

APRIL 6, 2011 MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on April 6, 2011, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. After a Salute to the Flag the Chairman read the Open Public Meetings Act.

ROLL CALL:

PRESENT: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mr. Carey and Mr. Meyer.

ABSENT: Mr. Rilee and Mr. DeFillippo

STAFF: Mr. Ferriero, Mr. Germinario, Mr. Stern and Mrs. Wiss

MINUTES: March 2, 2011

Motioned by Mr. Sweeney and seconded by Mr. Bautz to approve the minutes of March 2, 2011

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Carey and Mr. Meyer

Noes: None

Abstain: Mr. Zoschak

RESOLUTIONS:

PBA-11-01 DILAURO, JOSEPH Block 2615, Lot 5 13 North Second Avenue
Minor Subdivision

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: March 2, 2011
Memorialized: April 6, 2011**

**IN THE MATTER OF JOE DiLAURO
MINOR SUBDIVISION APPROVAL
BLOCK 2615, LOT 5
APPLICATION NO. PBA-11-01**

WHEREAS, Joe DiLauro (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision approval on 2/18/11; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 3/2/11; 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 18,940 square feet located within the R-4 Residence District (7,500 square feet minimum lot size requirement). The parcel is developed with a two-story single-family dwelling. The home exhibits a nonconforming front yard setback of 15.1 feet to the covered porch and 22.1 feet to the home (30 feet required). The dwelling is served by public water and sewer. The property frontage lacks curb, sidewalks and street tree planting. The property is not impacted by freshwater wetlands or transition areas.

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 18,940 square foot parcel. Proposed Lot 5.01 will encompass 8,298.4 square feet and accommodate a new single family dwelling. Proposed Lot 5.02 will encompass 10,641.9 square feet and contain the existing home. The proposed new dwelling on Lot 5.01 is speculative as the Applicant will sell the lot after satisfying conditions of approval. The new home will have a 34.5 feet front yard setback be served by public sewer and water. Building coverage is 26.13% on Lot 5.01 and 30.47% on Lot 5.02 (35% max).

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

Prepared by Wunner Engineering Associates

- Sheet 1, Cover Sheet, dated 11/21/10, revised 2/7/11
- Sheet 2, Minor Subdivision Plan, dated 11/21/10, revised 2/7/11
- Sheet 3, Overall Layout/Grading Plan, Dated 11/21/10, revised 2/7/11
- Sheet 4, Soil Erosion & Sediment Control Notes and Details, dated 11/21/10, revised 2/7/11
- Sheet 5, Existing Conditions Map-Boundary & Topo Survey, dated 11/21/10, revised 2/7/11

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

- Planning Board Application prepared by Joseph DiLauro, dated January 3, 2011
- Wetlands/Transition Area Investigation prepared by Environmental Technology, Inc. dated November 8, 2010
- Morris County Planning Board Land Development Application, dated January 11, 2011
- Roxbury Tax and Utility Department letter dated December 21, 2010
- Letter from Melanie Michetti, PE, dated November 19, 2010 regarding sanitary sewer availability
- Letter from Melanie Michetti, PE, dated November 19, 2010 regarding water availability

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 2/24/11

Paul Ferriero, PE, PP, CME, LEED, dated 2/23/11

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

A-1 Colored rendering of Minor Subdivision Plan

Sheet 3
A-2 Colored rendering of Sheet 6

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

Nicholas Wunner, PE, engineering expert
Joseph DiLauro, owner

8. The development of the subject property as proposed by the Applicant involves continuation of a pre-existing non-conformity under Section 13-7.1401D4 with respect to front setback of 15.1 feet (porch) and 21.8 feet (house) associated with the existing dwelling.

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 design waiver is necessary from Section 13-8.602A for insufficient pavement width. A 30-foot width is required while North Second Avenue has a 22.1 feet width along the subject property.
- Design waivers are necessary from Sections 13-8.608 and 13-8.610A as curbs and sidewalks, respectively, are not provided.
- A design waiver is necessary from Section 13-8.84, as street trees are not provided (2½ - 3" caliper at a 13-15' height located 40 feet on center).

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:

With respect to pavement width, the Board finds that the existing pavement width of 22.1 feet is consistent with the width along this section of North Second Avenue, and therefore grants the design waiver.

With respect to curbs and sidewalks, the Board finds that the absence of these features is characteristic of the neighborhood of the subject property, and therefore grants the design waiver.

With respect to street trees, the Board requires partial compliance by planting of a street tree within the front yard area of Lot 5.01.

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 Section 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 off-site shed associated with the existing dwelling shall be demolished or removed from Township land and relocated within the Applicant's property (conforming to setbacks), prior to the filing of deeds, unless the Township Council accepts its continued presence on Township property. A Zoning Permit should be obtained before the shed is moved.

2. A street tree shall be installed on Lot 5.01 prior to the filing of deeds.

3. The new dwelling on Lot 5.01 must include a garage.
4. All utilities shall be installed underground, and plans shall be noted accordingly.
5. Applicant shall receive sewer capacity allocation from the Governing Body for Lot 5.01. (Section 13-8.501)
6. Applicant shall receive water allocation from the Governing Body for Lot 5.01 (Section 13-8.502). Applicant shall pay the required connection fee prior to issuance of a Certificate of Occupancy.
7. Lot numbers shall be verified by the Township Tax Assessor.
8. Applicant shall comply with Sections 13-2.402A, Lot Line Revision Fee, prior to the filing of minor subdivision deeds.
9. Prior to the submission of the plans for signature by the Board, the cover sheet shall be signed by the property owner.
10. Prior to the issuance of building permit, percolation or permeability test(s) must be witnessed by the Township. Testing shall be provided to demonstrate that the site is suitable for drainage purposes and for the use of drywells.
11. Lot closure calculations and deed descriptions shall be provided for review.
12. The grading plan and lot improvements are for illustrative purposes only to demonstrate that the lot can be developed. A detailed lot development plan shall be submitted to the Township Engineer for approval prior to the issuance of building permits. The area along the left side of the proposed dwelling must be graded to ensure positive drainage that follows existing drainage patterns.
13. Water and sewer details are subject to review and approval from the office of the Township Engineer. Road opening permits will be required for work within the street. The miscellaneous trench, and trench and pavement restoration details shall be revised to include 6" minimum of bituminous base to be installed to the surface (top) of the remaining adjacent pavement. The trench shall be left to settle for 3 to 6 months, and then milled out to a depth 2" for the trench width plus 12" on either side, and then have 2" of FABC surface course installed thereafter.
14. Soil erosion and sediment control measures and details are subject to approval from the Morris County SCD. Approval or a letter of nonjurisdiction shall be required prior to the issuance of a building permit for the new lot.
15. While the final design of the drywell will be approved as part of a lot development plan review, an overflow pipe shall be depicted.
16. 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]."
17. 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 North Second Avenue.
- F. Clean-up and wash-down of trucks and equipment shall be required before leaving the construction site.
- G. Adequate provisions for safe control of employee parking including employees of the contractors and sub-contractors shall be required on site during construction.
- H. During construction, all construction traffic shall enter and exit the site exclusively from North Second Avenue.
- I. Violation of any of these construction mitigation measures may result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Township Engineer.

18. 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."

19. 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 filing of deeds.

20. The Applicant shall pay a mandatory development fee in accordance with Ordinance Section 13-7.829, or any applicable successor provision of the Township Ordinance and/or State law in effect at the time a building permit is issued.

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

22. 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.

23. 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.

24. 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 3/2/11.

Motioned by Mr. Bautz and seconded by Mr. Sweeney to approve with corrections
Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Carey and Mr. Meyer
Noes: None
Abstain: Mr. Zoschak,
MOTION APPROVED.

PBA-11-03 SENECA HILLS CORP. Block 1901, Lot 17 13 Eyland Place
Minor Subdivision

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: March 2, 2011
Memorialized: April 6, 2011**

**IN THE MATTER OF SENECA HILLS CORPORATION
MINOR SUBDIVISION APPROVAL
BLOCK 1901, LOT 17
APPLICATION NO. PBA-11-03**

WHEREAS, Seneca Hills Corporation (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor subdivision approval on 2/18/11; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 3/2/11; 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 17,500 square feet located within the R-4 Residence District (7,500 square feet minimum lot size requirement). The parcel is developed with a two-story single-family dwelling. The home is not designated on the Township's Historic Districts Map but adjoins the Historic District along the rear property line. The dwelling exhibits a nonconforming front yard setback of 27.5 feet (30 feet required). The home is served by public sewer and an on-site well. The property frontage lacks curb, sidewalks and street tree planting.

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 17,500 square foot parcel. Proposed Lot 17.01 will encompass 8,338 square feet and accommodate a proposed two-story single family dwelling. Proposed Lot 17.02 will encompass 8,338 square feet and the existing home will be demolished and replaced with a new two-story single family dwelling. Both homes will have a 30.5 feet front yard

setback (30' required) and will be served by public sewer and water. Building coverage will be 13.88% on Lot 17.01 and 14.21% on Lot 17.02 (20% max.). Impervious coverage is 18.22% on Lot 17.01 and 19.66% on Lot 17.02 (35% max.). An 8.23 feet width of frontage will be dedicated to the Township for road right-of-way.

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

Prepared by Wunner Engineering Associates

- Sheet 1, Cover Sheet, dated 1/7/11, revised 2/7/11
- Sheet 2, Minor Subdivision Plat & Existing Conditions Survey, dated 1/7/11, revised 2/7/11
- Sheet 3, Plot Plan/Grading Plan, dated 1/7/11, revised 2/7/11
- Sheet 4, Soil Erosion & Sediment Control Notes and Details, dated 1/7/11, revised 2/7/11
- Sheet 5, Construction Detail Sheet, dated 1/7/11, revised 2/7/11

Prepared by Robert Murphy Architect

Lot 17, Block 1901

- Sheet 1, Notes/Construction Plan, dated 1/4/11
- Sheet 2, Construction Plans, dated 1/4/11, revised 1/24/11
- Sheet 3, Elevations, dated 1/4/11
- Sheet 4, Sections & Details, dated 1/4/11

Lot 1701, Block 1901

- Sheet 1, Notes/Construction Plans, dated 1/4/11
- Sheet 2, Construction Plans, dated 1/4/11
- Sheet 3, Elevations, dated 1/4/11
- Sheet 4, Sections & Details, dated 1/4/11

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

- Planning Board Application, dated January 24, 2011 prepared by Anthony Seneca
- Checklist, dated January 21, 2011 prepared by Nicholas J. Wunner, PE
- Addendum to Application
- Wetlands verification, dated prepared by Nicholas J. Wunner, PE
- Copy of the Deed
- Morris County Planning Board Application and cover letter, dated January 21, 2011 prepared by Nicholas J. Wunner, PE
- Morris County Soil Conservation District application for certification and cover letter, dated January 21, 2011, prepared by Nicholas Wunner, PE
- Tax certification, dated January 24, 2011
- Water Company letter, dated December 21, 2010
- Assistant Township Engineer's letter, dated November 19, 2010 confirming sewer availability

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 2/24/11

Paul Ferriero, PE, PP, CME, LEED, dated 2/25/11

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

A-1 Colored version of Sheet 3 of Minor Subdivision Plans

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

Nicholas Wunner, PE engineering expert

8. The development of the subject property as proposed by the Applicant does not involve continuation of pre-existing non-conformities with respect to the land use provisions of the Township ordinances.

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 design waiver is necessary from Section 13-8.602A for insufficient pavement width. A 30-foot width is required while Eyland Place has 25.4 feet width along the subject property.
- Design waivers are necessary from Sections 13-8.608 and 13-8.610A as curbs and sidewalks, respectively, are not provided.

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:

With respect to pavement width, the Board finds that the existing pavement width of 25.4 feet is consistent with the width along this section of Eyland Avenue, and therefore grants the design waiver.

With respect to curbs and sidewalks, the Board finds that the absence of these features is characteristic of the neighborhood of the subject property, and therefore grants the design waiver.

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 Section 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 dwelling shall be removed prior to the filing of deeds.
2. Applicant shall comply with Section 13-8.804, to provide street trees (2½ - 3" caliper at a 11-13' height located 40 feet on center) along Eyland Place.

3. The existing well shall be sealed in accordance with State and local regulations.
4. Detailed grading/drainage plans for both lots shall be submitted to the Township Engineer for review and approval prior to obtaining building permits (Section 13-8.204C).
5. The new dwellings must include a garage.
6. Applicant shall receive sewer capacity allocation for both lots from the Governing Body as a condition of approval. (Section 13-8.501)
7. Lot numbers shall be verified by the Township Tax Assessor.
8. The Applicant shall comply with Section 13-2.402A, Lot Line Revision Fee, prior to the filing of minor subdivision deeds.
9. Prior to the submission of the plans for signature by the Board, the cover sheet needs to be signed by the property owner.
10. Lot closure calculations and deed descriptions shall be provided for review.
11. A note shall be added to Sheet 3 which states that the existing water service and sewer lateral shall be removed and capped as required by Roxbury Township water and sewer department.
12. The proposed lot grading plan shows low areas at the rear of both lots with no positive outlet. Soil testing shall be completed prior to the signing of subdivision deeds to confirm surface and subsoil permeability is acceptable to ensure that ponding will not occur. If permeability rates are acceptable the areas should be restricted from construction traffic to minimize compaction.
13. The Soil Erosion & Sediment Control plan shall be approved by the Morris County Soil Conservation District.
14. Sheet 5, Construction Detail Sheet, notes that the drywells are to be a minimum of 2 feet above the seasonal high water table and that the depth to the seasonal high water table and bedrock. Satisfactory soil logs and permeability tests must be completed prior to the signing of the deeds.
15. The sanitary sewer trench detail shall be revised to show trench minimum width based upon 4" lateral size.
16. Utility connection details shall be approved by the Township Engineer.
17. Minor subdivision deeds and right-of-way dedication deeds shall be reviewed and approved by the Board's Attorney and Engineer prior to filing. Minor subdivision 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]."
18. 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 Eyland Avenue.
- F. Clean-up and wash-down of trucks and equipment shall be required before leaving the construction site.
- G. Adequate provisions for safe control of employee parking including employees of the contractors and sub-contractors shall be required on site during construction.
- H. During construction, all construction traffic shall enter and exit the site exclusively from Eyland Avenue.
- I. Violation of any of these construction mitigation measures may result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Township Engineer.

19. 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."

20. 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 filing of deeds.

21. The Applicant shall pay a mandatory development fee in accordance with Ordinance Section 13-7.829, or any applicable successor provision of the Township Ordinance and/or State law in effect at the time a building permit is issued.

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

23. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Township and/or any agency thereof.

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

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

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 3/2/11.

Motioned by Mr. Bautz and seconded by Mr. Sweeney to approve with date correction

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mr. Carey and Mr. Meyer

Noes: None

Abstain: Mr. Zoschak, Mrs. Lutz

MOTION APPROVED.

**PBA-09-023 P & D REALTY (MORRIS CANAL PLAZA) Block 6501, Lot 20 1070
Route 46**

Denial of Preliminary Site Plan Application

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Denied: March 2, 2011
Memorialized: April 6, 2011**

**IN THE MATTER OF P&D REALTY (MORRIS CANAL PLAZA)
PRELIMINARY SITE PLAN APPLICATION
BLOCK 6501, LOT 20
APPLICATION NO. PBA-09-023**

WHEREAS, P&D Realty (Morris Canal Plaza) (hereinafter known as the "Applicant") applied to the Roxbury Township Planning Board (hereinafter known as the "Planning Board") for preliminary site plan approval on 12/8/09; and

WHEREAS, the Applicant has failed to appear for a number of scheduled hearings and/or has failed to submit required information and/or plan revisions.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board does hereby deny the application without prejudice.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of 3/2/11.

Motioned by Mr. Bautz and seconded by Mr. Sweeney to approve with date correction

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mr. Verge and Mr. Carey

Noes: None

Abstain: Mr. Zoschak, Mrs. Lutz, Mr. Meyer

MOTION APPROVED.

COMPLETENESS:

PBA-11-04 DRESS BARN, Roxbury Mall, Block 5007, Lot 4 275 Route 10

Variance relief for proposed signage. Mr. Stern felt this submission was adequate.

Motioned by Mr. Zoschak and seconded by Mr. Bautz to approve for completeness.

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Mr. Zoschak, Mr. Carey and Mr. Meyer

Noes: None

Abstain: None

MOTION APPROVED.

APPLICATIONS:

PBA-11-03 CLAYTON COMPANIES (LANDING QUARRY), BLOCK 10018, LOT 1 Lenel Road, Ledgewood Landing Road and Kings Highway

Concept Hearing

Ronald Heymann, Esq. represented the applicant. Mr. Gordon Milnes and Mr. John Wall of Clayton and their Engineer Tom Graham were also present. Mr. Germinario reviewed a report dated March 10, 2011 to the Board that gave legal background on the current application. They were here tonight for feedback from the Board on a concept plan and they will be back with a regular site plan application.

Clayton is a tenant at the site under contract through 2013. They are not seeking approval of Phase 2 which was shown on the plans the Board received. There will also be no aggregate process at this site so the project that Clayton proposes is diminished somewhat after further discussions with the Township.

Engineer Thomas Graham, not sworn because this is a concept hearing, was qualified as an expert. His Exhibit is the plan that the existing Developer's Agreement was working toward (the "DeLuca" plan) that was put together over 20 years ago. There have been changes since then that have affected the developability of the property. It was originally a 14 lot industrial subdivision. Four of the lots are constrained by wetlands and buffers, five of the lots are outside the sewer service areas. There are steep slope areas also. The existing 14 lot proposed subdivision related to the Developer's Agreement is not a real plan in today's regulatory environment.

They are proposing a 2010 concept plan. The existing woodland will remain (34 acres). They will still extend Lenel Road but have it terminate in a cul-de-sac and create two new building lots. They will create a lot where the existing McNear building is and extend McNear Drive up and terminate that in a cul-de-sac and create a 77 acre lot (30 acres is at one plateau and the balance is higher) for flexibility later; that lot could be subdivided. They are trying to work within the existing footprint of disturbance, leave the remaining trees and create lots consistent with the LI/OR (light industrial/office research) zone.

They want to expand an excavation in the southerly portion of the property to generate 600,000 yards of stone, 1.5 million tons, and then backfill that area. This would run to 2013. They are generating ½ million tons of stone a year and are expected to be there another three years.

Regarding the stages that were previously approved, the development of this project was supposed to take place in four stages or sections. Part of the Developer's Agreement requires that the rock crushing activities in section one be 80% restored before moving to another section, however, that is where the active quarry is with stockpiles and rock crushing machinery. The sectioning is problematic not only for Clayton but also for any other tenant.

Mr. Graham showed a drawing of conditions in October of 2010, Proposed Phase One Plan. They propose excavating the area shown in red down to the existing elevation to generate 600,000 cubic yards of stone or 1.5 million tons over a 3 year plan. The green area will be where they will get material to refill the area back up to the elevation of the existing quarry floor.

The entire site is 139 acres, the area of disturbance is 61 acres, the plateau they are trying to create is 30 acres. The green area is for remediation. Third Avenue will not be extended to Kings Ave. There will be two access points, one off Lenel Road and one off Ledgewood Road. In the three year period about 25,000 to 30,000 truckloads will go in and out. The original plan was for 7,000,000 tons. There was concern about road wear and truck traffic at rush hour. They are not looking to increase from what was approved.

The lease with McNear and the Trust runs to the end of 2013. Clayton will be gone at the end of 2013. They have excavated one third of the area. They have to remediate and that will start in April of 2013 and another entity will do that. The present agreement allows production from 7 a.m. to 6 p.m., 6 days a week. They would like to excavate this other area in green (the T area) since it has been drilled already as soon as possible. They will only work to a certain level in the T area and there are ongoing discussions with the Trust regarding this.

The excavation was 50' below the design grade. The existing Developers Agreement limits over excavation to 10'. They did go below the benchmark on this mountain. John Wall said this was the most efficient way to quarry the site, you have better quality stone at the lower elevation and the intention was to refill to the grade. Several quarries in New Jersey have been quarried and refilled, the Dell Quarry at Great Notch was filled in.

The bond amount has been increased to \$393,197. French and Parrello, a geotechnical firm, has been involved in determining this amount. Mr. Heymann has spoken to Township Attorney Bucco and will get the Trust's permission to go on the property for remediation if necessary. There is an existing bond of \$100,000 from McNear on this property. The bond is to restore the over excavated area, slope off the perimeter, cover the quarry floor and seed.

Mr. Heymann said the stages adopted in 1982 don't work. The stone crusher is in Section 1 and it would cost \$300,000 to \$400,000 to move; it is stationary equipment and its location is restricted. They are using 73% of Section 1. The elevation of the bottom at the hole is 985 at its lowest.

The slope ratio is different now from what we previously proposed. The vertical faces will be a 3 to 1 slope instead of a vertical rock face. They would blast approximately 50 times over the course of 3 years. The blasts are the allowable under the Dept. of Labor standards. They call the police and fire department half an hour before blasting and have a voluntary call list. Regarding road conditions, they sweep the highway, have a water pad and if there are any concerns, they should be contacted. Drainage issues will be dealt with as part of the final plan. The woodland area has Trust issues and will be part of the final proposal.

This is a concept site layout plan, the same as the 1982 concept site layout plan but this plan addresses regulations today and the disturbance that has already occurred on the site. The existing blue building will have a separate lot, one of two near Landing, two lots will be off of Lenel Road and the remaining lot will be one big lot for a total of five lots. Mr. Wacks, trustee for the McNears, interjected that there maybe more lots cut off. Clayton might be here with their project encircled by a larger project that will piggyback on this project but they will finish what they want to do with the Board's approval. The zoning is a minimum of 5 acre lots.

Clayton did a study on the aquifer and had a positive report on Sept. 23, 2010 and this was submitted to the Township.

Mr. Stern felt this could be handled as a major subdivision and the 30 acre plateau could come in for a specific site plan. All parties have to come together for this application or at least the majority. Individuals associated with the Trust were present hearing the discussion of the Board.

The proposed grades were demonstrated by the engineer. There was a discussion on the drainage of the site and they can drain the site toward the basin. Tilcon was a previous tenant of this site. An aerial of the site was done before Clayton started.

They need the Board to except a viable plan to work towards so the revised Developers Agreement can address the development of the property. This is an overview so they know what they have to do. The engineering details will be in the next phase.

Mr. Heymann will work with Mr. Ferriero, Mr. Bautz and representatives of the McNear trust on the development and drainage on the property. If they don't come in for an application, they can't go forward. The Deluca Plan doesn't work and the staging element is very confusing. They need a new conceptual plan and Developers Agreement.

The irrevocable trust terminates in 2018. The McNear and Clayton agreements terminate at the end of 2013. The plan they will propose will restore the property at the end of 2013. This site can be quarried until 2022.

Mr. Wacks for the trustees, said the dilemma is that at the end of 2013, the trust will have to pay taxes with no income from the property. They would like to subdivide the property now until the market improves and the plateau sells. Mr. Wacks also wants the trust to be the beneficiary of the bond to remediate, not the town, and they are discussing this with the township attorney.

They can fill the hole in 3-4 months; French and Parrello confirmed this. There will be no more volume below grade. Gordon Milnes said French and Parello is an independent firm that will be working for the Township on site to inspect it with the Township Engineer and provide reports on the level of compaction and stages, larger material on the bottom lighter toward the top.

John Wall from McNear stated that a contractor performs the blasting and does a seismograph on it at the nearest non-owned structure and documentation is available from the Dept of Labor and they also have copies at the office.

They are trying to revise the soil permitting process and also provide for continuity with the old agreements in place and continue to operate with a bond increase. They held off on the work until this hearing but want to start tomorrow.

The meeting was open to the public. Mr. Mark McNear was concerned because the hole is 60 feet lower than it should be, this should have been regulated.

The Township had initiated meeting a year before and when they discussed a concept plan, Clayton was asked to do topographical measurements and then the Township realized they had gone too deep and enforcement was started.

Mr. McNear said that the blasting has caused foundation cracking and drainage problems from the mountain. He has water problems now and also on the road. He was concerned how the litigation would affect this matter but this was not a Planning Board matter.

John Wall said he was within the state limits for blasting and they haven't affected the watershed.

The quarrying activity is intended to prepare the site for future industrial use in accordance with the zoning. The principal use of quarrying is not a permitted use. That is what was inherited from the 1982 resolutions and agreement. They are trying to set that right now.

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

Mr. Heymann knows they have to come in and doesn't have any specific dates. Mr. Heyman will bring in a plan and work with the Trust and expected to have hearings in the summer.

PBA-10-016 STS DEVELOPMENT CO. LLC Block 2701, Lot 2 and Block 2702, Lot 19.01

Halsey Street

Major Subdivision Application

This matter was continued from the January 19, 2011 meeting. They request to be adjourned and were continued to May 4, 2011 with no further notice

PBA-11-04 DRESS BARN, Roxbury Mall, Block 5007, Lot 4 275 Route 10

Variance relief for proposed signage

Robert Kasuba from the Law Firm of Bisgahier Hoff appeared on behalf of the applicant. He was here for amendment to an approved site plan and variance relief for signage. There are two potential issues, more than one façade sign and possibly the percentage of sign area. Amy Waldron was sworn in. She has been the manager for five years of Dress Barn and is very familiar with the site. Dress Barn needs this signage because they combined two stores that were separate, a Misses and Woman Store. Sales for the Woman's clothing is down 12%, Woman's clothing is plus sizes and Misses is sizes 4-16. There is an existing sign indicating Dress Barn. There is customer confusion as to whether the Woman's line is there because the other location that is now closed was Dress Barn Woman's Store. The square footage of the combined store increased from 4000 sf to 6000 sf because they took over adjoining space. They will maintain the existing Dress Barn sign and add two smaller signs, same color and type of display, one to the left of the existing sign saying Woman and one to the right saying Misses. The pizzeria to the left has multiple signs, he is on a corner. Panera and Mandeas have two signs.

Mr. Stern confirmed that there will be no increase in the height of the sign and it will remain red, a color consistent with other signs in the mall. There is a limitation on the width of the sign, no more than 65% of front façade width and the height limitation is 5'. If the sign stays the same height, it is lower than 5 feet allowed although the sign is longer than 65% allowed. The height of the existing sign is 31" or 32", the plans were inconsistent.

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

Motioned by Mr. Bautz and seconded by Mr. Sweeney to approve subject to the conditions that the color, lettering or the height of the sign at 32" would not change and that the approval be effective upon adoption.

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mr. Carey and Mr. Meyer

Noes: None

MOTION APPROVED.

OLD BUSINESS:

NEW BUSINESS:

Motion to adjourn

9:25 PM

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary