offs / pick-ups, as well as any other uses of the property. There was a discussion on the highway and the series of ramps which enter and exit in the area of the storage frontage. The use is considered to be appropriate and not detrimental to the area.

Discussion on the garage doors on the second level, each garage will have a parking space and all parking spaces will be stripped. This matter will be carried to the May 9th meeting with no further notice with request for an extension until June 30, 2011.

Mr. Data Made a motion to go to Executive Session at 8:38 p.m. Mr. Crowley seconded.
Roll call: Mr. Data, yes; Mr. Crowley, yes; Ms. Darling, yes; Mr. Grossman, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Damato, yes; Ms. Robortaccio, yes; Ms. Kinback, yes.

CLOSED EXECUTIVE SESSION- A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT THE TOWNSHIP OF ROXBURY, IN THE COUNTY OF MORRIS, NEW JERSEY AUTHORIZING CONFERENCE OF THE ZONING BOARD WITH THE PUBLIC EXCLUDED IN THE MATTER OF:

ZBA-10-015 Vally Auto Wreckers, for property located at 217 Berkshire Valley Road, Wharton, Block 7201, Lot 1, 2 in a LI-OR zone.

This part of the meeting was concluded at 8:44 p.m. (recording stopped)

Meeting was reopened at 9:08 p.m.

New Business:

Mr. Stern asked the Board if they were familiar with the site right across from the railroad along Shippenport Road, the Arminio building. This is an attractively designed building that was supposed to be 100% occupied by a landscape contracting business. The building has since sold and the Board approved the division of eight units in the building. Netcong Auto Restoration is interested in this location. Initially, the office felt that this business was similar to an auto repair facility. After further discussion with Netcong Auto Restoration, Mr. Stern was of the opinion that the Zoning Officer can grant a change of tenancy permit for auto restoration with certain restrictions that will apply: like no outdoor storage permitted on the site, no painting and no auto body work. The average value of the vehicles that they work on is between \$50,000 to a half million dollars, so the vehicles are kept indoors. They have a low volume; the vehicles are worked on for three to twenty-four months. The turn around is very low, maybe ten to fifteen vehicles per year. There is no painting, no auto body work and any sand blasting is minimal. Large jobs of sand blasting and auto body paint go to another facility that they have. There was a discussion on what the restoration shop would be doing. The Board had no objection and agreed that the proposed auto restoration use is a unique boutique use and did not qualify as a typical auto repair facility.

Motion to adjourn the meeting was made at 9:13 p.m.

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Dolores Tardive,
Board Secretary
March 14, 2011