

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

MARCH 4, 2010

Regular Meeting

The Regular Meeting of the Planning Board was opened at 7:33 pm by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Steven Castronova, Linda Connolly, Christopher Garcia, Richard McFadden, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Board Planner Charles McGroarty, P.P.

Absent: Mayor Bettina Bieri, Michael Siesta, Thomas Harraka, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E./John Hansen, P.E.

PUBLIC PORTION

The Public Portion was opened by Chairman Gargano. With no one present wishing to address the Planning Board, Chairman Gargano **closed** the public portion on a **motion** by Douglas Ott and a **second** by Councilman Weisbecker.

SITE PLAN APPLICATION REVIEW WAIVERS – None.

APPLICATIONS

TIME EXTENSIONS

VINCENT LANZA

Minor Subdivision #0510-1976

Preliminary and Final Site Plan #0520-0219AB

Bulk Variance #0530-0718

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

Seeking: 6-Month Time Extension for Minor Subdivision and 1-year Time Extension for Final Site Plan Approvals.

Vincent Lanza, 40 Forest Lake Drive, appeared before the Planning Board to request a six month time extension for filing his minor subdivision deeds, and a one year time extension for final site plan approval for property located at 1383 Macopin Road, West Milford. He testified that he has been diligently pursuing the final approvals required as part of his conditions of his resolution of minor subdivision and site plan approval. He noted that he had submitted his final plans to Passaic County and is anticipating their approval. He further noted that there were some issues to be resolved with the Landscape Architect, Hakim Associates, and several other minor conditions to be met.

Motion by Councilman Philip Weisbecker with a **second** by Douglas Ott to **approve** a six month time extension, until September 5, 2010, for Vincent Lanza for Minor Subdivision Approval, and a motion to approve a one year time extension, until February 28, 2011, for Final Site Plan Approval for Block 9501; Lot 12, 1383 Macopin Road.

Roll Call: **Yes** - Steven Castronova, Linda Connolly, Christopher Garcia, Richard McFadden, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker.

No - Chairman Andrew Gargano.

PENDING APPLICATIONS – None.

NEW APPLICATIONS – None.

MEMORIALIZATIONS

RESOLUTION NO. 2010 - 05

VINCENT LANZA

Extension of Final Site Plan Approval

Preliminary & Final Site Plan#0520-0219AB

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

RESOLUTION NO. 2010 - 06

VINCENT LANZA

Extension of Minor Subdivision Approval

Minor Subdivision #0510-1976

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

Motion by Councilman Philip Weisbecker with a **second** by Steven Castronova to **approve** Resolution No. 2010-05 for a six month time extension, until September 5, 2010, for Minor Subdivision Approval, and Resolution No. 2010-06 for a one year time extension, until February 28, 2011 for Final Site Plan Approval for Vincent Lanza, Block 9501; Lot 12, 1383 Macopin Road.

Roll Call: **Yes** - Steven Castronova, Linda Connolly, Christopher Garcia, Richard McFadden, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker.
 No - Chairman Andrew Gargano.

NEW BUSINESS – None.

ORDINANCES FOR INTRODUCTION

Draft Wind Turbine Ordinance

Chuck McGroarty, Board Planner, reviewed a memo he had prepared for the Board as a result of the ordinance committee meeting, outlining the draft wind turbine ordinance, noting that the model for this ordinance was a recently enacted ordinance from Wayne Township. He added that the provisions of the ordinance deal with recent legislation in the state, but noted his concern with abandonment of equipment provisions that were not included in the ordinance. He continued that dealing with abandonment was problematic because it would be difficult to determine when a facility was not operating. He asked the Board to review the document and provide further comments. He also advised that he would be seeking comments from the Board Attorney and the Township Attorney.

Mr. McGroarty advised the Board that they were not under any obligation to develop an ordinance for wind turbines, and that if an ordinance was not in place, an applicant could install a wind turbine relying on the state ruling that it is inherently beneficial provided no negative criteria could be established. He added that it would be better to plan with an ordinance in place, but observed that there may not be much demand for this as the turbine units are quite expensive to install. Mr. McGroarty reviewed the R-4 zoning requirement for wind turbines. He noted that the Construction Official had questioned the 80 foot maximum for the wind turbine in areas where many trees heights exceeded 80 feet, adding that there was not enough information to determine standard tree lines.

Councilman Weisbecker advised Mr. McGroarty that he and Councilman Jurkovic had met with Newark Watershed representatives to discuss alternative and green energy sources, including solar and wind farms on the watershed property. He inquired whether this draft ordinance would address larger systems. Mr. McGroarty advised that the draft being discussed was for small residential sites, not farms, and that different standards would apply to a proposed site with multiple alternative energy structures. Councilman Weisbecker suggested more research into the issue, noting that the state may be encouraging solar or wind farms. Councilman Weisbecker then inquired whether multiple homeowners in a lake community could combine their properties and utilize a turbine for supplemental energy, to which Mr. McGroarty replied that it would be difficult, and a use variance may be required, in addition to cross easements. Steven Castronova inquired about property owners who are in an R-1 zone, with lot sizes consisting of more than one acre, and those in R-4 zones who may have less than 4 acres. The Board concurred that the language should be revised to state 4 acres or more required for a wind turbine, and if the lot size is smaller than required, the owner could apply for a variance. Mr. McGroarty advised that he will obtain information on wind farms and abandonment of units to include in the draft ordinance. The Chairman requested that the draft be sent to the Township Council and Environmental Commission for review and comments.

Draft Sign Ordinance

Board Planner Chuck McGroarty reviewed the proposed sign ordinance and memo that had been sent to the Board for review following a meeting with the ordinance committee. He noted that the Land Use Administrator and Zoning Officer had several suggestions that were considered and incorporated into the draft. He observed that the ordinance was somewhat complicated and he attempted to move components to one place, definitions in another, and standards in another. He brought attention to free standing signs that exist in the current sign ordinance, and noted the changes highlighted. Mr. McGroarty discussed projecting signs and distance from sidewalks, adding that the Zoning Officer suggested that signs projecting from buildings be equal to the setback for the principal structure. He observed that there were no clear distinctions for portable signs and temporary signs that would be permitted in different instances, and this needs to be researched further. He noted that temporary signs are an issue with the Chamber of Commerce, who want the standards relaxed. The Land Use Administrator had commented that it was not clear whether temporary signs would be permitted for consecutive days, or on certain days of the month, and how this would be monitored. The Board discussed portable signs, real estate signs, “sandwich board” signs, and off- site signs such as those used by lake associations. Councilman Weisbecker expressed concern about the existence of billboard signs and Mr. McGroarty commented that they are technically second principal uses. The Board discussed allowing the signs that exist to remain, but limiting billboards in highway commercial zones. As for language restrictions, he would add restrictions for language incorporated on the signs if the Board desires. Richard McFadden inquired how many more new signs could be constructed, and how many are “grandfathered”, adding that if there is only a limited amount that could be installed, or none at all, then there should be no need to establish restrictions. Councilman Weisbecker expressed his opposition to the billboards, but suggested that distance between the signs be increased to lessen the amount that could be installed. Councilman Weisbecker also requested that the ordinance language prohibit video and electronic signs, to which the Chairman cautioned that this might be challenged by businesses. Mr. McGroarty would review the suggestions, survey the existing signs, and incorporate new restrictions in the ordinance, if necessary.

The Board discussed temporary signs and sandwich board signs, and whether there would be exceptions for non-profits or Township organizations. They continued the discussion about signage at the various strip malls, and it was noted that proper signage at these sites would help eliminate the need for small sandwich board signs to advertise businesses. Chairman Gargano requested that the Chamber of Commerce receive another copy of the draft sign ordinance with a request for comments to be provided to the Planner.

ORDINANCES REFERRED FROM COUNCIL - None.

PLANNING BOARD PLANNER'S REPORT

Highlands Master Plan – Draft Housing Element and Fair Share Plan

Update on the Highlands Master Plan and COAH was provided by Chuck McGroarty. He reviewed the requirements of meeting prior round obligations. He advised of new legislation pending for COAH, but noted that the rules that are in place now must be followed until they are changed. After research and review he determined that prior round obligations for 98 units have been met. He also observed that due to Highlands' restrictions, our COAH obligations have been reduced to about 26 units. He reviewed the information that was obtained with assistance from the Building Dept. to determine actual growth from the commercial and residential sites that received Certificates of Occupancies. He said further review is needed, but he noted that the numbers required for compliance are much lower than anticipated.

On another matter, Chairman Gargano advised that the Township had just received approval from the NJ DEP and Highlands Council for the "redevelopment zone" site in addition to approval for a 25,000 square foot building to house the new library.

PLANNING BOARD ATTORNEY'S REPORT- None.

PLANNING BOARD ENGINEER'S REPORT- None.

MISCELLANEOUS

Approval of Invoices – Board Professionals

Motion by Steven Castronova with a **second** by Douglas Ott to **approve** the invoices submitted for the months of November and December 2009. The invoices were **approved by unanimous consent**.

Subcommittee Reports

Master Plan Subcommittee - None

Ordinance Subcommittee – It was noted that the Ordinance Committee may need to meet again to review revisions to the wind turbine and sign ordinances following comments received from other entities.

Building Design Subcommittee – None.

Site Plan Committee – None.

MINUTES

Motion by Steven Castronova with a **second** by Richard McFadden to **approve** the minutes of the October 22, 2009 Regular Meeting; Motion by Richard McFadden with a **second** by Linda Connolly to **approve** the minutes of the December 3, 2009 Regular Meeting; Motion by Richard McFadden with a **second** by Geoffrey Syme to **approve** the minutes of the January 7, 2010 Regular Meeting and the January 7, 2010 Reorganization Meeting. The minutes were **unanimously approved** through Roll Call by all eligible to vote for the respective meeting minutes.

The following were reviewed by the Planning Board and filed:

COMMUNICATIONS

1. Letter from Andrew Abdul, local business owner, dated January 26, 2010, requesting that the Township consider permitting sandwich board signs for local businesses to advertise their business when developing a new sign ordinance.
2. Response dated February 1, 2010 from the Township Administrator to Andrew Abdul's letter, advising that the Planning Board and staff are collaborating with the Chamber of Commerce in developing a new sign ordinance.
3. Notice of deadline (March 31, 2010) for submission of applications from ANJEC regarding 2010 Smart Growth Planning Grants for Municipalities.
4. Letter received January 11, 2010 from the Passaic County Planning Board regarding a site plan for Jack Jaust, Block 16005; Lot 12, 96 Oak Ridge Road, advising that permission from Newark Watershed to discharge stormwater across their property is the remaining condition that must be complied with, and also advising that a right of way access permit is required prior to relocating a driveway on a county road.
5. Notice from the HEPSCD dated January 20, 2010 certifying the soil erosion and sediment control plan for the Nozenzo Pond Dam improvements.

6. Notice from the HEPSCD dated January 29, 2010 certifying the soil erosion and sediment control plan for the Tennessee Gas Pipeline Co. 300 Line Project.

HIGHLANDS WATER PROTECTION & PLANNING ACT/NJ DEP CORRESPONDENCE

1. Notice dated February 16, 2010 from Tennessee Gas Pipeline of application to the NJDEP for a transition area waiver, individual freshwater wetlands permit, and an open water fill permit with regard to cutting and clearing of tress or other vegetation and installation of 15.98 miles of 30 inch diameter natural gas pipeline looping on Tennessee's existing 300 Line from Wantage Township in Sussex County to West Milford Township in Passaic County.

2. Notice dated February 4, 2010 from the NJDEP to the Roman Catholic Diocese of Paterson regarding the Nosenzo Pond Dam (NJDEP File No. 22-241), requiring the submission of further information and revisions with respect to the proposed segmented retaining wall, drain plans, and various other issues in relation to the dam rehabilitation.

3. Notice dated February 11, 2010 from the NJDEP (Dam File No. 22-129) to Brian Douglas, 25 Charissa Court, regarding the Carpi Lake Dam 2009 Regular Inspection Report and the 2009 Compliance Schedule, advising that an acceptable time schedule for maintenance and repairs had been prepared, and the owner has been ordered to retain the services of a NJ licensed professional engineer to perform studies and prepare plans and specification for the implementation of the recommendations in the November 22, 2009 inspection report.

4. Highlands Act - Agency Determination – Exemption #11 – received from the NJDEP, dated February 16, 2010, regarding the Tennessee Gas Pipeline 300 Line Project.

5. Authorization for a GP#25 dated February 8, 2010 received from the NJDEP for David & Glory Bracken for a septic repair at Block 505; Lot 21, 23 Spruce Point Trail.

5. Letter from the Highlands Council, dated February 4, 2010, regarding the Township of West Milford Petition for Plan Conformance, advising that the petition was Administratively Complete, and following the required posting, the process of substantive review will begin.

6. Notice from Andrzej Soljan, dated 01-28-10, regarding application for a GP#25 to construct a septic alteration with no expansion or change in use.

7. Notice from the NJDEP received January 4, 2010 – No Further Action – Covenant Not To Sue – with regard to George Steinham, 165 Maple Road, Block 10301; Lot 1, for the remediation of the site that contained a 1000 gallon #2 heating oil underground storage tank.

8. Notice from the NJDEP received December 29, 2010 – No Further Action – Covenant Not To Sue – with regard to William Banta, 312 Germantown road, Block 14201; Lot 10, for the remediation of the site that contained a 550 gallon #heating oil underground storage tank.

9. Notice from the NJDEP to the Township Health Dept., dated December 29, 2010, regarding 555 Warwick Tpk., Block 703; Lot 3, SBP Petroleum, advising that the water sampled at this site was not acceptable for drinking water purposes.

10. NJDEP Permit for Flood Hazard Area Verification and Individual Permit issued December 21, 2009 to Elaine Kramer for 715 East Shore Road, Block 4301; Lot 11 regarding the demolition and reconstruction of a single family residence, associated septic system, and removal of a shed, in an area partially in the flood hazard area of Greenwood Lake.

11. Notice of application being made to the NJDEP for a GP #25 received February 4, 2010 from Dianna Blankes, 30 Madelyn Avenue, Block 6603; Lot 17 regarding a septic alteration with no expansion or change in use in a wetlands transition area and flood zone.

ADJOURNMENT

With no further business to come before the Board, the Planning Board meeting of March 4, 2010 **adjourned** at **9:40 pm** on a **motion** by Douglas Ott and a **second** by Councilman Philip Weisbecker.

Approved: April 1, 2010

Respectfully submitted by,

Tonya E. Cubby, Secretary