

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

February 7, 2013

Regular Meeting

The Regular Meeting of the West Milford Planning Board was opened at **7:38 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 Planner Chuck McGroarty.

Absent: Robert Nolan, Michael Siesta, Glenn Wenzel, Board Attorney Thomas Germinario, Board Engineer Paul Ferriero/John Hansen, P.E.

Chairman Geoffrey Syme appointed Alternate Steven Castronova to sit on the Board for Robert Nolan 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:

Linda Connolly, 278 Wooley Road, recused herself as a Planning Board member and addressed the following as a resident of Wooley Road: Hydrofracking was not included in the aquifer testing ordinance and she requested that the matter be reviewed for possible amendment to the current ordinance, or prepare a new ordinance for consideration. Ms. Connolly noted that preventative measures must be considered with regard to this process to determine what can or cannot be done. She expressed concern that hydrofracking multiple wells in a small area could damage existing neighboring wells, and wanted the Township to look to the future and protect the water supplies.

Marsha Buttery, 291 Wooley Road, addressed the Board regarding a house at 315 Wooley Road, which is near the site of the new wells, and noted that the owner had hydrofracked the 800 foot well several times and they were still running out of water. She asserted that hydrofracking was a temporary fix and had spoken to the Health Dept. several times regarding the lack of water.

Doris Aaronson, 19 Bearfort Road, addressed the Board regarding the Braemar subdivision project, commenting that the ground at the Braemar site is dense, poorly fissured bedrock, and it was her opinion that the hydrofracking will provide more water yields for a period of time, but the previous testing indicated that the wells did not have good recovery. She noted that there was clay soil present and combined with the bedrock, precipitation runs off the surface instead of being absorbed into the aquifer. Ms. Aaronson stated that the details should be left for the hydrogeologist, but the Board should consider the comments being provided by the residents and thoroughly question the professionals when the applicant returns to the Board.

Richard Randazzo, 278 Wooley Road, addressed the Board regarding the Braemar subdivision, and stated that his understanding was that the applicant (Braemar) had to comply with the original conditions of their approval including getting the Highlands reinstated and following the well testing ordinance. He further commented that under the [aquifer] ordinance and original plan, the owner had to drill 5 wells and test one, and he expressed concern about the documentation and possible distortion of the findings if this was not being complied with by Braemar. With regard to trails, he noted that Braemar must also comply with the commitment to allow trail access in the conservation area surrounding the subdivision. Mr. Randazzo also stated that the plans submitted by Braemar were not legible, and the owner was required to submit new plans. He expressed that it was the Board's responsibility to compel the applicant to comply with the original conditions. Doris Aaronson distributed aquifer maps entitled "Bedrock Geology of West Milford" with the Planning Board Chairman's permission, and pointed out the area where the Braemar development is proposed, indicating glacial till and rock outcroppings which, she stated, would prevent precipitation from draining into the aquifer.

With no further requests to address the Planning Board, the Public Portion was **closed** on a **motion** by Mayor Bettina Bieri with a **second** by Douglas Ott.

APPLICATIONS

Extension Of Time for Board Decision

TRIPLE T CONSTRUCTION, LLC

Preliminary & Final Site Plan With Bulk Variance #PB-03-11-01

Block 6002; Lot 29

280 Marshall Hill Road; LMI Zone

Seeking: Granting 90-Day Extension of Time for the Board to render a decision on this matter granted by the applicant's attorney Richard Saunders, Esq. on January 29, 2013.

The Board was advised that the applicant, Triple T Construction LLC, was requesting approval of his 90-day time extension for the Board to render a decision on this pending application. Chuck McGroarty, Board Planner, noted that the applicant owes escrow and if they consider approving the extension, he suggested that they revise the 90 days to 60 days and request the applicant to appear before the Board with an update on the status of the site plan application. Chairman Geoffrey Syme

concurred with limiting the extension for a Board decision, noting that he had spoken to Thomas Germinario, Board Attorney, who advised that if the Board denied the application approval without prejudice, the applicant would have to resubmit as a new application. Board member Andrew Gargano observed that the applicant did not appear to be moving forward on the existing application. Mr. McGroarty noted that the Board could limit the time extension and request the applicant to come to the next meeting to give the Board some insight into the project's status. Board member Christopher Garcia questioned the lack of the applicant's responsiveness throughout the duration of this matter. Board member Douglas Ott opined that Triple T Construction be provided an extension on condition that he appear at the next Board meeting and also pay his overdue escrow. Councilman Lou Signorino suggested that the applicant be given 45 days or until the next Board meeting. Mr. McGroarty observed that the MLUL does not specify a time for extensions.

Following this discussion, a **motion** was made by Andrew Gargano, with a **second** by Christopher Garcia, to approve the extension for the Planning Board to render a decision on this matter until March 28, 2013, with the applicant being advised that he should appear before the Planning Board meeting to provide an update on the application as well as submit the overdue escrow.

Roll Call:

Yes: Steven Castronova, Linda Connolly, Christopher Garcia, Andrew Gargano, Douglas Ott, Councilman Luciano Signorino, Chairman Geoffrey Syme.

Recuse: Mayor Bettina Bieri

No: None.

Motion approved.

MEMORIALIZATIONS

RESOLUTION NO. 2013 - 7

SUN YOUNG JOO

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

Block 10402; Lot 12

55 Green Terrace Way; R-4 Zone

Granted: Conditional 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, requiring the installation of stormwater and soil erosion measures as specified on the approved plans.

Chairman Syme inquired if the Board members had any questions or comments prior to the adoption of the resolution approving the Major Soil Movement Permit for Sun Young Joo. Mr. Castronova inquired whether the applicant had complied with the conditions set by the Board at the January 2013 meeting and Chairman Syme confirmed that they had complied. Prior to the memorialization of the resolution, Chairman Syme opened this matter to the public for comment and the Board was addressed by the following:

Scott Witherspoon, 70 Green Terrace Way, thanked the Board for their efforts to impel the applicant and his professionals to comply with strict deadlines with regard to this application, and further noted that there has been a flurry of activity on Green Terrace Way recently. He referenced the Board Engineer's letters dated January 22, 2013 and January 30, 2013, specifically noting the condition that written confirmation was required from the owner of Block 10401; Lot 11 acknowledging that the surface material of the driveway apron was acceptable. Mr. Witherspoon advised the Board that the owner, Barbara Ziegler, was concerned about what was going to be done to her property since she had not been provided any information on the proposed plan. The applicant's engineer, Gerald Gardner, had agreed to contact the Ziegler's and get their approval of the proposed connection in the apron of their driveway, but they have only exchanged voice mail messages and have not met to discuss the matter. He inquired whether this will be an issue that could affect the project and the connection into the existing drainage easement. Chairman Syme responded that February 15, 2013 was the date to begin construction on the drainage pipe and it should not be an issue at this time. Mr. Witherspoon noted that the applicant's engineer advised him that the contractor for the project is the same contractor who brought the soil to the Joo's property without a soil movement permit.

With no further comments from the public, the public portion was **closed** on a **motion** by Steven Castronova and a **second** by Councilman Lou Signorino.

Motion made by Councilman Lou Signorino, with a **second** by Douglas Ott, to **approve** Resolution 2013-7 for a Major Soil Removal/Fill Permit With Conditions for Sun Young Joo, 55 Green Terrace Way, Block 10402; Lot 12.

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.

NEW BUSINESS

Revised R.O.S.I. (Recreation and Open Space Inventory) – Chuck McGroarty addressed the Board, advising that (TLC) The Land Conservancy had contracted with the Township to handle open space matters, and two years prior the Township was required to do an updated open space and recreation plan. Mr. McGroarty referred to a memo from The Land Conservancy and Township Administration requesting the

Planning Board to review the current list of open space and recreation properties prior to submission of the R.O.S.I. to NJ Green Acres, a pre-requisite for receiving funding for open space properties. Mr. McGroarty requested that the Board refrain from review and approval of the R.O.S.I. document until he has time to review the properties in question, adding that there should be more coordination and communication between the Township and outside consultants regarding these matters. He stated that once a property is included on the R.O.S.I. list, it is extremely difficult to remove, and he noted that several of the properties on the ROSI were included in the Affordable Housing and Fair Share Plan towards the Township's COAH obligation, including municipal property. Mr. McGroarty requested delaying the review and approval until he determines if some of the properties on the ROSI can be substituted for those already locked in. He advised that the COAH plan was done and submitted, and with the legal uncertainties with regard to the status of COAH, it was not advisable to alter the COAH plan. Mr. McGroarty further advised the Board that he will be at the COAH office the following week and will review the matter with them. Mayor Bettina Bieri commented that this matter was discussed at a recent Council meeting and Mr. McGroarty should get in contact with the Township Administrator or Township Attorney. The Board discussed the discrepancies in the document and Mr. McGroarty advised that he would also contact the Land Conservancy on this matter. Mayor Bieri inquired if the Board could approve the R.O.S.I. Inventory subject to the Township confirming that all is in order, and Mr. McGroarty responded that the Board should not approve it until everything has been clarified, since the inventory should also be included in the Master Plan. Mayor Bieri commented that if the Township needs to act sooner, a special meeting could be arranged. Following discussion, consensus by the Board to carry this matter to the next meeting on February 28, 2013.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL - None.

BOARD PLANNER'S REPORT – See below.

PRESENTATION

Master Plan Re-Exam Report – Chuck McGroarty addressed the Board regarding a Master Plan Re-Exam Report for the Township of West Milford, advising that formal notice was not required for the review and approval of the Master Plan Re-Exam Report, and that minor changes were provided by him to the Board for review. He further advised that the Master Plan Re-Exam Report was required as part of the Highlands Plan Conformance Process, noting that the Board had already adopted the Master Plan Element, and that typically, the Master Plan Re-Exam Report precedes this, but the Highlands Council drafted the plan and much could not be changed. Technically, he advised, the Board was changing the procedure from what was originally planned since the Highlands has determined that the Township would not be required to adopt the Highlands Preservation Ordinance as a companion to the Township's LDO (Land Development Ordinance) since the Township is entirely in the preservation area and a "Checklist Ordinance" is permitted. Mr. McGroarty clarified that any applicant who is non-exempt, or doesn't meet the requirements for exemption based on the checklist, must go to the NJDEP for a Highlands exemption or approval. He advised the Board that since the last Re-Exam Report in 2010, items that were addressed by the Township included re-zoning of sewer areas in the R1-PN Zone to R-4, wastewater management plan and stormwater management plans were prepared, and changes were made to the open space plan, all of which should be consistent with the Highlands Regional Master Plan. With regard to the Zoning Board of Adjustment recommending in their annual reports that the LR-Lake Residential zone requirements be considered for revision, Mr. McGroarty noted that it was not in the recommendation from their most recent annual report to the Governing Body, so the matter was not addressed.

Mr. McGroarty advised the Board that they need to continue with the Highlands Plan Conformance process with the adoption of the Re-Exam Report and then the adoption of the Checklist Ordinance. With regard to COAH, Mr. McGroarty recommended that the Township wait until the courts have issued a decision since it is likely that new rules will be written and have to be complied with. He emphasized that the revised spending plan was in place, so the Township is not in jeopardy of losing the COAH funds on account. Referencing the Checklist Ordinance, Mr. McGroarty noted that the Construction Official and Zoning Officer will have guidance on what will be exempt for local development, adding that the Highlands Council was conducting sessions with planners to determine what will work for the various towns that have plans in place. Mr. McGroarty advised the Board that the Township is on target and on schedule and he would provide a Checklist draft the following week to the Board for review. He requested that the Board hold their vote on the Master Plan Re-Exam Report until the next Board meeting and he will provide a clean copy for review.

Doris Aaronson provided a list of comments following her review of the Master Plan Re-Exam Report and Mr. McGroarty addressed them as follows:

1. Regarding quotes from prior Master Plans, Mr. McGroarty advised that he cannot change what was written in prior documents and has to include in the Re-Exam Report what came before and what came after.
2. & 3. Sect 2.0, 89b and 89c – Mr. McGroarty noted that these were from the MLUL and cannot be changed.
4. Section 3.4 and 4.4 – Mr. McGroarty advised that this section was written by Paul Ferriero and are substantive comments to note where are they were and where they are now with regard to the wastewater management plan, but Mr. McGroarty noted that he would pass the comment on to Mr. Ferreiro and ask for a response.

5. Mr. Aaronson referenced PRC's recent purchase of Emerald Forest, south of Stowaway Park, and the potential for use as educational trails. Mr. McGroarty stressed that this was an example of the need to update the open space plan.
6. Mr. McGroarty advised that the streetscape comments would be forwarded to Paul Ferriero for review, adding that these were included in the 2010 MP Re-Exam Report.
7. Page 8 - Mr. McGroarty noted that this could not be changed since it describes the Highlands region and overlay zones. With regard to the West Milford Lake question, it would not be appropriate for this section of the document.
8. Mr. McGroarty took under advisement the comment regarding uses for brownfields sites as community gardens and pocket parks.
9. With regard to the comment on Section 4.6 – open space, Ms. Aaronson suggested that the document state that open space will be used to preserve groundwater supply, and noted that the forest, streams and lakes are a magnet for ecotourism that would include hiking trails, boat docks, biking trails and pervious parking areas.

Mr. McGroarty advised the Board that Ms. Aaronson's comments would be taken into account and included in the Master Plan Re-Exam Report where appropriate. Chairman Syme inquired if the Board had any comment on the Master Plan Re-Exam Report, and Mayor Bieri requested that the comments and suggestions discussed at the meeting be incorporated into the document for the Board to review and approve at the February 28, 2013 Board meeting.

Doris Aaronson remarked about a recent conversation with a Board member about the intentions of some of the Council members proposing to change the use of the open space funds to include recreation field maintenance, with a referendum being considered for November. Mayor Bieri corrected Ms. Aaronson's statement, advising that there was nothing specific about open space and field maintenance, but that options for maintaining open space are being considered, adding that this was not within the purview of the Planning Board and that the open space tax was the Council's jurisdiction. Mr. McGroarty advised that the Planning Board can only review ordinances and recommend changes, and commented on some of the matters that the ordinance subcommittee and the master plan subcommittee can address, including updating the Master Plan. The master plan subcommittee, consisting of Andrew Gargano, Doug Ott, Chris Garcia and Chairman Geoffrey Syme planned to meet on February 28, 2013 at 6:30 prior to the Planning Board meeting.

BOARD ATTORNEY'S REPORT – None.

BOARD ENGINEER'S REPORT – None.

MISCELLANEOUS

Hydrofracking and Aquifer Testing Ordinance - Andrew Gargano requested that Mr. Germinario review the well ordinance with regard to hydrofracking and Doug Ott suggested that the Board's hydrogeologist weigh in on the matter. The Board Secretary was directed to contact Mr. Germinario and Matt Mulhall of M2 regarding hydrofracking and possible amendments to the aquifer-testing ordinance.

Approval Of Invoices – Board Professionals

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

MINUTES

The Minutes from the October 25, 2013 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. Notice of Administrative Completeness dated January 3, 2013 for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination received for Verizon Wireless–Ringwood 4, regarding a proposed wireless telecommunication facility for property belonging to Jack Levkovitz, Block 4701; Lot 61, 750 Westbrook Road.
2. Notice of Technical Incompleteness dated January 15, 2013 for a Highlands Applicability and Water Quality Management Plan Consistency Determination received for John Vitale of Twins Realty Group, regarding a proposed site plan for Burnt Meadow Road, Block 3906; Lots 9 & 10 and Block 6002; Lot 39.01.
3. Highlands Exemption #2, WQMP – Consistent, dated January 16, 2013 received for Donald and Kathleen Davies, Rockburn Pass, Block 5003; Lot 9 for the construction of a 5-bedroom single family home on 6.84 acres.
4. Notification from the Highlands Council dated January 3, 2013 approving the Township of West Milford's request for Plan Conformance Grant Agreement Modifications and acknowledging the Township's decision to take the "checklist –Ordinance" approach to plan conformance.

NJ Department of Environmental Protection

1. Notice of an application dated January 4, 2013 for a Treatment Works Approval application received from Houser Engineering LLC regarding World for Christ Crusade Inc., 1005 Union Valley Road, Block 7701; Lot 11 for the construction of an on-site wastewater treatment and disposal system.
2. Private Portable Well Water Analysis dated December 17, 2012 received for GPS Enterprises (Old School Pub) located at 551 Warwick Tpk., Block 703; Lot 3, advising that water from this well is acceptable for drinking and other domestic uses.
3. Copy of an application for a GP 25 received January 28, 2013 for Janel Gallucci, 22 Banker Road, Block 1101; Lot 24 regarding an alteration of a septic disposal system with no change in use.

Correspondence

1. Notice of Public Meetings for Passaic County Parks Recreation and Open Space Master Plan received January 11, 2013.
2. Notice from the County of Passaic Department of Economic Development regarding Passaic Brownfields Meeting on January 16, 2013 at 3:00 at the Totowa Business Complex, featuring Anthony Bianchini of CPG regarding "A Sustainable Remedy for the Lower Passaic."
3. Memo dated January 11, 2013 from the Environmental Commission to the Township Administrator and Township Council requesting consideration of adoption of a resolution supporting sustainable NJ state funding for the preservation and stewardship of open space, parks, farmland and historic sites in New Jersey.
4. Fundamentals for Effective Environmental Commissions Workshop by ANJEC, March 2, 2013, Clifton NJ.

ADJOURNMENT

With no further business to come before the Planning Board, a **motion** was made to **adjourn** the Regular Meeting of February 7, 2013 at **9:20 p.m.** by Councilman Luciano Signorino with a **second** by Christopher Garcia.

Approved: May 23, 2013

Respectfully submitted by,

Tonya E. Cubby, Secretary