

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**June 23, 2011**

**Regular Meeting**

The Regular Meeting of the Planning Board was opened at **7:31 pm** by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

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

**Absent:** Robert Nolan, Councilman Philip Weisbecker, Michael Siesta

Chairman Andrew Gargano requested Planning Board Alternate Steven Castronova to sit on the Board in the absence of one of the Board members.

**PUBLIC PORTION**

Chairman Gargano opened the Public Portion of the meeting. The following addressed the Planning Board about matters of concern:

Richard Randazzo, 278 Wooley Road, addressed the Board about the Braemar aquifer testing, inquiring if the Board had received an answer on whether the Highlands Exemption was still valid. Thomas Germinario, Board Attorney replied that he wrote to the NJDEP on this matter and had not yet received an answer. Mr. Randazzo read a letter to the Board regarding the Maser aquifer testing and well monitoring, expressing concerns about the monitoring equipment that had been installed in April and left, even though the monitoring had not continued. He also alleged that there appears to be well monitoring occurring at well locations that were not on the plan. He asked for the equipment to be removed until 24 hours prior to the next monitoring, noting that an engineer from Maser advised him that if the equipment is removed, Maser may not be obliged to re-monitor his well. Mr. Randazzo addressed the Township's well testing ordinance, and suggested that there should be more escrow required for the monitoring, adding that \$2500.00 was insufficient.

Mr. Germinario responded that he had spoken to the Township's hydrogeologist, Matt Mulhall of M2 and Mr. Mulhall is overseeing the aquifer testing and had contacted Maser about these concerns. Mr. Mulhall would have to approve any change in well monitoring locations. Mr. Randazzo questioned whether the ordinance means the applicant's hydrogeologist or the Township's hydrogeologist who would choose the well to be monitored, and stated that the ordinance must be adhered to as this is the first time that the ordinance is actually being applied to a development application.

With no further comments from the public, the Public Portion was **closed** on a **motion** by Douglas Ott and a **second** by Steven Castronova.

**APPLICATIONS**

**NEW APPLICATIONS**

**FILIPPO ENTERPRISES LLC**

**Minor Site Plan #PB-04-10-01**

**Bulk Variance**

Block 2402; Lot 2

399 Lakeshore Drive; NC Zone

**Seeking:** Minor Site Plan approval and Bulk Variances for construction of a fenced and roof-covered smoking area for patrons.

The applicant, Robert Filippo, and his attorney, John Barbarula, Esq., were present for this application. Mr. Barbarula advised the Board that the applicant was seeking minor site plan approval to construct a fenced and covered exterior smoking area for the patrons on the site of his existing bar, Lakeshore Inn, in an effort to prevent the smoking patrons from congregating in the street and parking lot. Architectural and engineering plans were submitted as part of this application, and Mr. Barbarula advised that both of these professionals were present to testify on the applicant's behalf. Mr. Filippo was sworn in by the Board Attorney, and testified that he had experienced numerous problems with his smoking patrons filtering out into the street in front of his establishment, especially when there were special events such as concerts and comedy nights. He also noted that there were some non-smoking patrons who were discouraged from entering his establishment due to the crowds of smokers that assembled near the front door. He testified that his application was for the construction of an area that would keep the smoking patrons away from the parking lot and street, and an enclosed environment that would help to contain the noise from the patrons as they congregate. Mr. Barbarula advised the Board that the majority of Mr. Filippo's patrons smoked, and the law prohibits them from smoking in a bar or restaurant, therefore, they have been assembling outside the building. The proposed site plan was submitted to address these issues.

Chuck McGroarty, Board Planner, inquired of the applicant what factors had influenced the decision to locate the covered smoking area where it was being proposed, how the size (1000 sq. ft.) was determined, and the approximate number of people it would accommodate. Mr. Filippo responded that

approximately 80 people might be using the smoking site. Mr. McGroarty inquired about the noise from the patrons that might affect the neighbors, considering the close proximity to the adjacent properties, and Mr. Filippo replied that a fence is proposed, and the smoking area is lower than the surrounding properties, so it was anticipated that the noise levels should be minimized. When asked if he planned to have tables and chairs for the patrons, Mr. Filippo replied that he intended to install tables and chairs, or benches for patron seating, but not on the proposed grass area. Mr. McGroarty inquired if Mr. Filippo intended to allow drinks in this location, and he replied that he is working towards being permitted to serve drinks, and that was the essential reason for this minor site plan application. Mr. Barbarula advised the Board that under the law, a request for an expansion of the liquor license could not be made to the Township and State until the structure had been constructed. Mr. Filippo would then be required to present his request to the Mayor and Township Council for approval of an expansion of his license before he applied to the State. Mr. McGroarty noted that he had raised the question of an expansion of the license in his report, and that the use of the outdoor area for smoking and drinking would be considered an expansion of a non-conforming structure, and the applicant would require a "c" variance. Mr. Germinario clarified that if there were just a patio area, it would be considered an extension, but if seating is included, it would be an expansion of the building. Mr. Barbarula advised that there would be no bar on the covered outside smoking area, and that liquor would be served in the principal structure. At the current time, the applicant was proposing to allow his patrons to take their drinks with them to the outside smoking area, and provide seating for their comfort. Mr. Germinario expressed concern that the patrons would linger in the smoking area and this could cause a disturbance to the neighbors in this residential zone. He then inquired whether the applicant would object to having the Board approve the application on the condition that no alcohol would be served. Mr. Filippo replied that it would defeat the purpose of the application, and Mr. Barbarula noted that the applicant wanted to establish a location for the patrons to smoke and take their drinks and not have to be gatekeepers. Chairman Gargano commented that he has driven past restaurants and bars that have patrons smoking without drinks in their hands, and inquired why Mr. Filippo wanted to expand his premises to allow smoking and drinking. Mr. Filippo responded that he had a large volume of patrons, with an occupancy load of approximately 300, and a variety of entertainment at his establishment. Currently his customers have to go outside the premises to smoke, and this dedicated smoking area would help to keep the customers contained. Mr. Barbarula stressed to the Board that the applicant desired to create a facility to help in self-policing the patrons, and in order for the patrons to be permitted to carry their drinks onto the smoking area, the applicant would have to obtain an extension of his liquor license. He was attempting to attract a varied mix of patrons with an environment that would allow those who smoke to comingle with those who don't smoke. When asked how the applicant would be able to monitor his customers if the Board approved the addition on condition that the liquor license would not be expanded, Mr. Barbarula advised that without the expansion of the liquor license there would be no purpose for the smoking area. Mr. Filippo testified that his patrons do not get served by waiters or waitresses except during special events and comedy nights, and Chairman Gargano commented that any Board approval would create a condition for all future owners of the establishment. Mr. Barbarula noted that the decision on the extension of premises for the liquor license would be up to the Township Attorney and the Council, adding that this Board would not hear the request for expansion, but the applicant would stipulate that there would be no bar on the smoking patio and no alcohol would be served if he receives approval from the Board. Chairman Gargano addressed the applicant, expressing concern that what Mr. Filippo wanted to do to make his business situation better might be detrimental to the neighboring property owners. Mr. Filippo testified that he met with the Fire Marshall and an officer from the Police Department to determine the best solution to keep the patrons of his bar from disturbing the neighbors. The Board members made several inquiries of Mr. Filippo with regard to the proposed application, including the type of fence, the number of gates, whether access would be monitored by wristbands, and the noise levels that would result with the outside smoking area. Mr. Filippo testified that the smoking patio was proposed for the rear of the building, which was below the dam, and the noise levels would be minimized. Mr. Barbarula read memos from the Fire Bureau and Police Dept., and Mr. Filippo noted that the Fire Marshall had concerns about the patrons hiding inside to smoke when the weather turned cold. Before concluding testimony, Mr. Barbarula advised that the applicant was seeking an additional variance for expansion of the structure based on the Board Planner's comments.

The Chairman opened the meeting to the public for comment on this minor site plan application. The following addressed the Board:

Christie Florey, 60 Upper Greenwood Road, was sworn in by the Board Attorney, and stated to the Board that she resided four houses from the applicant's site, and bought her house in 2002 when the bar was not in operation. With regard to the expansion, she felt that there would be increased noise as a result of the proposed smoking area. In her opinion, she felt that there was little policing of the site by the owner or manager, and that patrons congregate throughout the night in the parking lot after the bar closes. Ms. Florey felt that the owner has not adequately addressed the disturbances that result from the patrons, and that a smoking area will become a "party pavilion." When asked by a Board member to be more specific, she testified that quite often the noise from the bands is extremely loud and disturbing, and the police have to be notified. In addition, the patrons congregate in the parking lot after hours, and sometimes there are altercations. She observed that the creation of an outside smoking area would not help the situation, but more policing by the management, or hiring security would help to reduce the disturbance to the neighborhood.

John Lanterman, 400 Lakeshore Drive, was sworn in by the Board Attorney, and addressed the Board about the proximity of his home to the applicant's property, noting that his bedrooms and living room are 50 feet from the subject site. He testified that he did not have air conditioning and during the warmer

months his windows are left open, and he is constantly disturbed by the noise from the applicant's establishment. Mr. Lanterman noted that he has owned his home for 50 years, and that he has witnessed numerous incidents from the patrons of the applicant's establishment, including golf balls in his yard, and cars driven into his hedges, in addition to the noise disturbances. He commented that the 6-foot height fence will not be sufficient in keeping the patrons from his sight and will not keep the noise enclosed. Mr. Lanterman stated that the residential neighbors have tried co-exist with the bar and have avoided calling the police every time there are disturbances, but the proposed smoking area will not improve the situation or help the lake community. He also testified that the owner is not present on the location and that his son manages the site, so the owner is unaware of the extent of the disturbance.

Walter Kasler, 1 Riverside Road, was sworn in by the Board Attorney, and proceeded to address the Board about the proposed smoking patio, noting that the location will be above or level with the Upper Greenwood Lake Dam and the neighboring houses, not below, as testified by the applicant, and this may amplify the noise levels associated with the outside smoking patio. He echoed some of the other resident's concerns regarding the loud music, and patrons fighting in the parking lots, and had windows broken from thrown objects. Mr. Kasler testified that he did not object to the owner trying to make a living, although he observed that the owner is only on the premises for a few hours several times a week, and has not adequately addressed the problems that regularly occur. Mr. Kasler stated that he and the neighbors have notified the police and have written letters, but the situation has not improved. Mr. Barbarula made several inquiries of the resident with regard to the noise complaints. Mr. Kasler observed that the having the patrons congregate in the back will not be an improvement of the situation, and wondered who would guard the three gates that are proposed. He also noted that the UGL beach has to turn off music by a certain time, and yet the owner of the subject establishment has music playing until 2 or 3 o'clock in the morning, disrupting the sleep of the residents.

Mayor Bieri inquired how long the applicant has had a liquor license and Mr. Filippo replied that the bar had not been operating since 1992, that he took possession in 2002, and began operating it several years later. He believed there has been a bar at that site since the 1920's, and commented that the realtors should have advised the residents that a bar existed in the residential neighborhood prior to their purchasing their homes.

Carol Bruner, 24 Upper Greenwood Road, was sworn in by the Board attorney, and testified that the parking lot is by her back yard and if a deck area was moved to the other side of the building, it would be more desirable for her, but she was concerned how it would affect the other neighbors. She noted that currently, the patrons congregate in the parking lot of the inn and disturb her and other residents who live near the parking lot.

Christie Florey, 60 Upper Greenwood Road, advised the Board that when they call the police, they are asked if an officer needs to come to the residence, and as it is late at night, she declines. Subsequently, the noise may stop, decrease, or it may continue. She stated that the neighbors converse with each other and they respect the fact that he is trying to operate a business, but they do not feel he respects the residents in the neighborhood.

Mr. Barbarula advised the Board that this was a very expensive application and the owner was attempting to correct the situation and cooperate with the neighbors while operating a business. Mr. Filippo noted that he is not permitted to enclose the area or allow patrons to smoke inside.

With no further comments from the public, Chairman Gargano closed the public portion of the hearing.

Mr. Barbarula presented the following exhibits for the Board review based on an OPRA Request filed on May 26, 2011 by the applicant with regard to documented noise complaints at his establishment:

A1-a, email response, dated June 7, 2011, from the Township Clerk with regard to an OPRA request (A-2) filed by the applicant requesting any noise complaints for the Lakeshore Inn, 399 Lakeshore Drive, from January 2010 to Present; A1-b, West Milford Police Department Incident Report, dated 01/27/2010, regarding a noise complaint, A-1c, WMPD Incident Report, dated 03/06/10, regarding a noise complaint, that the manager addressed upon request of the officer; A-1d, WMPD Incident Report, dated 03/24/10, regarding a noise complaint about one of the residents at the apartments located above the bar; A-1e, WMPD Incident Report, dated 06/12/10, regarding an anonymous noise complaint of loud music, which was addressed by the management; A1-f, WMPD Incident Report, dated 07/17/10, regarding a noise complaint citing a large group individuals congregating, creating a disturbance, breaking bottles, and loud band music from inside the building; A1-g, WMPD Incident Report, dated 06/25/10, regarding a noise complaint; A1-h, WMPD Incident Report, dated 09/05/10, regarding a noise complaint, with no disruption noted by the responding officer.

Mr. Barbarula advised the Board that if a complaint is made and an issue is present, the patrons, manager and owner responds. He noted that he did not cross-examine the residents present at the meeting and he respects their opinion that they feel there are problems that are not addressed. Mr. Barbarula also noted that if there were more incidents, they would have been made available through the OPRA request. The Board Planner, Chuck McGroarty inquired if the applicant had sufficient staff to monitor the site, and Mr. Filippo replied that he had bartenders and several security present on his site, but several feet outside his front door is the public road and the patrons claim they do not have to comply with his rules. He reiterated that he is trying to resolve the problems by creating an enclosed exterior site for his patrons.

Chairman Gargano advised the applicant that when an application is made to the Planning Board, he is concerned about who will be affected by the application if it is approved. He stated that he felt it was incomprehensible that the noise and disturbance issues have been going on for such a period of time, and

that the neighbors came out in force to express their concerns about his establishment and the application before the Board. The Board continued to discuss the occurrences with the applicant and the applicant's attorney.

Prior to continuing testimony for this application, the Chairman called a short recess at 9:14 p.m.

At 9:20, Chairman Gargano called the meeting to order. Douglas McKittrick, P.E., P.P., was sworn in and testified as Engineer and Planner on the applicant's behalf. He testified that the project consists of the construction of a smoking area for the patrons of the bar because the law prohibits smoking inside restaurants and bars. The applicant was proposing a canopied area on an 8-ft by 32 ft concrete, with a 35 ft canopy. The proposed fence is 4 ft to allow customers to view the lake. The gate proposed would be for emergency egress, and no landscaping is proposed for the site. Mr. McKittrick noted that the existing building encroaches on all the wetlands buffers, and the driveway encroaches on the Lake Shore Drive ROW, but this building predates all zoning regulations. He concurred that a 14 ft variance will be required for the roof, but there are very few choices given the building configuration and the height of the building. Mr. McKittrick stated that he had made a thorough review of the property and a site inspection had been made. He addressed the comments made by the Health Dept. in their review memo of June 1, 2011, including comments about riparian buffers and the need for a Flood Hazard Determination, the septic being location and construction over the system, and daily ISSDS gallonage and their recommendation that a NJDES and T-1 Permit from the NJDEP be obtained. John Hansen, Acting Board Engineer, recommended that these permits be obtained as they will establish parameters. Mr. McKittrick addressed the five concerns of the Board Engineer, Paul Ferriero, P.E., dated May 23, 2011, noting that revisions are needed on the plans with regard to fence height, a service gate was recommended for septic servicing, the board on board fence was acceptable, the ADA accessibility will be addressed by the architect and the slab will be raised, and the building footprint plan typo was acknowledged. With regard to Chuck McGroarty, P.P., Board Planner's report, dated May 23, 2011, he acknowledged that the zoning is NC, not LR, and this will be revised on the plans, the encroachment variance has been noted on the plan, and he addressed the gate and fence issues raised by the Planner. With regard to noise, Mr. McKittrick stated that he is not an expert on noise abatement, and it was noted by Mr. Barbarula that the physical constraints of the site leave little options for noise buffers (i.e. landscaping, etc.). A Board member inquired about lighting and Mr. McKittrick stated that the lighting will be down directed and not high intensity under the canopy, and the impact on the neighbors and road have been taken into consideration. Mr. McKittrick stated that the advantages outweigh the disadvantages of the proposed site plan, and noted that the proposal is better than the present situation, benefiting the community by keeping the customers in an enclosed area away from the neighboring properties, keeping the trash and loitering to a minimum, and diminishing the undesirable behavior affecting the surrounding community. As for the negative criteria, the existing site is not consistent with the master plan, but the zoning allows it because it is a pre-existing site. He noted that businesses and regulations change and the changes may require renovations. With this application, smoking is prohibited inside the building, therefore, the patrons need a specific area to congregate to smoke outside, but not in the parking area or street where they disturb the residential neighbors. Mr. McKittrick acknowledged that the smoking area in the rear of the building would reduce the negative impact, but not eliminate it completely. Mr. McKittrick answered questions from the Board about the proposed size of the covered patio area, noting that he based the size on the number of patrons estimated by the owner. Board member Steven Castronova observed that if the patio area were smaller, shrubs could be planted to help shield the patrons from the residents and also help to muffle the noise.

Mr. McGroarty made several inquiries of Mr. McKittrick and Mr. Barbarula, and citing the ordinance over the expansion of the non-conforming use, it was determined a "D" variance was required based on the plans submitted and the testimony from the applicant and his professionals. Mr. Germinario advised that the Planning Board did not have jurisdiction over this application and that this matter would be required to be heard by the Zoning Board of Adjustment. Mr. Germinario further advised that in order for the Board to approve this application, conditions would have to stipulate that no drinks could be carried out to the smoking area. but if the applicant intends to expand his license and the premises, then he would have to go to the Board of Adjustment for a use variance. Mr. Barbarula requested a conference with his client and client's professionals before advising the Planning Board of their decision. Upon conferring with his client, Filippo Enterprises, LLC, Mr. Barbarula advised that the applicant wished to withdraw his application and transfer it to the Board of Adjustment.

**Motion** was made by Christopher Garcia with a **second** by Steven Castronova to **transfer** this Minor Site Plan Application for Filippo Enterprises, LLC to the Zoning Board of Adjustment for a "D" variance for the expansion of a non-conforming use.

**Roll Call: Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Geoffrey Syme, Chairman Andrew Gargano.  
**No:** None.

### **PUBLIC COMMENTS**

Chairman Gargano permitted resident Gary Steele to address the Board about a matter of concern and reopened the Public Portion of the meeting.

Gary Steele, Northwood Road, addressed the Planning Board regarding the H.S. turf field matter, advising that he has some documents to provide to the Board for review. Mr. Germinario, Board Attorney advised Mr. Steele that he has been patient with him and has devoted more time than necessary to this matter. Mr. Steele questioned whether the Board should have had jurisdiction to enforce the code on the soil movement associated with the project, and he requested that the Board contact the State's

B.O.E. School Facilities Director, Bernard Piaia, regarding the turf field installation and the board's jurisdiction. Mr. Germinario advised that the Planning Board is his client and he has advised them in accordance with the law. Mr. Germinario requested that Mr. Steele leave his documents containing various emails, letters, and personal opinions with regard to the artificial turf field project on the dais for any Board member who wishes a copy.

**PENDING APPLICATIONS** – None.

**EXTENSION OF TIME** -None.

**NEW BUSINESS**

**NEW BUSINESS**

**Review of Land Use Application Checklist Revisions** Chairman Gargano also requested that this matter be kept on the agenda as a pending matter. This matter was carried to the next meeting.

**Update on Streetscape** – Chairman Gargano requested that the streetscape matter be placed on the agenda for further discussion with regard to future applications that come before the Board to determine whether they will be required to incorporate the streetscape plan in their application. This matter was carried to the next meeting.

**Discuss Departmental Notice of Time Extension Requests: Board Engineer** – This matter was carried to the next meeting.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** – None.

**BOARD PLANNER'S REPORT** – Mr. McGroarty reported that the deadline for the Highlands plan conformance documents has been delayed until the new maps are ready for distribution. He advised that in several months there will be work to complete on the Highlands master plan, but that a subcommittee meeting was not necessary.

**BOARD ATTORNEY'S REPORT** – None.

**BOARD ENGINEER'S REPORT** – Mr. Ferreiro reported that the Township had received notification from the NJDEP that the Wastewater Management Plan was not required as this will be done in conjunction with the Highlands Plan Conformance. A grant in the amount of \$15,000. was received for this work with the Highlands Plan, and he has begun the process to coordinate this with the Highlands Council. He also advised that a notice was received about a \$5,000. grant from the Highlands for a pilot program that a portion of the Township is involved in regarding Water Use and Conservation Management Plan. There is a meeting scheduled for June 23, 2011(?) at the Highlands Council to discuss the program.

**COURTESY REVIEW**

**WEST MILFORD ANIMAL SHELTER SOCIETY**

**Courtesy Review of Proposed Addition to the West Milford Animal Shelter Facility**

Block 6002; Lot 28.01

Lycosky Drive; LMI Zone

**Seeking:** Courtesy review of proposed 1272 sq. ft. expansion to existing animal shelter facility.

Linda Connolly recused herself from the Board during the courtesy review, noting that she is a volunteer at the facility. Mayor Bettina Bieri recused herself from the Board during the courtesy review of the application, noting that she is the Health Manager for the facility and is coordinating the proposed project. Board Attorney Tom Germinario advised the Board that the WMASS is a non-profit organization operating within the Township, and had entered into contract with the Township to operate a public animal shelter facility, and a courtesy review is all that is required from the Board. Ms. Bieri proceeded with her presentation on the proposed expansion of the West Milford Animal Shelter. She noted that in 1994 the WMASS received a contract with the Township to take charge and run the facility and they are now a nationally recognized animal shelter, and are noted as one of the 32 "must see" facilities in the country, and are in the top two rated shelters in New Jersey. She noted that in 1997 the shelter expanded the cattery area, and in 2004 they attempted to expand the dog area, but there was a concern about the additional water usage and septic fields. Between 2004 and 2007 new tanks were installed and the plans were developed for the further expansion of the facilities. Ms. Bieri provided exhibits and explained that the proposed expansion would go over a current driveway, and the building would stay within the fenced area, with no disturbance to the surrounding areas. She stated that the expansion was necessary for better disease control, with the outer buildings abandoned, placing the adoptable building in the front of the building, and the creation of an isolation room with separate heat and access for better disease control. Ms. Bieri observed that the expansion/renovation will be more aesthetically pleasing and will promote human health and safety first, coupled with animal health and safety. Several Board members inquired about the types of animals that the shelter houses and the services that are provided, and the number of volunteers who operate the facility (70). Ms. Bieri stressed the need for additional storage and a separate isolation area. The building exterior will be stucco and remain a light blue-green. Ms. Bieri advised that the shelter has a 25-year contract with the Township that went into effect in 2002. The WMASS will be using a local contractor and are currently collecting donations for the project, although funds are available to begin the project at this time. A stipend is provided by the Township to cover the

utilities, but the WMASS is responsible for all other costs associated with the shelter, which are raised through fundraising events and donations. A Board member inquired about the salt sheds housed near the site, and suggested that the water be tested for high levels of salt. Following the review, the Planning Board wished Ms. Bieri and the WMASS good luck on the project.

### **MISCELLANEOUS**

Board Attorney Tom Germinario advised that he will be absent from the regular meeting in July due to medical issues. Chairman Gargano advised that there will be no Planning Board meetings in July following Board consensus.

Chairman Gargano asked Mr. Hansen and Mr. Ferriero to review some of the concerns raised by Mr. Randazzo with regard to the well ordinance.

Chairman Gargano requested that the Township Administrator be advised of the concerns of the residents with regard to the noise ordinance, and that the ordinance be reviewed for possible solutions.

### **Approval Of Invoices – Board Professionals**

**Motion** by Steven Castronova with a **second** by Douglas Ott **approve** payment of the invoices for the months of April and May 2011. The invoices were approved by **unanimous consent** of the Board.

### **MINUTES**

**Motion** by Steven Castronova with a **second** by Christopher Garcia to **approve** the March 24, 2011 and May 26, 2011 Regular Meetings of the Planning Board. The minutes were approved by **unanimous consent** of the Board.

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

### **COMMUNICATIONS**

1. Invitation from Passaic County to attend a Green Fair on Tuesday, June 28, 2011 (Rain Date June 29) from 11am – 5pm at the Passaic County Court House on Hamilton Street, Paterson, NJ.
2. Notice of Penalty Assessment and Offer of Settlement, dated May 13, 2011, regarding Theodore Hajek, 792 Warwick Turnpike, Block 1405; Lot 1, for disposal of solid waste in the form of wood, general debris, stumps, metal, asphalt, and tire retaining wall. Settlement offer in the amount of \$4500. and compliance is required within 30 days, or a compliance plan must be submitted with timeline.
3. Memo from the Township Administrator dated June 1, 2011, regarding an environmental site assessment that was performed on the Wallisch site, and a recommendation for a surface soil sampling.
4. Correspondence from Conservation Resources, Inc., received June 1, 2011, a non-profit environmental consulting organization focusing on open space, farmland planning, acquisition, preservation, stewardship, and land management.
5. Update on the 319H DEP Grants from Dr. Fred Lubnow, dated May 25, 2011, advising that the four filtering structures have been installed and the stormwater monitoring has begun at the sites around Greenwood Lake.
6. Receipt of Hudson Essex Passaic Soil Conservation District 3.5 Year Recertification of the Soil Erosion and Sediment Control Plan for Battinelli Residence, 392 Lakeside Road, Block 3107; Lot 13, dated April 29, 2011.
7. Notice from Rockland Electric Co. advising that all work and placement of objects within the easements of electric facilities is prohibited and requesting that RECO be notified if any work is being performed or planned to be performed in their easement areas.
8. Notice from the Borough of Butler, dated May 19, 2011, advising of a public hearing for Ordinance 2011-13 on June 21, 2011, an "Ordinance amending chapter 143 of the Revised General Ordinances of the borough of Butler and Amending the Permitted signs in the Central Business District and Redevelopment Zone.
9. Mayor's Fax Advisory, dated June 6, 2011, advising of Sustainable Jersey Funding in the amount of \$175,000. for Municipal Projects (3-\$25,000., 8-\$10,000., 20-\$1,000.), with a deadline of 07-22-11. Also advising that 335 municipalities are registered for the Sustainable Jersey certification.
10. Mayor's Fax Advisory, dated April 27, 2011, regarding proposed rule for Waiver of DEP Regulations, allowing waivers from strict compliance with the NJDEP rules when a rule is in conflict with another rule, if it is unduly burdensome, a net environmental benefit would result, or a public emergency exist.
11. Notice received on June 10, 2011 of the Morris Canal Greenway Feasibility Study presentation at the Passaic County Planning Office, Totowa, June 16, 2011 at 5:30, and public outreach at various locations planned for the summer of 2011.
12. Copy of letter dated May 25, 2011 from the NJDEP Site Remediation Program regarding notification of owners in the area of the A to Z Automotive Potable Wells Contamination Site, advising that well sampling has been scheduled as part of the continuing ground water investigation.

### **HIGHLANDS WATER PROTECTION & PLANNING ACT/ DEPARTMENT OF ENVIRONMENTAL PROTECTION**

1. Copy of a letter from Passaic County Planning Engineer to the NJDEP regarding an application for a Highlands Applicability Determination and Northeast Water Quality Management Plan with regard to

the Clinton Road Bridge over Mossman's Brook, Block 16908; Lot 6, Clinton Road ROW, requesting that application process be expedited due to the urgency of the realignment project.

2. Notice received May 28, 2011 from Helping People Help Themselves regarding a proposed facility, Destiny's Gate, and an application for a Highlands Applicability Determination to construct a swimming pool, parking lot, and camping area for "underprivileged kids and families in Passaic County" on the former Sheridan Tract at 445 Morsetown Road, Block 5301; Lots 39 and 40.
3. No Further Action Letter, dated May 17, 2011, received for Cynthia Rea, 117 Long Pond Road, Block 4106; Lot 4, regarding removal of one 550 gallon No. 2 Fuel Oil Underground Storage Tank and associated contaminated soils.
4. No Further Action Letter, dated May 18, 2011, received for Betty Boyer, 23 Little Pond Lane, Block 9101; Lot 39 regarding removal of one 550 gallon No. 2 Fuel Oil Underground Storage Tank system.
5. No Further Action Letter, dated May 24, 2011, received for Harold and Lorelei Thomas, 89 Lincoln Avenue, Block 6607; Lot 5 regarding removal of one 550 gallon No. 2 Fuel Oil Underground Storage Tank and associated contaminated soils.
6. No Further Action - Covenant Not to Sue Letter, dated May 27, 2011, received from the NJDEP for Kathleen Miller, 34 Edgecumb Road, Block 7002; Lot 6, regarding removal of one 550 gallon #2 Heating Oil Underground Storage Tank System.
7. Notice of Deficiency to Mariam Azadalli, dated June 9, 2011, received from the NJDEP regarding Pazak Service Station, 3021 Rt. 23, for failure to provide documentation, data, and fees required in this matter, and listing the corrective actions required with a specific timeframe.
8. Notice to the Lake Arcadia Association, LLC regarding the Lake Arcadia Dams No. 1 & 2 and Saddle Dikes, NJDEP Dam File Nos. 22-45 & 22-46, advising that the submitted compliance schedules are unacceptable, that repair/replacement should take place before the end of 2012, and requiring the owner to provide an analysis to the DEP by June 30, 2011.
9. Request for Water Supply Information, dated June 6, 2011 received from GES Services regarding the former Exxon Service Station at 2 Marshall Hill Road as part of a Classification Exception Area and groundwater quality investigation for the NJDEP.
10. Application for a GP-25 received on June 7, 2011 from Gerald Gardner & Associates, for John Valent, 6 Ferndale Road, Block 12304; Lot 11 for the repair of a malfunctioning septic system.
11. Highlands Act – Exempt #10, Water Quality Management Plan – Not Addressed, dated June 13, 2011, regarding the Replacement of the Clinton Road Bridge Over Mossman's Brook, Block 16908; Lot 1 and Block 15001; Lot 6.

#### **ADJOURNMENT**

Prior to adjourning, Chairman Gargano advised that the next Planning Board Workshop meeting on July 7, 2011 would be canceled if there were no matters that require Board attention.

With no further business to come before the Board, Chairman Andrew Gargano **adjourned** the June 23, 2011 Regular Meeting of the West Milford Planning Board at **11:02 pm** on a **motion** by Doulgas Ott with a **second** by Christopher Garcia.

Approved: September 22, 2011

Respectfully submitted by,

Tonya E. Cubby, Secretary