

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**January 7, 2010**

**Regular Meeting**

The Regular Meeting of the Planning Board was opened at 8:03 pm by Chairman Andrew Gargano, following the Reorganization Meeting, with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Richard McFadden, Douglas Ott, Geoffrey Syme, Alternates Michael Siesta and Thomas Harraka, Chairman Andrew Gargano, Board Attorney Thomas Germinario, Esq., Board Engineer John Hansen, P.E.

**Absent:** Councilman Philip Weisbecker, Board Planner Charles McGroarty, P.P.

Chairman Andrew Gargano requested that Michael Siesta sit on the Board for absent member Councilman Weisbecker.

**PUBLIC PORTION**

The Public Portion was opened by Chairman Gargano and the following addressed the Planning Board:

Mark Kleindeinst, Allison Avenue, approached the Planning Board and posed some questions with regard to the Richard Slifer matter. He advised the Board that Mr. Slifer has not made any progress on cleaning up the site, and that pile of debris still remain. He reminded the Board that a motion was made [for conditions] that expired on December 26, 2009. He inquired what Mr. Slifer would have to do if he continues with this site plan, and wants to move forward. He also inquired what would happen to the site if Mr. Slifer sells the property, and what the result would be for a new buyer. He surmised that the site may end up in Sherriff's sale.

Thomas Germinario, Board Attorney responded to Mr. Kleindeinst's inquiries by noting the current issues with regard to this matter, namely no compliance, and no escrow. Because Mr. Slifer did not report back to the Board regarding these issues, he is in violation. He advised that the Board Secretary should notify the Zoning Officer of non-compliance, and summonses will be issued for the violations that exist, resulting in the matter being remanded to court. The Chairman advised that the Planning Board is not an enforcement body, and the enforcement must come from the Zoning Officer. Mr. Germinario further advised that the existing violations on the property will make it difficult to sell. Mr. Kleindeinst observed that Mr. Slifer may be affected by the bad economy and he may not have the funds to complete the site plan, and he cannot do the work until the conditions are met. Mr. Germinario advised that it is up to the municipality to do the enforcement, and the Zoning Officer must work through the municipal court, adding that there will be a large liability as a result. Mayor Bieri inquired about the time extension, and Mr. Germinario replied that only a six-month extension was given for resolution compliance. Mr. Kleindeinst noted that no trucks have been moved on the site, and nothing had been done as previously agreed. Mr. Germinario advised that if a new purchaser takes ownership of the site, the Planning Board and Zoning Officer will try to work with them, adding that the "carrot and stick approach" has not worked up until now.

Brian Leet, 7 Allison Avenue, inquired about the time frame for enforcement on this matter. Mr. Germinario replied that the Board Secretary would notify the Zoning Officer of the non-compliance, so it should happen rather quickly, if the Board chooses to take this direction in the matter. Mr. Leet noted that the site is in disrepair, that the fence is falling down, mulch piles have not been moved, and nothing has been done to clean up the site.

Maryann Vermeullen, Allison Avenue, advised the Board that the matter has been continuing for 5 years, adding that she had been speaking with the former Planner frequently during that time, and when he left the Township she was in contact with the Zoning Officer, commenting that everyone seems to "pass the buck" on this matter. She noted that the residents were present at the Planning Board meeting in October to ask for assistance, and they request something be done to get the site to look decent. Mr. Germinario responded that the Board was hopeful that the sale of the property would take place, but due to the non-compliance, the Board must now go to punitive mode. Mrs. Vermeullen stated that Mr. Slifer had been to court previously and wondered if he had paid his fines from prior court appearances. Mr. Germinario advised that since the residents have been before the Township Council on this matter, he suggested that they go back to the governing body and ask that this matter be enforced, adding that the Zoning Officer is answerable to them. The Mayor concurred. She noted that the Planning Board had tried to foster a sale that, unfortunately, did not happen.

With no one else present wishing to address the Board, Chairman Gargano **closed** the public portion on a **motion** by Douglas Ott and a **second** by Steven Castronova.

Mr. Germinario recommended that the Board make a determination whether to direct the Secretary to notify Jim Lupo, Zoning Officer, with a copy to Kevin Boyle, Township Administrator, and Fred Semrau, Township Attorney, advising that the Board recommended that prompt and decisive enforcement action should be taken at this time for non-compliance of site plan requirements and

violations of the zoning ordinance. Mr. Germinario noted that the resolution granting extension of site plan approval, Resolution 2009-13, specifically stated that *on or before December 26, 2009, all requirements of Condition #3 of the Site Plan Approval Resolution [#2007-17] shall be fulfilled to the satisfaction of the Board Engineer. If all requirements of Condition #3 are not fulfilled by said date, absent a further extension granted by the Board, this extension approval shall become null and void, and the Site Plan Approval shall be deemed to have expired on May 24, 2009.* The Planning Board concurred with his recommendations. Chairman Gargano inquired whether the Buildings Standards Board should be notified, as several Township officials sit on this Board and, at the very least, it would be discussed. Mr. Germinario said that he would look into this and will check with Fred Semrau, but noted that the Buildings Standards Board might not have enforcement authority, and may just be an advisory board. Chairman Gargano also advised that Mr. Slifer was behind in his escrow payments and inquired whether a lien could be placed on the property. Mr. Germinario replied that Mr. Semrau will be apprised of the matter and can initiate action to have the municipal court impose fines. Mr. Germinario noted that his firm, as well as others, are owed monies for professional services on this matter.

**SITE PLAN APPLICATION REVIEW WAIVERS** – There are no site plan application review waivers.

**APPLICATIONS**

**TIME EXTENSIONS** – None.

**PENDING APPLICATIONS** – None.

**NEW APPLICATIONS** – None.

**NEW BUSINESS** – None.

**MEMORIALIZATIONS** – None.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** - None.

**PLANNING BOARD PLANNER'S REPORT** – None.

**PLANNING BOARD ATTORNEY'S REPORT**- None.

**PLANNING BOARD ENGINEER'S REPORT**- None.

**MISCELLANEOUS**

**Approval Of Invoices – Board Professionals**

Chairman Gargano advised, for the record, that Board Planner Chuck McGroarty had been contracted for \$15,000 and \$6,696.27 in charges were submitted for 2009. Board Attorney Thomas Germinario was contracted for \$13,000. and \$5,208. in charges were incurred. For litigation we contracted \$14,000. with Mr. Germinario and \$4,500. in charges were incurred. Paul Ferriero's contract for Board Engineering services was originally \$6,000., was increased to \$7,200., and will be \$7200. for 2010. Chairman Gargano thanked the Board Attorney and the other Board professionals for saving the Planning Board money by contacting him when there are light agendas and for not attending the meetings.

**Motion** by Mayor Bieri with a **second** by Steven Castronova to **approve** the invoices submitted and reflected on the November 2009 Invoice Report. The invoices were approved by unanimous consent.

Mayor Bieri inquired whether all the escrow accounts and invoices are reflected on the report and the Secretary replied that only the ones that charges were able to be paid against their accounts are on the report. She added that there are numerous other escrow accounts that may not have received charges in the past year because they may be incomplete applications and there are other applications with issues that are ongoing and these will be reflected on invoice reports only if there are charges against escrow. Michael Siesta requested that another column be added to the invoice report, noting the unpaid escrow invoices that are outstanding on an application. He specifically inquired about Mr. Slifer's escrow having \$12.50 remaining, but there was nothing on the report indicating what he currently owes for professional services. The Secretary will apprise the Land Use Administrator that the Board requested future reports to reflect paid and unpaid invoices received for escrow accounts.

**Subcommittee Reports**

**Master Plan Subcommittee** - None

**Ordinance Subcommittee** – Chairman Gargano requested that the Board Planner be notified to have windmill and sign ordinance drafts prepared for the Ordinance Committee meeting on January 28, 2010, scheduled at 5:30 pm.

**Building Design Subcommittee** – None.

**Site Plan Committee** – None.

## **MINUTES**

The minutes of the October 22, 2009 and December 3, 2009 Planning Board Regular Meetings were held until the next meeting.

### **The following were reviewed by the Planning Board and filed:**

## **COMMUNICATIONS**

1. NJ League of Municipalities notice dated November 25, 2009 regarding amendments to Inherently Beneficial Uses Legislation (S-1303/A-3062) – PL.2009, c. 146, adding to its definitions *inherently beneficial uses* – one that ‘fundamentally serves the public good and promotes the general welfare,’ giving examples of hospitals, schools, group homes, and wind, solar and photovoltaic energy facilities or structures.
2. Letter from Cabana & King, LLC, regarding E-JIF (Environmental Joint Insurance Fund) and claims for Upper Greenwood Lake Beaver Dam, noting that the claim is not covered under E-JIF as no discharge of hazardous substances were made to the lake.
3. NJ League of Municipalities notice dated December 2, 2009 advising that the FCC Adopted a Wireless Tower Siting Petition, setting municipal deadlines of 90 days for action on a wireless co-location application and 150 days for all other wireless applications.
4. Letter from Passaic County Planning Board dated December 8, 2009 regarding the Jack Jaust Site Plan review, Block 16005; Lot 12, 96 Oak Ridge Road, requiring approval from Newark Watershed for the discharge of stormwater across Newark’s property, and right of way access for relocation of the driveway before Passaic County will consider the plan for unconditional approval.
5. Hudson Essex Passaic Soil Conservation District Certification of Soil Erosion and Sediment Plan, valid for 3½ years, received December 11, 2009, submitted by the NJDEP regarding the removal of the dam at West Milford Lake, Block 5708; Lot 1.
6. Notice received on December 14, 2009 from Passaic County Board of Chosen Freeholders regarding the Passaic County Community Development Block Grant Award FY 2009 – award of \$100,000. for the Marshall Hill Sidewalk Improvement Program – Phase II.
7. Letter dated December 14, 2009 from the Township of West Milford Historic Preservation Commission to Vincent Lanza regarding Block 9501; Lot 12, Macopin Road – Vreeland Store site, advising that they had no objection to the relocation of the outbuildings on the site, and requested reassembling of the structures in their new location if they come apart during the move. The Commission also advised that the paint on the Vreeland Store building has begun to peel.
8. Memo dated December 16, 2009 from Kevin Boyle, the Township Administrator, advising of a Green Team Kickoff Meeting on January 11, 2010 at 7:30 pm at Town Hall.
9. Ordinance #2009-033 of the Township of West Milford, effective January 5, 2010 establishing a Lakes Committee with 9 members for two-year terms appointed by the Township Council, to meet monthly at West Milford Town Hall for the purpose of addressing any issue that may affect lake communities, and to strive to promote and protect lakes in the Township.

## **HIGHLANDSWATERPROTECTION&PLANNING ACT / NJ DEP CORRESPONDENCE**

1. Letter from the NJ DEP dated November 24, 2009 regarding the Township Wastewater Management Plan, advising of tools and grant money to assist in developing the plan, and requesting a Interim Plan until the Highland’s Plan conformance process is complete. Also attached was a grant application and Draft Scope of Work.
2. Notice of an application received November 18, 2009 from the Roman Catholic Diocese of Paterson of an application for a GP #18 for the reconstruction of a dam at Nosenzo Pond.
3. Private Potable Well Water Analysis notification to residents in the vicinity of Lukoil 57215 – 1367 Union Valley Road, Case # 89-08-01-0906, PI ID 009903, noting that the results of sampling taken 04-28-09 showed no compounds/elements exceeding standards (Maximum Contaminant Levels).
4. Flood Hazard Area Applicability Determination – “No written flood hazard area approval is required” – dated November 18, 2009, received from the NJDEP, regarding the installation of a subsurface septic system replacement for William Thayer, 11 Glenwood Road, Block 2609; Lot 1.
5. Flood Hazard Area Applicability Determination – “No written flood hazard area approval is required” – dated December 7, 2009, received from the NJDEP, regarding the installation of a subsurface septic system replacement for John Mileski, 12 Albertine Place, Block 16201; Lot 6.
6. Notification of an intent to file a multi permit application received on December 14, 2009 for Freshwater Wetlands GP #1, Coastal GP #23, Coastal Wetlands Permit, Flood Hazard Area Individual Permit, and Water Quality Certificate for JCP&L-Jersey Central Power and Light Company with regard to Vegetative Maintenance, Utility Infrastructure, Repair and Replacement Activities in 174 municipalities and 13 counties in New Jersey.
7. No Further Action – Covenant Not To Sue letter from the NJDEP, dated December 11, 2009, sent to Claus Neppel, 361 Lake Shore Drive, Block 2402; Lot 29 regarding the removal of a 550 gallon #2 Heating Oil Underground Storage Tank.

8. No Further Action letter from the NJDEP, dated December 14, 2009, sent to the West Milford M.U.A. regarding the removal of a 550-gallon underground diesel fuel tank from the site of the Greenbrook Well House No 2., Woodland Avenue.

9. Notice of Deficiency – Remedial Action Report received from the NJDEP, dated December 21, 2009, for Alaina Scala, 3 Crest Lake Road, Block 16701; Lot 8 with regard to remediation of the site and failure to conduct a remedial investigation of ground water when required, and failure to conduct necessary site investigation of building interiors. Compliance is required within 90 days.

10. Notice of intent to apply for a NJDEP general permit submitted by Dale and Glory Bracken, 23 Spruce Point Trail, Block 505; Lot 21, received on December 29, 2009.

11. Notice of Adopted Revision with regard to the Northeast Water Quality Management Plan received from the NJDEP dated December 18, 2009 for Shiloh Bible Camp, Block 6002; Lot 47.

12. Notice of Intent To Cancel the Highlands Applicability Determination and Water Quality Management Plan Consistency Determination application dated December 28, 2009 from the NJ DEP for David Koblitz, Block 8704; Lot 26, 225 Ridge Road, for failure to submit required documents with regard to a proposed sanitary sewer connection.

#### **ADJOURNMENT**

With no further business to come before the Board, the Planning Board meeting of January 7, 2010 **adjourned** at **8:40 pm** on a **motion** by Steven Castronova and a **second** by Douglas Ott.

Approved: March 4, 2010

Respectfully submitted by,

Tonya E. Cubby, Secretary