

**March 7, 2012 MINUTES**

A regular meeting of the Township of Roxbury Planning Board was held on March 7, 2012, 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:** Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz.  
**LATE:** Mr. Shadiack, arrived 7:41 p.m.  
**ABSENT:** Councilman Zoschak, Mayor Rilee, Mr. DeFillippo and Mr. Meyers.  
**STAFF:** Mr. Germinario, Mr. Stern and Mrs. Wiss  
Mr. Ferriero was excused.

**MINUTES:** January 18, 2012 and February 15, 2012

Motioned by Mrs. Lutz and seconded by Mr. Carey to approve the minutes

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Silcox and Mr. Bautz

Ayes: Mr. Meyer, February 15, 2012 minutes, Abstain: January 18, 2012 minutes

Noes: None

MOTION APPROVED.

**RESOLUTIONS:**

**PBA-07-22 TOWER HILL ASSOCIATES, LLC. Block 3602, Lot 9 12 South Hillside Ave.**

**Request for Extension of Preliminary Subdivision Approval**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: March 7, 2012  
Memorialized: March 7, 2012**

**IN THE MATTER OF TOWER HILL ASSOCIATES, LLC  
EXTENSION OF PRELIMINARY MAJOR SUBDIVISION APPROVAL  
BLOCK 3602, LOT 9  
APPLICATION NO. PBA-07-22**

**WHEREAS**, Tower Hill Associates, LLC (hereinafter known as the “Applicant”) obtained preliminary major subdivision approval from the Roxbury Township Planning Board (hereinafter known as the “Board”) on 1/9/08; and

**WHEREAS**, by Resolution of 3/2/11, the Board granted the Applicant an extension of its preliminary major subdivision approval for one year pursuant to N.J.S.A. 40:55D-49c; and

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**WHEREAS**, the Applicant has requested from the Board a second extension of one year pursuant to N.J.S.A. 40:55D-49c; and

**WHEREAS**, a public hearing was held on 3/7/12, no notice being required; and

**WHEREAS**, the Board has balanced the public interest in favor of implementing the new requirements of the Land Development Ordinance against the hardship to the Applicant, and has determined that the requested extension for the preliminary approval for one year should be granted.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board does hereby grant the requested extension of the Applicant's preliminary major subdivision approval for an additional period of one year pursuant to N.J.S.A. 40:55D-49c, 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 Planning Board at its regular meeting of March 7, 2012.

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Eugenia Wiss, Secretary

Motioned by Mr. Carey and seconded by Mr. Meyer to approve the extension and resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**PBA-12-003 ETEL REALTY, LLC. Block 9201, Lot 2 99 Route 206**  
**Request for Extension of Preliminary Site Plan Approval memorialized 9/6/11 and extended through 3/19/12**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: March 7, 2012**  
**Memorialized: March 7, 2012**

**IN THE MATTER OF ETEL REALTY LLC  
EXTENSION OF PRELIMINARY SITE PLAN APPROVAL  
BLOCK 9201, LOT 2  
APPLICATION NO. PBA-07-25**

**WHEREAS**, Etel Realty LLC (hereinafter known as the "Applicant") obtained preliminary site plan approval from the Roxbury Township Planning Board (hereinafter known as the "Board") on 3/19/08; and

**WHEREAS**, by Resolution of 9/6/11, the Board granted the Applicant an extension of the preliminary site plan approval for one year pursuant to N.J.S.A. 40:55D-49c; and

**WHEREAS**, the Applicant has requested a further extension of preliminary site plan approval for one year pursuant to N.J.S.A. 40:55D-49c;

**WHEREAS**, a public hearing was held on 3/7/12, no notice being required; and

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**WHEREAS**, the Board has balanced the public interest in favor of implementing the new requirements of the Land Development Ordinance against the hardship to the Applicant, and has determined that the requested extension for the preliminary approval for one year should be granted.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board does hereby grant the requested extension of the Applicant's preliminary site plan approval for an additional period of one year pursuant to N.J.S.A. 40:55D-49c, 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 Planning Board at its regular meeting of 3/7/12.

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Eugenia Wiss, Secretary

Motioned by Mr. Meyer and seconded by Mr. Verge to approve extension and resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**Master Plan Consistency of Ordinance No. 05-12 – Q-O Quarry Overlay District**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION FINDING MASTER PLAN CONSISTENCY**

**IN THE MATTER OF MASTER PLAN CONSISTENCY DETERMINATION ORDINANCE NO. 05-12 TO AMEND CHAPTER XIII OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS, SECTION 13-7.4, ZONE DISTRICTS, SECTION 13-7.5, ZONING MAP, AND SECTION 13-7.8, GENERAL PROVISIONS FOR ALL ZONES, SUBSECTION 13-7.815, PROHIBITED USES, PARAGRAPH A, AND TO SUPPLEMENT ARTICLE VII, ZONING REGULATIONS BY INCLUSION OF A NEW SECTION 13-7.37, Q-O QUARRY OVERLAY DISTRICT**

**WHEREAS**, the Planning Board has reviewed the proposed Ordinance No. 05-12 and has received input from the Township Planner and Board Attorney concerning same, and has discussed the Ordinance at its public meeting of March 7, 2012; and

**WHEREAS**, based upon its review and that of the Township Planner and the Board Attorney, the Board has determined that the proposed Ordinance is consistent with the Master Plan and promotes the goals and objectives of the plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby find and determine that proposed Ordinance No. 05-12 TO AMEND CHAPTER XIII OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS, SECTION 13-7.4, ZONE DISTRICTS, SECTION 13-7.5, ZONING MAP, AND SECTION 13-7.8, GENERAL PROVISIONS FOR ALL ZONES, SUBSECTION 13-7.815, PROHIBITED USES, PARAGRAPH A, AND TO SUPPLEMENT ARTICLE VII, ZONING REGULATIONS BY INCLUSION OF A NEW SECTION 13-7.37, Q-O QUARRY OVERLAY DISTRICT, is consistent with the Roxbury Township Master Plan and with the planning goals and objectives of the Township. The Planning Board Secretary is hereby directed to advise the Township Council of said determination by the Planning Board.

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 March 7, 2012.

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Eugenia Wiss, Secretary

Motioned by Mr. Meyer and seconded by Mrs. Lutz to approve for Master Plan consistency and to approve the Resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**Master Plan Consistency of Ordinance No. 06-12 – Solar Energy Facilities**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION FINDING MASTER PLAN CONSISTENCY**

**IN THE MATTER OF MASTER PLAN CONSISTENCY DETERMINATION ORDINANCE NO. 06-12 TO AMEND AND SUPPLEMENT CHAPTER XIII, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS BY INCLUSION OF A NEW SECTION 13-7.38, ENTITLED “SOLAR ENERGY FACILITIES”**

**WHEREAS**, the Planning Board has reviewed the proposed Ordinance No. 06-12 and has received input from the Township Planner and Board Attorney concerning same, and has discussed the Ordinance at its public meeting of March 7, 2012; and

**WHEREAS**, based upon its review and that of the Township Planner and the Board Attorney, the Board has determined that the proposed Ordinance is consistent with the Master Plan and promotes the goals and objectives of the plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby find and determine that proposed Ordinance No. 06-12, TO AMEND AND SUPPLEMENT CHAPTER XIII, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS BY INCLUSION OF A NEW SECTION 13-7.38, ENTITLED “SOLAR ENERGY FACILITIES” is consistent with the Roxbury Township Master Plan and with the planning goals and objectives of the Township. The Planning Board Secretary is hereby directed to advise the Township Council of said determination by the Planning Board.

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 March 7, 2012.

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Eugenia Wiss, Secretary

Motioned by Mr. Meyer and seconded by Mrs. Lutz to find the ordinance consistent with the Master Plan and approve the resolution.

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**COMPLETENESS:**

**PBA-09-013 A & E VENTURES Block 3601, Lot 3 and Block 5004, Lot 10  
235-241 Route 10 Amended Preliminary Site Plan Application – Burger King and Retail**

Motioned by Mr. Meyer and seconded by Mr. Carey to deem complete.

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

This will be scheduled for a public hearing on April 4, 2012. The new Board members will either listen to the tape or read the transcripts of the prior hearings on this matter.

**PBA-12-08 CMU, LLC. (Clayton/McNear) Block 10018, Lot 1 & others, Ledgewood-Landing Rd.** Preliminary Site Restoration Plan

Mr. Bautz recused himself. Scott Meyer took over the Chair since the Vice Chairman was not in attendance.

Mr. Stern went over the waivers requested and recommended granting the waivers for completeness purposes only.

Motioned by Mr. Silcox and seconded by Mr. Carey to deem complete.

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox

Noes: None

MOTION APPROVED.

The matter will be heard at the April 4, 2012 meeting.

**APPLICATIONS:**

**PBA-12-004 WELFLEET DEVELOPERS, INC./VILLAGES AT ROXBURY Block 11201, Lots 1-3 and Block 10101, Lot 34 Shippenport Road**  
**Request for Extension of Initial Period of Vested Rights**

Attorney Stephen Tripp represented the applicant. The Villages at Roxbury Development originally received Amended Preliminary Major Subdivision Approval in August of 2006 for the creation of 179 lots. Based on size of project the Board granted extended vesting rights for six years. In 2007 an agreement was reached with the Governing Body to dedicate a 33 acre parcel to the Township and the lot number was reduced to 161 lots. The Open Space was purchased by the Township. Amended, Preliminary and Final approval was granted with the separate lot to be dedicated to Township. That Resolution carried forward all the terms and conditions of the prior resolution including the extended vesting. The application moved forward with substantial site work but because of the weak housing market, no homes have been constructed. Since none of the homes have been sold, they felt it was prudent to ask for a formal extension.

Mr. Shadiack arrived at 7:41 p.m.

Susan Beringer was sworn in. She was qualified as a professional engineer previously and now works for the applicant. She is a Vice President of Wellfleet Developers and Continental Properties and runs all their in house engineering and construction on the site. She was the consulting project engineer before she went in house and has been involved in the project for 20 years.

They started construction on the site in 2008, they cleared the site but didn't stump the entire site. The spine road, Villages Boulevard, was put in and they constructed the offsite 12" water main from Cliff's to Shippenport road with a tie in on Ford Avenue. The water main up Villages Blvd. was installed. All of sanitary and storm sewers on the

Village Boulevard were installed and two pump stations were constructed but no mechanical equipment was installed. All of the work related to their onsite wetland permits was completed and a deed restriction for the wetlands and buffer areas was filed. They constructed all five detention basins on site. They have graded portions of the site. To date they have installed \$8,000,000 worth of improvements on the site. They obtained final approval but the final subdivision plat has not been filed. The only map that was filed was to create two lots, one for 33 acres to the Township and the other lot is the remainder of the property.

The work along Shippenport Road was started but that is the subject of a freshwater wetlands individual permit granted to the Township that expires this year. The actual wetlands disturbance was done with the construction of a stone weir and was completed and the mitigation credits were purchased so part of the permit was implemented. The wetlands part of improvements expires this fall and they will file for an extension or get a new permit. All the permits are valid on site. They started acquisitions along Shippenport Road in order to do that improvement plan. They sent agreements out to the homeowners on Shippenport Road but stopped all work and acquisitions until the housing market comes back.

They felt they would get the extension of the wetlands permit on Shippenport Road and if not, a new permit since the work has been done and the mitigation credits were purchased. They didn't file the subdivision because of tax implications and they weren't going to market the lots.

Mr. Tripp felt this was a classic case for an extension where the applicant has expended substantial funds to do the infrastructure and worked until the market dropped, has a substantial investment and they seek an extension to when the market will improve. They felt four years was reasonable window. No one knows when things will turn around. They were agreeable to status updates.

They agreed to a two year extension because they might be back for phasing anyway. The Resolution will not limit future extensions.

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

Motioned by Mr. Meyer and seconded by Mr. Verge to extend the period of vested rights for an additional two years.

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**PBA-07-22 TOWER HILL ASSOCIATES, LLC. Block 3602, Lot 9 12 South Hillside Ave.**

**Request for Second Extension of Preliminary Subdivision Approval memorialized on March 2, 2011**

Jerry Rumplick represented the applicant, Tower Hill. The Preliminary Subdivision was previously approved on January 9, 2008 and an extension for one year was approved and memorialized on March 2, 2011. He is requesting a second, one year extension because the majority owner of Tower Hill Associates, LLC passed away last year. The estate froze all activities to define all holdings for the beneficiaries.

Mr. Rumplick is not an attorney, and on the issue of proceeding without representation, Mr. Germinario felt he could proceed because the Land Use Law was ambiguous regarding extensions.

Mr. Rumplick said the probate has caused a delay; they have received all their approvals and want to finalize the project.

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

This would be the second of two one year extensions.

Motioned by Mr. Carey and seconded by Mr. Meyer to approve the extension and resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**PBA-12-003 ETEL REALTY, LLC. Block 9201, Lot 2 99 Route 206**

**Request for second extension of Preliminary Site Plan Approval memorialized 9/6/11 and extended through 3/19/12**

Peter McArthur represented the applicant. They were here last fall for extensions of the Preliminary Site Plan and Soil Removal Permit. The Preliminary Site Plan was extended to this March. Nothing has changed since they were here and they are trying to work a deal out with a tenant and they intend to build out what was approved and follow all the conditions. They will wait for the weather to improve to start work. They would like an extension for one year.

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

Motioned by Mr. Meyer and seconded by Mr. Verge to approve extension and resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

If they wanted to use the property for a gas station, it would be a matter for the Zoning Board of Adjustment.

**OLD BUSINESS:**

**NEW BUSINESS:**

**Review for Master Plan Consistency:**

**Ordinance No. 05-12 – Q-O Quarry Overlay District**

In February the Land Use Element was amended to recommend the Q-O overlay district. In reviewing the ordinance it is consistent with that Master Plan Amendment. Mr. Stern recommends adopting the resolution that the ordinance is consistent with the Master Plan.

Motioned by Mr. Meyer and seconded by Mrs. Lutz to approve for Master Plan consistency and to approve the Resolution

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

**Ordinance No. 06-12 – Solar Energy Facilities**

In February, the Board adopted a Master Plan Reexamination Report related to renewable energy facilities and systems. In our 2009 Land Use Plan Element Update it is consistent with the goals and objectives. The Ordinance seeks to preserve the visual environment and integrity of residential district, controls commercial development impacts and major office and industrial development by minimizing adverse impacts. The ordinance was written to address recent legislation. It was consistent with the Master Plan. A wind energy turbine ordinance will be forthcoming.

Motioned by Mr. Meyer and seconded by Mrs. Lutz to find the ordinance consistent with the Master Plan and approve the resolution.

Ayes: Mrs. Lutz, Mr. Verge, Mr. Carey, Mr. Meyer, Mr. Silcox and Mr. Bautz

Noes: None

MOTION APPROVED.

Mr. Shadiack said there would be a presentation next Tuesday, March 13, 2012. The Economic Development Committee will put on a program for banks and realtors to help attract people to the Township for being in the top 100 best communities for young people in the country.

The Planning Board meeting on March 21<sup>st</sup> is cancelled.

**CORRESPONDENCE:**

Complaint –Roxwood Associates, LLC. vs. Planning Board of Roxbury Township:  
Details were provided by Mr. Germinario: he will file an answer to the complaint.

Public Notice Hearing – Fenimore – A public hearing will be held at the Lincoln Roosevelt School on April 17, 2012 at 6:00 p.m.

Motion to adjourn the meeting was made at 8:25 p.m.

FOR THE PLANNING BOARD  
TOWNSHIP OF ROXBURY

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Eugenia Wiss, Secretary