

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

**April 24, 2008
REGULAR MEETING**

The Regular meeting of the Township of West Milford Planning Board was called to order at 7:33 p.m. by Chairman Andrew Gargano, with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Alternate Michael Siesta, Planning Director William Drew, Board Attorney Thomas Germinario, Board Engineer Steve Bollio.

Absent: Chris Rosica, Alternate Dennis Kirwan.

The Chairman asked Michael Siesta to sit on the Board for Chris Rosica.

PUBLIC PORTION

With no one present wishing to address the Board, the Public Portion was closed by unanimous consent on a **motion** by Douglas Ott and a **second** by Michael Siesta.

SITE PLAN APPLICATION REVIEW WAIVER

ANDREW S. ABDUL

Site Plan Review Waiver #0820-0318W

Block 6701; Lot 10

1926 Union Valley Road; CC Zone

Board member Steven Castronova recused himself from this application.

Andrew Abdul appeared before the Board to give details with regard to his request for a site plan review waiver. He noted that his business would remain the same as the current business he is operating at another location, which includes the sale of silver jewelry, flags and gift items. William Drew, Board Planner, advised that there were no issues or concerns about the site the applicant planned to occupy, noting that it was a former jewelry store with a large parking area within a shopping center, and handicapped parking is provided. The applicant advised, after inquiry by the Board Attorney, that he will have some displays on the walkway in front of the store, and a Board member noted that there had been displays previously. The applicant replied in the negative when asked whether there would be any interference with pedestrian traffic. He would be the only employee at the site and he anticipated the same number of customers as the prior business. The applicant stated that he would be occupying the front section of a former jewelry store for a total of about 800 square feet. There were no further questions from the Board.

Motion by Douglas Ott with a **second** by Councilman Philip Weisbecker to **approve** the site plan application review waiver for Andrew Abdul for 1926 Union Valley Road, Block 6701; Lot 10 in the CC Zone.

Roll Call: Yes - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

Steven Castronova reconvened with the Board.

APPLICATIONS - CONTINUED

WOODWARD AND CORINNE BALL Complete: 12/24/07
Preliminary and Final Site Plan #0620-0253AB Deadline: 02/08/08
Block 16005; Lots 8 and 9 Extension: 05/31/08
25 Paradise Road; LMI Zone
Seeking Preliminary and Final Site Plan approval for various site improvements.

Thomas Germinario, Board Attorney, advised that the application has been carried until the May 22, 2008 meeting, adding that the applicant must submit an amendment to the application in order for the Planning Board to retain jurisdiction in this matter. He noted that the application, in its current state, will require a use variance. The Planning Director outlined the issues in his report to the Board dated April 16, 2008.

TIME EXTENSION REQUEST

ERNEST OBERER
Minor Subdivision #0510-1975
BLOCK 14201; LOTS 14 AND 15
350 Germantown Road; R-3 Zone
Seeking Time Extension to file Minor Subdivision deeds.

Joan Oberer, wife of the applicant, appeared before the Board to request an additional six (6) month time extension with which to file Minor Subdivision deeds due to their not having received a [Wetlands] Letter of Interpretation from the NJ DEP. The Board discussed the time request and noted that it may take longer, and therefore, a one (1) year extension was advisable. Mr. Drew noted that this was the first time extension request for this applicant.

Motion by Michael Siesta with a **second** by Councilman Philip Weisbecker to **approve** the Time Extension request for Ernest Oberer for filing Minor Subdivision deeds for one (1) year, or until March 15, 2009.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

NEW APPLICATIONS

WILLIAM AND DAWN GERVENS Complete: 04/03/08
Minor Subdivision #0810-1983 Deadline: 05/18/08
Block 15101; Lot 6
70 Coventry Road; R-4
Seeking Minor Subdivision for lot line adjustment.

Michael Siesta recused himself from this application.

Terence Corcoran, Esq., attorney for the applicant, was present to address the Board regarding this matter, noting that the application intends to change the property line between two existing lots. No new lots will be created, but five acres will be added onto the Gervens property. The Board Attorney asked about total lot conformity, to which Mr. Corcoran advised that there will be 10 acres on the Smith lot and 27 acres on the Gervens lot. The Board Engineer's letter of April 15, 2008 was referenced by Mr. Bollio, and Mr. Corcoran agreed that the items outlined would be addressed within the subdivision deeds that will be submitted to the Board Engineer and Attorney. The right of way dedication deed will also be submitted for review. The Board discussed whether Coventry Road was a Township road. Applicant, William Gervens, addressed the Board, stating that Coventry Road is a Township Road that runs through Newark Watershed, servicing only two residences, the Smith and Gervens properties. He also stated all improvements on Coventry Road were made by him. Mr. Corcoran noted that easements are not proposed for a path that exists between the two properties. Mr. Germinario inquired if 190 days would be sufficient time for filing the deeds, to which the applicant replied in the affirmative.

The application hearing was opened to the public. With no one present wishing to address this matter, the public portion was closed by unanimous consent.

Motion by Steven Castronova with a **second** by Councilman Philip Weisbecker to **approve** the Minor Subdivision for William and Dawn Gervens.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

The Chairman advised that Mr. Siesta reconvened with the Board.

MEMORIALIZATIONS

RESOLUTION NO. 2008-9
THOMAS A. CELANO
Minor Subdivision #0410-1960
Variance 0430-0669
Block 5309; Lots 1.01 & 1.02
Cahill Cross Road; R-2 Zone
Granted: Time Extension to file Minor Subdivision deeds.

Motion by Richard McFadden with a **second** by Douglas Ott to **approve** Resolution No. 2008-9 granting Thomas Celano a Time Extension in which to file Minor Subdivision deeds.

Roll Call: Yes - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

ORDINANCES REFERRED FROM COUNCIL

Ordinance 2008-018 – An Ordinance of the Township of West Milford, County of Passaic, State of New Jersey, Amending and Supplementing Chapter 414, “Fees, Land Development”, Section 414-2 “Soil Removal and Soil Fill Permits” of the Land Development Ordinance

Mr. Drew explained the ordinance language, noting that the existing ordinance was deficient in that escrow fees for Board professional reviews were not included with the application. This ordinance provides for an escrow account to pay for reviews by the Board professionals. He opined that the Board should recommend its adoption by the Township Council. The Township Attorney advised that this ordinance advances the goals of the Township Master Plan by providing funds for application reviews by Board professionals. Mr. Drew reviewed a prior application for major soil fill and removal and noted the numerous reviews that resulted from the application, adding that this ordinance would provide for escrow to cover the review fees. He explained the differences in minor and major soil fill or removal applications for Board members.

Motion by Councilman Philip Weisbecker with a **second** by Clinton Smith to **approve** Ordinance 2008-018.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

The Board Secretary was directed to advise the Township Clerk and Township Council via memo that the Board approved this ordinance and that it is consistent with the Township’s Master Plan.

REVIEW AND RECOMMENDATION –

Ordinance 2008-023

An Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey, Repealing Chapter 470, “Subdivision Of Land And Site Plan Review”, Section 470-69, “Development Fees For Affordable Housing”, Of The Land Development Ordinance And Replacing Same With A Newly Created Section 470-69 Entitled, “Mandatory Development Fees”

RESOLUTION 2008-10

Finding Master Plan Consistency

In The Matter Of Master Plan Consistency Determination For An Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey, Repealing Chapter 470, “Subdivision Of Land And Site Plan Review,” Section 470-69, “Development Fees For Affordable Housing,” Of The Land Development Ordinance And Replacing Same With A Newly Created Section 470-69 Entitled, “Mandatory Development Fees”

Mr. Germinario advised that he had been directed by the Township Attorney to review the following ordinance that deals with development fees and replace the existing ordinance with the provision that is before the Board. It follows the previous format, with key changes being the 1% residential development fee instead of the current 1/2%, and the introduction of a 2% non-residential development fee. Mr. Germinario advised that both are consistent with the third round COAH rules for development fees. The timing of payments is the same as in the previous ordinance. Mr. Drew declined to comment on this ordinance as it had just been provided to the Planning Department that afternoon and he did not have sufficient time to review the ordinance. Mr. Germinario advised that the Board has been asked to consider whether it is consistent with the Master Plan, and he advised that it is, as it generates revenue for development applications. Several Board members expressed concerns about the haste in adoption of this ordinance and questioned some of the content. Mr. Germinario advised that the Board did not generate this ordinance, and the Planning Board’s only legal responsibility with respect to ordinances is the determination of Master Plan consistency. He added that he had been asked to expedite this matter. The Mayor asked for legal guidance on the recommendation of ordinances. Mr. Germinario noted that the Planning Board can recommend ordinances at any time; that it is their prerogative to initiate recommendations. They cannot direct the governing body to adopt or change an ordinance. If time permits, ordinance drafts are provided to the Board for review and the process is completed over a period of time. The expediency in this matter is that the Township is potentially losing revenue by not having this ordinance in effect. He added that it is not improper for the Board to proceed in this manner.

Motion by Mayor Bettina Bieri with a **second** by Councilman Philip Weisbecker to **approve** Township Ordinance 2008-023 and adopt Resolution 2008-10.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - None.

PLANNING DIRECTOR’S REPORT

Mr. Drew advised the Planning Board that he has resigned from his position as Director of Planning for the Township of West Milford effective May 9, 2008. He commented that it has been a pleasure working with the various Boards over the past 17 years, he enjoyed his tenure with the Township, and thanked all the volunteers for their efforts in helping him perform his job.

The Chairman thanked Mr. Drew for all he has done for the Township. He noted that it is the now up to the Council to hire a new Planning Director.

PLANNING BOARD ATTORNEY’S REPORT

None.

MISCELLANEOUS

Invoices from Thomas Germinario, Esq. for services rendered for March 2008 and invoices from Michael Hakim for services rendered on Sunny Blue, LLC (Walgreen's) applications.

There was discussion by several Board members regarding the invoices submitted by Mr. Germinario. He advised that he will be more explicit in his details on the invoices, adding that he does not bill for work that he does not do. Several Board members commented that they wanted more clarification on certain charges.

Motion by Mayor Bettina Bieri with a **second** by Richard McFadden to **approve** the invoices for Thomas Germinario and Michael Hakim, with revisions to be provided by Mr. Germinario.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No - Councilman Philip Weisbecker (No on General charges).

MINUTES

Motion by Michael Siesta with a **second** by Richard McFadden to **approve** the Minutes of the February 28, 2008 Regular meeting.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Andrew Gargano.
No - None.
Abstain: Councilman Philip Weisbecker.

COMMUNICATIONS –

The following communications were noted and filed:

Smart Growth Planning Assistance Grant (ANJEC) – 2008 Application from Environmental Commission - \$7,500.00 requested – Water Quality Assessment Manual for Lake Communities.

Response from Planning Department dated April 11, 2008 to Linda Connelly regarding issues at Wooley Road.

Letter to Steven Honig, Esq. for Living Word Alliance Church dated April 11, 2008 regarding Planning Board's recommendations from April 3, 2008 Board meeting.

Letter from Passaic County Planning Board dated April 7, 2008 regarding Macopin Volunteer Fire Co. site plan for 1362 Macopin Road, listing conditions for their approval.

Memo from Historic Preservation Commission dated March 28, 2008 regarding damage at Wallisch Estates house due to heat not being on.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following was noted and filed:

Exemption Application from Frank and Charles Decker for a Highlands Applicability Determination for Block 6404; Lot 1.02, Greenwood Lake Turnpike.

EXECUTIVE SESSION

The Chairman read the following resolution into the record at 8:26 p.m.:

RESOLUTION NO. 2008 - 11

BE IT RESOLVED by the Planning Board of the Township of West Milford on this 24th day of April, 2008 that:

1. Prior to the conclusion of this Regular Meeting, the Township Planning Board shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section:
 - b. (7) Potential Litigation:
Development Fees
2. The time when the matters discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matters.

Motion by Councilman Philip Weisbecker with a **second** by Richard McFadden to **approve** Resolution No. 2008-11.

Roll Call: Yes - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Michael Siesta, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Councilman Andrew Gargano.
No - None.

Following Executive Session, the Planning Board meeting was called back to order by Chairman Gargano at 8:45 p.m. The Chairman advised that, on advice of Board Counsel, the next scheduled meeting for May 1, 2008 should be moved to May 8, 2008. All applicants will be notified and the date change will be advertised.

The Board **approved** the meeting date change by unanimous consent.

ADJOURNMENT

With no further business to come before the Board, **motion** by Chairman Gargano with a **second** by Councilman Philip Weisbecker to **adjourn** the April 24, 2008 Regular meeting of the Planning Board at 8:47 p.m. On a Voice Vote, all were in favor of adjourning.

Approved:

Respectfully submitted by

Tonya E. Cubby, Secretary