

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**January 3, 2013**

**Regular Meeting**

Following the Annual Re-organization Meeting of the West Milford Planning Board, the Regular Meeting was opened at **7:57 p.m.** by Chairman Geoffrey Syme with a reading of the Legal Notice, followed by the Pledge of Allegiance and Roll Call.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Linda Connolly, Christopher Garcia, Andrew Gargano, Douglas Ott, Councilman Luciano Signorino, Chairman Geoffrey Syme, Alternate Steven Castronova, Board Attorney Thomas Germinario, Board Planner Chuck McGroarty, Board Engineer John Hansen, P.E.

**Absent:** Robert Nolan, Michael Siesta, Glenn Wenzel.

Chairman Geoffrey Syme appointed Alternate Steven Castronova to sit on the Board for a vacancy and noted that there was a quorum present for this regular meeting.

**PUBLIC PORTION**

Chairman Syme opened the Public Portion of the meeting. The following addressed the Planning Board:

Richard Randazzo, Wooley Road, addressed the Board regarding the Township Hydrogeologist, Matthew Mulhall of M2 Associates, requesting that he be in attendance at the installation of any monitoring equipment at the neighboring wells with regard to the aquifer testing for the Braemar at West Milford subdivision. Thomas Germinario, Board Attorney, advised that the Township's aquifer testing ordinance defines the role of the hydrogeologist, and if he feels the need to be present, he will be at the site, but advised that the Board cannot require more than what the ordinance requires, and he was not aware of what the ordinance specifically states with regard to the monitoring. Mr. Randazzo noted that during the prior testing/monitoring the hydrogeologist was not present, but he maintained that the hydrogeologist should be enforcing the testing process and ordinance. Mr. Germinario advised that with regard to a Planning Board application, the Board continues to have jurisdiction to ensure that the well ordinance is being adhered to, and this adherence is required for unconditional approval of an application. He continued that although earlier in this particular application the Board did not have jurisdiction and was unable to enforce the ordinance, now that the applicant is back before the Board, they will have to prove the well results. Mr. Randazzo inquired whether all the information and documents related to this application were available to the public, and Mr. Germinario advised that the only document related to the litigation that he is aware of is the settlement agreement. Mayor Bettina Bieri inquired whether the Planning Board has the authority to require the Township Hydrogeologist to be present during monitoring, and Mr. Germinario responded that he would review the ordinance to make sure there is no ambiguity, but could not say that a Township official had to be required to be at every test. Mr. Randazzo responded that during the last well testing process he had to contact Mr. Mulhall himself because he felt the applicant, Braemar at West Milford, was not acting ethically in having the wells monitored for over 3 months. The applicant subsequently took legal action against the Planning Board, and when the matter was settled, Mr. Randazzo maintained that the applicant refused to give him the well testing results because it was not in their best interest to do so. Mr. Germinario advised Mr. Randazzo and the Board that he has had several opportunities to work with the Township Hydrogeologist, Matthew Mulhall, and found him to be very professional and thorough. Mr. Randazzo stressed that he wanted to make every effort to ensure that there is an ample supply of water for the existing and new residents in this area of the Township. Andrew Gargano inquired about the status of the Hydrogeologist's contract and the Board Secretary advised that there are specific pay to play documents required to be on file with the Township 10 days before the award of a contract and these documents were not received in sufficient time for this contract to be approved at this Planning Board meeting.

With no one else present wishing to address the Planning Board on any matter of concern, the Public Portion was **closed** on a **motion** by Mayor Bettina Bieri with a **second** by Christopher Garcia.

**PRESENTATIONS** – None.

**APPLICATIONS**

**Carried Applications**

**SUN YOUNG JOO**

**Major Soil Removal/Fill Permit #PB-05-12-05**

Block 10402; Lot 12

55 Green Terrace Way; R-4 Zone

**Seeking:** Major Soil Removal/Fill Permit approval for the prior re-grading of an existing 4-acre residential site with approximately 1.3 acres of fill.

Gerald Gardner, P.E. of Houser Engineering LLC, was present to address the Planning Board regarding the Sun Young Joo matter. He advised the Board that, after speaking to the Board Engineer John Hansen, P.E. earlier in the day, they appear to have direction on the discharge line to area "B". Mr. Gardner reviewed the plan showing a retaining wall, direction of runoff, and noted that the newly submitted plan has the correct conversion calculations. He requested approval for a change in the pipe material from concrete to PVC to match the existing pipe material. John Hansen advised that the condition should remain open until the

actual material of the existing pipe is determined. Mr. Hansen further advised that "Option A" was the preferred option for the drainage pipe since it would cut off the flow from the neighbor's property and only flow onto the street in an extreme rain event. He then advised the Board that there was enough information for the Board to make a decision on the plan option, reiterating his determination that "Option A" was the preferred solution to the drainage issue created from the soil movement and re-grading of 55 Green Terrace Way. He commented that if "Option A" is approved, the pipe that goes into the neighbors property should be decommissioned, adding that timing is also a factor in the installation of the drainage pipes. Mayor Bieri inquired about a timeline if "Option A" is approved by the Board subject to the Board engineer's approval. Mr. Castronova commented about the spring season and potential for heavy rains. Mr. Hansen replied that a maximum of 120 days was needed for completion of the project, adding that the trenching could start soon, but stabilization will come with spring seeding. Mr. Gardner advised the Board that he intended to begin landscaping by March or April with new topsoil, grading, planting, and installation of a berm, since stabilization of the site is the goal. Mr. Hansen cautioned that no work could begin until the final plans have been approved. He estimated that 50 –60 loads of additional soil would be required for the re-grading. When Chairman Geoffrey Syme inquired whether the applicant was seeking the soil permit approval at this meeting, Mr. Hansen stated that he has agreed to the proposed plan in theory, but needs to see the actual plan, although based on their discussion, he felt that it was a plan that was achievable. Mr. Castronova inquired about liability for the Township if the drainage enters the roadway, and Mr. Germinario advised that he was more comfortable with Option A to keep the drainage system on the neighbor's property to lessen the liability to the Township. Mr. Hansen advised, however, that the pipe would have to be constructed to the Township's standards and the maintenance would be the Township's responsibility after it is constructed. When Mr. Castronova inquired about responsibility for damages to the road, Mr. Hansen replied that a performance bond based on 120% of the construction costs would be required to cover the cost of any damage, repairs, and completion of work in the event that it is not completed. Chairman Syme inquired about the direction of the drainage pipe and Mr. Hansen advised that it would be a 15-inch pipe re-routing water into a drainage easement that flows into a wooded area. Councilman Lou Signorino inquired about the age of the street pavement and whether it will require repaving in the event of damage, and Mr. Gardner advised that they will attempt to run the pipe along the shoulder in the right of way and avoid the pavement. Chairman Syme inquired whether the area re-graded on the Joo property will be grass, and Mr. Gardner testified that the applicant plans to have flowering plants and shrubs typical of rock gardens and not have their site landscaped with trees which is typical in West Milford. He noted that there should be sufficient soil to install the proposed berm with the soil that was previously trucked to 55 Green Terrace Way from a Mahwah, NJ site that had excess soil from a new water line project. Mr. Gardner also advised that the applicant would comply with all requirements related to the soil movement project including utilizing blankets, silt fencing, and covering the inlets to control erosion. Board Member Chris Garcia inquired about the easement that will be abandoned, the timing involved and assurances that the drainage pipe will no longer be needed and Mr. Hansen responded that he was not sure that there was an actual easement or right of discharge at the site now. He then provided an explanation to the Board noting that they would cut off the pipe and fill it with concrete, but would make sure that the new connections were made prior to the decommissioning.

Chairman Syme then opened the hearing to the public for comment and the following addressed the Planning Board:

Scott Witherspoon, 70 Green Terrace Way, addressed the Board, stating that he was a homeowner and not a professional, but the soil movement permit before the Board at this meeting was an "after the fact" enforcement. He noted that Mayor Bieri and Councilman Signorino had been to Green Terrace Way to see the damage that has been done to his property, and that the severe erosion problems began in June 2011 and continued until several weeks prior to this date when the Township experienced another storm that appears to be worse than Sandy, Irene or Isaac. He distributed photos indicating the latest damage to his property for the Board to review. He further testified that he contacted the Public Works Dept., but although they usually have a crew with sandbags available to assist, they were unavailable, and Mr. Witherspoon set up the 75 sandbags that he received from the Township, dug trenches, ran pumps, and opened the manhole cover to allow the water to drain in an effort to divert the water from his property. The remaining water subsequently froze and resulted in several inches of ice on his driveway. Mr. Witherspoon further testified that he has received an estimate from a local contractor for repair of his driveway and installation of a 12-inch pipe for drainage. He stated that he could no longer patiently wait for a resolution to this matter and requested a specific plan and timeline for corrective action. Exhibits W-1 and W-2 were provided to the Board indicating stormwater damage to Mr. Witherspoon's property in 2011 and 2012. Mr. Witherspoon stated that he understood this matter involved a soil movement permit, but he suggested that the damaging result of the excess stormwater was a Township problem that could be rectified by the installation of two pipes that could be extended and/or redirected. Mr. Hansen advised the Board that they could consider installation of inflatable bolls to prevent possible damage from additional water flow from the pipe. He observed that they have been provided Option A or Option B for consideration, but stressed that timing was the important factor, so he recommended that the final plan be submitted immediately. He cautioned that the final plans must be approved by his office, the contractor hired, and a bond must be posted before work can begin, and he did not know of a way to stop the water coming from the existing pipe unless the pipe is decommissioned. Councilman Signorino inquired whether Mr. Witherspoon was doing anything on his driveway to stop the water from coming onto his property, and Mr. Hansen responded that the addition of curbing would not help in this instance, and the goal would be to approve a plan and get the new pipe connection completed as soon as possible to redirecting the flow. Mr. Gardner advised that it was feasible to begin the project in 21 days and he clarified flow amounts with Mr. Witherspoon with relation to the catch basins. The professionals discussed some stormwater options until the project is completed, and Mr. Gardner commented that if the pipe were blocked now, water would flow into the street and cause icing

conditions. A suggestion was made to cut a trench to avert the stormwater and Mr. Hansen noted that a site visit was needed to determine if this temporary solution was advisable. Mr. Hansen then advised that details of the pipe were needed, specifying the pipe location and direction of flow. Mr. Gardner observed that it might be difficult to get contractors available to do the project at short notice and at this time of the year. Mr. Witherspoon suggested a local contractor, Ernie Oakes, who may be available for the project. Councilman Signorino stressed the urgency in stopping the water from doing further damage and Mayor Bieri interjected that the final design must first be approved by the Board Engineer. Following discussion between the Board and professionals, Chairman Syme advised Mr. Gardner that the revised plans of the approved design must be submitted to Paul Ferriero's office by January 21, 2013 and the Planning Office the following day on January 22, 2013 (due to a federal holiday on Monday). Mr. Hansen advised the Board that the plan would be reviewed immediately, and if received on schedule, could have a review completed by January 25, 2013. Mr. Hansen also advised that a cash bond should be required for the pipe construction portion of the project, and an estimate can be prepared based on the plan details. Mr. Gardner noted that a site meeting will be necessary to work out the details. He also advised that after conferring with his client, Sun Young Joo, a cash bond for the work is acceptable to him and will be submitted upon determination of the amount.

Mr. Witherspoon inquired whether the Board could assist in determining responsibility with regard to the damage on his property from the erosion and stormwater that has caused him thousands of dollars in out-of-pocket expenses. Mr. Germinario advised that this would be a matter for the courts since the Board had no jurisdiction in this matter. Regarding the timeline to be imposed by the Board with respect to submission and reviews of plans, Mr. Hansen noted that the review would be completed as soon as possible, but if the plans were incorrect, a strict timetable could impose conditions that may not be met. Mr. Gardner suggested that if the plans are not satisfactory, he and the applicant will return to the Board at the next meeting. Mayor Bieri advised the applicant and his engineer that the lines of communication must be kept open and there should be coordination to get the plans correct. She inquired of Mr. Germinario if any penalty can be imposed if the applicant fails to meet the dates. Mr. Germinario advised the Board that technically the applicant violated soil ordinances and there may be provisions for court fines, but the most the Board can do is refer it to the Township Attorney or prosecutor for continuing violation of ordinances. The Board reviewed the sequence of the project, and Mr. Hansen noted that he needs details of decommissioning of the pipe and the outlet, adding that the soil and seeding for stabilization will be the last part of the project. He also advised that the affected property owners would have to provide permission to do the work on their property. Mr. Hansen stated that a cost estimate can be provided from the plans and the bonding can be done immediately. Mr. Gardner stated that he could not provide a specific date when the contractors would begin, and Mr. Hansen responded that there should be no problem for work to begin by early February. Mr. Gardner did not feel that it was feasible at this time of the year, noting that ledge rock is involved, and countered with February 15 as the construction start date. Following discussion, the Board determined that construction on the pipe installation should begin by February 15, 2013, and upon the advice of John Hansen, a two week time limit for the installation of the pipe for the water diversion, or by March 1, 2013. Regarding the balance of the project, Mr. Hansen stated that, after consideration, 90 days would be sufficient for the completion of the entire project, which would begin on February 15, 2013 and be finalized by May 15, 2013.

Mr. Germinario reviewed for the Board the conditions for the resolution memorializing the Sun Young Joo major soil movement permit which included the following: compliance with the comments of Paul Ferriero's report dated January 3, 2013, the plan was to be modified to indicate the swale/berm on Lot 11, clarification of the pipe material, elimination of Option B on the plan, plan revisions showing the actual pipe location in the ROW, details for the trenching and repaving, stability calculations of the swale and berm, detail for the decommissioning of pipe on the Witherspoon property, bond estimate to be submitted by the Board Engineer, the pipe connection to be scheduled first with no stoppage once the work has commenced, the final design revisions submitted to the Board Engineer by January 21, 2013 with a Board Engineer review letter by January 25, 2013, and construction to begin no later than February 15, 2013 with a March 1 completion date for the drainage pipe installation. The entire project must be completed by May 15, 2013. The Board concurred that if the applicant's engineer has not resolved the plan details by February 7, 2013, the applicant must return to the Planning Board. With regard to decommissioning of the existing pipe, the outlet structure on the Witherspoon Property shall provide for cutting off and removal of a portion of the pipe to a point where it is at least 6" below existing grade, and removal of the 3'x3' concrete block. The disturbed area shall be backfilled with topsoil, raked, seeded and stabilized. Additionally, the Applicant would grant to the Township a right of access to his property to install the swale/berm along Lot 11, and should the Township find it necessary, to draw upon the performance bond if the Applicant fails to complete this work.

**Motion** made by Mayor Bettina Bieri with a **second** by Councilman Luciano Signorino to approve the Sun Young Joo Major Soil Removal/Fill Permit #PB-05-12-05 to include all the conditions stated by Board Attorney Thomas Germinario.

**Roll Call:**

**Yes** – Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Andrew Gargano, Douglas Ott, Councilman Luciano Signorino, Chairman Geoffrey Syme.

**No** – None.

**Motion approved.**

## **MEMORIALIZATIONS**

### **RESOLUTION NO. 2013 - 5**

#### **AWOSTING ASSOCIATION INC.**

#### **Preliminary & Final Site Plan #0820-0320AB**

Block 4105; Lot 1

Long Pond Road; LR Zone

**Granted:** Preliminary and Final Site Plan approval for the construction of a new private lake community clubhouse.

Prior to memorialization of Resolution No. 2013-5, Chairman Geoffrey Syme advised that the Awosting Association resolution had been revised from the original draft based on comments provided by Paul Ferriero, P.E., with the language amended regarding the bonding, and changes to condition #24 requiring a pre-construction meeting prior to beginning site work and condition #27D requiring a performance guarantee with the MUA for any utility work.

**Motion** by Mayor Bettina Bieri with a **second** by Councilman Luciano Signorino to approve Resolution No. 2013-5 granting Preliminary & Final Site Plan Approval for the construction of a new private lake community clubhouse for Awosting Association Inc.

#### **Roll Call:**

**Yes** – Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Andrew Gargano, Councilman Luciano Signorino, Chairman Geoffrey Syme.

**No** – None.

**Motion approved.**

## **NEW BUSINESS**

None.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** - None.

## **BOARD PLANNER’S REPORT**

Chuck McGroarty, P.P. advised the Board that he received information from the Highlands regarding the Checklist Ordinance, and once approved, the Township will not have to adopt the entire Highlands Ordinance. He further advised that the Board will adopt the Re-exam Report, and modify the language to indicate that West Milford will be complying with the Checklist Ordinance. He noted that it will be ready for the February meeting.

**BOARD ATTORNEY’S REPORT** – None.

**BOARD ENGINEER’S REPORT** – None.

## **MISCELLANEOUS**

### **Approval Of Invoices – Board Professionals**

The invoices submitted by the Planning Board professionals for services performed during the month of October and November 2012 were **unanimously approved** on a **motion** by Mayor Bettina Bieri with a **second** by Douglas Ott.

## **MINUTES**

The Minutes from the September 27, 2012 Regular meeting were **approved** on a **motion** by Councilman Luciano Signorino with a **second** by Mayor Bettina Bieri.

***The following documents/correspondence were reviewed by the Board and filed:***

### **HIGHLANDS WATER PROTECTION AND PLANNING ACT**

1. Highlands Act – Exempt #4, Water Quality Management Plan – Consistent, received from the NJDEP dated November 29, 2012 regarding Surjit Singh, 555 Warwick Tpk., Block 703; Lot 3 for the demolition of an existing automobile service station, two service bays and a small office in order to construct a new building for use as a convenience store/office, the expansion of gas pumps from two to five, with a canopy proposed for the gas pumps.
2. Notification of submission to the NJDEP of a Highlands Applicability Determination Application, dated December 10, 2012, received from E2 Project Management LLC for Verizon Wireless – Ringwood 4, for the proposed construction of a 120-foot monopole with 12 wireless antennas and a 40 x 70 foot communication facility, equipment shelter, propane generator and tank to be located at 750 Westbrook Road, Block 4701; Lot 61.
3. Notice from the NJDEP, dated December 20, 2012, regarding Braemar [at West Milford LLC]-Greene Valley Estates, Wooley Road, Block 10001; Lots 14, 19, 20, 23, advising that the proposed subdivision remains “Exempt” under the Highlands Water Protection and Planning Act, and is “Consistent” with the Northeast Water Quality Management Plan.

## **NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION**

1. Notice dated December 14, 2012 from the NJDEP to Bald Eagle Village regarding the Pettet Pond Dam, NJDEP Dam File No. 22-293, finding the Operation and Maintenance Manual for the low hazard dam submitted to the DEP on November 19, 2012 to be acceptable, and advising that the next inspection is due in 2015.
2. Notice dated December 10, 2012 from the NJDEP to Forest Hill Park Homeowners Association regarding the Forest Hill Park Dam, NJDEP File No. 22-51, advising that a review of the inspection report and their existing records finds the dam to be in Satisfactory condition with minor repairs and maintenance needed, concurring with the findings of the report. All repairs and maintenance tasks are required to be completed by December 31, 2012, and regular inspection is required every two years for Class II dams.
3. No Further Action and Covenant Not To Sue Notification received from the NJDEP, dated November 28, 2012, regarding 60 Upper High Crest Drive, Block 13103; Lot 19, for the removal of one 550 gallon #2 Heating Oil UGST.
4. Extension of an Authorization for Freshwater Wetlands GP # 6 Water Quality Certificate and Waiver of Transition Area for Access received from the NJDEP, dated December 5, 2012, for Environmental Construction regarding Inwood Road, Block 12110; Lot 5.03 for the proposed construction of a single family home, with disturbance of 0.183 of an acre of isolated intermediate resource value wetlands.
5. Extension of an Authorization for Freshwater Wetlands GP # 6 Water Quality Certificate and Waiver of Transition Area for Access received from the NJDEP, dated December 5, 2012, for Environmental Construction regarding Inwood Road, Block 12110; Lot 3.01 for the proposed construction of a single family home, with disturbance of 0.006 of an acre of isolated intermediate resource value wetlands.
6. Authorization for a GP 25 dated December 4, 2012 received from the NJDEP regarding replacement of a malfunctioning septic system at 11 Bracken Road, Block 12102; Lot 7.
7. Notice of an application being submitted to the NJDEP by Careaga Engineering Inc for Surjit Singh, dated December 14, 2012, for a Freshwater Wetlands Letter of Interpretation (LOI) regarding the removal of an existing structure and construction of a new convenience store and septic system at Block 703; Lot 3, 555 Warwick Tpk, Hewitt, NJ.

## **CORRESPONDENCE**

1. Notification dated December 6, 2012 received from the Passaic County Planning Board regarding Inserra/West Milford - Shop Rite, 25 Marshall Hill Road, Block 6303; Lot 15 & 16, advising that approval of their site plan is withheld pending receipt of revised plans for numerous curbing, sign, pavement, and striping items, copy of a filed sidewalk easement between West Milford and Inserra to replace the 2009 draft, confirmation that the Highlands Determination is still valid, and right of way access permit.
2. HEPSCD notification, dated November 27, 2012, received for Inserra/West Milford–Shop Rite Expansion, Block 6303; Lots 15 & 16, advising that the revisions to the soil erosion and sediment control plan for the revised building areas meets the standards and the plan remains certified and valid through December 31, 1014.
3. Notice from ANJEC requesting a resolution of support for the Keep It Green coalition regarding their efforts for establishment of a dedicated source of state funding for open space.
4. Notice from ANJEC regarding Capital Day to be held on January 11, 2013 at 9:30 – 12:30 at the State House Annex, Trenton, NJ.

## **ADJOURNMENT**

Prior to adjourning, there was **consensus** by the Board to **cancel** the Regular Planning Board meeting scheduled for January 24, 2013. The next Regular meeting would be held on February 7, 2013.

With no further business to come before the Planning Board, a **motion** was made to **adjourn** the Regular Meeting of January 3, 2013 at 9:56 p.m. by Mayor Bettina Bieri with a **second** by Councilman Luciano Signorino.

Approved: May 23, 2013

Respectfully submitted by,

Tonya E. Cubby, Secretary