

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

May 22, 2008

REGULAR MEETING

The Regular meeting of the Township of West Milford Planning Board was called to order at 7:30 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, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E., Planning Consultant Charles McGroarty, P.P.

Absent: Richard McFadden, Michael Siesta, Dennis Kirwan.

APPOINTMENT OF BOARD PLANNER

Chairman Gargano announced that the first item of business was the appointment of Planning Board Planning Consultant. He asked Charles McGroarty, P.P. of Banisch Associates, Flemington, NJ to present his qualification to the Planning Board. Mr. McGroarty made a brief presentation about his qualifications, noting that he had been in the planning field for 20 years, 13 years with the Township of Mount Olive, in addition to work in Jersey City and with the Hackensack Meadowlands. He has worked primarily with municipal planning boards and zoning boards of adjustment. His firm includes 5 planners and a GIS specialist. A Board member inquired about his experience with the Highlands Council, and Mr. McGroarty replied that he is a consultant with Ringwood and has worked with Ringwood's Housing Element and Fair Share Plan, noting that Ringwood is a Township that is 100% in the Highlands. He has also worked with 2 other municipalities that are partially in the Highlands. The Mayor, who was present at the Township's interview with Mr. McGroarty, clarified that Mr. McGroarty rarely works with private developers, had been successful with several grants, had testified as an expert witness in litigation, and had experience writing zoning and land use ordinances. She stressed that COAH and the Master Plan were a priority for the Township.

RESOLUTION NO. 2008-16

A Resolution Of The Planning Board Of The Township Of West Milford, County Of Passaic And State Of New Jersey Authorizing The Award Of A Professional Services Contract Without Competitive Bidding To Charles McGroarty For The Position Of Planning Board Professional Planner For An Amount Not To Exceed \$15,000

Motion by Councilman Philip Weisbecker and a **second** by Steven Castronova to approve the adoption of Resolution No. 2008-16, awarding the contract for Planning Board Planning Consultant to Charles McGroarty, P.P. and Banisch Associates.

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

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 Mayor Bieri and a **second** by Councilman Weisbecker.

SITE PLAN APPLICATION REVIEW WAIVER

MARK LINDSAY AND TONY COVELLO
Site Plan Review Waiver #0820-0323W
Block 6002; Lot 29
280 Marshall Hill Road; LMI Zone

The applicant, Mark Lindsay, of West Milford, was present to address the Planning Board about his request for a site plan review waiver. He advised the Board that he intended to occupy the former Kemp Building on Marshall Hill Road and use it for flexible storage. The Chairman noted that the subject building had been vacant for years, was overgrown with weeds, and was a contaminated site. He commented that very little current information was provided for review of the waiver. Board Attorney, Thomas Germinario, advised that the site needed renovation and was listed by the DEP as a contaminated site. The applicant advised that he was having the soil and water tested. The Board Attorney noted that the proposed use was a significant change from the prior manufacturing use, adding that the former Planning Director had recommended a full site plan when the waiver was initially reviewed, especially due to the site being vacant for so many years. When asked if the applicant planned to pave the parking lot, the applicant answered in the affirmative. The Board Engineer concurred with the Board Attorney that the applicant needed a full site plan, noting that the overgrown condition of the site and inadequate parking were substantial issues to warrant submittal of a site plan.

Motion by Chris Rosica with a **second** by Mayor Bieri to deny the Site Plan Review Waiver for Mark Lindsay and Tonya Covello and require the applicant to apply for a full site plan.

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

STEVEN E. BARKER
Site Plan Review Waiver #0820-0324W
Block 7520; Lot 1
1433 Union Valley Road; VC Zone

The following recused themselves from hearing this application: Mayor Bettina Bieri and Chairman Andrew Gargano.

The applicant, Steven Barker, of West Milford, was present to address the Planning Board regarding his site plan review waiver. Mr. Barker testified that he was proposing to establish a small garden center for the purpose of selling plants at the subject site. A tent would be erected initially, and plants would be stored at his home that is located three blocks from the site. The applicant advised that he would operate the garden center from April to December. The Board Attorney advised the applicant that garden centers were not a permitted use in the Village Commercial zone. Outdoor garden display and materials are prohibited in this zone; therefore the applicant requires a use variance from the Zoning Board of Adjustment. He stressed that this Board does not have jurisdiction, and that application must be made to the Board of Adjustment if the applicant wishes to proceed.

Motion to deny the Site Plan Review Waiver for Steven Barker by Chris Rosica with a **second** by Councilman Weisbecker.

Roll Call: **Yes** - Steven Castronova, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker.
 No - None.

GERALDINE MARZORATI
Site Plan Review Waiver #0820-0325W
Block 6401; Lot 1
1606A Union Valley Road; CC Zone

The following were recused from hearing this application: Steven Castronova.

Geraldine Marzoratti of Montague, NJ appeared before the Board to address her site plan application waiver request. The applicant advised the Board that she proposed establishing a hair salon in the prior Mr. V's hair salon. There would be no change in

use, with only a change in business owner and signage. A Board member inquired about the size of the signs, and the applicant replied that a larger sign would be in the front with a smaller sign in the back, both within the size allowed by the ordinance. Mr. Ferriero commented that he had not reviewed the sign ordinance, but that the signs would be subject to approval by the zoning officer. The Mayor inquired about the condition of the parking lot, and noted that repairs were needed. The owner of the property, Steven Castronova, addressed the Board regarding the site and stated that repairs were made to broken pipes that resulted in the several potholes that were currently present. He intends to repair the potholes, adding that he also stripes the parking spaces twice a year. He confirmed to the Board that he will repair the potholes in the parking lot.

Motion by Chris Rosica with a **second** by Douglas Ott to approve the site plan application review waiver for Geraldine Marzoratti on the condition that the zoning officer approves the signage being installed.

Roll Call: **Yes** - Mayor Bettina Bieri, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
 No – None.

NEW APPLICATIONS

MACOPIN VOLUNTEER FIRE CO.

Minor Site Plan #0820-0316

Block 9301; Lot 6

4 Black Sheep Lane; R-3

Seeking Minor Site Plan Approval to construct a 30 x 36 foot pavilion on a 36 x 42 foot concrete pad.

Jim Lindstrom and Joe Fiorella, both of West Milford, were present to address the Board regarding their application for a minor site plan for construction of a pavilion at the Macopin Fire House. The Board Attorney inquired about the proposed building and the applicant replied that it would be used only for in-house events (picnics) and they did not intend to rent the site out. The applicant also advised that the pavilion would be used in the winter to store a brush truck. The main purpose of the pavilion was to enhance the recreation area for the members of the firehouse and their families. There would be no increase in traffic flow. The Board Attorney inquired whether the applicant would agree to approval of the minor site plan application on the condition that the pavilion not be rented out. The applicant agreed, noting that it was never in their plans to rent the structure out. A Board member inquired about the parking area being paved and the applicant advised that it is partially paved and gravel. When asked about the Highlands exemption Mr. Ferriero, Board Engineer noted that he would research this and get back to the applicant. The applicant ascertained that there were no drainage issues with the site, adding that the site is relatively flat with a minor retaining wall. The applicant added that there would be no electric, and the structure would be prefabricated.

Motion by Councilman Philip Weisbecker with a **second** by Steven Castronova to approve the minor subdivision for Macopin Fire House with the conditions that this be used for Fire House members only and that the applicant comply with Highlands regulations.

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

MEMORIALIZATIONS

None.

ORDINANCES FOR INTRODUCTION

None.

ORDINANCES REFERRED FROM COUNCIL

The Ordinance Subcommittee agreed to meet the following week with the time and date to be determined, based on the availability of Rich McFadden, Township Engineer.

PLANNING DIRECTOR'S REPORT

The Board members welcomed the new Planner, Charles McGroarty, to the Board.

MISCELLANEOUS

Sustainable Design Planning Assistance Grant

The Chairman advised that he was not at liberty to discuss any details at this meeting, and that the grant would first be reviewed by the Design Standards subcommittee. The Chairman will confer with Rob Sparkes on the grant. Mr. Rosica stated that he had spoken with Mr. Sparkes and everything is on track.

Sunny Blue, LLC

Request received for amendment on size of canopy per letter from Bohler Engineering. The Board briefly discussed the matter. Mr. Ferreiro, the Board Engineer, will confer with the applicant's engineer, Larry Murphy of Bohler Engineering, and make a determination.

Property Maintenance at Walgreen's site

The Board Attorney noted that he will look into the matter.

Review of Resolution Compliance and Conditions of Approval

The Board Engineer was designated by the Board to confirm that all conditions are met in accordance with the memorializing resolution of application approvals.

Motion by Mayor Bieri to approve the Board Engineer, Paul Ferriero, as the professional who will review and confirm that all conditions are met on approved applications, with a **second** by Steven Castronova.

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

Award of Professional Service Contracts

Councilman Weisbecker inquired about Board professionals being hired without competitive bidding. Mr. Germinario advised the Board that award of professional service contracts without competitive bidding is within the law, and everything that the Board has done is in compliance.

Board Attorney Contract Amendment

Mayor Bieri reviewed the matter of the Board Attorney's contract and the need to do an amendment to the contract that has a not to exceed amount of \$10,000. Funds for litigation were not included in the original contract, so an additional amount of \$14,000. for litigation will be included, for a total contract of \$24,000.

Landscape Architect

On another matter, Michael Hakim of Hakim's Associates, contacted the Township about his concerns that the Township will no longer have a full time planner. He asked that the Township continue to use his services as the Planning Board's Landscape Architect. The Mayor advised him that a new planning consultant was being hired and that all current contracts with the Planning Board, including his, were valid until the end of December 2008.

Board Contact with Board Professionals

Chairman Gargano advised Board members to contact him as Chair or Geoffrey Syme as Vice Chair on Board matters, and asked that they not personally contact the Board professionals. The Chairman, Vice Chairman, Township Engineer, or Secretary will contact the professionals on Board issues, if necessary. Board matters should be brought to the meetings to be discussed in public, emergencies notwithstanding.

MASTER PLAN SUBCOMMITTEE

Nothing to report at this time.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

The Board reviewed the invoices for professional services from Thomas Germinario, Esq. and Michael Hakim of Hakim Associates.

Councilman Weisbecker asked for clarification on several attorney invoices regarding litigation. Mr. Germinario responded with regard to the TCR – Eagle Ridge matter, noting that there was research and preparation for oral arguments due to the appeal filed on the lower courts ruling that reversed denial of the subdivision approval. Mr. Weisbecker asked that more detail be included on the invoices so that the Board can better evaluate the submitted charges. Mr. Germinario agreed in the future to try to give more detail with respect to the invoices. A Board member inquired about the past due invoices, and the Township billing cycles were clarified. Invoices are submitted to the Board for approval before being submitted to the Treasurer's Office and Township Council for approval prior to payment.

Motion to approve the payment of current invoices made by Councilman Weisbecker with a **second** by Steven Castronova.

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

MINUTES

Following discussion by the Board, concurrence that a draft of the minutes based on the agenda should be available for Board review, along with log notes and audio if requested, 48 hours prior to the next meeting.

COMMUNICATIONS

The following communications were noted by the Board and filed:

Notice from Passaic County regarding the County Corridor Enhancement Plan, announcing the June 26, 2008 public hearing at 5:00 in the Passaic County Planning Department, 930 Riverview Drive, Suite 250, Totowa, NJ 07512. A copy is available on the Passaic County website, Planning Department, County Corridor Enhance Program.

Chairman Gargano advised that he will speak to Rob Sparkes about attending the public hearing. The Board members will check the website to review the corridor Enhancement Plan.

Letter from Passaic County regarding the Sunny Blue application (Walgreen's), Block 5701; Lot 1, 1502 Union Valley Road, requesting various documents and revised traffic study.

Copy of letter to Passaic County from Joseph Russo, Esq. for Sunny Blue (Walgreens) providing documents requested by the County: Draft of Quit Claim Deed, Draft of Seller's Residency Certification/Exemption, and Draft of Affidavit of Consideration.

Residential Site Improvement Standards, N.J.A.C. Title 5, Chapter 21, Revised January 22, 2008 with summary of changes received from NJ D.C.A.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

Agency Determination dated April 16, 2008 from the NJ DEP regarding the Jaust Site Plan, 96 Oak Ridge Road, Block 16005; Lot 12 – Highlands Act – Exemption #4, Water Quality Management Plan - Consistent.

Application notification from Edward Ostrowicz, 350 Morsetown Road, Block 4701: Lot 33.04 for 'After the Fact' construction of utility line through wetlands area.

Notification received April 8, 2008 of a Flood Hazard Area Individual Permit to be submitted to NJDEP regarding James Rupeikis, 2 Island Trail, Hewitt, Block 504; Lot 2.

Freshwater Wetlands Application received April 7, 2008 for a Letter of Interpretation for Ernest Oberer, 350 Germantown Road, West Milford, Block 14201; Lot 14.

Notification received April 8, 2008 for a Highlands Applicability Application for the Christian Life Center, 184 Marshall Hill Road, West Milford, Block 6203; Lot 13.

EXECUTIVE SESSION

At 9:03 p.m. the Planning Board went into executive session and the Chair asked all public present to vacate the meeting room.

The chairman read the following:

**RESOLUTION NO. 2008-15
Executive Session**

BE IT RESOLVED by the Planning Board of the Township of West Milford on this **22nd** day of **May, 2008** that:

1. Prior to the conclusion of this Regular Meeting, the Township of West Milford 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

Discussion of potential litigation with regard to a proposed developers agreement ordinance.

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.

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

At 9:35 p.m., Chairman Gargano called the regular meeting of the Planning Board back to order.

ADJOURNMENT

With no further business to come before the Planning Board, a **motion** to adjourn by Councilman Weisbecker, with a **second** by Chris Rosica.

Meeting adjourned at 9:35 p.m. by unanimous consent.

Approved: August 28, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary