

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

February 7, 2019

Regular Meeting

Chairman Christopher Garcia opened the February 7, 2019 Regular Meeting of the West Milford Planning Board at 7:05 p.m. with a reading of the Legal Notice followed by the Pledge of Allegiance.

Prior to Roll Call, the oaths of public office were administered to the following: Ada Erik, Class I - Mayor's Designee, Steven Castronova - Class IV Member, Matthew Conlon - Class IV Alternate 1, Scott Leonescu - Class IV Alternate 2.

ROLL CALL

Present: Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, Councilman Luciano Signorino, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Matthew Conlon, Scott Leonescu.

Absent: Douglas Ott, Board Attorney Thomas Germinario, Board Engineer Paul Ferriero, Board Planner Jessica Caldwell.

Chairman Christopher Garcia requested Matthew Conlon to sit on the Board for Mr. Ott and advised that a quorum was present to hold this regular meeting. He further advised that the Board's professionals were excused from attending this meeting.

PUBLIC PORTION

The public portion was opened by Chairman Garcia. With no one present wishing to address the Board, the public portion was **closed** on a **motion** by Steven Castronova with a **second** by Councilman Lou Signorino.

APPLICATIONS

NEW APPLICATIONS – None.

PENDING APPLICATIONS – None.

MEMORIALIZATIONS – None.

ORDINANCES FOR INTRODUCTION –

Draft Ordinance for Discussion – **An Ordinance Amending and Supplementing Chapter 285, Entitled “Property Maintenance,” of the “Code of the Township of West Milford, New Jersey, “Regulating and Establishing Registration Requirements for Short-Term Rentals in the Township of West Milford, New Jersey.**

Chairman Garcia began the review of the revised short term rental draft ordinance by advising the Board and the members of the public that, due to the proliferation of Airbnbs (short term rentals) in the Township, the Board was requested to prepare a draft ordinance for consideration by the Governing Body. He noted that a newly revised draft had been prepared for the Board to review and comments and recommendation would be forwarded to the Board Planner and Township Attorney. Copies were also made available at this meeting for the public to review. Chairman Garcia suggested that the Board review the draft ordinance page by page, one section at a time. The following are the comments, inquiries and recommendations made by the Board:

Page 1 – Preface - no comments.

Page 2 – 285-13.A Purpose – no comments.

Page 3 – 285-13.C Definitions – Board member Steven Castronova commented on the “Owner Occupied” definition and inquired whether a tenant could rent out a site as an Airbnb. Chairman Garcia observed that they were reviewing the definitions at this time, not the stipulations in the ordinance.

Page 4 – 285-13.D Regulations – no comments.

Page 5 – 285-13.E – Clarification was requested regarding the term “owner/operator.” Board member Warren Gross inquired who would pay for the inspections by fire, health, etc. Board member Glenn Wenzel responded that the fee would cover the inspections that would be performed with in-house staff.

The Board discussed the registration fee, certificate of occupancy and inspections. Chairman Garcia stressed that anything that the Board proposed in this ordinance could be changed by the Governing Body. Board member Matthew Conlon noted that with a rental unit, a fire compliance is required each year, and inquired whether a separate certification would be required for a STR. Chairman Garcia remarked that a fire rental certification would be required. The Board requested that compliance with the fire inspections be noted in the ordinance.

Page 6 – 285-13.F - Mr. Castronova commented on #7 regarding renters not being permitted to park on the street and noted that some property owners do not have off-street parking. The Board suggested that this will require input from the Township Attorney. Chairman Garcia recommended that prevailing parking ordinances be required to apply. The Board concurred that language should be included in the off-street parking section that states “unless otherwise not available for the property owner.”

Page 7 – 285-13.F-g - Councilman Lou Signorino inquired about the requirement of the Township being named on the insurance certificate and was concerned that the Township was assuming more responsibility for a STR if they are named as additionally insured. Alternate 2 Board member Scott Leonescu remarked that generally with developments, which include roads and infrastructure, the Township is included as additionally insured to protect their interests. Councilman Signorino suggested that the Township should not be included as additionally insured in a private property rental venture. Board member Glenn Wenzel advised that this is a requirement to enable enforcement, and as an attorney and former judge who dealt with domestic and housing matters, it was very expensive to engage additional resources for enforcement. He added that the language in the ordinance provides a direct means to recoup expenses. Councilman Signorino understood the premise, but did not want less enforcement in one area and more in another and inquired if all rentals had this stipulation about the Township being additionally insured. Mr. Wenzel observed that if the STR ordinance is adopted, it would essentially be discarding zoning, so some protection for the Township is crucial. Chairman Garcia requested that the Board’s Attorney weigh in on this matter.

Page 8 – 285-13.H-b - Mr. Castronova inquired about the language noting one single STR contract at a time and clarification was requested from the Board Planner. The Board then suggested “section d or e” might be the area for including a note about the off-street parking availability. Under section 285-13.H e the Board requested numbers 1 and 2 to be clarified. Under 285-13.H-g Mr. Gross inquired about the total number of people who must be contacted in the event of an issue or complaint. Following discussion, the Board recommended that the ordinance should state the “owner and a responsible party.” Mr. Leonescu suggested that the ordinance language should make it clear that an agent is not a requirement. The Board discussed the requirement of the owner and responsible party being available 7 days a week, 24 hours a day, and whether that would be difficult for compliance. It was noted that the police would respond to a nuisance or noise complaint. Board member Ada Erik commented that with cell phones, most people can be contacted no matter where they are located.

Page 8 – 285-13.H-e – Following discussion, the Board recommended that a property delineation map should be included on the site of the STR property (survey, tax map, drawing) and that the owner should have a clear understanding of his property boundaries. The Board also recommended the STR tenant should acknowledge receipt of the property map and confirm that they have been made aware of the site boundaries.

Page 9 – 285-13.H-j - Councilman Signorino expressed concern about the “3 substantiated complaints” noted in the language and felt that it should note violations, otherwise it would be subject to the validity of the complaint. Mr. Leonescu inquired what the time period would be for the 3 complaints, and whether it would be cumulative or a set time period. The Board discussed domestic incidents and disagreements among renters and whether they should be included in the number of complaints. Mr. Leonescu noted that “Township Manager” should be replaced with “Township Administrator.” With regard to 285-13.H-i, Chairman Garcia requested that the Board Planner clarify whether all people will be subject to penalties and fines if they sublet, and also whether it applied to this section or the entire ordinance.

The Board discussed STR properties and lake associations, and following discussion, the Board suggested that the STRP be included in an amended zoning permit application since several of the lake associations are already required to be notified when an application is received for a zoning permit. The Board requested the advice of the Board Attorney with regard to notification to the lake associations and whether it should be a separate notification.

Chairman Garcia reported that the Board Attorney, Thomas Germinario, provided comments for the Board's consideration regarding the Draft Short Term Rental Ordinance, and advised that he found the draft legally sound and very thorough. He provided the following recommendation:

- The mediation option under 285-13.G(d) will involve expenses which will far exceed the registration fee. The Board may want to consider deleting this provision since it is not legally necessary.
- The Ordinance should refer to some penalty provision in the Township's Property Maintenance code for non-compliance.

The Board concurred with Mr. Germinario's recommendations. Chairman Garcia opened the Public Portion of this matter for comments and the following addressed the Board:

Michael Keiss – 68 Rocky Point Road – Mr. Keiss commented that the short term rental properties are often not owner occupied and the owners attempt to get as many rentals into the property as possible by adding more beds in the houses to generate more income. He wondered how this could be regulated.

Chris Lynch – 60 Old Lakeside Road So – Mr. Lynch referred to the first page of the ordinance and the term “legally permitted dwelling units” and observed that businesses such as this are not permitted in the lakeside residential zones, adding that if it is not stated that it is allowed, then it is not permitted. He noted that almost 80% or more of the houses listed as “airbnbs” are house owners, not homeowners, since most reside out of town. He felt that the Township was considering a new zoning category for a few people at the expense of most people in the Township. He raised the issue of fire inspections that are required for all rentals with violations up to \$1000. per day and expressed concern about the septic systems that are designed for a specific number of bedrooms with an estimated number of occupants, which would increase with the short term rentals. Mr. Lynch inquired why the Township would hastily create a new zoning category for renters, and suggested that it will cater to people from more affluent areas who are purchasing the properties for this use. Mr. Castronova commented that this short term rental matter has been going on for some time and the Township is trying to establish some regulations. Mr. Wenzel advised the audience that the Planning Board is not the Township Council and that they were requested to review this matter and draft a document that the Council will ultimately make a decision on.

Doris Berry – 44 Old Lakeside Road So – Ms. Berry addressed the Board and expressed that the revised draft appeared to promote “Airbnbs” and did not protect the people in the Township. She commented that a number of towns in Bergen County have banned the short term rentals and this ordinance should take the residents of this Township into consideration. Ms. Berry requested that further revisions be made to accommodate the residents who live adjacent or near the short term rental properties.

Ms. Cohen – 48 Old Lakeside Road So. – Ms. Cohen, noting her profession as a child psychologist, addressed the Board regarding issues with respect to children and women potentially being at risk for abuse and trauma by transient renters who may not have been vetted. She inquired why rentals would not be limited to 30 days minimum, and requested regulations that protected people, as well as inspections that verify that all the rules and regulations are posted in the rental units.

Ron Sherry – 31 Forest Lake Drive – Mr. Sherry addressed the Board regarding several bad experiences with short term rental property adjacent to his home. He noted that the owners do not reside in the house and it is available for rent 365 days a year, with two or three rentals a week. He also advised that there have been occasions when the owners of the rental property have had 30-40 people staying the in house at one time, so it is essentially a motel. He has had to park on the street because he could not get access to his own driveway.

With no one else requesting to address the Board on this matter, the public portion was **closed** on **motion** by Steven Castronova and a **second** by Councilman Signorino.

The Board made further comments regarding the short term rental matter, with Ada Erik suggesting that the draft ordinance seemed to protect the “law breaker” and noted that short term rentals is a business, and the ordinance promoted this business by establishing regulations. She expressed concern about the septic system issues and observed that the police will not be able to monitor all of the properties to insure that violations are not occurring. Councilman Signorino suggested that the revised ordinance did not seem to address the resident's complaints. Matt Conlon remarked that the Board was charged with developing a draft ordinance and they have done so, and although there were valid arguments on both sides, the Board was merely

complying with the direction from the Council. He and Mr. Castronova both expressed that septic issues will result in violations and affect the license to operate a STR facility. The Board discussed zoning and requested that the Board Attorney provide advice on whether this ordinance would require zoning amendments.

The Board Secretary was requested to review the comments and provide them to the Board Attorney and Board Planner for review and response. Chairman Garcia advised that there was no rush on this matter and that we were attempting to get collective feedback to minimize the concerns as best as possible. Councilman Signorino commented that this was not something that should be rushed. Mr. Conlon requested clarification on whether this would be creating a conditional use, and Mr. Wenzel felt that it would. Ada Erik advised that the Planning Board was creating a document that will be given to the Governing Body who will review it and provide more comments before it is returned to the Board for consideration and a recommendation before the Council will consider it for adoption. Chairman Garcia thanked the residents for attending the meeting and advised that the Board will continue to work diligently on this document until it is referred to the Township Council.

ORDINANCES REFERRED FROM COUNCIL – None.

BOARD PLANNER’S REPORT – None.

BOARD ATTORNEY’S REPORT – None.

BOARD ENGINEER’S REPORT – None.

NEW OR ONGOING BUSINESS

Inserra West Milford – Chairman Garcia advised that revised plans had been received from Inserra West Milford regarding the Shop Rite site. They have been reviewed by our Board Engineer, Paul Ferriero, who has recommended that these revisions do not require amended site plan approval from the Board. The revisions noted were soil conservation updates and certification, a timber sound barrier wall to be installed rather than vinyl, a retaining wall at the rear of the building will be reconstructed, curb and driveway replacement in the rear of the building, a flush curb will be extended at the entrance, and the curbed islands adjacent to Shop Rite will be modified to assist with vehicle turning. New impervious cover will increase from 2 ft to 26 ft, but this will be offset by the river stone being installed in the rear of the building. The Board concurred with Mr. Ferriero’s assessment of the revisions that were submitted.

MISCELLANEOUS

Invoices

The invoices for the Planning Board professionals for December 2018 and January 2019 were **unanimously approved** by the Board members who were present at the December and January meetings on a **motion** by Steven Castronova with a **second** by Warren Gross.

MINUTES

The Minutes from the January 3, 2019 Reorganization and Regular meetings were **unanimously approved** by the Board members who were present at that meeting, on a **motion** by Steven Castronova and a **second** by Warren Gross

CORRESPONDENCE RECEIVED:

The following correspondence items were reviewed and filed:

Highlands Water Protection and Planning Act Correspondence

1. None.

NJ Department of Environmental Protection Correspondence

1. Correspondence from the NJDEP – Division of Parks & Forestry, dated December 14, 2018, advising that the NNL Reforestation Grant #FS14-019 has expired and the grant agreement has been cancelled. Any unused funds remaining from the reforestation grant may be available for future reforestation projects through the NJ Urban & community Forestry Stewardship Program.

2. Suspected Hazardous Discharge notice received from the NJDEP, dated December 27, 2018, regarding Block 5901; Lot 9, 31 Mountain Circle North, with respect to removal of one 550 gallon UST, with clean up pending.
3. Suspected Hazardous Discharge notice received from the NJDEP, dated January 4, 2019, regarding Block 9302; Lot 1, Starlight Road, with respect to unknown green liquid material coating the bottom surface of the Nosenzo Pond.
4. Notification of a Remedial Action Report and Groundwater Remedial Action Permit Application, dated December 26, 2018, received from Envirotrac regarding Former Getty Station #56009, 2048 Rt. 23 N, Block 14104; Lot 2.
5. Notice of a 30 Day Extension to Pending Application for a Flood Hazard Area Individual Permit #FHA180001 received from the NJDEP, dated December 21, 2018, regarding Upper Greenwood Lake Property Owners Association, Block 2901; Lot 1.
6. Public Notification & Outreach correspondence, dated 12/26/18, received from Sunbeam Consultant, regarding Happy Landing Marina, 871 East Shore Road, Block 4401; Lot 1, PI#260825 advising of an environmental investigation/remediation at the subject site.
7. Freshwater Wetlands Warning Notice received from the NJDEP, dated November 2, 2018, regarding 151 Lincoln Avenue, Block 6403; Lot 1.01, advising of unauthorized activities within a freshwater wetlands transition area, specifically the placement of 400 s.f of impervious cover within a wetlands transition area for a foundation for a garage, and the placement of fill material within 600 s.f. of a wetlands transition area in the form of quarry process for a temporary road; necessary permits are required.
8. No Further Action letter received from the NJDEP, dated January 4, 2019, regarding the removal of one 550 gal #2 H.O. UST for 2 Lakeside Road, Block 3509; Lot 16.
9. Copy of an application for a General Permit #8 to the NJDEP from Eastern States Environmental Associates Inc., dated December 21, 2018, regarding the construction of a detached garage for Michael Darmstatter, 151 Lincoln Avenue, Block 6403; Lot 1.01.
10. Correspondence from Synergy Environmental Inc., dated January 21, 2019, requesting information regarding West Milford's current and potential groundwater use with regard to Lakeside Amoco, 2 Lakeside Drive, Block 3509; Lot 16, NJDEP PI#012599.
11. No Further Action correspondence received from the NJDEP, dated January 24, 2019, regarding the removal of one 1000 gal #2 H.O. UST for 1038 Westbrook Road, Block 5009; Lot 17.
12. Notification from PSE&G, dated January 10, 2019, advising of an application to be submitted to NJDEP for a flood Hazard Area Individual Permit for the Maintenance of Existing Natural Gas Transmission Mains within the PSE&G Natural Gas Transmission System.
13. Correspondence from the NJDEP Division of Dam Safety & Flood Control, dated January 23, 2019, advising that the Dam Safety Report for Gordon Lakes Dam, NJ Dam File # 22-74, finds the dam in satisfactory condition with recommended maintenance to be undertaken without further approval of the division.
14. NJDEP FHA Individual Permit, FHA Verification, and FW Transition Area Reduction Waiver, dated January 9, 2019, received for Lakeland Bank, 250 Oak Ridge Road, Block 16502; Lot 3 regarding the proposed disturbance of 850 f of transition area for the reconfiguration and expansion of an existing parking area.
15. Freshwater Wetlands Letter of Interpretation: Line Verification, dated January 4, 2019, received for Lakeland Bank, 250 Oak Ridge Road, Block 16502; Lot 3, regarding the state open waters and/or freshwater wetlands on the referenced property.
16. NJDEP Dam Permit No. 1560, dated December 13, 2018, received for Bald Eagle Village, 1 Beacon Hill Road, Block 7801, granting permission to repair the Pettet Pond Dam including clearing the dam embankment of trees and woody vegetation, re-grading the downstream embankment, raising the concrete spillway wingwalls, repairing deteriorated portions of the concrete spillway structure and replacing the low level outlet

Miscellaneous Correspondence

1. New Jersey Planning Officials Winter-Spring Training Programs.

2. Copy of news article regarding Highlands Council purchase of 44 acres in West Milford Township for preservation.
3. ANJEC Newsletter.
4. New Jersey Forestry Association Annual Meeting & Member Program, New Jersey's Aging Forests: Consequences & Remedies, March 16, 2019, 8:30 am, Rutgers Cook Campus, registration required.

ADJOURNMENT

Prior to adjourning, Chairman Christopher Garcia advised that the next regular meetings were scheduled for February 28 and March 7, 2019. The Board Secretary will compile the comments expressed by the Board members at this meeting and send them to the Ordinance Committee and the Board Planner and Attorney for review for additional revisions to the draft ordinance.

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the regular meeting of February 7, 2019 at 9:20 p.m. on a **motion** made by Matt Conlon with a **second** by Councilman Lou Signorino.

Approved: March 7, 2019

Respectfully submitted by,

Tonya E. Cubby, Secretary