

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**March 24, 2011**

**Regular Meeting**

The Regular Meeting of the Planning Board was opened at **7:34 pm** by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker, Michael Siesta, Steven Castronova, *Vacancy*, Chairman Andrew Gargano.

**Absent:** Mayor Bettina Bieri, Board Attorney Thomas Germinario, Esq., Board Planner Charles McGroarty, P.P., Board Engineer Paul Ferriero, P.E.

Chairman Andrew Gargano requested Planning Board Alternates Michael Siesta and Steven Castronova to sit on the Board for the *Vacancy* and in the absence of Mayor Bettina Bieri.

**PUBLIC PORTION**

Chairman Gargano opened the Public Portion of the meeting. With no one present wishing to address the Planning Board, the Public Portion was **closed** on a **motion** by Councilman Philip Weisbecker with a **second** by Michael Siesta.

**APPLICATIONS**

**NEW APPLICATIONS** – None.

**PENDING APPLICATIONS** – None.

**EXTENSION OF TIME**

**BROOKSIDE DEVELOPMENT, LLC**

**Extension of Time for Minor Subdivision & Bulk Variance #PB-04-10-03**

Block 14601; Lot 5 (5.01 & 5.02)

Union Valley Road; R-3 Zone

**Seeking:** Time Extension for Minor Subdivision Approval with Variance due to delays in securing approval from other governmental agencies.

**BROOKSIDE DEVELOPMENT LLC**

**Extension of Time for Minor Subdivision #PB-04-10-04**

Block 14601; Lot 6 (5.03 & 5.04)

Union Valley Road; R-3 Zone

**Seeking:** Time Extension for Minor Subdivision Approval due to delays in securing approval from other governmental agencies.

The applicant, George DeGraw, 6 Upper Lake Road, Oak Ridge, was present to address the Planning Board regarding his request for time extensions for filing his minor subdivision deeds for the above referenced lots. He thanked the Board for their timely review and approval of the minor subdivisions when he last appeared before the Board in August/September 2010. Mr. DeGraw stated that it had been seven years since he purchased the lots on Union Valley Road, and he had paid over \$110,000. in real estate taxes for property that the Township recognized as legally subdivided lots, but the Highlands/DEP did not, based on the date that the deeds had been filed for the first subdivision. This necessitated his return to the Planning Board for new subdivisions last year upon receipt of the Highlands Exemption Determination. He expressed his frustration in discovering that the Health Department required an updated or new Letter of Interpretation for the lots. He maintained that he had correspondence from the DEP that indicated it did not appear that he needed a new LOI due to his project's delay as he attempted to secure a Highlands Exemption. He said that the matter had been reviewed and discussed at length with various entities including his engineer, Mark Palus, P.E., the Township Health Department, and several staff members of the DEP, but eventually it was determined that he was required to file for a new LOI. Councilman Weisbecker inquired about the LOI, and Mr. DeGraw replied that he had documentation from the DEP that indicated that no new LOI was necessary, even though he eventually filed for an update. Mr. Weisbecker requested that a copy of this documentation be provided to the Board Secretary and the Board. Chairman Gargano inquired about the length of the extension the applicant requested and Mr. DeGraw replied that a six-month extension should be sufficient to get his deeds filed, adding that the DEP has assured him that a site visit and inspection of his properties will take place as soon as the snow has melted.

**Motion** by Michael Siesta with a **second** by Douglas Ott to **approve** Extensions of Time for Brookside Development LLC Minor Subdivisions #PB-04-10-03 and #PB-04-10-04, Block 14601; Lots 5 (5.01 & 5.02) and 6 (5.03 & 5.04) for a period of six months, or until September 24, 2011.

**Roll Call:** **Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
**No:** None.

**JACK JAUST**

**Extensions of Time for Preliminary & Final Site Plan #0520-0222AB**

**Variance #0530-0721**

Block 16005; Lot 12

96 Oak Ridge Road; CC Zone

**Seeking:** Time Extensions for Site Plan Approval due to delays in securing other governmental agency approvals.

Paul Califf, Esq., attorney for the applicant, and applicant Jack Jaust were present to address the Board regarding their request for three one-year time extensions for site plan approval. Mr. Califf briefly reviewed the sequence of events with regard to this application, advising that in 2005 his client had purchased a property adjoining his current business, but after he had it paved, he received a notice from the Township that a site plan approval was required for this site. Mr. Califf stated that site plan approval was received from the Planning Board on May 25, 2006, but conditions in the resolution required the applicant to secure approvals from the City of Newark and Passaic County due to the driveway and parking lot encroaching on a small portion of Newark Watershed property and the Passaic County right of way. The applicant was advised that Passaic County required Newark Watershed to give consent prior to their approval of the site plan. Mr. Jaust read a letter from his engineer that gave a timeline of the attempts to secure other governmental approvals. Councilman Weisbecker addressed Mr. Califf and admonished him for not coming to the Planning Board to seek time extensions during the last three years. Robert Nolan inquired about the consequences for the applicant if the Board did not grant approval for the three extensions and commented that the Board Attorney should be consulted. The Board Secretary provided an email to the Board Chairman from Board Attorney Thomas Germinario, dated February 22, 2011, advising that *“Under the MLUL N.J.S.A. 40:55D-52a, the Applicant can apply for up to 3 one-year extensions of a final site plan approval. Therefore, Jaust’s lawyer should request 3 one-year extensions retroactive to the expiration date 5/25/08. The Board would then have to grant these 3 extension requests prior to issuance of a Certificate of Occupancy.”*

**Motion** by Michael Siesta with a **second** by Douglas Ott to **approve** Three One-Year Extensions of Time for Final Site Plan Approval for Jack Jaust until May 25, 2011.

**Roll Call:** **Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
**No:** None.

**MEMORIALIZATIONS**

**RESOLUTION No. 2011 – 8**

**RESOLUTION No. 2011 – 9**

**BROOKSIDE DEVELOPMENT, LLC**

**Extensions of Time For Filing Minor Subdivision Deeds Or Plat**

**Minor Subdivision Application Nos. PB-04-10-03 PB-04-10-04**

Block 14601; Lots 5 & 6

Union Valley Road; R-3

**Granted:** Extensions of Time for Brookside Development LLC Minor Subdivisions #PB-04-10-03 and #PB-04-10-04, Block 14601; Lots 5 (5.01 & 5.02) and 6 (5.03 & 5.04) for a period of six months, or until September 24, 2011 based upon the applicant’s need to secure an updated Letter of Interpretation from the NJDEP.

**Motion** by Michael Siesta with a **second** by Douglas Ott to **approve** Resolution No. 2011 – 8 and Resolution No. 2011 – 9 for Extensions of Time for Brookside Development LLC Minor Subdivisions #PB-04-10-03 and #PB-04-10-04, for a period of six months, or until September 24, 2011.

**Eligible to Vote Roll Call:**

**Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
**No:** None.

**RESOLUTION 2011 - 10**

**JACK JAUST**

**Extensions of Time for Final Site Plan Approval**

**Preliminary and Final site Plan #0520-0222AB**

**Variance #0530-0721**

Block 16005; Lot 12

96 Oak Ridge Road; CC Zone

**Granted:** Three One-Year Time Extensions for Site Plan Approval, until May 25, 2011, due to delays in securing legally required approvals from other governmental entities.

**Motion** by Michael Siesta with a **second** by Douglas Ott to **approve** Resolution 2011 –10 memorializing the approval of Three One-Year Extensions of Time for Final Site Plan Approval for Jack Jaust Final Site Plan.

**Eligible to Vote Roll Call:**

**Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.

**No:** None.

**RESOLUTION 2011-7**

**VINCENT LANZA**

**Extension of Time for Filing Minor Subdivision Deeds**

**Minor Subdivision #0510-1976**

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

**Granted:** Extension of Time for Minor Subdivision Approval for a period of six-months.

**Motion** by Councilman Philip Weisbecker with a **second** by Michael Siesta to **approve** Resolution No. 2011-7 approving the Extension of Time for Filing Minor Subdivision Deeds for Vincent Lanza, 1383 Macopin Road, Block 9501; Lot 12.

**Eligible to Vote Roll Call:**

**Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker.

**No:** None.

**NEW BUSINESS**

**Streetscape** – Steven Castronova expressed concern to the Board that the Streetscape project has not progressed and that the grant might expire, and he inquired if there were funds remaining to complete the project. The Board Secretary advised the Board that the approved concept plans had been provided to Passaic County for review, but she did not get notification of anything beyond that. Councilman Weisbecker commented that he received information in his Council packet regarding the lights that were chosen for the streetscape project, but nothing else with regard to sidewalks or the clock tower that the Board had approved. Following discussion, the Secretary was directed to contact Paul Ferriero, Township Planner, and Kevin Boyle, Township Administrator, to ascertain the status of the project for the next Planning Board meeting.

**Highlands** - Chairman Gargano reported to the Board that Planner Chuck McGroarty had advised that prior to completing any additional work on the Highlands Master Plan, additional funding from the Highlands will be required. Funds are available to Township's for additional work required for the Highlands Plan conformance in the amount of \$50,000.

**Passaic County Planning – Transportation Element of the County Master Plan** – The Secretary advised the Board that one of the Passaic County Planners will attend the Environmental Commission meeting on April 7, 2011 to present an overview of the Transportation Element of the County's Draft Master Plan.

**ORDINANCES FOR INTRODUCTION** - None.

**ORDINANCES REFERRED FROM COUNCIL** - None.

**BOARD PLANNER'S REPORT** - None.

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

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

**MISCELLANEOUS**

**Approval Of Invoices – Board Professionals**

The Board discussed the invoices and inquired whether the invoice report could reflect the total amount that the applicant has spent on escrow for each of the Board professionals. Robert Nolan expressed concern about applicants not having sufficient escrow for invoices to be paid in a timely manner. Chairman Gargano commented that prior to the invoice report, individual invoices were reviewed by the Board, but some of the invoices were not processed as efficiently as they are with the new procedures. Mr. Nolan commented that ultimately the responsibility lies with the Administrator, and it was noted that one applicant had not submitted escrow payment and was seriously delinquent. Michael Siesta reviewed the report and suggested that the columns are labeled incorrectly and requested that one be re-labeled to state *Running Total* instead of *YTD*.

**Motion** by Councilman Philip Weisbecker with a **second** by Michael Siesta to **approve** payment of the invoices for the months of December 2010, January and February 2011.

**Roll Call:** **Yes:** Steven Castronova, Linda Connolly, Christopher Garcia, Robert Nolan (2011 Invoices), Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.

**Abstain:** Robert Nolan on 2010.

**No:** None.

## **MINUTES**

Following discussion by the Board, a **motion** was made by Robert Nolan, with a **second** by Councilman Philip Weisbecker, to **table** the approval of the Minutes from the December 2, 2010 and January 6, 2011 Planning Board meetings to allow more time for review of the minutes.

**Roll Call:**   **Yes:** Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
**No:** None.

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

## **COMMUNICATIONS**

1. Notice from the Township Clerk's Office advising of the Township Volunteer of the Year Program on April 20, 2011, and requesting nominations no later than March 18, 2011.
2. Notice from ANJEC announcing a program entitled Assessing Development Impacts – considering State Regulations in Plan Review, March 30, 2011, 7pm – 9pm Clifton City Hall, Clifton, NJ sponsored by the Clifton Environmental Commission.
3. Letter from Maser Consulting, Clinton, NJ, dated February 24, 2011, regarding the Braemar at West Milford, LLC subdivision, transmitting the Aquifer Test Plan Addendum to the previously submitted plan dated November 2010, for Block 10001; Lots 14, 19, 20, 23, Wooley Road.
4. Letter from Kevin Boyle, Township Administrator, dated March 1, 2011, transmitting the Quarterly Report to ANJEC for the 2010 Smart Growth Planning Grant for a Trails Master Plan.
5. Notice dated February 25, 2011 regarding eligibility for the 2011 Small Grants Program from the NJ Highlands Coalition for non-profit organizations.
6. Notice from the Highlands Council dated February 22, 2011, advising of the adoption of a resolution approving the Township's Petition for Plan Conformance.

## **HIGHLANDS WATER PROTECTION & PLANNING ACT / NJ DEP CORRESPONDENCE**

1. Letter from Whitestone Associates dated February 21, 2011 advising of an intent to submit a Treatment Works Application (TWA) for 2019 Greenwood Lake Turnpike, Block 3603; Lot 7 for Adelo Corporation for the construction of an on-site wastewater treatment and disposal system alteration.
2. Notice of submission by SAIC, Exton, PA, dated February 28, 2011, of a Required Receptor Evaluation Form and associated documents for Chevron Facility, 1457 Union Valley Road, Block 7601; Lot 2, West Milford, NJ, NJ DEP Case #85-05-2004-00 with regard to site contamination.
3. Notice from the NJDEP, dated February 7, 2011, to the City of Newark regarding Hank's Pond Dam, NJ File # 22-242, advising of various concerns with regard to the permit application and final design documents and requesting revisions to the report by May 31, 2011.
4. Notice of submission by BETTS, Environmental Services, dated February 23, 2011, of a Required Initial Receptor Evaluation Form and associated documents for Fredericks Fuel & Heating Service, 225 Oak Ridge Road, Block 16102; Lot 29, Oak Ridge, NJ, NJ DEP Case #91-10-08-1457 with regard to site contamination.
5. Highlands Exemption – Exemption #2 and Water Quality Management Plan - Consistent, dated March 7, 2011, received for INSERRA/West Milford LLC – Single Family Residence, 47 Marshall Hill Road; Block 6303; Lot 12, regarding the construction of a four bedroom single family home with an individual subsurface sewage disposal system and private well.
6. No Further Action Letter dated March 3, 2011 for Block 11002; Lot 21, 85 Broadway, David Lindroth, regarding remedial action taken for the removal of one 550 gallon #2 Fuel Oil underground storage tank.
7. Notice of Deficiency received from the NJDEP, dated March 3, 2011, regarding a Remedial Action Report (RAR) deficiency for 22 Navajo Trail, advising that specific documentation on the soil excavated is required within 60 days.
8. Notice to Camp Vacamas from the NJ DEP regarding the Henion Pond Dam, advising that the Conceptual Design of Rehabilitation received from Civil Dynamics was acceptable. In addition, emergency repairs performed on March 9, 2011 requires a report from their engineer by March 25, 2011 advising of the safe operating level and how it is to be maintained at the specified safe elevation, with a full Emergency Action Plan (EAP) required by April 11, 2011, and permits issued before any modifications are performed.
9. Notice of Violation received from the NJDEP, dated March 4, 2011, regarding David Hyland, 280 Otterhole road, Block 11601; Lot 9, regarding violations of the Freshwater Wetlands Protection Act for unauthorized regulated activities, specifically placement of a culvert and soil backfill within the channel of Post Brook disturbing a length of approximately 50', and requiring a restoration plan within 30 days.

10. Application copy for a Freshwater Wetlands G.P. #25 received on March 10, 2011 for Royce Knight, 19 Upper Mt. Glen Lake Drive, Block 11302; Lot 5 regarding installation of a subsurface sanitary disposal system.
11. Application notice regarding a Highlands Applicability Determination, dated March 7, 2011, from the City of Newark, for the Pequannock Water Treatment Plant Improvements, Route 23, Block 14101; Lot 1 and Block 14102; Lot 1.
12. Copy of a Receptor Evaluation Form and attachments received on March 7, 2011 for Kimber Petroleum Corp., 2 Lakeside Drive, Block 3509; Lot 16, regarding a remediation program for the site.
13. Copy of a Receptor Evaluation Form and attachments received on March 7, 2011 for Lukoil Station 57360, 1910 Union Valley Road, Hewitt, regarding a remediation program at the site.
14. Copy of a Treatment Works Approval Permit Application received on March 9, 2011 for Marion Plaza, 16/22 Marshall Hill Road, Block 5701; Lot 6 regarding construction of a proposed treatment system consisting of septic tanks, a grease trap, and a SeptiTech Aerobic Treatment system with an expanded seepage pit.

#### **ADJOURNMENT**

Prior to adjourning, Chairman Gargano advised that the Workshop Meeting scheduled for the following week (April 7, 2011) may be cancelled if the Board Planner does not have any business for the Board's review. Members were requested to check their emails in the event of cancellation.

With no further business to come before the Board, Chairman Andrew Gargano **adjourned** the March 24, 2011 Regular Meeting of the West Milford Planning Board at **8:33 pm** on a **motion** by Councilman Philip Weisbecker with a **second** by Robert Nolan.

Approved: June 23, 2011

Respectfully submitted by,

Tonya E. Cubby, Secretary