

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

September 23, 2010

Regular Meeting

The Regular Meeting of the Planning Board was opened at 7:35 pm by Geoffrey Syme, Acting Chairman in the absence of Chairman Andrew Gargano, with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker, Michael Siesta, Board Planner Chuck McGroarty, Board Engineer Paul Ferriero, Board Attorney Thomas Germinario, Esq.

Absent: Chairman Andrew Gargano, Thomas Harraka.

Acting Chairman Syme requested Planning Board Alternate Michael Siesta to sit on the Board in the absence of Andrew Gargano.

PUBLIC PORTION

Acting Chairman Syme opened the public portion of the meeting. The following addressed the Planning Board:

James Foody, Kushaqua Trail, appeared before the Board as a "private citizen." Mr. Foody distributed packets to each of the Board members that included a letter to the Board and a copy of the Amendment to the Long Range Facilities Plan for the West Milford School District. His statement was read. Following his recitation, Tom Germinario, Board Attorney, responded to his statements, noting that at the time the Planning Board held a courtesy review of the Turf field Project, they were not aware of an amendment to the LRFP and this matter was not addressed. He further advised that a Planning Board meeting scheduled for October 7, 2010 will address the amendment to the long-range facilities plan and whether this plan was consistent with the Township's Master Plan. Continuing his response, Mr. Germinario noted that Mr. Paia of the NJ Department of Education had inquired of the Board Chairman if this project was a Township Project or solely a Board of Education project, and whether there would be a difference in the hearing and review process as an amendment to the long range facilities plan. Mr. Foody commented that this amendment is a requirement of all school districts in New Jersey. Mr. Germinario noted that he had not encountered this in his many years as a Planning Board Attorney, and neither had Chuck McGroarty, Board Planner, and that it is not as common as one would assume. He advised that the October 7, 2010 meeting was not a site plan review, but per Section 31, would be conducted to determine consistency with the master plan. Mr. Foody thanked the Board for their efforts in getting this matter rectified.

With no one else present wishing to address the Planning Board, the Public Portion was **closed** on a **motion** by Mayor Bettina Bieri with a **second** by Michael Siesta.

APPLICATIONS

NEW APPLICATIONS

KURT RENZLAND

Final Site Plan #PB-06-10-07 (Phase 2)

Block 6002; Lots 39.02

921 Burnt Meadow Road; LMI Zone

Seeking: Final Site Plan Approval for Phase 2 (Building 2) for a one-story office / warehouse building and associated parking.

The applicant, Kurt Renzland, of Kingsland Road, was present to address the Planning Board regarding his application for Final Site Plan Approval for Phase II. Mr. Renzland was not represented by his professionals. Following being sworn in by the Board Attorney, Mr. Renzland advised that he had received a copy of the Planning Board Engineer's report and agreed with the comments. Paul Ferriero, Board Engineer, noted that Mr. Renzland can complete some of the work within a certain period of time or bond for the unfinished work. Mr. Renzland advised that he would bond for the paving, and this will be completed in the Spring of 2011. Mr. Germinario advised that a time limit be put in the resolution, and Mr. Renzland agreed to having the paving completed by the end of May 2010. Mr. Ferriero advised that any other work not completed by October 15, 2010 would require a bond. Mr. Germinario noted that striping for parking needed to be completed. Mayor Bieri inquired about unpaid taxes, and Mr. Germinario advised that this is a standard condition of approval in all resolutions. The Tax Collector reported that the current taxes have been paid by a lien holder, but the owner is required to pay the taxes in full. Mr. Renzland advised that he is in the process of acquiring a loan to satisfy the tax matter. Board members inquired parking, lighting, the use of the buildings (for trucks, equipment and supplies), and the proposed location of the office in building 2. Mr. Ferriero advised the Board that the site work was generally in compliance with the approved site plan, and that there were only a few items that remained to be completed or bonded for. The hearing was opened to the public. With no one present wishing to address the Board on this matter, the public portion was closed.

Motion by Steven Castronova with a **second** by Councilman Weisbecker to **approve** Final Site Plan Application #PB-06-10-07 (Phase 2) for KURT RENZLAND.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Councilman Philip Weisbecker, Acting Chairman Geoffrey Syme.
No: None.

MEMORIALIZATIONS

RESOLUTION No. 2010-12

BROOKSIDE DEVELOPMENT, LLC

Minor Subdivision & Bulk Variance #PB-04-10-03

Block 14601; Lot 5

Union Valley Road; R-3 Zone

Approved: Reversal of the prior subdivision to revert the properties to the configuration on West Milford Tax Maps prior to the 2004 subdivision approval, and granting a new minor subdivision for Lot 5 with revision of the configuration of the lot lines, variance relief for front yard setbacks, for the construction of two four-bedroom single family dwellings, approved with conditions.

Motion by Councilman Weisbecker with a **second** by Steven Castronova to **approve** Resolution No. 2010-12 for BROOKSIDE DEVELOPMENT, LLC, Minor Subdivision & Bulk Variance #PB-04-10-03.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Councilman Philip Weisbecker, Acting Chairman Geoffrey Syme.
No: None.

RESOLUTION No. 2010-13

BROOKSIDE DEVELOPMENT LLC

Minor Subdivision #PB-04-10-04

Block 14601; Lot 6 (5.03 & 5.04)

Union Valley Road; R-3 Zone

Approved: Reversal of the prior subdivision to revert the properties to the configuration on West Milford Tax Maps prior to the 2004 subdivision approval, and granting a new minor subdivision approval for Lot 6 with revision of the configuration of the lot lines, for the construction of two four-bedroom single family dwellings, approved with conditions.

Motion by Councilman Weisbecker with a **second** by Chris Garcia to **approve** Resolution No. 2010-13 for BROOKSIDE DEVELOPMENT, LLC, Minor Subdivision #PB-04-10-04.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Councilman Philip Weisbecker, Acting Chairman Geoffrey Syme.
No: None.

PENDING APPLICATIONS

1952 UNION VALLEY ROAD, LLC

Preliminary & Final Site Plan with Bulk Variance #0820-0167AB

Block 3601; Lots 1 & 3

1952 Union Valley Road; CC Zone

Seeking: Preliminary and final site plan approval and variance relief regarding the removal of an existing 1200 square foot retail structure and the construction of a new 5000 square foot 2-story delicatessen with two apartments, including construction of parking lot and new entrance on Union Valley Road.

John Barbarula, Esq., appeared before the Board for the applicant, 1952 Union Valley Road, LLC. Also present was George R. Gloede, Jr., P.E., engineer for the applicant. Lewis Qarmout and Anwar Qarmout, owners of 1952 Union Valley Road, LLC were also present. Mr. Barbarula thanked the Board for their patience and for accommodating the applicant during the several years of litigation with a neighboring property owner regarding a shared parking agreement. He advised that the matter had been resolved with the applicant agreeing to providing access to 5 parking spaces for the neighbor's business patrons. George Gloede was sworn in and qualified for the Board. Mr. Gloede compared the former site plan to the current site plan, noting that the former plan had the building further back from the road to provide room for a gas station that has since been removed from the project. He also advised that there will be two apartments with entrances on the easterly side of the building. The current plan was dated May 5, 2010. The intent was to keep the existing deli in operation while the new building was being constructed. He indicated the parking areas for the patrons near Union Valley Road and the tenants parking, and noted that the loading dock had been moved to the rear in order to keep the delivery trucks from interfering with the customers. The parking for employees and residents will be designated on the paving. Mr. Gloede advised that parking requirements for the site plan were 28 spaces, and the applicant was requesting a variance for one space. Mr. Germinario requested a copy of the court order that required the applicant to provide 5 parking spaces for the adjacent business owner, Adello Corp., and Mr. Barbarula noted that unusual easement agreement that was valid until the owner's (Adello-John Aiello) demise. Mr. Gloede and Mr. Barbarula continued to review the site plan for the Board, stating that the

lights conform to the new plan, the grass area will remain the same amount and the drainage and septic will remain the same. Mr. Lewis Qarmout and Mr. Anwar Qarmout were sworn in to testify for the Board about the size and number of delivery trucks that will service the site. They noted that the roof would be green, similar to the car wash, hardy plank siding would be used, and a smaller sign near the road would be installed. They also plan to install skylights, solar panels, grey water recycling and thermo heating in order to construct an environmentally friendly, "green" building.

Mr. Ferreiro, Board Engineer, referred to comments in his letter regarding the storm water system that was proposed. Mr. Gloede advised that he was considering another system called "Jellyfish." The Board and applicant's engineers discussed several matters regarding storm water. Mr. Ferreiro also advised that the Highlands approval, Health Department, and County approval would be required for the project. He expressed concerns about occupation of the existing building while a new building was under construction, and suggested a phasing plan be submitted to him that would address the current building to remain operational while the new building is being constructed. He noted that there would be a period of time that the business would have to close during the installation of the new septic system.

Following discussions on landscaping, the Board requested that the applicant consult with the Board's Landscape Architect, Michael Hakim, for review and approval of a landscape plan. Mr. McGroarty, Board Planner, inquired about the one unit that was earmarked for a COAH unit, and Mr. Barbarula advised that circumstances have changed since last year when the applicant was before the Board, and that the owners will be occupying both units due to a house fire affecting one of the owners. Mr. Barbarula advised that if a COAH contribution is required, the applicant will comply. A Board member expressed concern about COAH compliance, but Mr. McGroarty noted that the rules for COAH are changing, and under the current rules a unit would not be required, adding that payment in lieu of a COAH unit may be required, and the regulations that are in place at the time of the building permit would apply.

Board members inquired about clothing collection bins, wood sales, ice machines outside the deli, and Mr. Ferreiro advised that any outside sales or storage would have to be reflected on the site plan and subject to Highlands regulations. The Board also discussed lighting and the location of the light poles. The parking variances were reviewed, with one permanent variance and 5 temporary variances that will terminate or expire. Mr. Barbarula recapped the conditions and concluded by stating that all land use and ordinance requirements had been met.

The hearing was opened to the public. The following addressed the Board regarding this application:

Doris Aaronson, Bearfort Road, commented that she was very pleased with the green ideas being incorporated in the plans, and hoped that the applicant will consider serving a middle eastern cuisine at the new deli.

With no one else present wishing to address the Board on this matter, the public portion was **closed** on a **motion** by Michael Siesta with a **second** by Steven Castronova.

Motion by Steven Castronova with a **second** by Michael Siesta to **approve** the Preliminary and Final Site Plan with Bulk Variance Application #0820-0167AB for 1952 Union Valley Road, LLC with the conditions noted.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Councilman Philip Weisbecker, Acting Chairman Geoffrey Syme.
 No: None.

NEW BUSINESS

ORDINANCES FOR INTRODUCTION

Updated Draft Sign Ordinance –

Chuck McGroarty reviewed the discussions of the Board from prior meetings. He tried to clarify whether the Board wanted to remove the temporary signs from the sign ordinance. The Board requested a summary of the sign ordinance for discussion at the next October 7, 2010 Workshop Meeting.

Rezoning and Draft Master Plan Amendment

Chuck McGroarty, Board and Township Planner addressed the Board, beginning by stating that the two matters listed on the agenda, rezoning and master plan amendment, were somewhat related. He noted that with West Milford being located entirely in the Highlands Preservation Area, rezoning of R-1/PN Zones was one of the options to be explored, especially since new public water and sewer service would not be permitted. He observed that even though the Highlands Master Plan is being reviewed, and when adopted will determine West Milford's future, Township Attorney Fred Semrau and others had requested that he review certain zones located within the proposed Town Center concept for possible re-zoning. The intent of the rezoning of specific R-1/PN properties was to make them consistent with surrounding properties that were zoned R-4, low density zoning. He also reviewed the rezoning proposal for Random Woods, and suggested that it become a "Public Land" Zone to designate that the land was publicly owned or held by the Land Conservancy organization. Mr. McGroarty advised that the Master Plan Amendment included the rezoning of the Random Woods property, in addition to several other parcels, adding that it was an attempt to identify the lands that could not be developed. He explained that the Township should do a Master Plan Re-Examination Report concurrently or before the Master Plan Amendment. He would provide a copy of the Draft Master Plan Amendment and the Re-Examination Report at the Workshop

meeting on October 7, 2010 for review and discussion. Board member Michael Siesta inquired about the advantages of Public Land zoning, and Mr. McGroarty replied that it seemed to make sense that with the abundance of public land within the Township boundaries, it should be designated. He added that Newark Watershed properties were not included in the plan. Mr. Siesta expressed concern about land that may possibly be developed for business, and Mr. Ferriero stated that if properties were on the Open Space Inventory they could not be developed. Councilman Weisbecker inquired about parcels that may have been "land banked" at one time near the Pinecrest development. Mr. McGroarty stated that if properties have been placed on the ROSI - Residential Open Space Inventory, that it would be a monumental task to remove them from the list for development. Mayor Bieri inquired why the Newark Watershed properties were not included, and Mr. McGroarty advised that the Township asked him not to include these properties due to possible litigation matters. He confirmed that they had conservation easements on their properties. Mr. McGroarty also advised that the rezoning would amend the Master Plan in that it recognizes that the Town Center concept will not occur due to the infrastructure that cannot be developed.

Mr. McGroarty continued the discussion on the Land Use Plan, explaining that it was part of the Master Plan, and it would provide a layout, in broad categories, of the zoning that is desired in a municipality. A new map will be prepared that would be referred to as a Land Use Plan Map, which will set the stage for the new zoning map. He noted that Paul Ferriero, the Board Engineer, will be responsible for the map. The Board made several inquiries about the down zoning of certain properties and possible liability for the Township. Mr. McGroarty advised that new water and sewer service cannot not be installed under the Highlands Act, unless for health and safety issues. He also advised the Board that they can leave the zoning in place as it is, and nothing would change, but the parcels could not be developed. Councilman Weisbecker was concerned about creating another layer of bureaucracy and possible litigation issues with a landowner, and Mr. McGroarty replied that this would be the first step in making the plan consistent with the Highlands Act. The Board briefly discussed Valley Ridge, Stanford Village and Eagle Ridge, three of the properties considered for the new zoning. Mr. McGroarty advised that due to the constraints on water and sewer service, the properties would not be developed, and therefore, it made sense to remove them from zoning that permitted 4 units per acre.

Following the discussion, Mr. Ferreiro suggested the zoning amendments be reviewed by the Board at the October 7, 2010 Workshop meeting, with a public hearing to be scheduled for October 28, 2010 for the Amendment to the Land Use Plan Element of the Master Plan.

ORDINANCES REFERRED FROM COUNCIL

BOARD PLANNER'S REPORT – See above.

BOARD ATTORNEY'S REPORT - None.

BOARD ENGINEER'S REPORT – None.

MISCELLANEOUS

Approval Of Invoices – Board Professionals

Motion by Councilman Weisbecker with a **second** by Douglas Ott to **approve** payment of the invoices for the months of July and August 2010. Invoice payment was approved **unanimously** by the Board.

Subcommittee Reports

There were no reports from the Planning Board Subcommittees.

Appointment of Ordinance Subcommittee Member

Acting Chairman Syme requested a volunteer from the Board to fill the vacant position on the Planning Board Ordinance Subcommittee. **Steven Castronova** volunteered for the position and was appointed by Mr. Syme.

MINUTES

Approval of the Minutes of the August 26, 2010 Regular Planning Board meeting were held until the next Planning Board meeting.

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

COMMUNICATIONS

1. Copy of a letter to Richard Slifer, dated August 23, 2010, from the Hudson Essex Passaic Soil Conservation District regarding site work being performed at Post Brook Road No., Block 10601; Lot 60.03, including soil disturbance and filling activities, without a certified soil erosion and sediment control plan.
2. Letter from the Passaic County Planning Board regarding a site plan for Greg Fitzgerald, 1892 Greenwood Lake Turnpike, Block 3705; Lot 6 and 7, advising that approval of the plan has been withheld pending receipt of additional documents.
3. Memo from the Township Clerk's Office received September 14, 2010 advising that all original Agreements and Contracts, including Grant Applications and Agreements, must be filed with the Clerk's Office.

4. Copy of a letter to West Milford Board of Education, dated August 26, 2010, from the Hudson Essex Passaic Soil Conservation District regarding certification of a soil erosion and sediment control plan with conditions.
5. Notice of a Ground Water Summit by the Passaic River Coalition, to be held October 5, 2010 at the Hanover Manor in East Hanover, NJ from 8:30 to 12:00.
6. Notice from the Township Clerk's Office of appointments to the Environmental Commission: Gary Oppenheimer from Alternate to Regular Member #2, Tom Tamayne to Regular Member #4, and Luke slot to Alternate Member #2.

HIGHLANDS WATER PROTECTION & PLANNING ACT / NJ DEP CORRESPONDENCE

1. Notice regarding a Freshwater Wetlands Application for a General Permit for the construction of one or more buildings on 1221 Union Valley Road, Block 7702; Lot 7 for Strengthen Our Sisters.
2. Notice regarding a Freshwater Wetlands Application for a General Permit #25 a septic alteration for 37 Cahill Cross Road, Block 8101; Lot 26, Jeffrey and Jennifer Ray.
3. Copy of an Application, dated August 10, 2010, with attached plans, for a GP#25 for Mary Henaghen, 1812 Clinton Road, Block 207; Lot 11, with regard to a proposed installation of a sanitary disposal system.
4. Copy of an Application for a Highlands Applicability Determination for Lone Pine Lane/Split Rock Road, Block 5306; Lot 4.02 with Lot Disturbance Plan.
5. Potable Well Water Analysis received from the NJ DEP, dated August 18, 2010, in the vicinity of the SBP Petroleum site at 555 Warwick Turnpike for Surjit Singh, well location 555 Warwick Tpk., Block 703; Lot 3 regarding results from July, August, September, and November 2009, and January and February 2010 testing.
6. Potable Well Water Analysis received from the NJ DEP, dated August 18, 2010, in the vicinity of the SBP Petroleum site at 555 Warwick Turnpike for Karen and Darin Coslet, well location 551 Warwick Tpk., Block 703; Lot 2 regarding results from July, August, September, and November 2009, and January and February 2010 testing.
7. No Further Action Determination with conditions received from the NJ DEP for Joseph Kildune, 24 Dockerty Hollow Road, Block 8501; Lot 16 for the removal of a 550 gallon #2 Heating Oil Underground Tank.
8. Notice of Deficiency in Remedial Investigation and Action Workplan Report received from the NJ DEP, dated August 18, 2010 for George Perone, 37 Oak Drive, Block 16302; Lot 13.
9. Notice of Deficiency in Remedial Investigation and Action Workplan Report received from the NJ DEP, dated August 17, 2010 for Gordon Onembo, 65 White Road, Block 6902; Lot 10.
10. No Further Action Determination with conditions received from the NJ DEP for Kenneth Hopkins, 60 Brook Road, Block 303; Lot 12 for the removal of a 550 gallon #2 Heating Oil Underground Tank and associated contaminated soils.

ADJOURNMENT

With no further business to come before the Board, Acting Chairman Syme **adjourned** the September 23, 2010 Regular Meeting of the West Milford Planning Board at **10:05 pm** on a **motion** by Chris Garcia and a **second** by Linda Connolly.

Approved: November 4, 2010

Respectfully submitted by,

Tonya E. Cubby, Secretary