

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

August 22, 2013

Regular Meeting

The August 22, 2013 Regular Meeting of the West Milford Planning Board was opened at **7:31 p.m.** by Acting Chairman Christopher Garcia with a reading of the Legal Notice, followed by the Pledge of Allegiance and Roll Call.

ROLL CALL

Present: Mayor Bettina Bieri, Christopher Garcia, Andrew Gargano, Douglas Ott, Michael Siesta, Councilman Luciano Signorino, Board Attorney Thomas Germinario, Board Engineer Paul Ferriero, Board Planner Charles McGroarty.

Absent: Linda Connolly, Steven Castronova, Robert Nolan, Chairman Geoffrey Syme, Glenn Wenzel.

Acting Chairman Christopher Garcia requested Alternate Michael Siesta to sit in for one of the absent Board members. He noted that there was a quorum present for this regular meeting.

PUBLIC PORTION

Acting Chairman Garcia opened the Public Portion of the meeting. There being no one present wishing to address the Board, the Public Portion was **closed** on a **motion** by Andrew Gargano and a **second** by Michael Siesta.

PRESENTATIONS - None.

NEW APPLICATIONS – None.

MEMORIALIZATIONS

RESOLUTION NO. 2013-11

TRIPLE T CONSTRUCTION, LLC

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

Block 6002; Lot 29

280 Marshall Hill Road; LMI Zone

Re: Dismiss Without Prejudice.

Motion by Douglas Ott with a **second** by Michael Siesta to **approve** Resolution No. 2013-11 to **Dismiss Without Prejudice** the application for a Preliminary and Final Site Plan with Bulk Variance for Triple T Construction LLC following the withdrawal of the application by the applicant.

Roll Call (Eligible to Vote):

Yes: Andrew Gargano, Douglas Ott, Michael Siesta.

No: None.

Motion approved.

RESOLUTION NO. 2013-12

SUN YOUNG JOO

Major Soil Removal/Fill Permit #PB-05-12-05-A

Block 10402; Lot 12

55 Green Terrace Way; R-4 Zone

Granted: Major Soil Removal/Fill Permit for installation of detention/retention basins on subject property, required as a result of prior unauthorized re-grading of an existing 4-acre residential site.

Motion by Michael Siesta with a **second** by Douglas Ott to **approve** Resolution No. 2013-12, granting a Major Soil Removal/Fill Permit for Sun Young Joo.

Roll Call (Eligible to Vote):

Yes: Mayor Bettina Bieri, Andrew Gargano, Douglas Ott, Michael Siesta, Councilman Lou Signorino, Acting Chairman Christopher Garcia.

No: None.

Motion approved.

RESOLUTION No. 2013 - 13

Finding Master Plan Consistency Determination for Ordinance No. 2013-015 to Amend Section 500-90b (3) of the Revised Ordinances of the Township of West Milford, County of Passaic, State of New Jersey

The Planning Board discussed the matter of Board Resolution No. 2013-13 which found Master Plan Consistency for the Township of West Milford Ordinance No. 2013-015 that amends Section 500-90b (3) of the Revised Ordinances of the Township of West Milford to permit a maximum of 6 chicken hens on lots less than one acre providing that the lot conforms to the minimum lot size within the zoning district, with no more than 32 “animals” permitted per acre of lot area. Following a review of ordinance, Board Attorney Tom Germinario noted that he reviewed the current Master Plan and

nothing in Ordinance No. 2013-015 contradicts the Master Plan. Chuck McGroarty, Board Planner, noted that he was not involved in drafting the ordinance, but it adds standards to allow chickens on a smaller lot. Mr. Germinario advised that the Board can vote on the consistency of the ordinance, and comments resulting from the discussion will be provided to the Township Council. Michael Siesta inquired how the ordinance could be consistent with the Master Plan if it allows chickens on less than an acre of property, and prior ordinances did not allow it. Mr. McGroarty advised that the statute asks if it is "inconsistent" and Mr. Germinario observed that he found nothing in this ordinance that would be in conflict with the Master Plan as this was an accessory use and it did not contradict the residential use. Councilman Lou Signorino advised that this matter was tabled to allow the Planning Board to determine the Master Plan Consistency Determination. Mr. McGroarty noted that this issue has been a problem in other towns, and the direction has been to set a number of chickens permitted per lot, adding that the keeping of chickens seems to be a trend. Andrew Gargano commented that several years prior, there was an issue with keeping pot-bellied pigs on small residential lots, and the owners were not allowed to keep them. He did not have a problem, personally, with the chickens being permitted, but recognized that with small lots it could be a problem. Mr. Germinario noted that the Board could question the policy part of the ordinance, but reiterated that there was nothing in the language that was inconsistent with the Master Plan. Paul Ferriero, Board Engineer, attempted to clarify the matter by noting that if the Master Plan stated that no chickens were allowed in the Township, then this ordinance would be inconsistent, but it does not state that they are not permitted. He continued to state that the policy aspect was different than the planning aspects and sometimes it was difficult to distinguish between the two. The Board continued to discuss the issues associated with the ordinances, and it was noted that chickens and rabbits are allowed on lots smaller than one acre, but other farm animals are not. Mr. McGroarty also advised that the language in the Master Plan reflects the rural character of the Township.

Following discussion, a **motion** was made by Councilman Lou Signorino with a **second** by Acting Chair Christopher Garcia to **approve** Resolution No. 2013-13 Finding Master Plan Consistency for Ordinance No. 2013-015 to Amend Section 500-90b(3) of the Revised Ordinances of the Township of West Milford, County of Passaic, State of New Jersey.

Roll Call

Yes: Mayor Bettina Bieri, Andrew Gargano, Douglas Ott, Councilman Lou Signorino, Acting Chairman Christopher Garcia.

No: None.

Abstain: Michael Siesta.

Ordinance No. 2013 - 016 – Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey Amending And Supplementing Chapter 71 Of The Township Code To Regulate The Keeping And Housing Of Chicken Hens On Less Than One Acre Of Land

Mr. Germinario advised the Board that since the resolution finding Master Plan Consistency was adopted, the Board could provide comments on companion Ordinance No. 2013-016 for consideration by the Township Council. Following discussion, the Board requested that the following comments be provided to the Township Council prior to the adoption of the ordinance:

- The Board expressed concern about the aesthetic impact by permitting chickens on less than one acre, and noted that there may be a devaluation of neighboring properties if the property containing chickens is not adequately maintained and kept clean of the animal waste
- The Board discussed the lack of requirements for proper housing of the chickens, which may create nuisance issues for neighboring property owners.
- The Board discussed the potential for an escalation of predatory animals that would trespass into residential neighborhoods where chickens are kept, creating a safety concern
- The Board noted their concerns with health issues, including an increase in rodents and animals that are known disease carriers
- The Board concurred that enforcement would be a major issue for a limited municipal staff, and noted that code violations could be potentially widespread
- The Board expressed concern that these ordinances are precedent setting and could encourage more requests for ordinance amendments to permit various other animals not allowed under current zoning regulations.

NEW BUSINESS

2012 Year End Report of the West Milford Board of Adjustment – Board Planner Chuck McGroarty provided comments following his review of the 2012 Year End Report from the Zoning Board of Adjustment, noting that he interpreted inconsistencies with this report compared to prior years. His comments were as follows:

- It was his opinion that certain aspects of the Zoning Board of Adjustment Annual Report were inconsistent with the Highlands Master Plan adopted by the Township
- With regard to lake communities, he noted that most properties are on septic and wells, and the recommendation by the Board of Adjustment that the LR Zone requirements be reduced to create smaller, conforming lot sizes to reduce the need for bulk variances would be detrimental since the new septic laws would not permit new septic to be installed on smaller lots

- Creating smaller lot requirements in the LR Zone would provide an opportunity for property owners to subdivide the lots, creating more development in small lake communities
- There appeared to be inconsistencies with the math in the FAR ratio

Mr. McGroarty advised that there were flaws in the recommendations with regard to the LR Zoning changes. He noted that the Master Plan Committee had been working with him on the Master Plan and there are inconsistencies with the current ordinance as it is written, but they will have to review this further. The next Master Plan Committee meeting will be scheduled for September 26, 2013 at 6:00 pm prior to the next Planning Board meeting.

Proposed Meeting Dates for 2014 – The Planning Board reviewed the 2014 Planning Board Meeting Dates for the Township Calendar. On a **motion** by Andrew Gargano with a **second** by Michael Siesta, the Board **approved** the 2014 dates with the exception of July 3, 2014, which was removed due to the July 4th holiday weekend.

BOARD PLANNER’S REPORT

Draft Highlands Checklist Ordinance; Draft Highlands Exemption Ordinance – Mr. McGroarty reviewed the Draft Highlands Checklist Ordinance and the Draft Highlands Exemption Ordinance with the Board, explaining that he drafted the ordinances based on model ordinances from the Highlands Council. The Checklist Ordinance, once adopted, will replace the need for the Township to adopt the entire Highland Master Plan, and the Highlands Council was amenable to this ordinance since the Township is entirely in the preservation area and we have met all the requirements. Mr. McGroarty noted that this was a mandatory ordinance and it will be replaced when the entire Highlands Master Plan ordinance is adopted. There was no discussion from the Board regarding the Checklist Ordinance.

With regard to the Draft Highlands Exemption Ordinance, Mr. McGroarty noted that he also worked with a model ordinance to draft this document that permits the Township to approve 7 exemptions, on a local level, out of the 17 exemptions permitted under the Highlands Act. He advised the Board that the Construction Official, the Zoning Officer, the Technical Assistant to the Construction Official, the Board of Adjustment and Planning Board Secretaries, as well as Paul Ferriero and himself attended special training at the Highlands Council headquarters regarding the exemptions permitted by local municipalities. Mr. McGroarty observed that many of the exemptions for Board applications would be referred to Paul Ferriero, as Township Engineer. With regard to fees indicated in the ordinance, he noted that some cases may require escrow, but for the exemptions granted in-house, escrow may not be needed in cases where a lot was in existence prior to 2004. He also noted that the map that was previously required would not be needed per the Highlands Council. Mr. Germinario advised the Board that the ordinances were introduced and had their first reading at the Township Council meeting on the prior day. He noted that the Joo Major Soil Movement Permit matter required a Highlands exemption for the on-site stormwater project, and the exemption they require can be provided locally once the ordinance is in place. Mr. Germinario stated that the ordinance, as written, seems to be consistent. Acting Chairman Chris Garcia inquired about the escrow fee language regarding the waiver by the exemption designee, and inquired whether escrow can be requested after the fact. Mr. Ferriero advised that he would deny an exemption until all the required information is submitted and the escrow is posted. There was a brief discussion regarding the determination of the escrow amounts, and Mr. McGroarty suggested that escrow fee could be increased to \$750. in the ordinance. Mr. Germinario noted that this would be a minor amendment that is ultimately up to the Township Council to determine. He suggested that the Board approve the two draft ordinances and provide the Township Council with their recommendation.

Motion by Andrew Gargano with a **second** by Michael Siesta to **approve** the Draft Highlands Checklist Ordinance and the Draft Highlands Exemption Ordinance as presented.

Roll Call

Yes: Mayor Bettina Bieri, Andrew Gargano, Douglas Ott, Michael Siesta, Councilman Lou Signorino, Acting Chairman Christopher Garcia.
No: None.

BOARD ATTORNEY’S REPORT – None.

BOARD ENGINEER’S REPORT - None.

MISCELLANEOUS

Approval Of Invoices – Board Professionals

The invoices submitted by the Planning Board professionals for services performed during the months of May, June and July 2013 were **unanimously approved** on a **motion** by Andrew Gargano with a **second** by Douglas Ott.

MINUTES

The minutes from the March 7, 2013, May 23, 2013, and June 27, 2013 Regular meetings were **unanimously approved** by those eligible to vote through a **motion** by Andrew Gargano and a **second** by Mayor Bettina Bieri.

THE FOLLOWING CORRESPONDENCE ITEMS WERE REVIEWED BY THE PLANNING BOARD AND FILED:

Highlands Water Protection And Planning Act Correspondence

1. Continuation of the 2009 Highlands Exemption #2 and Water Quality Management Plan Consistency Determination received from the NJDEP, dated July 5, 2013, regarding Inserra/West Milford – Shop Rite, Block 6303; Lots 15 & 16 based on the submission of the amended site plans for the proposed expansion of the shopping center.
2. Highlands Exemption #4, Water Quality Management Plan – Consistent, dated August 2, 2013, received for Kurt Renzland, 921 Burnt Meadow Road, Block 6002; Lot 39.02, received for proposed construction of a new 4250 square foot building /warehouse, a 9000 square foot addition to an existing metal frame building/warehouse, the installation of a new parking lot, and the re-location of the detention basin.
3. Copy of an application for a Highlands Applicability Determination, dated August 12, 2013, received from E2 Project Management Inc for Verizon Wireless – Ringwood 4, 750 Westbrook Road, Block 4701; Lot 61 for the construction of a wireless communication facility.

NJ Department of Environmental Protection Correspondence

1. Flood Hazard Area General Permit #4 dated July 23, 2013, received for the Township of West Milford, authorizing improvements to an existing drainage system along Durant Road within the flood hazard area and riparian zone of Belchers Creek, including the relocation and reconfiguration of the existing stormwater pipe and outfall structure, construction of a retaining wall, and installation of a vegetated filter strip.
2. Notification dated July 9, 2013 by the NJ DOT regarding the 2014 State Aid Program for the improvement of the local transportation infrastructure through the development of traditional and non-traditional transportation initiatives.
3. Response Action Outcome, dated July 12, 2013, received from David Robinson of Synergy Environmental Inc. regarding Kimber Petroleum Corp., Lakeside Amoco, Block 3509; Lot 16, advising that the remediation has been completed in compliance with the Administrative Requirements for the Remediation of Contaminated Sites.
4. Copy of a letter dated July 12, 2013 to the NJDEP Land Use Regulation from Ferriero Engineering Inc. regarding the proposed Township of West Milford Library, Block 7903; Lots 13, 14, 15, 16, transmitting a copy of the proposed conservation restriction map dated May 2, 2013 and a grant of the conservation restriction easement in support of the Highlands Preservation Area Approval application with redevelopment waiver as a response to condition #4 of the HPAA, and requesting confirmation that the information is acceptable for filing with Passaic County so the Township can begin construction.
5. Notice of an application being submitted to the NJDEP by Map Engineering for a GP #25 for 2012 Macopin Road; Block 7902; Lot 4 for the alteration of an ISDS.
6. Notice from Holt Public Affairs for Motiva Enterprises regarding an environmental investigation and/or remediation of property at Route 23 & Union Valley Road, Newfoundland, NJ, Block 14604; Lot 1.
7. Notice from Vincent Lanza, dated August 10, 2013, regarding the submission of an application to the NJDEP for a General Permit for the cutting and clearing of trees for the installation of a driveway at 28 Lookover Drive, Block 206; Lot 14.02.

Miscellaneous Correspondence

1. The Pequannock Post, Volume 18, Issue 4, August 2013.
2. Environmental Analysis and Communications (EAC) Group of Rutgers University Bloustein School sessions planned for July and August 2013 for the purpose of soliciting input from Planning Board and Environmental Commission members on design of an online mapping tool to support environmental health activities at a local level.
3. Notification received on July 24, 2013 from ANJEC that “ANJEC News”, a complimentary e-newsletter for ANJEC members containing information that may be useful to Environmental Commissions, is available on their website.
4. Rutgers Office of Continuing Professional Education programs: Stormwater Management – 10/2, 3, 4 - \$825.00; Lake Management – 11/14, 15 - \$395.00; HEC-RAS – 12/4, 5, 6 - \$825.00.
5. Notice from the County of Passaic Planning Dept. dated July 12, 2013 regarding the Twins Realty Group site plan, Block 3906; Lots 9 & 10 and Block 6002; Lot 34.01, Burnt Meadow Road, requesting additional information including revised drainage calculations for seepage pits and indicating the impact on culvert #247, revised plans eliminating County signature block, and copies of any permits required by the NJDEP.
6. Notice from Passaic County Planning Dept. dated July 29, 2013 regarding the Inserra West Milford site plan, Block 6303; Lots 15 & 16, 25 Marshall Hill Road, requesting a copy of the filed sidewalk easement from 2009, and revised plans including notes concerning proposed double yellow centerlines, 4 inches wide for the driveways, prior to unconditional approval being considered for this site.

7. Certification of the soil erosion and sediment control plan dated June 25, 2013 received from Hudson Essex Passaic Soil Conservation District for Slabaugh Landing Single Family dwelling, Block 2702; Lot 17, 54 Landing Road, certified for 3.5 years.
8. Certification from the HEPSCD, dated July 2013, for Chelsea at Bald Eagle, regarding a 20-bed addition to the assisted living facility.
9. Certificate of Exemption from Passaic County, dated 06-27-13, received for Chelsea at Bald Eagle, Block 5310; Lot 1 regarding plans dated 06-17-13 for a 20-bed addition to an existing assisted living facility.
10. Correspondence from Synergy Environmental Inc., dated August 13, 2013, regarding Lakeside Amoco, 2 Lakeside Road, Block 3509; Lot 16, ID # 012599, correcting an administrative error in the Response Action Outcome dated July 1, 2013 regarding "Unrestricted Use for Soil."
11. Correspondence from Synergy Environmental Inc., dated August 13, 2013, regarding Lakeside Amoco, 2 Lakeside Road, Block 3509; Lot 16, ID # 012599, correcting an administrative error in the Response Action Outcome dated July 1, 2013 regarding "Limited Restricted Use with Permit Requirements for Groundwater."

ADJOURNMENT

With no further business to come before the Planning Board, Acting Chairman Garcia **adjourned** the Regular Meeting of August 22, 2013 at **8:40 p.m.** on a **motion** made by Councilman Lou Signorino with a **second** by Douglas Ott.

Approved: October 24, 2013

Respectfully submitted by,

Tonya E. Cubby, Secretary