

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**January 23, 2020**

**Regular Meeting**

Following the annual Reorganization meeting, Chairman Christopher Garcia opened the January 23, 2020 regular meeting of the West Milford Planning Board at 7:25 p.m. with a reading of the Legal Notice.

**ROLL CALL**

**Present:** Steven Castronova, Linda Connolly, Councilwoman Ada Erik, Councilman Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Michael Chazukow, Board Planner Jessica Caldwell.

**Absent:** Michael DeJohn, Board Attorney Thomas J. Germinario, Board Engineer Paul Ferriero.

Chairman Christopher Garcia advised that a quorum was present to hold this regular meeting.

**PUBLIC PORTION**

The public portion was opened by Chairman Christopher Garcia. With no members of the public wishing to address the Board, the public portion was **closed** on a **motion** by Ada Erik with a **second** by James Rogers.

**APPLICATIONS** – None.

**PENDING APPLICATIONS** – None.

**MEMORIALIZATIONS**

**Resolution No. 2020-05**

**ENVIRONMENTAL CONSTRUCTION CO.**

**Extension of Minor Subdivision & Bulk Variance #PB-01-18-02**

Block 4106; Lot 1

99 Long Pond Road; LR Zone

**Granted:** Extension of Time to file deeds for the approved Minor Subdivision and Bulk Variance for the subdivision of an existing lot into two individual building lots for proposed single family dwellings.

**Motion** by Steven Castronova, with a **second** by Glenn Wenzel, to approve Resolution No. 2020-05.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Abstain:** Robert Nolan.

**Motion approved.**

**NEW OR ONGOING BUSINESS**

**Redevelopment Study – 1938 Union Valley Road** – Board Planner Jessica Caldwell reviewed the request from the Governing Body to prepare a study identifying a particular property, 1938 Union Valley Road, Block 6701; Lot 10, as an area in need of non-condemnation redevelopment. She reviewed the criteria under the Local Redevelopment and Housing Laws (LRHL), N.J.S.A. 40A:12A-1 et seq. This regulation provides tools to local municipalities to promote the process of redevelopment and rehabilitation, and allows incentives for improvements for certain properties, including commercial properties. Following the study, she noted that the next step in the process is for a redevelopment plan to be prepared. Chairman Christopher Garcia inquired if highlands redevelopment can be applied to this, as well as for several other properties in that section of the Township. Ms. Caldwell replied that she would look into it. Mr. Castronova inquired what the result would be if this is approved, and wondered why this particular site was chosen for a redevelopment area designation. Ms. Caldwell advised that the owner

may seek tax abatements, or a long term tax payment, or they may wish to re-zone. When the Board inquired how this began, she advised that it was under the direction of the Governing Body. Ada Erik commented that this redevelopment matter was considered by the Governing Body when the majority of the subject site was vacant, and the owner was having difficulty securing long term leases. Favorable discussions with Passaic County prompted the Township to consider this site, as well as others along this corridor, for redevelopment. Ms. Caldwell noted that the Governing Body may involve other parcels, but have initiated the process beginning with the 1938 Union Valley Road site. With regard to applying for a highlands redevelopment designation, Ms. Caldwell advised that this would be subsequent to a redevelopment plan being developed. Geoffrey Syme commented about his concern that the redevelopment projects are being addressed separately, and inquired whether the redevelopment process with the Township, County and Highlands could be simultaneous. Warren Gross suggested that the entire corridor should be re-zoned, and Mr. Castronova suggested that the area was re-zoned to Lake Commercial a number of years ago. Mr. Gross inquired whether a suburban or urban enterprise zone could be considered, and Ms. Caldwell noted that this would involve a federal designation and is usually for larger tracts, and highlands enterprise zones have not come into effect yet. By a consensus of the Board, Ms. Caldwell was requested to research the highlands redevelopment designations for the parcels of land along the Union Valley Road/Greenwood Lake Turnpike corridor, as well as the subject site.

**Highlands Economic Development Study** – Ms. Caldwell advised the Board that the Highlands Council provides grants for the preparation of a Highlands Economic Development Study that will be included as an element of the Township’s Master Plan. The plan is designed to encourage economic development within the Highlands designated areas, and will entail a study and market analysis which will include reviewing local businesses, expendable income, and the best business matches for the community. She noted that public outreach and involvement is required, with input from various sources and entities including focus groups, the Environmental Commission, Chamber of Commerce, and thriving businesses. Mr. Gross inquired if there is a limit for the total area included for economic development, and Ms. Caldwell observed that this would usually be applied to commercial areas, but there may be limited areas that could be included in a parcel exchange. One of the goals of the economic development study is to determine how redevelopment can be applied to underperforming areas.

**Ordinance 2020-001** - Commenting on the short term rental matter and Ordinance 2020-001 that was introduced by the Governing Body, Ms. Caldwell referred to her recent memo regarding same, and advised that following her review, she found that it was not inconsistent with the Master Plan. As noted in her memo, the short term rental use added to residential districts is a short term use of existing permitted residential uses, and similar to long term rentals, does not change the underlying use of a residential structure. She advised that the Board can transmit their recommendation to the Governing Body by memo.

Prior to leaving the meeting, Ms. Caldwell advised the Board that the Master Plan Committee should meet to begin discussions on the Highlands Economic Development Study, and a meeting was scheduled for February 27 at 6 pm, prior to the regular Board meeting on that same date.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL**

**Ordinance 2020-001 – Ordinance of the Township of West Milford, County of Passaic, State of New Jersey Amending Chapter 500 “Zoning”, Article III “Residential Districts” to Add Short Term Rentals as a Permitted Use.**

The Board continued to discuss Ordinance 2020-001 following the Board Planner’s departure from the meeting. Chairman Christopher Garcia requested a consensus of the Board regarding Ms. Caldwell’s recommendation that this ordinance was not inconsistent with the Master Plan. Glenn Wenzel advised that he did not concur with the findings that it is not inconsistent with the Master Plan and voiced his objection to the ordinance, noting that the ordinance permits short term rentals in residential zones, and this introduces a commercial use into the zone, so therefore, is not consistent with the Master Plan. He further maintained that allowing non-resident property owners to lease out properties for short terms rentals as a permitted use relinquishes control in the zone. He noted the difficulty in enforcing the regulations, adding that owner occupied rental units was a major difference from absentee owner rental units, and the issues that will arise will be magnified. Linda Connolly voiced her agreement with his comments. Chairman Garcia advised the Board that this matter has been thoroughly discussed and debated, and the

question that remains is “how to draw the line.” Mr. Wenzel provided comments on potential abuse issues at a property without a homeowner on site, and noted the Township does not have the staff to support regulation, oversight and enforcement for these properties. Mr. Wenzel opined that there are other zones in the Township that would be better suited to this use, but this ordinance essentially allows residential properties to exist as commercial uses. He observed that he sat as a landlord tenant judge for two years and saw many issues come before him when a landlord or property owner is not on site on a permanent basis.

Ada Erik remarked that the Governing Body discussed this short term rental matter over a long period of time, but after reviewing their options, they determined that they had to develop an ordinance, largely based on the pending matters that were before the municipal court. They included several changes to the ordinance that the Planning Board had initially provided to them, and the Acting Administrator reviewed ordinances in other towns and incorporated some of the changes into the final ordinance. Ms. Erik observed that the biggest impact may come from the \$500. fee, as well as and the stipulation that if the short term rental permit is lost due to infractions, it will be lost for one full year. The Board continued with their discussion on the short term rental Ordinance # 2019-020 that was in effect on December 24, 2019, the Ordinance 2020-001 referred by the Governing Body for a recommendation regarding consistency with the Master Plan, and possible amendments that can be recommended by the Board. The Board noted possible legal issues that can/will arise with or without an ordinance, potential well and septic issues, transient renters versus long term renters, and owner occupied short term rental dwellings. The Board members concurred that they could not reach a consensus on whether the Ordinance 2020-001 was not inconsistent with the Master Plan and proposed that the contents of the short term rental ordinance was more inconsistent than consistent with the Master Plan. The Board advised, that while they respect the expertise and recommendations of their Planner, they request additional time to further explore the matter and will make recommendations following their review. The members of the Board’s Ordinance Committee will meet in the coming months to re-examine the ordinance before making recommendations and the Board Attorney and Planner will be apprised of the Board members decision not to make a recommendation on Ordinance 2020-0001 at this time.

**BOARD PLANNER’S REPORT** – None.

**BOARD ATTORNEY’S REPORT** – None.

**BOARD ENGINEER’S REPORT** – None.

### **MISCELLANEOUS**

#### **Invoices**

The Board professional’s invoices for the months of November and December were **unanimously approved** on a **motion** by Ada Erik with a **second** by Warren Gross.

#### **MINUTES**

The Minutes from the December 19, 2019 regular meeting were **unanimously approved** by the Board members who were present at that meeting, on a **motion** by Steven Castronova and a **second** by James Rogers.

#### **CORRESPONDENCE RECEIVED:**

The following correspondence items were reviewed by the Board:

**Highlands Water Protection and Planning Act Correspondence** – None.

#### **NJ Department of Environmental Protection Correspondence**

1. HEPSCD certification of a Soil Erosion & Sediment Control Plan, dated November 25, 2019, received for the Upper Greenwood Lake POA, Block 2901; Lot 1, regarding lake dredging at the Boat Launch Cove, Bridge Cove and Witte Cove.
2. HEPSCD certification of a Soil Erosion & Sediment Control Plan, dated November 15, 2019, received for Oberer Single Family Septic Installation, 342 Germantown Rd, Block 14201; Lot 14.
3. HEPSCD certification of a Soil Erosion & Sediment Control Revised Plan, dated Nov. 25, 2019, received for Cutugno Soil Movement, 64 Vreeland Road, Block 8802; Lot 49.
4. Correspondence from the NJDEP, dated December 23, 2019, regarding the Dam Safety Report for Nosenzo Pond Dam, NJ Dam File #22-241, advising that the dam was found to

be in satisfactory condition based on the report of the Township Engineer. Recommended general maintenance and minor repair work can proceed without further approval.

5. NJDEP-Forestry Division – Annual Accomplishment Report Due 02-15-20.
6. Suspected Hazardous Substance Discharge, NJDEP Case #20-01-09-1248-34, received for the intersection of Westbrook Road and Morsetown Road.
7. NJDEP No Further Action Notification, dated January 6, 2020, received for Florey, 60 Upper Greenwood Road, Block 2403; Lot 4, regarding the removal of one 330 gallon #2 H.O. AST.
8. NJDEP No Further Action Notification, dated January 3, 2020, received for Wilmington Savings Fund Society, 16 Jefferson Street, Block 16002; Lot 4, regarding the removal of one 550 gallon #2 H.O. UST.
9. NJDEP No Further Action Notification, dated January 3, 2020, received for Wilmington Savings Fund Society, 16 Jefferson Street, Block 16002; Lot 4, regarding the removal of one 275 gallon #2 H.O. AST.
10. NJDEP-Dam Safety correspondence, dated January 6, 2020, regarding the Dam Safety Inspection Report for the High Crest Lake Dam, NJ Dam File No. 22-161, advising that the recent report from GZA GeoEnvironmental found the dam to be in POOR condition, with a dam safety permit application required by October 31, 2020 outlining how the deficiencies will be addressed.
11. Correspondence dated January 7, 2020 received from DuBois & Associates regarding applications being submitted to the NJDEP for a Freshwater Wetlands LOI-Line Verification, GP #11, Special Activity Transition Area Waiver, and Flood Hazard Area General Permit by Certification #8 for Kingwood Flex (Belchers Run), Block 6401; Lots 1 & 3, Union Valley Road.
12. Copy of correspondence sent to the NJDEP–Bureau of Solid Waste Compliance & Enforcement, from George Cascino, P.E., regarding a Notice of Violation for Kurt Renzland, 921 Burnt Meadow Rd, Block 6002; Block 39.02, for failing to obtain a Solid Waste Facility Permit per NJAC 7:26 2.8(f), advising that the owner may qualify for an exemption for sole generator Class B activities under NJAC 7:26A-1.4, Subsection 20.

### **Miscellaneous Correspondence**

1. Notification from Orange and Rockland Electric, dated December 2019, advising that Nelson Tree Service will be conducting tree trimming in various locations in the Township as part of the vegetative maintenance program.
2. Notification from the Greenwood Lake Commission regarding a special meeting to be held on January 22, 2020 at the West Milford Library at 5:00 pm to review the final report of the Greenwood Lake Water Quality Study completed by Princeton Hydro.
3. Greenwood Lake Drawdown Public Hearings on Jan. 13, 2020 at 7:00 pm at Camp Hope, 1792 Union Valley Road, West Milford, NJ and Feb. 10, 2020 at 7:00 pm at the Greenwood Lake American Legion, 40 Mountain Lakes Lane, Greenwood lake, NY 10925.
4. New Jersey Planner – November/December 2019.
5. New Jersey Planning Officials – Mandatory Training Sessions Spring 2020 Schedule.

### **ADJOURNMENT**

Prior to adjourning, the Board members reviewed the upcoming meeting dates and concurred that the February 6, 2020 meeting would be cancelled, and the next regular meeting would be held on February 27, 2020. The Master Plan Committee will meet with Board Planner Jessica Caldwell at 6:00 pm.

Chairman Garcia noted that the Board of Adjustment Annual Report is under review at this time and comments will be provided following the review. He will also follow up with Tim Slavin on the Forestry Management Plan issue regarding Newark Watershed properties.

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the regular meeting of January 23, 2020 at 8:50 p.m. on a **motion** made by Steven Castronova with a **second** by Glenn Wenzel.

Approved: February 27, 2020

Respectfully submitted by

Tonya E. Cubby, Secretary