

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

August 25, 2011

Regular Meeting

The Regular Meeting of the Planning Board was opened at **7:32 pm** by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Robert Nolan, Douglas Ott, Geoffrey Syme, *Vacancy*, Alternates Michael Siesta and Steven Castronova, Chairman Andrew Gargano, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E. (7:45)

Absent: Linda Connolly, Christopher Garcia, Councilman Philip Weisbecker, Board Planner Charles McGroarty, P.P.

Chairman Andrew Gargano requested Planning Board Alternates Michael Siesta and Steven Castronova to sit on the Board for the absent Board members.

PUBLIC PORTION

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

Doris Aaronson, 19 Bearfort Road, addressed the Board regarding two ordinances that were presented to the Township Council, and were introduced on August 17, 2011, that were related to lake community issues. She noted that the two ordinances are parallel documents that address homeowner construction or septic upgrades and will require notification and sign-off from Lake Associations. Ms Aaronson felt that these were land use ordinances, and as such, the Planning Board and the Environmental Commission should have been apprised of this local legislation. She stated that these ordinances are discriminatory towards lake homeowners, and that they are exclusionary for some residents and not for others. Ms. Aaronson noted that these would impose a liability on lake associations, many with officers who are not available during certain months, and questioned the legality of the ordinances, adding that the lake associations are not empowered by the State, nor is the Township Council. Board Attorney Tom Germinario advised Ms. Aaronson that the ordinances are not land use ordinances. He noted that one deals with the construction code and one deals with sewer and health, and that these are not the type of ordinances that would normally be referred to the Planning Board. Mr. Germinario stated that if the Board has a concern about the ordinances, they could informally discuss them and send their comments to the Township Council. Chairman Gargano suggested a memo be sent to the Township Council requesting that they delay the second reading and adoption of the ordinances until the Board has time to review them and provide comments. Mayor Bieri expressed concern that the ordinances may be prejudicial to some residents, specifically lake community homeowners, and not others. She also noted that lake associations are not the same as condo associations, and also questioned the legality of these ordinances. She concurred with the Chairman that a memo should be sent to the Council as soon as possible requesting delay on adoption until further review is made.

Richard Randazzo, 278 Wooley Road, addressed the Board about the Braemar at West Milford subdivision, advising them that he had been informed that the applicant had lost their Highlands Exemption. Board Attorney Tom Germinario commented that he was still wrangling on what will happen with this application and that the applicant may appear before the Board the following month to give an update on the status. Mr. Randazzo alleged that he saw a letter in the applicant's file that was supposed to have been sent to the Planning Director in 2007 that seems to have disappeared, and he also spoke to Laura Udell from the NJDEP regarding this matter. Mr. Germinario responded that he had not seen the referenced letter. He advised that will ask the Board Secretary to review the file, but that the referenced 2007 letter from the NJDEP was merely inquiring about the status of the application, not that the applicant lost their exemption.

Mr. Randazzo referred to his memo with suggestions about amending the well ordinance, noting that additional escrow was needed as a provision of the ordinance. He also inquired about receiving the data from his well monitoring and alleged that the applicant's hydrogeologist, Maser Consulting, pilfered the data from his well and was using it to find other "strike zones" and that there should be criminal charges against the applicant and Maser for using the data from his well for their own purposes, adding that this was not why the ordinance was written. He further stated that this data should be forwarded to the Township's hydrogeologist, Matt Mulhall of M2.

Chris and Mike Schivaro, Heritage Drive, approached the dais to address the Board on behalf of 7 of the 10 homeowners at Village on Ridge/Old Milford Estates. Mr. Germinario advised that there is a pending extension request for this matter and it has been carried to the September 22, 2011 Planning Board meeting. He asked that the residents to return when this matter will be heard.

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

APPLICATIONS

NEW APPLICATIONS – None.

PENDING APPLICATIONS – None.

EXTENSION OF TIME

VINCENT LANZA

Minor Subdivision #0510-1976

Preliminary & Final Site Plan #0520-0219

Bulk Variance #0530-0718

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

Seeking: One-Year Extension of Time for Final Site Plan Approval, from February 24, 2011 to February 24, 2012.

Vincent Lanza, 40 Forest Lake Drive, was sworn in by the Board Attorney, and addressed the Board regarding an extension of time for his final site plan approval until February 24, 2012 for Block 9501; Lot 12, at 1393 Macopin Road. He testified that he was under the assumption that his prior time extensions included his final site plan approval, but when he became aware that the time extension granted by the Board in February 2011 was only for his minor subdivision, he submitted a request for an extension of the final site plan. Board Attorney Tom Germinario advised the Board that the statute allows 3 one-year extensions, and Mr. Lanza has only had one extension for his final site plan approval. He then requested that Mr. Lanza provide an explanation to the Board as to the reasons that he could not file for his building permits prior to the expiration of the final subdivision. Mr. Lanza informed the Board that he was unable to secure financing until the deeds were filed for the minor subdivision, and there was some time that elapsed during the review process of the deed descriptions and revisions to his subdivision plat. He noted that the deeds have been filed and he has recently submitted his building permits for review and approval. Mayor Bieri inquired the reason that he was not granted the time extensions simultaneously, and Mr. Germinario advised that the subdivision and site plan applications are separate, but, as they were filed at the same time, the applicant, in good faith, assumed that the time extension applied to the minor subdivision and site plan applications. Board member Steven Castronova commented that this project should have been completed by this time, and Mr. Lanza replied that he began the project in 2003, but experienced delays due to approvals required by the Highlands Act and also obtaining county approval. Mr. Nolan inquired if the Board can grant a time extension retroactive to one year, and Mr. Germinario advised that the Board is permitted to do this. Mr. Lanza then inquired if the site work has not been completed, if he will need to return to the Board for another extension, and Mr. Germinario replied that as long as the building permits are issued, he will not need an extension.

Motion by Michael Siesta to **approve** the one-year time extension for final site plan approval, until February 24, 2012, with a **second** by Steven Castronova.

Roll Call: Yes: Mayor Bettina Bieri, Steven Castronova, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme.

No: Chairman Andrew Gargano.

The following matter was carried to the next meeting:

JACK LEVKOVITZ (VILLAGE ON RIDGE) Section II

Amended Final Major Subdivision #0510-1744C

Block 5201; Lots 16, 19 & 20; Block 5301; Lot 1; R-3

Ridge Road; R-3 Zone

Seeking: Extension of Time for Amended Final Major Subdivision Approval and several associated conditions due to delays in securing other governmental agency approvals required per Planning Board Resolution No. 2010-20.

MEMORIALIZATIONS

RESOLUTION NO. 2011-12

VINCENT LANZA

Minor Subdivision #0510-1976

Preliminary & Final Site Plan #0520-0219

Bulk Variance #0530-0718

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

Granted: One-Year Extension of Time for Final Site Plan Approval, from February 24, 2011 to February 24, 2012.

Motion by Robert Nolan to **approve** Resolution No. 2011-12 for a one-year time extension for final site plan approval, until February 24, 2012, with a **second** by Douglas Ott.

Roll Call: Yes: Mayor Bettina Bieri, Steven Castronova, Robert Nolan, Douglas Ott, Michael Siesta, Geoffrey Syme.

No: None.

NEW BUSINESS - None.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – None.

BOARD PLANNER’S REPORT – None.

BOARD ATTORNEY’S REPORT – Mr. Germinario advised the Board that he would provide an update on the Braemar at West Milford matter in Closed Session.

BOARD ENGINEER’S REPORT – Mr. Ferreiro reported that there were some modifications to the Czykier - Weedon Road Major Soil Movement Permit with regard to the retaining wall. He advised the Board that the original design was for a boulder retaining wall, but the applicant and his contractor returned with a revised plan for a pre-cast block retaining wall system. Mr. Ferreiro noted that he approves of this block wall system and that it is a change for the better from the original design. He also advised that the Board did not need to approve the revision to the Soil Movement Permit, but he was bringing the matter to their attention.

Mr. Ferreiro cautioned the Board about the impending Hurricane Irene, adding that his information has the storm producing higher winds than Hurricane Floyd with approximately 9 to 10 inches of rain.

MISCELLANEOUS

Streetscape Discussion

Board member Steven Castronova inquired about the streetscape project, and Mr. Ferreiro advised that the Administrator was supposed to schedule meetings with the residents regarding the easements that will be necessary. He will get an update from the Administrator and report back to the Board. With regard to the corridor enhancement funds, Mr. Ferreiro noted that Chester Borough has a clock similar to the one that the Planning Board had envisioned for the intersection of Marshall Hill and Union Valley Roads. He estimated that the clock and triangle upgrade would cost approximately 15,000. to 20,000. Chairman Gargano expressed concern about moving forward with this as the corridor enhancement funds revert to the county in 2015 if they are not expended. Mr. Ferreiro replied that the Planning Board cannot do anything with regard to this, and that it was the function of the Township Council to approve a project and the funds to be used. He will communicate with Kevin that the Planning Board has requested that the funds be used for a clock and upgrade for the Union Valley and Marshall Hill Roads intersection. He noted that this was a distinct project and could be done separately from other proposed or pending streetscape projects in this location. Chairman Gargano asked the Board for consensus to request the Township to get estimates for the clock and proposed plans for the intersection triangle, and the Board concurred. He confirmed that Mr. Ferreiro would be following up with the Township Administrator on this. Geoffrey Syme commented that if it weren't for Walgreens, the Township would not have seen any of the streetscape improvements. Mayor Bieri inquired about the Shop Rite project as they will be installing many of the streetscape improvements in this area, and Mr. Castronova commented that he did not think they would be doing their project due to the recent paving of the Wells Fargo parking lot that is adjacent to the Shop Rite lot. Mr. Ferreiro indicated that he spoke briefly to the attorney for the applicant Inserra at West Milford, and that their attorney indicated they would be back to the Board. A Board member commented that they would probably need another extension.

Robert Nolan inquired about revisiting the well ordinance and asked if this matter could be discussed at a Workshop meeting. Chairman Gargano advised that Matt Mulhall of M2 was reviewing it and we are waiting for his comments. Mr. Nolan commented briefly about his recent visit to a retirement community in South Carolina and was dismayed by all of the rules that had to be followed by the residents. He compared them to the lake ordinances that were recently introduced by the Township Council and discussed by Doris Aaronson during the public comment portion of the meeting.

Approval Of Invoices – Board Professionals

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

Cancellation of Planning Board Workshop/Regular Meeting

After getting consensus from the Board members and Board Professionals, Chairman Gargano announced that the Planning Board meeting on September 1, 2011 would be **cancelled**.

MINUTES

The minutes of the June 23, 2011 Regular meeting and the August 4, 2011 Workshop meeting were only available in draft form so were held for approval until the next regular meeting of the Planning Board.

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

COMMUNICATIONS

1. Notice from Passaic County Planning Board, dated July 28, 2011, advising that their approval of the site plan submitted for Esco Products, 171 Oak Ridge Road, Block 15901; Lot 7, was being withheld pending receipt of additional documents including a deed for portion of driveway in the county's right of way, a positive drainage plan, revised plans eliminating eastern driveway due to sight distance issues, written confirmation that West Milford does not require curbs or sidewalks along Oak Ridge Road, revised plans for planter that is encroaching on the right of way and existing building sign, copy of Highlands Applicability Determination, electronic version of the plans in PDF format.

HIGHLANDS WATER PROTECTION & PLANNING ACT / NJ DEP CORRESPONDENCE

1. Notice of Administrative Completeness for a Highlands Applicability Determination received from the NJDEP, dated August 3, 2011, for Destiny's Gate, People Helping People Help Themselves, Block 5301; Lot 39 & 40, Morsetown Road, advising that this application will now be under technical review for proposed renovations to a camp, installation of a new pool, parking and other facilities.

2. Highlands Act Exempt-#2, Water Quality Management Plan-Consistent, dated August 15, 2011, received for Shoebox Storage LLC, Block 16005; Lot 16, Paul Street, for construction of a 5-bedroom single family dwelling and removal of existing wood buildings and bituminous pathways.

3. Notice received from the NJDEP, dated August 15, 2011, advising of an informal review to determine consistency with the provisions and recommendations of the Northeast Water Quality Management Plan, (Informal Consistency Determination-Not Addressed) regarding a proposal to change the use of an existing structure located on Block 5708; Lot 4, 54 Marshall Hill Road, from a retail space to a restaurant space for Joe and Gail Van Hook.

4. Copy of an application packet for a Highlands Applicability Determination sent to the NJDEP, dated August 8, 2011, received from CK & Sons, LLC, for 909-911 Burnt Meadow Road, Block 6002; Lots 41, 42, 43, submitted as a requirement of Planning Board site plan approval with reference to an existing storage site for heavy construction equipment.

5. Copy of a General Information Notice received August 2, 2011 as part of the NJDEP Site Remediation Program, advising of cessation of an existing business, MCB Screen Printing and Embroidery at 2887 Route 23, Block 15505; Lot 2.02.

6. Notice received on July 29, 2011 from LAN Associates regarding an application being submitted for a Flood Hazard Verification for 31 Morsetown Road, Block 5009; Lot 8, with reference to construction of a septic alteration with no expansion or change of use.

7. Notice of Violation received from the NJDEP, dated July 25, 2011, for Tim Birkoff, 470 Ridge Road, Block 5501; Lots 2.03 & 2.04, for unauthorized regulated activities within a freshwater wetlands transition area including destruction of vegetation and placement of soil and asphalt millings within this area and within the 150 ft riparian zone associated with a tributary to Belcher Creek.

8. Copy received on August 11, 2011 from MAP Engineering regarding an application for a GP#25 for 89 Lincoln Avenue, Block 6607; Lot 5, for an alteration to an existing malfunctioning septic system.

9. Copy received from Houser Engineering, LLC regarding an application for a GP#25 for 101 Lincoln Avenue, Block 6606; Lot 4 with reference to an upgrade of an existing septic system with a new pump tank and pressure dosed disposal bed.

10. Application copy received August 15, 2011 for an NJDEP General Permit for Lindy's Lake Association, for the emergency repair of the upstream slope of the Lindy's Lake Dam in accordance with the NJDEP Dam Safety Standards, due to the failure of the upstream stone masonry retaining wall that failed in March 2011 requiring replacement with a rip rap slope.

11. Notice received August 2, 2011 from AECOM advising of an application for an Amendment to the Existing Highlands Exemption for the Tennessee Gas Pipeline 300 Line Project – Loop 325 and Addition of the Northeast Upgrade Project – Loop 325.

12. Notice from AECOM received August 9, 2011 advising of submission of a Clean Water Assurance Certification Form to the NJDEP to conduct hydrostatic test water discharge activities for a segment of natural gas pipeline associated with the Tennessee Gas Pipeline 300 Line Project with temporary discharge activities to occur on or after August 17, 2011 at the Monksville Reservoir for approximately 4 hours, at a rate of 488,000 gallons at 2,000 gpm. This process will assist in certifying that the new pipe will be capable of operating at a specific pressure prior to placing in service.

13. Notice from AECOM regarding the Tennessee Gas Pipeline project, and submission of a Response to Action Outcome for a Remedial Action for Unrestricted Use on Union Valley Road, Block 6402; Lot 7 (Belchers Creek) advising that all remediation has been completed in compliance with Administrative Requirements for the Remediation of Contaminated Sites and completion of a Preliminary Assessment.

14. Notice received from the NJDEP, dated July 28, 2011, advising of a Minor Modification #7 for the Freshwater Wetlands Individual Permit and Individual Flood Hazard Area Permit, File #0000-09-0038.1 regarding the TGP 300 Line Project and a proposed shift in the location of the pipeline within the existing approved limit of disturbance at Bearfort Waters near Clinton Road.

15. Notice received from the NJDEP, dated August 3, 2011, advising of a Minor Modification #8 for the Freshwater Wetlands Individual Permit and Individual Flood Hazard Area Permit, File #0000-09-0038.1 regarding the TGP 300 Line Project and Bearfort Waters, allowing Special Condition #23 to be waived in order to limit the construction time within Bearfort Waters, and imposing additional conditions with the waiver for storage of equipment, fuel, and other associated precautionary measures with regard to turbidity in the lakes and streams.

CLOSED SESSION

Prior to adjourning, Chairman Gargano announced that the Planning Board would go into Closed Session to receive an update from the Planning Board Attorney on a pending application.

RESOLUTION NO. 2011 - 13
PLANNING BOARD
Township of West Milford, New Jersey
County of Passaic
State of New Jersey

CLOSED SESSION

BE IT RESOLVED by the Planning Board of the Township of West Milford on this **25th** day of **August 2011**, that:

1. Prior to the conclusion of this meeting, the Planning Board shall meet in Closed Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12. sub-section (s)
 - b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.

Braemar at West Milford LLC – Update from Board Attorney

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

Present: Mayor Bettina Bieri, Robert Nolan, Douglas Ott, Geoffrey Syme, Michael Siesta, Steven Castronova, Chairman Andrew Gargano, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E.

Absent: Linda Connolly, Christopher Garcia, Councilman Philip Weisbecker, Board Planner Charles McGroarty, P.P.

ADJOURNMENT

With no further business to come before the Board, Chairman Andrew Gargano **adjourned** the August 25, 2011 Regular Meeting of the West Milford Planning Board at **8:55 pm** on a **motion** by Robert Nolan with a **second** by Geoffrey Syme.

Approved: October 27, 2011

Respectfully submitted by,

Tonya E. Cubby, Secretary