

A regular meeting of the Board of Adjustment of the Township of Roxbury was held on August 8, 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. Damato, Mr. Giardina, Ms. Robortaccio, Ms. Kinback, Mr. Crowley, Mr. Data.

PROFESSIONAL STAFF:

Mr. John Hansen, P.E. -Excused

Mr. Russell Stern, P.P.

Mr. Larry Wiener, Esq.

Minutes of 07/11/11

Ms. Robortaccio made a motion to approve the minutes of July 11, 2011.

Ms. Dargel seconded.

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

RESOLUTIONS:

ZBA-09-00012 WDIFTK, LLC, 120 Day Extension, for property located at Hillside Avenue, Succasunna, Block 5203 Lot 46, in a R-3 zone.

RESOLUTION OF FINDINGS AND CONCLUSIONS

BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY

RESOLUTION

Approved: July 11, 2011

Memorialized: August 8, 2011

In the matter of WDIFTK, LLC Extension

Case No. ZBA-09-00012

Block 5203, Lot 46

WHEREAS, WDIFTK, LLC has applied for an extension of time to perfect an application previously approved by the Zoning Board of Adjustment for premises located at Hillside Avenue and known as Block 5203, Lot 46 on the Tax Map of the Township of Roxbury which premises are in a "R-3" Zone; said proposal requiring relief from the Municipal Land Use Law; and

1. Ronald S. Heymann, Esquire represented the applicant.
2. The applicant received approval by resolution adopted on September 13, 2010.
3. The applicant is presently resolving and satisfying conditions in that approval including but not limited to Morris County Planning Board. Same was set forth in a letter dated June 16, 2011 submitted to the Board by Ronald Heymann, Esquire. Mr. Heymann also submitted a June 14, 2011 letter from the Morris County Planning Board.

WHEREAS, pursuant to the MLUL, N.J.S.A. 40:55D-47f, the Board may extend the 120-day period if the Applicant was prevented from filing because of delays in obtaining legally required approvals, despite having diligently pursued such approvals; and

WHEREAS, the Board has determined that the Applicant was prevented from filing because of delays in obtaining legally required approvals, despite having diligently pursued such approvals.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board does hereby grant the requested extension of time for filing of the Applicant's minor subdivision deeds for an additional period of 120 days pursuant to N.J.S.A. 40:55D-47f, The 120 day period shall run from the date of the adoption of this resolution granting said extension provided that the Applicant shall comply with the Mandatory Mt. Laurel Development fee in effect at the time of issuance of a building permit, pursuant to Ordinance §13-7.829, or any successor provision thereto.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Zoning Board at its regular meeting of July 11, 2011.

Ms. Dargel made a motion to approve the 120 day extension. Ms. Robortaccio seconded.

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

ZBA-11-010 Woodmont Properties, Sign (banner), Variance for property located at 1705 Route 46, Ledgewood, Block 9603, Lot 6 in a B-2 zone.

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

Approved: July 11, 2011

Memorialized: August 8, 2011

In the matter of Woodmont Properties
Block 9603, Lot 6
Case No. ZBA-11-010

WHEREAS, Woodmont Properties has applied to the Board of Adjustment, Township of Roxbury for permission to construct a temporary sign for premises located at 1705 Route 46 and known as Block 9603, Lot 6 on the Tax Map of the Township of Roxbury which premises are in a "GU" Zone; said proposal required relief from Section 13-8.911.1 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:

4. Peter Wolfson, Esquire represented the applicant.
5. The applicant is a limited liability company. It owns the subject premises. The premises are presently used as a mixed "flex" office/warehouse building.
6. The applicant is seeking permission to construct a temporary sign on the rear of the building. The purpose of the sign would be to attract attention that there was space to rent in the commercial building on-site.
7. The applicant received similar relief in 2006 (Case No. BA-7-06).
8. The applicant was requesting permission to construct an 8' x30' sign But was approved for a 150 square foot (5' X 30') sign.

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9. Michael Witmond testified at the hearing. He presented several exhibits which were attached to the application and indicated the proposed location and design of a 240 square foot sign.
10. As noted, the zoning ordinance permits temporary rental office signs, however, the maximum size permitted would be 12 square feet, thus a variance is needed.

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 reason:

1. The Board notes the Zoning Ordinance anticipates temporary signs. The Board also notes the intent and purpose of the Municipal Land Use Law, the Master Plan, and the Zoning Ordinance is to create properties and facilities that would be fully utilized. The Board further notes that there is only a small category of properties in Roxbury Township that have “frontage” oriented towards Route 80. In this case, the frontage is truly a rear yard.
2. The applicant established that a conforming sign would not be effective in notifying the public of the availability of space in the building. Clearly, a 12 foot square sign would not be effective. The Board further notes (see conditions below) the temporary nature of the sign allowing this exception to the Zoning Ordinance. The Board also takes note of its findings in the prior resolution and reiterates same.
3. The Board further notes the applicant had previously requested a 240 square foot sign. At that time, the Board reduced the size of the sign to 150 square feet. The Board finds, in the current economic climate and the prior experience with the smaller sign, that same is an effective manner in which to assist the applicant in finding tenants in a very weak economy. The slight increase in the size of the sign should have no adverse impact. The utilization of existing structures is consistent with the intent and purpose of the Municipal Land Use Law and the Township ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township Roxbury on the 11th day of July, 2011 that the approval of the within application be granted subject, however, to the following conditions:

1. Sign is to be non-illuminated, fabricated of vinyl, and attached securely and safely to the building.
2. The lettering and message on the sign will be similar to the prior sign, only larger.
3. The variance herein shall expire in six months or within 15 days of the execution of the lease for the subject premises - whichever shall occur first. At the end of six months, if the premises still remain unlet, the applicant shall have the right to apply to the Board for an extension.

Mr. Crowley made a motion to approve the resolution, Ms. Dargel seconded.

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

ZBA-08-023 Woodmont Properties Extension of Soil Movement Permit for property located at Route 46 West, Ledgewood, Block 9603 Lot 3 & 4, in a OB zone.
ROXBURY TOWNSHIP ZONING BOARD OF ADJUSTMENT

**MAJOR SOIL REMOVAL/RELOCATION PERMIT
FOR PHASING**

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

1. Applicant/Permittee: Woodmont Properties, Route 46, LLC
2. Application Number: ZBA-08-23
3. Property Identification: 1751 Route 46
4. Subdivision/Site Plan Approval Date(s): 8/15/08 (**Memorialized 9/15/08**)
5. Major Soil Permit Approval Date: 7/11/11
6. Memorialization Date: 8/8/11
7. Findings of Fact:
 - a. The Board has received an Application consistent with the requirements of Ordinance Section 17-6, and the Applicant has paid the application fee pursuant to ordinance Section 17-7.1. This application is essentially a modification of the previous approval.
 - b. Proof of adequate notice of this Application, pursuant to Ordinance Section 17-6.5, has been furnished to the Board.
 - c. A public hearing was conducted in accordance with the Ordinance and with opportunity for comment by interested members of the public on the following dates: 7/11/11
 - d. In granting this Permit, the Board has considered the factors enumerated in Section 17-6.6 of the Ordinance. The Board has received and considered the following documents in connection with this Application: (1) soil moving application dated 6/20/08; (2) soil movements stockpile plan revised to 6/20/08; (3) earthwork calculations by Ritter & Plante Associates, LLC, Philadelphia, PA, dated 6/2/08; and (4) report of the Zoning Board Engineer, John E. Hansen, dated 7/7/11.
 - e. The Board has made the following additional findings of fact:
 - i. The Applicant intends to import 10,000 cubic yards (c.y.) of soil.
 - ii. The Applicant proposes to relocate within the site 11,676 c.y. of soil.
 - iii. The Applicant intends to obtain fill from a site in Parsippany Troy Hills Township. **Other locations may be acceptable if approved by the Township Engineer.**
 - iv. The route of truck travel to Applicant's site from the borrow site to the disposal site is not yet fully determined. It is anticipated that the primary access will be via Route 10 West or Route 80 West into Roxbury Township. The final details shall be provided and approved by the Township Engineer.
 - v. The Applicant has agreed to comply with the recommendations contained in the report of the Zoning Board of Adjustment's Engineer dated 7/7/11 (see below), **except as modified herein.**
 - vi. Pursuant to Section 17-9d of the Ordinance, the Board finds that circumstances warrant the restriction of the hours of soil moving

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operations to 8:00 a.m. to 4:00 p.m. on weekdays and 8:00a.m. to 12:00 noon on Saturdays (with such operations prohibited on Sundays and legal holidays). All fueling and warm up of equipment shall only occur within work hours.

8. Conditions of Approval: This Permit is granted subject to the following terms and conditions:
- a. Applicant shall post a performance guarantee, consistent with the requirements of Ordinance Section 17-8, in an amount indicated in Subparagraph H.5 below, as determined by the Board Engineer based on quantity of soil moved at the rate of \$0.15 per cubic yard of material moved.
 - b. This Permit shall remain valid for a term of one year from the Effective Date specified in Paragraph 6 hereinabove, subject to extension thereafter in accordance with Ordinance Section 17-9c.
 - c. The Applicant shall pay the engineering review and inspection fees as required in Ordinance Section 17-7.3.
 - d. This approval shall not become effective until: (i) Applicant has paid outstanding property taxes and assessments due or delinquent as of the date hereof, (ii) all conditions necessary to ensure the proper performance of soil movement operations are fulfilled to the satisfaction of the Board Engineer, and (iii) NJDEP and Soil Conservation District approval is received. The applicant shall obtain written approval from the NJDEP.
 - e. Applicant shall comply with (i) "Hours of Operation" established pursuant to Ordinance Section 17-9d; (ii) "General Terms and Conditions of Operation" stipulated in Section 17-10; (iii) "Topsoil Restrictions", pursuant to Section 17-11; (iv) "Depth of Excavation; pursuant to Section 17-12; and (v) "Final Grades", pursuant to Section 17-13.
 - f. Applicant grants to the Township Engineer and/or his duly authorized agents, the right of entry to the property to conduct inspections to determine compliance with this Permit.
 - g. This approval is subject to all outside agency review, as may have jurisdiction over this matter.
 - h. This Permit is subject to the following additional terms and conditions:
 - i. All fill will be imported from a site in Parsippany Township **or other site if approved by the Township Engineer.**
 - ii. The route of truck travel to Applicant's site from the borrow site to the disposal site is not yet fully determined. It is anticipated that the primary access will be via Route 10 West or Route 80 West into Roxbury Township. The final details shall be provided and approved by the Township Engineer.
 - iii. The Erosion Control Plan shall be modified to indicate the following note: "Notwithstanding the approved Erosion and Sediment Control Plan, the Applicant shall implement all measures needed to satisfactorily control erosion, dust, and sediment transport as may be reasonably determined by the Township Engineer during construction".
 - iv. Applicant shall post fees as follows: \$250.00 application fee, \$1,501.00 soil movement fee, inspection fee included with the Township Engineering inspection fees pursuant to Section 13-1.402 of the Township Ordinance.
 - v. Per Section 17-8 of the Ordinance, Applicant shall post a performance bond in the amount of \$5,000.00.
 - vi. Applicant shall place hay bales on the site to supplement planned silt fencing for erosion control to the satisfaction of the Township Engineer.

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- vii. In accordance with Ordinance Section 17-6.1(t), the Applicant shall stake out the limit of disturbance to the satisfaction of the Township Engineer.
- viii. As noted, the primary difference between this modified approval and the original approval was a phasing of the soil movement. Thus, the following conditions are of particular importance noting that Phase I would be the current application and Phase II would be the soil movement and construction for the remainder of the project. The Board is always concerned in a two phase project that there is no guarantee that Phase II will be constructed and, when or if, Phase II would be implemented. During the course of the implementation of this approval the site will be field inspected by the appropriate members of the Professional Staff to insure the “real world” efficacy of storm water management; landscaping; soil stabilization; and esthetics and such other items that would materially affect health, safety and the general welfare. Should any such issue not be resolved between the applicant and the professional staff the matter will be returned to the Board for further action.
- ix. The applicant shall design a stormwater management system on-site in accordance with Paragraph 2a of the 7/7/11 report of John Hansen, the Board Engineer, **unless it is determined by the Board Engineer that an alternative approach can accomplish affective stormwater and sediment control.** Said stormwater management plan shall be reviewed and approved by the Board Engineer. The applicant shall provide a detailed grading and drainage plan for the site and proposed basin (**or alternative approach**) as noted above. Same shall be done along the lines of Paragraph 2b of the aforesaid report of the Board’s engineer. Said plans are to be reviewed and approved by the Board’s Engineer.
- x. The proposed grading plan to include the softening of steep slopes, along with landscape plantings, shall be provided in a way to promote a desirable visual appearance from Route 46. Same shall be subject to review and approval by Board’s professionals. There shall be a 5’ maximum height for any temporary stockpiles. Any soil stockpiled on-site, the applicant shall provide vegetation stabilization and, if necessary, bring topsoil to the site to promote the growth of said vegetation.
- xi. The applicant has stated that the length of time involved importing the soil will be approximately 3 weeks. The applicant shall provide a detailed sequence of construction for soil movement of Phase I.
- xii. The applicant shall provide a separate operation and maintenance manual to address the maintenance of the proposed Phase I stormwater management basin **unless determined by the Board Engineer that an alternative design will not require such manual.**
- xiii. As noted, the applicant shall obtain written approval from NJDEP relative to the amended plans and phasing of the project.
- xiv. The applicant has stated that **13** trees will be removed as part of this project. Applicant shall consult with the Township Planner as to the type and number of any replacement plantings and shall obtain a Tree Removal Permit prior to tree removal and grading.
- xv. The perimeter of the soil movement limits shall be staked in the field prior to any land disturbance.
- xvi. The plans shall note that the stockpiled topsoil shall be redistributed over the compacted fill to a minimum depth of 5 inches. Imported

topsoil shall be provided to meet this depth, if on-site stockpiled topsoil is insufficient.

- xvii. The proposed seed mix shall be included on the plans and approved by the Board's professionals.
- xviii. Approval by the Morris County Soil Conservation District shall be required.
- xix. Any applicable conditions of the prior soil movement resolution shall be carried forth in any approving resolution for this application.
- xx. The site driveway shall be reduced to a width of 20 feet and fully removed, topsoiled and seeded upon completion of grading and stabilization.
- xxi. This approval is valid for a period of one year from the date of Memorialization.

The undersigned does hereby certify that the foregoing is an accurate recitation of the action taken by the Zoning Board on the approval date designated hereinabove.

Discussion: Mr. Douglas Henshaw attorney for the applicant requested to be heard; and stated that in the Relocation Permit that conflicts phasing, his concern is that if the applicant was to identify a user for the building, the applicant might want to commence construction of the entirety of the job and not under take a phasing. The record or minutes reflect that this resolution does not intend to completely supersede the prior approval (09/15/2008) that would allow us not to phase but to go straight into construction and build the job all in one shot. Mr. Wiener stated that he, Mr. Stern and the applicant spoke prior to the meeting and have no objection that the minutes reflect that the applicant always has the option of reverting to the original approval which was contemplated as a straight shot without phasing. There was a discussion as to what was said at the last meeting.

Ms. Robortaccio made a motion to approve the resolution. Ms. Dargel seconded. Roll call: Ms. Robortaccio, yes; Ms. Dargel, yes; Mr. Giardina, yes; Mr. Crowley, yes; Mr. Data, yes.

ZBA-08-022 Woodmont Properties Extension of Preliminary Site Plan Approval for property located at Route 46 West, Ledgewood, Block 9603 Lot 3 & 4, in a OB zone.

RESOLUTION OF FINDINGS AND CONCLUSIONS

BOARD OF ADJUSTMENT

TOWNSHIP OF ROXBURY RESOLUTION

EXTENSION OF TIME

Approved: July 11, 2011

Memorialized: August 8, 2011

In the matter of Woodmont Properties
Block 9603, Lots 3 & 4
Case No. ZBA-08-022

WHEREAS, Woodmont Properties previously applied to the Board of Adjustment, Township of Roxbury for preliminary site plan approval for premises located at Route 46 West and known as Block 9603, Lots 3 & 4 on the Tax Map of the Township of Roxbury which

premises are in a "OB" Zone; said proposal required relief from Section 13-7.34 of the Roxbury Township Land Use Ordinance; and

1. Peter Wolfson, Esquire represented the applicant.
2. The Board approved said application, which was memorialized in a resolution adopted on September 15, 2008.

WHEREAS, the Board finds sufficient cause to grant the applicant's request for a one year extension to September 15, 2012.

Discussion: Mr. Douglas Henshaw attorney for the applicant requested that Woodmont Properties be changed to Woodmont Realty.

Ms. Dargel made a motion to approve the resolution. Mr. Giardina seconded.
Roll call: Ms. Dargel, yes; Mr. Giardina, yes; Ms. Robortaccio, yes; Mr. Crowley, yes; Mr. Data, yes.

APPLICATIONS:

ZBA-11-011 Petersen, Bulk Variance for property located at 24 Main Street, Succasunna, Block 1901, Lot 7 in a R-4 zone.

Eric Peterson and Christina Peterson were sworn in, Mr. Peterson stated that the garage that is on the property now is getting old and in need of repair he would like to take it down and rebuild a new two car garage. Being in the historic district he tried to stay within the guidelines and go with a style that fits into the neighborhood. He would be keeping his cars and yard equipment in the garage. According to the plans the new garage would be 1.5 times bigger than his house. Our Township Ordinance states that the homeowner is allowed to build an accessory structure with a footprint that is 50% within the main structure. Mr. Peterson is requesting a new garage at 155%. Mr. Peterson stated the reality is that if the house was bigger he could build a bigger garage, the property space is not the issue; the issue is the size of the house it is not that big. Ms. Dargel stated that a typical two car garage is maybe 24' X 24' and the size of the proposed garage would be 42' X 28'. There was a discussion on the size of the garage and what it would be used for. Besides the classic cars and lawn equipment the garage would be used for storage. There was a discussion on the size of the house and the size of the lot. Regarding height of the proposed garage; the application does not show a second story so what is the need to have a peak at 21 feet? Mr. Peterson stated that a second floor would be used only for storage. There was a discussion on the size of the center supports in the garage. He wants to keep classic cars in the garage and has four now with plans to sell one, so he'd like to have enough room in the new garage for all the classic cars. There are two sheds in the backyard and if this application was to be approved, Mr. Petersen stated he would remove one and use one for storage. There is a tent garage on the property now that will be removed. Mr. Petersen would not consider reducing the size of the garage. If the garage is not approved he'd probably put the house up for sale. There will be no utilities in the garage for now. Mr. Petersen didn't want to reduce the height, as he felt it would look out of place. There was a discussion on the garage being part of the house. Open to the public; No one stepped forward; Closed to the public.

Ms. Robortaccio made a motion to deny this application, the size is 1 ½ times bigger than the house, and the applicant shows no inclination to compromise in making it shorter, smaller or anything. Mr. Crowley seconded. **Yes votes to deny.**
Roll call: Ms. Robortaccio, yes; Mr. Crowley, yes; Ms. Dargel, yes; Mr. Damato, no;

Mr. Giardina, yes; Ms. Kinback, no; Mr. Data, yes to deny. *Application denied.*

ZBA-11-012 Rivera, Bulk Variance for property located at 18 North Second Avenue, Kenvil, Block 2614, Lot 14 in a R-4 zone.

Mr. Benjamin Rivera was sworn in, and stated that his house is very small he has a sun room and would like to build up from the sunroom to make an additional bedroom so that when his two daughters from a previous marriage come to visit he has room for them. There would be no changes to the square footage, the addition only goes up. The size of the sunroom was questioned; Mr. Rivera stated the room size as 15.6' by 16'. The backyard is fully covered. The impervious coverage was based on what was shown on the plans. Mr. Rivera stated that he does have a tarp tent, an 8' X 8' shed and an above the ground swimming pool in the backyard. There was a discussion on the size (width) of the stairs that lead to the second floor. There are two very small existing bedrooms on the second floor now. The new siding for the addition will match the siding that is on the house. Open to the public; no one stepped forward. Closed to the public.

Ms. Kinback made motion to approve this application, Mr. Damato seconded.

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

Motion to adjourn the meeting was made at 8:05 p.m.

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY

Dolores Tardive,
Board Secretary
August 8, 2011