

TOWNSHIP OF WEST MILFORD
PLANNING BOARD
MINUTES

June 26, 2008
REGULAR MEETING

The Regular meeting of the Township of West Milford Planning Board was called to order at 7:34 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, Chris Rosica, Clinton Smith (7:38p.m.), Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Alternate Michael Siesta, Board Planner Charles McGroarty, P.P.

Absent: Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E.

Chairman Gargano asked Michael Siesta to sit on the Board until Clinton Smith arrived.

PUBLIC PORTION

Chairman Gargano opened the public portion of the meeting. The following was present to address the Board:

Marilyn Lichtenberg, Hudson Drive, addressed the Board regarding the site plan application submitted by Inserra, West Milford (ShopRite). She asked the Board to address at the hearing, the entrance and exit at the supermarket, in addition to the storage of the shopping carts near the exit. She noted that the "L" configuration of the exit appears to be a safety hazard. Mrs. Lichtenberg also asked the Board to consider including poles for hanging banners when the streetscape concepts are being prepared, adding that there may be grant monies available to cover the costs to install the poles. It was her understanding that Orange and Rockland would install the banners if the Township installed the poles.

With no one else present wishing to address the Planning Board, the public portion was closed on a **motion** by Douglas Ott with a **second** by Councilman Philip Weisbecker.

SITE PLAN APPLICATION REVIEW WAIVERS - None.

APPLICATIONS - None.

MEMORIALIZATIONS

RESOLUTION NO. 2008-17
MACOPIN VOLUNTEER FIRE CO.
Minor Site Plan #0820-0316
Block 9301; Lot 6
4 Black Sheep Lane; R-3
Granted: Minor Site Plan

Motion to approve **Resolution No. 2008-17** for Macopin Volunteer Fire Co. by Steven Castronova with a **second** by Councilman Philip Weisbecker.

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

RESOLUTION NO. 2008-18
JACK LEVKOVITZ (VILLAGE ON RIDGE SECTION II)
Amended Final Subdivision #0510-1744C
Block 5201; Lots 16, 19 & 20; Block 5301; Lot 1; R-3
Ridge Road; R-3 Zone
Granted: Time Extension for Filing Subdivision Deeds

Motion to approve **Resolution No. 2008-18** for Jack Levkovitz (Village on Ridge Section II) by Steven Castronova with a **second** by Councilman Philip Weisbecker.

Roll Call: **Yes** - Steven Castronova, Douglas Ott, Michael Siesta, Clinton Smith, Councilman Philip Weisbecker.
 No - None.

MISCELLANEOUS

Chairman Gargano asked that the Board Planner and Board Engineer sit at a table beneath the dais so that they can address the Board and the public about matters of the Board in a more convenient manner. The Secretary was directed to have a table set up for Mr. McGroarty and Mr. Ferriero.

UPDATE ON STREETScape IMPROVEMENT PROJECT

Chuck McGroarty, Board Planner, advised the Board that he was in the process of reviewing the Inserra (Shop Rite) application for completeness. He stated that he and Paul Ferriero, Board Engineer, had met that week with the attorney for the applicant, along with other principals. The applicant requested to be present at the July Planning Board meeting for a concept review. The engineers for Inserra were going to contact Dewberry Goodkind to try to coordinate the streetscape design with the improvements at the Shop Rite parking lot.

ORDINANCE SUBCOMMITTEE

Chairman Gargano announced that the next Ordinance Subcommittee meeting will be on July 24, 2008 at 5:00 p.m.

BOARD PLANNER REPORT

Mr. McGroarty reported on revisions to several ordinances. With regard to the site plan review waiver, he advised that he will do a report on his findings and make recommendations for revising the process. Among the issues is the establishment of an escrow account so that site visits and reviews can be done by the Board professionals. He made note of the current waiver process and raised several instances when an informal review process was not appropriate. He added that the language in the ordinance can be modified. A Board member commented that there are several small strip malls, including Rockport, Belchers Run and Shop Rite, and tenants frequently change. He inquired about site conditions and what mechanisms the Board would have to ensure site improvements are made prior to re-tenancy. Mr. McGroarty replied that if a use is permitted, then a zoning permit would suffice. If a site is in need of improvements, then a modified site plan could be required. The Board Planner stressed that conformance with the ordinance is required, and an applicant would have to prove that his site conforms in order to qualify for a waiver. The Board discussed several scenarios where a site plan would be required and where a waiver would be permitted. Mr. McGroarty advised that he will report on a site plan review waiver application that he received earlier that day for review. He noted that many towns do not do a review if there is a change in tenancy. If a business site conforms to the ordinance and it is up to current standards, then it would not come before the Planning Board. He added that the waiver provision in the Municipal Land Use Law was intended to bring a site up to standards and not meant to be punitive.

MISCELLANEOUS

Mr. McGroarty reported on the ten applications he reviewed for the Planning Board. Of the ten, four were sent to the Zoning Board of Adjustment, two are incomplete, and two are complete and ready for a hearing. He added that the Board Engineer is still reviewing the applications. He gave a brief overview of some of the applications, noting on one that the zoning ordinance for a retail site with apartments is a permitted use, but another section of the ordinance notes that it is an accessory use. With regard to this application, he determined that it should go to the Zoning Board of Adjustment for a "d" variance or an interpretation. He felt that there were several areas in the zoning ordinance that needed clarification, and gave examples of areas where conformance would be required or an applicant would have to go to the Zoning Board. Mr. McGroarty reviewed several other issues for the Board, including time limits on application approvals, adding that the M.L.U.L. is last word on applications.

COAH

Mr. McGroarty reported that he had reviewed documents and prepared a memo for the Board on June 20, 2008 regarding the third round rules for COAH. He reported on COAH requirements and West Milford's obligations regarding affordable housing. The Board discussed options for meeting the obligations. Mr. McGroarty advised that an option that may be appropriate for West Milford is the "vacant land adjustment" and explained the mechanism for the Board. He reviewed substantive certification, adding that it is required by the Highlands. Rich McFadden, Township Engineer, advised that the stormwater management report was completed several years ago and said that he will forward a copy to the Board Planner. Mr. McGroarty suggested that Rob Sparkes and Rich McFadden can work together to get the data prepared and that will help to keep the costs down by using in-house personnel. There was Board consensus to use in-house staff to prepare plans for submission to COAH.

OPEN SPACE PLAN

Mr. McGroarty reported that he conferred with Rob Sparkes on the Open Space Plan amendment. Mr. Sparkes and the Environmental Commission had prepared an amendment to the Open Space Plan that will include West Milford Lake, and the Master Plan will be amended by the inclusion of this site. The amendment will be prepared for review and approval at the July Planning Board meeting. Noticing will be required and a public hearing will be held on the amendment. Mr. McGroarty noted that the Board could make a motion to authorize preparation of the amendment.

Motion to approve preparation of an amendment to the Open Space Plan to include West Milford Lake made by Councilman Philip Weisbecker with a **second** by Chris Rosica.

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

APPROVAL OF INVOICES – BOARD PROFESSIONALS

The Board reviewed and discussed invoices submitted from the following Board Professionals: Michael Hakim, Paul Ferriero, Thomas Germinario. Mr. Siesta requested that the billing procedures and approval of invoices be placed on a workshop agenda for further discussion, adding that he did not feel comfortable attesting that the charges submitted are appropriate and accurate. He noted that, in the past, the former Planning Director used to carefully review the bills for accuracy and approve them for payment. Mr. Siesta stated that the public trust is at stake, and he could not personally confirm that the charges are justified. Chairman Gargano stated that the matter will be put on the workshop agenda in September. The Chairman noted that he currently signs the vouchers after the Board approves them for payment. The Mayor commented that a new department head will be forthcoming, indicating that this responsibility will then rest with them. Mr. Rosica observed that the matter of approval of invoices has been brought to the Board's attention previously, adding that the Board hears the applications, receives the invoices for review, and he wondered who else, at this time, would be qualified to review the invoices and confirm that the charges are justified. Mr. Siesta advised that he could not approve the invoices nor make a legitimate decision about them. The Mayor asked for a poll of the Board, adding that she was comfortable with the Board approving the invoices. Councilman Weisbecker stated that he did not mind holding the matter to a workshop and he did not object to hearing from another Board member on the matter. Mr. Rosica stated that he was fine with the current procedures in place, but did not object to hearing from another Board member at a workshop. Mr. Castronova stated that he was agreeable with the current procedure of the Board reviewing and approving invoices for payment, but accepted another Board member's request for a workshop discussion on the issue. Mr. Ott and Mr. Smith asked that this matter be held for discussion at a workshop meeting. Mr. Syme noted that he agreed to the current procedures, but was open to the matter at a workshop if another Board member had a valid point to raise. The Mayor asked for clarification from Mr. Siesta regarding the specific matter to be discussed as a workshop. Mr. Siesta noted that there were 18 charges on the invoices that he was not comfortable approving without more information. The Mayor then asked if it was the procedure or the invoices that were the issue. Mr. Siesta wanted to discuss the entire procedure and get to a point where he feels comfortable with approving payment, and as an

example, he brought up the attorney's developer agreement charges with regard to the Sunny Blue, LLC application, and stated that he does not know if these are reasonable and justified. The Chairman was then requested by the Board to pull this invoice from the others and contact the Board Attorney for clarification of the charges. The Chairman noted that the process for payment of Planning Board invoices will continue until such time that the matter is discussed at the September workshop.

Motion to approve the payment of current invoices with the exception of the invoice submitted by Thomas Germinario, Esq. regarding the Sunny Blue, LLC developer's agreement. **Motion** made by Councilman Weisbecker with a **second** by Steven Castronova.

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

Motion to approve the payment of the invoice submitted by Thomas Germinario, Esq. regarding the Sunny Blue, LLC developer's agreement once the Chairman ascertains that the charges are justified. **Motion** made by Councilman Weisbecker with a **second** by Steven Castronova.

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

MINUTES

Motion by Councilman Philip Weisbecker to approve the minutes of the April 3, 2008 Regular Meeting, April 3, 2008 Workshop, and April 24, 2008 Regular Meeting of the Planning Board with a **second** by Chris Rosica.

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

COMMUNICATIONS

The following communications were noted and filed:

Authorization for Freshwater Wetlands Statewide General Permit No. 25 and Waiver of Transition Area for Access for Eric Hastings, Block 3906; Lot 4 for on-site wastewater treatment system.

Application for a GP 25 for Castronova Corporation, 1612 Union Valley Road, Block 6401; Lot 10 & 11, for replacement of failed septic system.

NJDEP Child Care Facility Approval Letter for Kidde Academy Child Care Learning Center at 179 Cahill Cross Road, Block 5310; Lot 2.

Hudson Essex Passaic Soil Conservation District Recertification for Firrito Dwelling, West Brook Road, Block 11102; Lot 6.02

Hudson Essex Passaic Soil Conservation District Certification of plan for Robert Berson, 124 Bearfort Road, Block 7305; Lot 6 regarding demolition and rebuilding of site.

Hudson Essex Passaic Soil Conservation District Recertification for Whispering Pines, Christine Court, Block 9801; Lots 28.01 - 28.09

Application notification from Joyce MacDonald, 14 Hilltop Rd., Block 8002; Lot 5 regarding a General Permit #25 for a septic alteration.

Resolution 2008-229 adopted by the Township Council on June 11, 2008 regarding a grant request for funding to conform to the Highlands Regional Master Plan.

Orange & Rockland Utilities requesting that contractors be informed about underground and overhead utilities before beginning construction.

Approval from the NJDEP dated May 12, 2008 regarding the Boy Scout Lake Dam Repair at Camp Wyanokie and outlining conditions for approval.

Copy of application packet to NJ D.E.P. from UGL P.O.A. for a Freshwater Wetland General Permit #13 for lake bottom restoration/desilting/dredging at Block 2901, Witte Cove.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following Highlands applications and notifications were noted and filed:

Notification and application for Highlands Applicability Determination from Edward Ostrowicz, 350 Morsetown Road, Block 4701; Lot 33.04 for construction of a single family dwelling for applicant's own use for family.

Notification and Application for Highlands Applicability Determination for Ronald & Marianne Schmid at 4 Tenafly court, Block 2404; Lot 7 regarding construction of a single-family house for their personal use.

Application for Highlands Applicability Determination for Vincent Lanza at 1385 Macopin Road, Block 9501; Lot 12.01 for a Highlands Exemption for the Vreeland Store project.

Application for Highlands Applicability Determination for Linda Anderson & Timoya Lindsay, Ivy Lane, Block 3608; Lot 12.

Notification of Highlands Applicability Determination application by Thomas Celano, Cahill Cross Road, Block 5309; Lot 1.

Notification of Highlands Applicability Determination application by Elaine Kramer, 715 East Shore Road, Block 4301; Lot 11.

Re-application for Highlands Applicability Determination for WV's Coffee Expresso, 3034 Route 23, Block 16001; Lot 5 & 6.

Notification and Application packet for Highlands Applicability Determination for Awosting Association, Inc., for Awosting Ballfield, Block 4105; Lot 1.

Notification of Application for Highlands Applicability Determination for Awosting Association, Inc. for 99 Long Pond Road, Block 4106; Lot 1.

Notice received June 19, 2008 of Violation and Offer of Settlement for Eugene Hazelman & Renata Shaposhnikov at 778 Macopin Road, Block 12107; Lot 2, 3 for unauthorized regulated activities within a freshwater wetland transition area.

ADJOURNMENT

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

Meeting adjourned at 9:05 p.m. by unanimous consent.

Approved: September 4, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary