

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD
MINUTES
August 28, 2008
REGULAR MEETING**

In the absence of Chairman Andrew Gargano, the Regular Meeting of the West Milford Planning Board was opened by Vice Chairman Geoffrey Syme at 7:34 pm with a reading of the Legal Notice followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Steven Castronova (left early 8:48 pm), Richard McFadden, Douglas Ott, Chris Rosica, Michael Siesta, Clinton Smith, Geoffrey Syme, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E., Planning Consultant Charles McGroarty, P.P.

Absent: Chairman Andrew Gargano, Councilman Philip Weisbecker.

Michael Siesta was asked to sit in for one of the absent Board members.

PUBLIC PORTION

With no one present wishing to address the Board on matters not on the agenda, the public portion was closed on a **motion** by Chris Rosica with a **second** by Douglas Ott.

SITE PLAN APPLICATION REVIEW WAIVERS – None.

APPLICATIONS

CARRIED APPLICATION

EUGENE & ELAINE PRAIS

Preliminary Subdivision #0410-1961

Variance #0430-0654

Block 8401; Lots 22 and 23

114 Dockerty Hollow Road; R-2 Zone

Applicant Eugene Prais was present to address the Board. Paul Ferriero, Board Engineer, advised the Board and the applicant that there were too many issues that the applicant must comply with for the Board to act on this application. In a review of the file he discovered that no Highlands exemption was received, and it appeared the exemption was not forthcoming. He recommended that the applicant withdraw his application. Mr. Germinario, Board Attorney, concurred with Mr. Ferriero on the issues and suggested that the Board could deny the application without prejudice. Mr. Ferriero advised the applicant that he had the option of withdrawing the application, adding that Planning Board approval would not influence the NJ DEP to grant approval. The Board members and Board professionals concurred. The applicant agreed to withdraw his application and return before the Board with no additional application fees, pending his receipt of Highland's approval. It was noted that Mr. Prais was still obligated to pay all fees and escrow payments due.

Motion by Chris Rosica with a **second** by Mayor Bieri to approve Mr. Prais's withdrawal without prejudice of his preliminary subdivision application and waiving reapplication fees when he is prepared to file a new application with the Board.

Roll Call: **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Michael Siesta, Clinton Smith, Geoffrey Syme.
No – None.

CONCEPT REVIEW

AWOSTING ASSOCIATION INC.

Preliminary & Final Site Plan #0820-0320AB

Block 4105; Lot 1

Long Pond Road; LR Zone

The Awosting Association's agent, Dale Van Nimwegan, their attorney Ben Cascio, and engineer Tibor Lanticsics, were all present for a review of a concept plan for the proposed Awosting clubhouse. The history of the community was presented by Ms Van Nimwegan. After many years of examining the matter, she advised that 90% of the community members voted in 2004 to tear down and rebuild the clubhouse in a new location in order to accommodate the members and their various activities. The new building lot would be larger, using part of a current ballfield, and the site would have

more access to parking than the current site. The concept plan proposes a clubhouse that would be more centrally located for the community. The Association proposes subdividing and selling the existing clubhouse property to make the new clubhouse more economically feasible for the community members. Several Board members inquired about the tennis courts, parking issues, the current and anticipated occupancy numbers of the old and new building, whether the DEP approvals were applied for and received, current impervious cover versus proposed impervious cover, and whether MUA approval for wells and sewer were received.

Acting Chairman Geoffrey Syme opened the meeting to the public. The following addressed the Board regarding the concept plan for the new clubhouse:

John Tregidgo – 12 Shepard Road – Mr. Tregidgo inquired about the number of people who will use the new facility, and wondered whether those who are not members of the Association, like himself, would be permitted to use the facility. Ms. Van Nimwegan replied that the clubhouse was being designed to accommodate a fuller membership. Mr. Tregidgo also inquired about impervious cover and the Board Attorney noted that gravel is considered impervious cover.

Michael Moray - 100 Long Pond Road – Mr. Loray inquired about the current plan being presented and the one on file in the Planning office. The applicant's engineer reviewed the plan with the ratio to impervious surface and parking. Mr. Lanticsics advised that the current plan would be filed with the DEP.

Jack Shuhart – 156 Long Pond Road – Mr. Shuhart inquired about the cost of constructing the new clubhouse and implied that the majority of the community residents do not approve of the plan. He was advised to take his issues up with his association.

Maryann Negran –88 Long Pond Road – Ms. Negran inquired about the number of restrooms in the proposed clubhouse versus the existing clubhouse. The applicant's engineer explained the formula for determining the proper amount required based on transferring gallons per day. He noted that the occupancy numbers of 260 – 280 is determined by several factors from a fire code perspective, access perspective, and water and sewer usage.

Cathy Rice – Director of Social Activities and Chairman of the Awosting Board commented about the issues before the Board and the community, and noted that with this presentation the applicant is attempting to provide additional resources for making the determination on this project.

With no one else wishing to address the Board on this matter, the public portion of the hearing was closed on a **motion** by Chris Rosica with a **second** by Douglas Ott.

The attorney for the applicant inquired if the Board had any comments regarding this concept plan before moving on to the minor subdivision application road concepts.

Board member Steven Castronova left meeting at this time due to a family emergency.

CARRIED APPLICATION

AWOSTING ASSOCIATION INC.

Minor Subdivision #0810-1984

Bulk Variance #0830-0807

Block 4106; Lot 1

99 Long Pond Road; LR Zone

Mr. Germinario, Board Attorney, advised that he had contacted the applicant's attorney, Ben Cascio, on the question of the road dedication that he and Mr. Ferriero had been advised of in their review of this matter. He entered into evidence a report to the Board Attorney and the Board Engineer received from Richard McFadden, Township Engineer, as Exhibit B-1 dated July 30, 2008, with four attachments: street index dated May 2007, tax map sheets 38 and 41, subdivision map – Property of Ringwood Company dated June 1915, and subdivision map dated August 1926. It was noted that there was some question on the dedication of the road; the road was apparently accepted but not dedicated. Mr. Germinario asked the applicant to have a title company determine the dedication of the road, adding that it was necessary to have confirmation if the road is insurable. Mr. Cascio reviewed Exhibit A-10 and advised that a title company is researching the matter of the road dedication.

The applicant's engineer reviewed Concept plan #1 (Cul de sac) that would be located at the end of Long Pond Road West. Parking was also examined and discussed. The transit lines were identified. He noted that he reached out to Orange & Rockland

Utilities who were not aware of an email sent by their employee regarding electric lines and service that was testified to by a resident at a prior meeting. The applicant advised that following a meeting with the Fire Marshall, the fire hydrants were relocated. Striping was also requested for the fire lanes. Introduced into evidence were Exhibits A-11 and A-12, letters from the Fire Marshal. Mr. Lanticsics addressed the stream with 300-foot buffer and noted that the Highlands exemption was pending. He gave a summary of key revisions as a result of the July 24, 2008 meeting and noted that a de minimis exception would be required for the "hammerhead" if this is included in the plan. He reviewed several other design and engineering issues as part of this concept.

Mr. Lantincsic reviewed Concept plan #2, which would reduce the roadway to 33 feet; this presentation was followed by Board discussion. A Board member inquired about the suggestion that the road become a one-way road. Ms. Van Nimwegan answered that there were numerous residents opposed to making Long Pond Road a one way. Following discussion, Mr. Syme, Acting Chairman, suggested that the decision on the road concepts be made once the dedication of the road issue is resolved.

Acting Chairman Geoffrey Syme opened the meeting to the public. The following addressed the Board regarding the minor subdivision application:

Joseph Russo, Esq., attorney for resident Ken Carroll, advised that he was retained because his client is opposed to the subdivision plan. He noted that there is too much uncertainty for further comments to be made, and he will wait for revised plans to be developed and the street issue to be resolved before proceeding.

John Tregidgo – Shepard Road – He advised that there are easements on the roads for all residents of the Awosting community and he will submit his deed with the easement for review by the Board professionals.

Claudio Zacarra – 78 Long Pond Road - He stated that he reached a settlement in court for the right of way and curb bordering his property to be maintained. He has several boats and has built a fence on the state owned property, adding that he has a 100-year lease on his house. He was asked to provide his settlement agreement to the Board secretary.

Linda Bosland – 90 Long Pond Road - She advised the Board that she occupies a summer home in the community with family members and commented on the tight parking situation on the road, adding that parking spaces are minimal.

Michael Moray – 100 Long Pond Road - He commented that he is not happy with the subdivision plan, adding that it ignores the rights of three homeowners on the opposite side of the road.

Ebbehard Dietrich – 107 Long Pond Road, inquired about acquiring copies of new plans that are submitted, adding that there were many revisions and it was difficult to keep up with them. Mr. Germinario advised him to contact the Board secretary for revisions.

Carl Richko – 9 Shepard Road – Commented that the new clubhouse is controversial and asked the Board to bear with them as they iron out their differences. He inquired about the issue of who owns the roads, and noted that if the town owns them then they have to maintain them. Mr. Germinario commented that the ownership is not in question, that the dedication is to be determined.

Cathy Rice – She thanked the Board for going through this process, commenting that the community goal is to get a new clubhouse, and asked for patience to get through the process.

With no one else wishing to address the Board on this matter, the public portion of the hearing was closed on a **motion** by Chris Rosica with a **second** by Michael Siesta.

Mr. Cascio asked the Board for consensus on a road plan preferred – circular or cul de sac? Mr. McGroarty observed that there were three options, one lot and two traffic circulations. Mr. Ferriero commented that looping around was a better flow. One member preferred the cul de sac concept. Mr. Cascio asked that this matter be carried and the applicant be permitted to return on October 2, 2008, with no new noticing required. Mr. Germinario advised the applicant that the dedication of the road should be determined from a title company.

NEW APPLICATION

BRC 123, LLC
c/o RICK BOTTI
Minor Site Plan #0820-0335
Block 14701; Lot 50
62 Old Route 23; NC Zone

Rick Botti and Mark Brancato, his attorney, were present to address the Board regarding his minor site plan application. Mr. Botti was sworn in for testimony. He stated to the Board that he had a new tenant, Merry Maids, that wished to occupy an office on the site, but the site needed upgrading, so he has filed a minor site plan application. He discussed the plan that was developed with the guidance of the Board Engineer, noted that bumper stops are currently in place for parking delineation, and stated that the parking lot surface is gravel. Mr. McFadden suggested that reflectors be installed at the end of the bumper stops if striping is not done. Following discussion, Mr. Botti agreed to stripe the parking spaces over the compacted gravel. Mr. Ferriero advised that a condition of Board approval could be striping or bumpers installed for each parking space. Mr. Germinario advised that this application can be approved on condition that Mr. Ferriero visit the site and determine the conditions and make recommendations. The items in Mr. Ferriero's report of August 25, 2008 on the application were to be addressed by Mr. Botti.

Acting Chairman Geoffrey Syme opened the meeting to the public. The following addressed the Board regarding the minor site plan:

Helen Sisco – Hilltop Road – Ms. Sisco commented about surface water that appeared to be running from the site and inquired if it was septic runoff. Mr. Botti testified that there were 2 grey water tanks and 2-1000 gal. tanks for the sanitary disposal system. Mr. Ferriero commented that this was a Health Dept. jurisdiction. Ms. Sisco inquired about the former gas station and asked if there was any contamination at the site. The Board Attorney advised that this was the NJ DEP jurisdiction.

Carol Perry – 17 Kanouse Road – Ms. Perry commented that a light from the site shines in her bedroom and asked about lighting adjustments. The applicant agreed to adjust them facing downward and install timer for the lights.

With no one else wishing to address the Board on this matter, the public portion of the hearing was closed on a **motion** by Chris Rosica with a **second** by Michael Siesta.

Motion to approve Minor Site Plan for BRC 123, LLC c/o Rick Botti was made by Chris Rosica with **second** by Michael Siesta.

Roll Call: **Yes** - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica, Michael Siesta, Clinton Smith, Geoffrey Syme.
No – None.

MEMORIALIZATIONS

RESOLUTION NO. 2008 - 19
BERKAN & ABBIE DEMIRBULAKI
Time Extension

Block 3501; Lot 5
31 Elm Street, R-1 Zone

Granted: 60-Day Time Extension for Filing Minor Subdivision Deeds

Motion by Chris Rosica with a **second** by Douglas Ott to approve Resolution No. 2008-19 for a Time Extension for Abbie and Berkan Demirbulaki.

Roll Call: **Yes** - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme.
No – None.

RESOLUTION NO. 2008 - 20
RESOLUTION ADOPTING AN ADDENDUM TO THE OPEN SPACE GREENWAY AND PRIORITIZATION PLAN AND THE OPEN SPACE PLAN ELEMENT OF THE WEST MILFORD TOWNSHIP MASTER PLAN

Motion by Chris Rosica with a **second** by Michael Siesta to approve Resolution No. 2008-20 adopting an addendum to the Open Space Plan to include West Milford Lake.

Roll Call: **Yes** - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica, Michael Siesta, Clinton Smith, Geoffrey Syme.
No – None.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – None.

PLANNING BOARD ATTORNEY’S REPORT

Mr. Germinario reported that before the close of this meeting there will be a Closed Session on potential litigation regarding the Living Word Alliance Church.

PLANNING DIRECTOR’S REPORT – None.

MISCELLANEOUS – None.

SUBCOMMITTEE REPORTS – None.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

The Board reviewed the invoices submitted by Paul Ferriero, P.E., Thomas Germinario, Esq., Charles McGroarty, P.P., and Michael Hakim of Hakim Associates.

The Board removed an invoice for Paul Ferriero regarding review of the Browns Point file from the invoices approved by the Board. Mr. Ferriero advised that he was requested to do a review by the Township and a special escrow account was to be set up by the Township for this matter.

Motion by Chris Rosica with a **second** by Mayor Bettina Bieri to approve the payment of current invoices submitted.

Roll Call: **Yes** - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme.
Abstain – Michael Siesta.
No – None.

MINUTES

Motion to approve the minutes of the Regular meeting of May 22, 2008 made by Chris Rosica with a **second** by Douglas Ott.

Roll Call: **Yes** - Mayor Bettina Bieri, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme.
No – None.

EXECUTIVE SESSION

Acting Chairman Geoffrey Syme read the following:

RESOLUTION NO. 2008-21
Executive Session

BE IT RESOLVED by the Planning Board of the Township of West Milford on this **28th** day of **August, 2008** that:

1. Prior to the conclusion of this Regular Meeting, the Township of West Milford Planning Board shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, subsection:
 - b. (7) Potential Litigation
Living Word Alliance Church
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.

Motion by Chris Rosica with a **second** by Michael Siesta to approve Resolution 2008-21 for Executive Session at 11:11 pm.

Roll Call: **Yes** - Mayor Bettina Bieri, Richard McFadden, Douglas Ott, Chris Rosica, Michael Siesta, Clinton Smith, Geoffrey Syme.
No – None.

Following the Closed Session, Acting Chairman Syme reopened the Regular meeting at 11:37 pm.

COMMUNICATIONS

The following were noted and filed:

Notification of pending application for Flood Hazard Area Permit from the Upper Greenwood Lake Property Owners Association received August 13, 2008.

Notice received from the NJDEP on August 13, 2008 regarding Anthony Patire, Marshall Hill, LLC and his ownership of the West Milford Lake Dam, requiring him to submit a reply to this notice by August 22, 2008 and submit documents for the repair or removal of the dam by September 12, 2008.

Authorization for a Freshwater Wetlands General Permit #18, Water Quality Certification and Waiver of Transition Area for Access for Block 5708; Lot 1, regarding the West Milford Lake Dam Removal received August 7, 2008.

Authorization for Freshwater Wetlands G.P. 25 and Waiver of Transition Area for Access for Amedeo Nazzaro, Block 10103; Lot 5; 14 Hirth Avenue.

Request sent for one-year extension from the NJ DEP Office of Natural Lands Management for the 2005 Recreation Trails Program grant from Rob Sparkes, GIS Specialist/Grant Administrator regarding the Bubbling Springs Lake Bike Trail.

Application for NJ DEP regarding a GP25 for replacement of a septic in a wetlands transition area for Ron Kurkowski, 99 Bayonne Drive, Block 1611; Lot 15.

Notice of pending application to the NJDEP for Treatment Works Approval Permit to construct a septic system not in conformance with N.J.A.C. 7:9A et seq. for Vincent Lanza, Block 12110; Lot 3.01 and Lot 5.03.

Notice from NJ DEP of pending expiration on January 1, 2009 regarding Renewal of a Recycling Center General Approval for Skytop Recycling, Inc., Airport Road, West Milford, NJ.

Notice from NJ DEP of Conditional-No Further Action Letter and Covenant Not to Sue for Block 13101; Lot 3, 11 Mallory Road, West Milford, NJ.

Authorization for Freshwater Wetlands Statewide General Permit No. 25 and Waiver of Transition for Access for applicant Joyce MacDonald, Block 8002; Lot 5 regarding a septic alteration.

Notice from NJ DEP of Unrestricted Use - No Further Action Letter and Covenant Not to Sue regarding an Area of Concern for William Snyder, Block 15401; Lot 24, 38 Meadowview Court relating to a 550 gallon heating oil underground storage tank.

Notice from NJ DEP of Conditional – No Further Action Letter and Covenant Not to Sue regarding the Dobb's Residence, Block 16804; Lot 4, 84 Greendale Drive relating to a 550 gallon heating oil underground storage tank.

Notice from NJ DEP of Unrestricted Use – No Further Action Letter and Covenant Not to Sue regarding Jeff Tacconi, 156 Bearfort Road, Block 7401; Lot 2.

Recertification Notice from the Hudson Essex Passaic Soil Conservation District for Morsetown Acres – 6 Vanessa Court, Block 6002; Lot 2.02 received August 5, 2008.

Recertification Notice from HEPSCD for Union Valley Road Bridge Replacement, Union Valley Road over Greenbrook received August 5, 2008.

Application for GP #25 from Michael and Maryann Baumohl of 17 Lenape Trail, Block 5714; Lot 5 for replacement of septic field.

Notice from Passaic County Planning Board regarding conditions of approval for Vincent Lanza, 1383 Macopin Road, Block 9501; Lot 12 and 12.01 - Vreeland Store Site Plan and Subdivision approval.

Copy of a “No Further Action Letter and Covenant Not to Sue” from the NJ DEP for William Meyer at Block 15701; Lot 42, 88 Paradise Road regarding site remediation for a former 550 gallon underground storage tank.

Authorization for a G.P. #1, Waiver of Transition Area for Access and Water Quality Certification for the Rehabilitation of Morsetown Road Culvert.

Completion letter dated August 21, 2008 from Rob Sparkes to the Office of Smart Growth regarding grant #00-6076-02 that was in support of the Streetscape Improvement Project.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following were noted and filed:

Notice from NJ DEP regarding withdrawal of an application for Highlands Applicability Determination and Water Quality Management Plan for George Degraw, Brookside Development LLC, 121 Union Valley Road, Block 14601; Lot 5.01.

Application for Highlands Applicability and Water Quality Management Plan from Elaine Kramer, 715 East Shore Road, Block 4301; Lot 11 received July 24, 2008.

Notice from NJ DEP regarding Edward Ostrowicz, Block 4701; Lots 33.04, 350 Morsetown Road – Highlands Act – Exempt #1; Water Quality Management Plan – Consistent.

Notice from NJ DEP regarding Christian Life Center, Block 6203; Lot 13, 184 Marshall Hill Road, Highlands Act – Exempt #6; Water Quality Management Plan – Not Addressed.

ADJOURNMENT

With no further business to come before the Board, the Regular Meeting adjourned by unanimous consent at 11:40 p.m. on a **motion** by Chris Rosica and a **second** by Richard McFadden.

Approved: October 23, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary