

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**April 5, 2012**

**Regular Meeting**

The Regular Meeting of the Planning Board was opened at **7:33 p.m.** by Chairman Geoffrey Syme with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Linda Connolly, Christopher Garcia, Andrew Gargano, Robert Nolan, Douglas Ott, Councilman Luciano Signorino, *Vacancy*, Alternate Steven Castronova, Chairman Geoffrey Syme, Board Attorney Thomas Germinario, Board Planner Charles McGroarty, P.P., Board Engineer Paul Ferriero, P.E.

**Absent:** Alternate Michael Siesta.

Alternate Steven Castronova was requested to sit on the Board in the vacant position.

**PUBLIC PORTION**

Chairman Geoffrey Syme opened the Public Portion of the meeting and the following addressed the Board:

Richard Randazzo, Wooley Road – Mr. Randazzo approached the Board and distributed a statement to the Board members, which he proceeded to read into the record:

I have concerns that the purpose and intent of the Water Ordinance is being circumvented, specifically, Section 1, paragraph A. This section outlines which applications must demonstrate adequate water supply. The ordinance states that developments of four or more new lots or dwelling units must comply with the ordinance.

The Braemar/Greene Valley was a clustered application. Currently it is closed. Please comment on or confirm the following:

1. Does the application revert back to 4 lots, #14, 19, 20, 23?
2. If so, are these lots now zoned R-3 and R-4?
3. The applicant is in the process of obtaining a Certificate of Occupancy for the house on lot 19, 220 Wooley Road. Will the Water Ordinance be enforced?
4. Is lot 19 being separated from the other 3 lots? If so, what department or board governs the process? If only three lots remain will the application still need to follow the ordinance? My concern is that by separating the lots the ordinance been circumvented. Can the Planning Board require an applicant to conform to the ordinance as a condition of approval if the number of lots is under 4?
5. The Town Council recently passed Ordinance 2012-004, a conservation easement for lot 19. Is the area affected by the easement now township property? If so, it is possible that the lot size does not conform to the zoning for that area.
6. There are new spray paint markings (arrows) and wetland delineation ribbons on Virginia Lane. Is this in preparation of additional wells, well testing or houses?
7. As per the DEP, riparian setbacks are 300' for all wetlands. Will the application be required to follow the setbacks if/when additional homes are built?
8. I and my neighbors have requested from the Planning Board and Braemar, LLC the monitoring data taken from our wells. At a previous Planning Board meeting I was told this information could not be requested by the Board since the application is closed. If all of the above is being done, why can't that the Board request the data now?

Thomas Germinario, Board Attorney, responded to Mr. Randazzo's comments, advising him that he has a fundamental misconception about the lots in questions, noting that the lots existed prior to the subdivision. With regard to the final subdivision, Mr. Germinario stated that there was no application for Lot 19 since it was an existing lot. With regard to the water [aquifer testing] ordinance, only those lots that are created after the ordinance are affected by the ordinance. Mr. Randazzo maintained that the house on Wooley Road was illegal, and Mr. Ferriero attempted to clarify the justification for Lot 19 and the dwelling, noting that it was in existence when the permits were issued, adding that the aquifer ordinance always applies when there is a proposed subdivision of 4 or more lots. Mr. Randazzo inquired about the new survey markings that he has witnessed and questioned whether the applicant can do well testing on the lots. Mr. Germinario responded that the applicant could since it is his property, especially if he intends to come back to the Board, which he believes that they will. Mr. Randazzo inquired about setbacks in the wetlands buffer area, and Mr. Ferriero identified the types of buffers that could apply, noting that if the applicant were exempt, none of Highlands regulations would apply. He then explained that there were 17 exemptions under the Highland's Act, and if a development complies with the requirements, they will be exempt. Mr. Randazzo reiterated his request for the well data, and Mr. Germinario responded that the Board did not have the information and could not provide it. With regard to the house on Wooley Road with which the applicant had submitted an application for a certificate of occupancy, Mr. Ferriero assured the Board that all required items were completed prior to consideration for the C.O., adding that if the applicant chooses to move forward with the dwelling on Virginia Lane, they will have to comply in all areas where required for consideration of a C.O.

Doris Aaronson, 19 Bearfort Road inquired whether the Randazzo's could take this matter to small claims court for compensation, and Mr. Germinario responded that her question was not a Planning Board matter.

With no one else present wishing to address the Planning Board on any matter of concern, the Public Portion was **closed** on a **motion** by Robert Nolan with a **second** by Andrew Gargano.

**PRESENTATIONS** – None.

### **APPLICATIONS**

**EXTENSIONS OF TIME** - None.

### **PENDING APPLICATIONS**

#### **TRIPLE T CONSTRUCTION, LLC**

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

Block 6002; Lot 29

280 Marshall Hill Road; LMI Zone

**Status:** Matter carried. Additional 60-day time extension granted by applicant.

Chairman Syme advised the Board that this matter was carried; the applicant had provided an additional 60-day extension of time to render a decision, or until June 2, 2012.

### **NEW APPLICATIONS**

#### **OAK RIDGE ROAD ASSOCIATES, LLC**

#### **Preliminary /Final Site Plan #PB-11-11-04**

Block 15901; Lot 1

197 - 209 Oak Ridge Road; LMI

**Seeking:** Preliminary and Final Site Plan approval and consideration of waivers to construct a 21,916 s.f. parking lot in the LMI Zone, with variances for buffer and/or landscaping requirements under Ordinance §500-49.

Bernard Schwartz, manager of Oak Ridge Road Associates, LLC and licensed attorney in the State of New Jersey, appeared before the Board for the above referenced application, advising that he was acting as the attorney for the LLC, as well as a fact witness. Mr. Germinario advised Mr. Schwartz that there may be a problem with factual testimony, but consented to him proceeding. Mr. Schwartz stated that this matter dated back to 2005 when he came to the Planning Office and stated his intentions to install a parking lot at his commercial building site. At that time he was advised by former Planning Director William Drew that he should go to the Highlands Council prior to applying to the Planning Board for site plan approval for the new parking lot on a site with a 28,000 s.f. building. Mr. Schwartz advised that after several years and numerous revisions, he finally received approval from the Highlands for his redevelopment plan and subsequently submitted his application to the Planning Board.

Steve Eid, P.E., P.L.S., was sworn in as expert witness for the applicant in the fields of engineering and land surveying and qualified himself for the Board, noting that he has appeared before the Planning Board and Board of Adjustment for prior applications, and is a managing member of Ballester, Eid and Lapatka LLC located on Union Valley Road in West Milford. Beginning with Sheet 1, Mr. Eid reviewed the plans for the Board, identifying and describing the site as a 5+ acre site in the LMI Zone, with existing buildings on the site including a 1 story 28,000 s.f. main building, in addition to another building utilized by a auto repair business, as well as a former residential dwelling, and a parking area comprised of 37 spaces. Mr. Eid advised that the applicant has made application to the Passaic County Planning Board but they have issues with the entrance to the site, so they continue to work with them to effectuate an approval. Mr. Eid stated that the applicant has received approval from the Highlands for a redevelopment plan. He reviewed the proposed parking lot of the site plan that proposed 63 parking spaces, as well as storm drainage improvements. The lighting details were reviewed on sheet 3, including 12 parking spaces with 2 handicapped spaces to accommodate the tenants in the commercial building. With regard to the gravel drive, Mr. Eid testified that the drive was included in the calculations for the Highlands redevelopment plan approval, but it will not be utilized by the owner as an entrance or exit onto Oak Ridge Road due to the sight distance issues that exist. Mr. Eid reviewed Board Planner Chuck McGroarty's report with regard to the parking spaces at the auto repair facility on the site, and the applicant testified that he is hopeful that the tenant will comply and remove debris from the site so that the required parking spaces may be delineated, but the required parking for this portion of the site was not included in the zoning analysis. A discussion ensued with the applicant and his engineer regarding handicapped spaces for potential customers or employees, and their relation to the entrances and exits for the building. Mr. Eid agreed to review the plans to designate more handicapped spaces, noting that they know the plan is deficient in certain respects, but they were requesting input from both the Planning Board and the County and will make revisions based on the comments received. Mr. Germinario inquired if the applicant will be submitting revised plans for review, and if so, the Board could not give final approval at this hearing until the revisions have been submitted and reviewed. Mr. Eid advised that they will be submitting revised plans based on the testimony at this hearing.

Board member Robert Nolan inquired about the calculation differences on the plans submitted and those that were approved by the Highlands, and Board Engineer Paul Ferriero stated that the Township's impervious coverage calculations will be different from the Highland's calculations, and he

likened it to comparing apples to oranges. In response to Mr. Nolan's inquiry about where the employees are presently parking, Mr. Eid replied that they are parking in random locations on the site. Applicant Bernard Schwartz advised the Board that the landscaping waivers are no longer required since they are in compliance, adding that any plantings that the Board Planner recommends along Oak Ridge Road, they will comply with, although no other commercial sites on Oak Ridge Road have done so. Mr. McGroarty reviewed the ordinance requirements for design standards, noting that more islands will limit the area for required parking spaces, and the landscaping requirements can be met with more trees planted along the parking lot fronting the County Road. In response to an inquiry regarding parking for the general public, Mr. Schwartz advised that the building is divided for three separate tenants, with an RV repair business that may have customers parking on the site who need to purchase parts. A discussion followed regarding dumpsters, and Mr. McGroarty stressed that dumpsters were a site plan issue, and the Board advised that one central enclosed dumpster location was recommended, in addition to a suggestion that the dumpsters be bear proof. With regard to parking for large recreation vehicles (RV's), Mr. Ferreiro suggested a "Passenger Vehicles Only" sign to avoid any issues with the vehicles getting wedged in if they attempt to park at the rear of the site. He further commented that the applicant had to submit the site plan application based upon the confines of their Highland's approval, so if the applicant agrees with the Board professionals' comments regarding the site plan, there was no need to cover every detail of the site plan, especially since revisions will be necessary.

With regard to the Health Dept. comments, Mr. Eid advised that none of the new improvements include a new septic. He added that there is an existing older septic in the rear, which is pumped every three years, and a new system in the front for the large building. Chairman Geoffrey Syme inquired about the comment from Health with regard to the stormwater draining to the leach field, and Mr. Eid stated that stormwater drainage is downhill from the septic systems. With regard to the Police Dept. comments, Mr. Eid suggested that there was some confusion about the entrance to the site due to the lawn area that is indicated on the plan as a gravel area that was approved by the Highlands; this will not be used for ingress and egress. Mr. Eid reviewed the issues with Passaic County and what they are proposing versus what the County requests. Mr. Ferreiro advised the applicant to try to comply with the County's recommendations and not to go beyond the redevelopment area. Mr. Eid noted that the County has requested the Highland's approved gravel drive to be removed and the applicant is proposing to maintain it for emergency access. Mr. Ferreiro suggested chaining both ends of the drive. With regard to the Fire Bureau comments recommending striping the entrance to the site as a fire lane with no parking, the applicant agreed to comply with the Fire Bureau's recommendations. Mr. Schwartz advised the Board that if any of the details were missed, they will confer with the Board's professionals and address all the issues. With regard to the drainage design by Loscalzo Engineering, Mr. Ferreiro advised that the construction details that are required should be included on one sheet of the plan since this is what the Board signs off on.

Following the testimony that was presented to the Board for Oak Ridge Road Associates, Mr. Germinario advised that this matter would be carried to the May 24, 2012 Planning Board meeting. The applicant provided a 60-day extension of time for the Board to render a decision on this application.

**MEMORIALIZATIONS** – None.

### **NEW BUSINESS**

#### **Draft 2012 Periodic Re-examination Report of the Master Plan and Development Regulations**

Board Planner Chuck McGroarty advised the Board that the Re-Examination Report was being reviewed by the Board at this time in order to comply with Highlands Plan Conformance. He noted that this would be the first step in the master plan process, followed by the Highlands Master Plan Element and the regulation ordinance. He also advised that the Council will receive a checklist ordinance that he and Mr. Ferreiro will review. Mr. McGroarty further advised that, assuming there were no changes, the Board could approve the Re-Exam Report at the next meeting, adding that the Board Secretary will notify Passaic County and adjacent municipalities by certified mail as required by the MLUL. Mr. Germinario advised the Board that unless all the members have read the Re-Examination Report provided by Mr. McGroarty, this matter should be placed on the next agenda for a vote.

#### **Wastewater Management Plan**

Mr. Ferreiro reported on the Wastewater Management Plan, advising that he had conferred closely with the NJDEP and the Highlands, and the plan was currently under review, adding that with the Highlands interceding, they will assume some of the costs for the drafting of the plan. He noted that he would provide a copy of the W.M.P. to the Council and Planning Board for review.

#### **Review EC Comments on Environmental Resource Inventory**

Mr. McGroarty advised that upon receipt of the comments from the Environmental Commission, the Environmental Resource Inventory may be adopted by the Board. The Board Secretary advised that the Commission was provided with a copy of the ERI in January and she will reiterate the need for their review and comments for the Planning Board.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** - None.

**BOARD PLANNER’S REPORT**

**State Strategic Plan**

Board Planner Chuck McGroarty reported on the recently released Draft State Strategic Plan, advising the Board that the 43 page document, which was discussed at 6 public hearings around the State, was basically a guide for the State’s infrastructure, but it will defer to the Highlands legislation. With regard to West Milford, which is 100% in the preservation area, he advised that we have a priority classification, and new infrastructure will not be implemented because it is not consistent with the Highlands Master Plan. He added that if someone tried to encourage new growth in the preservation protection zone, it would not be approved since it would be contradictory with the Highlands plan. Mr. Ferreiro concurred with this, commenting that it should not have any impact on West Milford.

**COAH – Affordable Housing Update**

Mr. McGroarty advised that although the Governor had abolished COAH and the matter was going to be heard in court, affordable housing obligations for municipalities did not disappear, but that the methodology was merely invalidated. He reported that the Township has approximately \$57,000. in a housing trust fund and a housing element and spending plan is on file, but the funds would revert to the State if the monies are not spent or dedicated for a specific project. Mt. McGroarty advised that the Township is meeting with Habitat for Humanity regarding several municipally owned properties to determine if there may be a site suitable to construct an affordable housing unit, which would utilize the funds in the trust account. He was in the process of preparing the documents and had spoken to representatives with COAH earlier that day, and although they are in process of reviewing the spending plans submitted by the municipalities, they indicated that the direction West Milford is going is acceptable. The Board discussed the possible sites, approximate costs, and the reason for choosing Habitat for Humanity. Mr. McGroarty advised that another option would be New Bridge Services, but he noted that they usually operate with a larger budget, and since there were limited funds and timeframe to get this proposal completed, with the documents to be submitted by June, he felt that Habitat for Humanity was the best option. He noted that he has worked with them on other projects in different municipalities, and they will do all the required COAH screening, etc., as well as having access to other funds for the housing. He also advised that the property would be deed restricted and would count towards our affordable housing obligation.

**BOARD ATTORNEY’S REPORT**

**Draft Ordinance – Time Limits to Address for Completeness Items**

Board Attorney Thomas Germinario advised the Board that a draft ordinance regarding time limits for applicants to address incomplete items should be postponed at this time due to several matters that are currently pending which may be unduly affected by any new municipal legislation.

**BOARD ENGINEER’S REPORT**

**New Septic Regulations** - Board Engineer Paul Ferriero reported that new State septic regulations went into effect, with about 185 regulations, noting that it will create some issues with homeowners who may want to sell their homes, with substantial renovations required, as well as requiring new systems to be installed. Chairman Syme inquired if it will affect Planning Board applications, and Mr. Ferreiro replied that it usually wouldn’t affect the Board’s applicants.

**Streetscape** – Mr. Ferreiro reported that he plans to make a presentation to the Township Council on May 2, 2012 regarding the streetscape program. He advised that he met with the consultants from Dewberry and there are some new issues and policy decisions that need to be made by the Township.

**County Corridor Enhancement Fund** – Mr. Ferreiro reported that there were still funds remaining in the County Corridor Enhancement Fund. Board member Robert Nolan commented that he assumed Oak Ridge Road Associates would have to contribute to the fund since they are on a County road.

**APPROVAL OF INVOICES – BOARD PROFESSIONALS**

The Board reviewed the invoice report for the invoices submitted by the Planning Board professionals for services performed during the months of January and February 2012. The invoices were **unanimously approved** for payment on a **motion** by Andrew Gargano with a **second** by Robert Nolan.

**MINUTES**

The Minutes from the September 22, 2012 and February 23, 2012 Regular Meetings were not available for approval, but copies of the draft minutes were available upon request.

**MISCELLANEOUS**

The Board discussed the possible cancellation of the April 26, 2012 meeting. Board members will be notified in the event of a cancellation.

**The following documents were reviewed and filed:**

**HIGHLANDS WATER PROTECTION AND PLANNING ACT**

1. Copy of an application, received on February 22, 2012, for a Highlands Applicability and Water Quality Management Plan Consistency Determination received from Conklin Associates on behalf of the Awosting Association for the proposed construction of the "New Awosting Community Clubhouse" on Long Pond Road, Block 4105; Lot 1.
2. Highlands Act Exemption #4, Water Quality Management Plan – Consistent, dated March 23, 2012, from the NJDEP for Esco Products – Lee Steneken, 171 Oak Ridge Road, Block 15901; Lot 7 with regard to renovation of an existing attic into an office space on an existing commercial building, and proposed renovation of an existing bituminous parking area for a total of 29 parking spaces and dumpster pad.
3. Highlands Act Exemption #5, Water Quality Management Plan – Consistent, dated March 7, 2012, from the NJDEP for Joan DeFreest, 195 Awosting Road, Block 4016; Lot 1, regarding the abandonment of a failing septic system and connection to the collection system of the Awosting Sewage Treatment Plant.
4. Highlands Act Exemption #4, Water Quality Management Plan – Not Addressed, dated March 1, 2012, from the NJDEP for CK & Sons, Keith Haarmann, 909-911 Burnt Meadow Rd., Block 6002; Lots 41, 42, & 43, for the installation of a fence, landscaping, and removal of a concrete slab and excess gravel in driveway area for an existing storage and construction equipment site, with an existing residential structure.
5. Notice from the Township of Hardyston, dated March 5, 2012, advising that Hardyston is applying for a Highlands Resource Area Determination and Preservation Area Approval for the rehabilitation of an existing emergency services helicopter landing area for year round and night use, including installation of brick pavers on the take off/landing areas, remotely controlled landing lights and associated apparatus, extending the current driveway, and cutting tree tops for safe helicopter landings. Plans are available in the Hardyston Clerk's office, 149 Wheatsworth Road, Suite A, Hardyston, NJ 07419.

**NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION**

1. Authorization for Freshwater Wetlands G.P.25, Water Quality Certification, and Waiver of Transition Area for Access received from the NJDEP, dated February 13, 2012, for Block 17201; Lot 21, Ali Shamsji, 31 Cherry Ridge Road regarding the repair/replacement of a malfunctioning on-site ISSDS.
2. Application copy for a NJDEP Flood Hazard Area Individual Permit and Freshwater Wetlands GP #1 for Structure # 1600255, LaRue Rd. over Clinton Brook, Structure #1600460 Westbrook Road over West Brook regarding installation of scour protection at the sites.
3. Application received February 27, 2012 for a NJDEP Modified Freshwater Wetlands GP #2 for installation of New Natural Gas Distribution Mains in Public Rights of Way for the PSE&G Natural Gas Distribution System.
4. Receptor Evaluation Notice and original application received on February 27, 2012 from Petro Science regarding NJDEP Case # 05-02-14-1111-51, Gasgo Inc., 1850 Route 23, Block 13603; Lot 3 regarding an initial submission for site remediation.
5. Receptor Evaluation and Public Notice Submittal received on February 27, 2012 from BETTS Environmental Services Corporation for Westbrook Friendly Service, 1205 Westbrook Road, Block 10901; Lot 8, regarding site remediation.
6. Notice from the NJDEP dated March 19, 2012, regarding Camp Vacamas – Henion Pond Dam, NJ File No. 22-18, 256 Macopin Road, advising that the Emergency Action Plan (EAP) submitted in August 31, 2012 from Civil Dynamics was acceptable.
7. Flood Hazard Area Individual Permit, dated March 20, 2012 to March 20, 2017, received from the NJDEP for Elizabeth Walsh, 23 Louise Avenue, Block 5301; Lot 37 regarding the replacement of an existing septic system for a single family dwelling.
8. Copy of an NJDEP General Permit #10B application received from Hatch Mott MacDonald on behalf of Passaic County regarding the replacement of Clinton Road over Mossman's Brook (Bridge No. 1600-175).
9. Copy of an application for a Highlands Applicability Determination from E2 Project Management LLC, Rockaway, NJ on behalf of Verizon Wireless – Upper Greenwood Lake, 776 Warwick Tpk., Block 1701; Lot 59, regarding the construction of a 150kw emergency power back-up generator on existing impervious surface.
10. No Further Action Letter, dated March 14, 2012, received for the Estate of William Berkmeier, 67 Lake Park Terrace, Block 4201; Lot 4, regarding the removal of a 275 gallon No. 2 Fuel Oil UST.
11. Private Potable Well Water Analysis, received March 20, 2012 from the NJDEP regarding GPS Enterprises – Old School Pub, 551 Warwick Tpk., Block 703; Lot 3, in the vicinity of SB Petroleum, advising that the water obtained from the well and tested on January 25, 2012 is acceptable for drinking water and other domestic uses.

12. Copy of an application received on March 16, 2012 for a Freshwater Wetlands GP 25 for alteration of a septic system regarding 16 Jenkins Road, Block 1611; Lot 22.
13. Notice from the NJDEP, dated March 1, 2012, that the Upper and Lower Crest Lake Dams, which were found to be in poor condition, have submitted acceptable compliance schedules prepared by Civil Dynamics, with the exception of an Operation and Maintenance Manual for each dam that must be submitted by 12/31/12, as well as the Hazard Classification Study.
14. Copy of a letter to Emil Plunkett, 1 Lambert Road, from Hydrotechnology Consultants, dated March 7, 2012, requesting access to this property, on behalf of Adelo Corporation, for the purpose of conducting Vapor Intrusion Testing due to elevated levels of tetrachloroethere, trichloroethylene and vinyl chloride detected in ground water near this site.
15. Notification of application to the NJDEP from CH2MHILL on behalf of Tennessee Gas Pipeline Co., regarding a Freshwater Wetlands Individual Permit Authorization combined with a Flood Hazard Area Individual Permit for the pipeline construction – Loop 325.
16. Copy of an application for a General Permit #10A, received on March 9, 2012, from Amy Greene Environmental Consultant, for George DeBoer, 22 Madison Avenue, Block 7801; Lot 62, regarding disturbance of a portion of a wetlands transition area for a proposed driveway.

#### **CORRESPONDENCE**

1. Pequannock Post, April 2012, Volume 17, Issue 2.
2. Letter from the Greenwood Lake Commission requesting comment on their proposed purchase of 261 Lakeside Road, Block 3201; Lot 5, to be used as the GWL Commission Office. A portion of the funds will be requested from Green Acres.
3. Hudson Essex Passaic Soil Conservation District certification, dated February 8, 2012, for the JORBA- West Milford Pump Track, Lycosky Drive, Block 6002; Lot 28, with expiration 3.5 years from certification date.

#### **ADJOURNMENT**

With no further business to come before the Planning Board, a **motion** was made to **adjourn** the Regular Meeting of April 5, 2012 at **9:40 p.m.** by Andrew Gargano with a **second** by Robert Nolan.

Approved: August 23, 2012

Respectfully submitted by,

Tonya E. Cubby, Secretary