

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**September 4, 2008**

**WORKSHOP MEETING**

The Workshop Meeting was opened at 7:40 pm by Chairman Andrew Gargano following the Regular Meeting with a reading of the Legal Notice.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith (left early 9:30), Geoffrey Syme, Councilman Philip Weisbecker (arrived 9:30 pm), Alternate Kerry Goceljak, Board Planner Charles McGroarty.

**Absent:** Michael Siesta, Paul Ferriero, Board Engineer, Thomas Germinario, Board Attorney, Rob Sparkes, GIS Specialist.

**PUBLIC PORTION**

Richard Randazzo – Wooley Road – Mr. Randazzo read a statement on Braemar at West Milford claiming wetlands issues were disregarded, chastising the former Planning Board, alleged the water testing was not valid, charged that the builder profited, and criticized the former Planner. The Mayor noted that neither the current Board nor Planning staff was involved in the application referred to.

Linda Connelly – Wooley Road – Ms. Connelly made comments on the Braemar / Greene Valley Estates application. She reviewed her interpretation of events surrounding the preliminary approval and construction of two homes. She noted the main concern was about water and wells being tested. She claimed that the Planning Director and Board Engineer did not respond appropriately to their inquiries. She alleged the houses are illegal and inquired about preliminary approval expiration. She asked the Board Planner to review the file and former approval.

Chuck McGroarty, Board Planner, advised that a letter was sent by the attorney for Braemar; this was read to the Board by the Chairman. Mr. McGroarty was contacted by Braemar Attorney, Alan Goldstein, who he knows from prior applications, and also consulted Paul Ferriero, Board Engineer. Braemar has requested a review of the entire file and Mr. McGroarty suggested that the Board not discuss it in detail tonight as it may have adverse implications on any application that may be forthcoming. The Mayor inquired about more construction occurring. The Board Planner noted that he needed to review the file. Mr. Ott commented that the law allows one home to be constructed with preliminary approval, and the Planner confirmed that adding a model home is permitted. Mr. Ott noted that the second house was on a separate lot and both houses were built within the law. He explained that issues arose in the past with builders not completing infrastructure, so road improvements were required to be completed to protect the Township from the developer building and not completing roads, etc. He also added that the Environmental Commission worked with the Township to require mandatory wells prior to building.

As no one else wished to speak, the public portion was closed on a **motion** by Chris Rosica with a **second** by Steven Castronova.

**SITE PLAN APPLICATION REVIEW WAIVERS** – None.

**ORDINANCES FOR DISCUSSION**

Board Planner Chuck McGroarty reviewed four items that resulted from the ordinance subcommittee meeting:

**Site Plan Review Waiver Process** – Jim Lupo and Tim Ligus were present at the ordinance subcommittee meeting and were very helpful with their input. It is the Planner's opinion that the Board has authority to waive portions of site plan standards, but a site plan review waiver is not the recommended course of action. He provided an example of an insurance business going to an insurance business with no exterior changes, the parking is sufficient, and the site conforms to town standards. The zoning officer can issue a zoning permit in this case, with a permit required within 10 days by state statute. He noted that it was unlikely in a strip mall that a site would not comply. He continued to note that if a use is not permitted in a zone, then the applicant goes to the Zoning Board of Adjustment. The Mayor asked if the Zoning Officer would determine this and the Planner replied in the affirmative. He advised that he would be available to assist in making the determination. The Mayor requested that he make the determination and Mr. McGroarty replied that he will be happy to do an administrative review twice a month, if necessary. The Board reached a Consensus for the Planner to do reviews for waivers. The Planner will develop a draft and also speak to the Board Attorney and Township Attorney regarding the matter.

**Apartments: Accessory or Conditional Use** – Chapter 500-26 of the LDO notes these as principal uses. A discrepancy was noted by the Board Planner. In discussion with the ordinance subcommittee it was suggested that apartments should be conditional uses. Mr. McGroarty added that it was better to have apartments as an option and remove accessory language. Mr.

McGroarty commented on COAH obligations and the benefit of apartments. The Planner noted that a draft ordinance will be drawn up.

**Modification of Definitions for Buildings and Structures** – Mr. McGroarty noted that he, the Building Official and Zoning Officer, and the ordinance subcommittee came to an agreement with regard to setback standards with decks. At the present time there are no setback standards enforced and imposing them would create a hardship on the homeowner. Clarification of the language in the ordinance with regard to buildings and structures was needed to conform to the M.L.U.L. If enforced as written, it would result in numerous variances that would be required by the homeowners. Setback standards were developed that would be different for each district and would be specific percentages. In rare cases there may be a variance involved. Mr. McGroarty noted that the ordinance language would be clear and would include provisions for a deck without a roof that would be an accessory structure and exceptions would be made for the setbacks. If a deck has a roof then it must meet principal building setbacks. A draft of the ordinance amendment will be developed for review.

**Establish Standards for Massage Therapy Facilities**

Discussion on this matter was held until further information is available. State standards are in place and it may not be necessary to modify the ordinance. This will be referred to the Board Attorney for clarification on inclusion of reference to state standards. The Chairman requested tabling this for the present time.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED** – None.

**MISCELLANEOUS**

2009 Planning Board Meeting Dates – Discussion by the Board on the dates distributed. The October dates were changed to reflect the first and fourth Thursday of the month. It was suggested that the schedule be kept to the first and fourth Thursday with the October date modification. The Secretary is to refer the 2009 dates to Paul Ferriero and Tom Germinario for their availability. It was suggested that it be put on the agenda for approval at the next meeting. The By Laws will be amended to the first and fourth Thursday, not the first Thursday after first Wednesday.

**PLANNING BOARD APPROVAL OF BOARD PROFESSIONAL INVOICES – STATEMENT FROM MICHAEL SIESTA READ INTO THE RECORD:**

**APPROVAL OF INVOICES – BOARD PROFESSIONALS**

The Issue:

The board is charged with the responsibility of reviewing professional's bills and sending them to council with a recommendation for payment.

While I do agree that at the present time, the Board is best qualified to review the invoices and confirm that the charges are justified; I personally do not feel comfortable attesting that the charges submitted are appropriate and accurate.

The public trust is at stake, and I can not personally confirm that the charges are justified. Whether or not the funds are out of the planning board budget or from an applicants escrow account, we have a fiduciary responsibility to ensure the bills are appropriate.

The issues I have:

- Each application is different in scope and associated complexity. There is no standard or guideline that can be applied to ensure bills submitted for a specific application are appropriate without a full understanding of that specific application and detailed issues affecting the amount of work required by a given professional.
- I can't speak for the rest on the board, but I do not feel that I have the knowledge and experience to recommend payment given the present amount of detail.

In the past, the former Planning Director used to review the bills for accuracy and approve them for payment. He being a township employee, and fully engaged for each application, had the knowledge to make such decisions.

From the June 26<sup>th</sup> discussion the Mayor commented that a new department head will be forthcoming, indicating that this responsibility will then rest with them.

That being the case, this is a short term issue but I believe some of my suggestions may be of value even with the new department head.

Proposed Solution:

A brief description of each charge – not just *email or discussion or review* but a description of what was accomplished in the email, discussion or review and any open items not resolved. We would then know to expect a follow up bill.

A running account of each application: Not just paid, due and new. I propose a running list of all charges, with their respective description for each application. This will allow for the board to always know the running tasks and associated charges in total for a specific application. It should not be a burden on the professionals or extra cost to the board. Simply put, rather than submit a new bill; there would be a new entry on the running total.

I would also suggest that if a charge would look abnormal, that the professional include a short justification of the extended time was necessary.

With the above, I believe I would be in a position to make a legitimate decision to approve the invoices submitted. And even with a new department head, this process and format would serve us well.

There was discussion by the Board on more description on invoices being provided by the Board professionals. Mr. Siesta requested a running total of professional charges and payments. The Chairman noted that the Board would be paying the professionals to put more details on the invoices. It was noted that the former Planning Director approved invoices in the past and the new Land Use Administrator may not be at the meetings and may not be able to confirm charges. Rich McFadden commented that there has to be a trust in the professionals. Discussion included other towns' policies with respect to invoices, requiring additional descriptions, and professionals exceeding their budget. It was noted that the Zoning Board of Adjustment is now approving their professionals' invoices. Mr. McGroarty commented that he was a planning director for 12 years and he eventually stopped reviewing each invoice, noting that it was time consuming. The Board debated expenditures with new professionals versus past professionals. Mr. McGroarty stated that the applicant gets copies of all professional invoices as an advice copy to monitor the charges and will question them if they are not appropriate. Both the applicant and the Board are reviewing invoices, resulting in a double review. The Chairman asked for a Board Consensus on the Board professionals providing a running total of their charges. As the majority at five members was opposed, the running total of charges will not be required.

Councilman Weisbecker arrives at 9:30 p.m. Shortly after, Clinton Smith left the meeting.

There was Board Consensus for part of #1 in the memo – a brief description of the charges. The Chairman advised that if there are any questions on accounting the Board member is to make a request at a meeting and the Board Secretary will provide a report to them. Councilman Weisbecker requested that if an invoice is in question that it be removed from payment and be clarified before paying. He stated that he wants the Board to participate on the same level as the Council with regard to approval of invoices. He defended Mr. Siesta's request for justification on charges. Mr. McGroarty noted that if the first item is done correctly, no problem will result with the remainder. It was suggested that a summary of invoice procedures should be adopted into the By-Laws and sent to the professionals prior to their being contracted with the Board.

**Planning Board Meeting Procedures** – Chairman Gargano requested the ADA statement be removed from the Legal Notice at the beginning of the meeting. The Secretary will refer this to the Board Attorney for an opinion.

The Board discussed instituting new meeting procedures, with the meetings concluding by 11:30 pm, and no new testimony after 10:30 pm. Mr. McGroarty noted that this helps professionals and the applicants gauge their testimony and presentations. Following discussion, the Board's Consensus was to amend the By-Laws to conclude hearings on development applications by 10:30 pm to allow time for Board business.

**Miscellaneous** – The sign ordinance was discussed. Mr. McGroarty noted that Shop Rite professionals contacted him for some guidance with signage. Councilman Weisbecker expressed his concerns about billboards, but noted freedom of speech issues. The Board Planner responded with comments about principal uses. He asked that examples of other town ordinances that the Board receives be sent to him.

## **MINUTES**

**Motion** to approve the minutes of the June 5, 2008 Workshop and June 26, 2008 Regular meetings by Chris Rosica with a **second** by Steven Castronova. All members present approved the minutes except Douglas Ott who was not at the June 5, 2008 meeting.

## **COMMUNICATIONS**

The following were noted and filed:

1. Copy of letter from Jeffrey Wilson, attorney for Marshall Hill, LLC, to NJ Bureau of Dam Safety & Flood Control regarding the West Milford Lake Dam, requesting a 60-day time extension for developing a remediation plan for the dam and possible redevelopment of the property.
2. Letter from NJ DEP to DIO Satellite LLC, regarding Carpi Lake Dam, requesting revisions to the Emergency Action Plan that was submitted March 28, 2008.
3. Freshwater Wetlands Letter of Interpretation/Line Verification for Ernest Oberer, Block 14201; Lot 14, Germantown Road.
4. Freshwater Wetlands Transition Area Redevelopment Waiver, Statewide General Permit No. 8 and Letter of Interpretation-Line Delineation for John Collins, Block 6605; Lot 22, at 30 Sophie Avenue.
5. Notice of Violation for Richard Slifer, Block 10602; Lot 39, 62 Schofield Road regarding performance of an unauthorized activity within a flood fringe, specifically the storage of unsecured materials and debris and placement of fill within 300 feet of waters classified as Category Trout 1 Production without a Stream Encroachment Permit.
6. Request to add E2 Project Management of Parsippany, NJ to bidders list for Environmental Services.

7. Letter from Passaic County Planning Department regarding Mr. Wonton, LLC Site Plan, Block 6303; Lot 18, noting items needed prior to approval, including revised plans eliminating overflow connection to county drainage, curbs on Union Valley Road, easement to the Township for sidewalks, Highlands approval, and contribution of \$2,178.00 for the County Corridor Enhancement program.

8. Letter from Passaic County Planning Department regarding 1952 Union Valley Road, LLC (Q&S Deli), Block 3601; Lots 1 and 3, withholding approval pending receipt of documents including drainage calculations, revised plans depicting eco basins, driveway details, improvements on Union Valley Road, 10 foot deed for road widening, Highlands approval, and a contribution of \$3,000 for the County Corridor Enhancement program.

9. Rain Garden Workshop, Community Partnership in Managing Stormwater, Rutgers Cooperative Extension of Monmouth County, Freehold, NJ, September 23, 2008.

10. Application notification for a Freshwater Wetlands Letter of Interpretation for Kurt Gardenier, 83 McKinley Place, Block 6204; Lot 16.

**HIGHLANDS WATER PROTECTION AND PLANNING ACT** – None.

**ADJOURNMENT**

With no further business to come before the Board, the Workshop meeting of September 4, 2008 adjourned at 10:19 pm on a **motion** by Douglas Ott and a **second** by Richard McFadden.

Approved: October 23, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary