

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD
MINUTES**

September 24, 2009

Regular Meeting

The Regular Meeting of the Planning Board was opened at **7:34 pm** by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri (8:09), Steven Castronova, Linda Connolly, Richard McFadden (7:55), Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Alternates Michael Siesta and Kerry Goceljak, Chairman Andrew Gargano, Board Planner Charles McGroarty.

Absent: Board Attorney Thomas Germinario and Board Engineer Paul Ferriero.

Chairman Gargano requested that Michael Siesta and Kerry Goceljak sit on the Board until Mayor Bieri and Rich McFadden arrive, as both were at meetings with Passaic County.

PUBLIC PORTION

The Public Portion was opened by Chairman Gargano. Councilman Smolinski requested the opportunity to make comments following Chuck McGroarty's discussion on the Highlands Element.

With no one else present wishing to address the Board, Chairman Gargano closed the public portion.

PRESENTATION – *Draft Highlands Element for Municipal Master Plans Update - Public Meeting #3*

Chuck McGroarty, Township Planner, addressed the Planning Board regarding the Draft Highlands Master Plan. He confirmed that the Draft Highlands Master Plan had been submitted to the Highlands Council, but that it would not be adopted by the Township as a final document. Changes and revisions may be made based on the comments he receives from the various Boards, the Council, and the public. The intent is to satisfy basic plan conformance, with the plan consisting of 7 units, two of which have been completed. He spoke briefly about the build out analysis, which results in a projected total number of 19 additional residential units that would be permitted to be built. He stated that it gives a clear sense of the projected growth, versus the COAH anticipated projection of 98 affordable units, or 1 affordable unit for every 4 market units. His office has been working to get a number on the exempt properties and lots that existed prior to the Highland's Act, and other exemptions, that would raise the number of 19 units slightly higher. The 3rd module, the housing element, is due by June of next year, due to a time extension by COAH. But, Mr. McGroarty noted, the Township does not have to wait to file this until June, and the 19 or 25 unit figure can be used for the build out analysis. Based on this, a new housing element and fair share plan can be filed, but there will be additional time to work on this. The 4th module, the Environmental Resource Inventory, is a document meant to complement the municipal environmental or natural resource inventory. This has been submitted in draft and should be distributed to the Environmental Commission and the Planning Board if it hasn't been already. The purpose is to review it for accuracy and to make sure that it reflects the Township's plan.

Mr. McGroarty continued with his overview, noting that the 5th module is the Highland's Master Plan Element that has been discussed at the last two Planning Board meetings. He stressed that any additional comments that the Board or public have can still be incorporated. The 6th module consists of new ordinances that include the septic maintenance ordinances, pollutant containment methods, and most importantly, the land use ordinance. The Highlands Council just released the revised version, and electronic versions were provided to the Township. Mr. McGroarty suggested that the Board subcommittees review this document to make changes to what is necessary. Ultimately, this ordinance, or a variation of it, will apply here in West Milford, along with the existing ordinances. He explained that the ordinances that are in place today will regulate and govern exempt properties, and the existing properties that are otherwise not covered under the Highlands Act will be covered by this land use ordinance.

The 7th module, the municipal assessment, was recently released by the Highlands, and Mr. McGroarty needs to review the document and compile the information for the Township Council so they can make an informed decision when the resolution is adopted to conform to the Highlands Master Plan this December.

Mr. McGroarty noted that he removed everything from the documents that had no bearing on the Township of West Milford, including planning and agricultural components. He continued to touch on a few matters that were raised at prior meetings: 1. Map changes can be made after he reviewed the matter with the Highland's Council and located the mechanism to make changes. 2. He looked further at the Township's Historic Preservation Plan, dated September

1994, as there is a section in the new Highlands Master Plan that deals with historic districts. He advised the Board to spend time to review the Township's historic preservation plan for accuracy or revisions and see how it will fit into the Highlands regional master plan. 3. The model ordinance will be reviewed as it relates to the Township's land use ordinance and zoning ordinances. Changes or modifications in zone districts were raised at a Township Council meeting, in addition to other changes that should be made as the review continues. Mr. McGroarty noted that the Township Master Plan, re-examined in May 2003, technically should be revisited and readopted every six years. This year the Township's Master Plan was scheduled for re-examination, but he conferred with several attorneys at the Highlands Council, trying to determine if it was necessary for a Township, that is entirely in the Highlands preservation area, to complete the 5 step process to re-examine the master plan when the Township is involved in the extensive Highlands Master Plan process. Mr. McGroarty stated that he did not receive any definitive answer, so if the Board wanted to pursue the re-examination report, he can complete it without spending too much time, but he was not certain it was necessary, as the entire master plan will be supplemented by this new Highland's process. He added that the re-examination report is established to protect the integrity of the zoning, but the land use activity is regulated, to a large extent, by the rules that the DEP operates under with the Highlands legislation. He noted that he can refer this to Mr. Germinario for a determination.

Councilman Weisbecker advised that there were several representatives from the Lakes Committee present and requested that Mr. McGroarty review some of the discussion that took place at the previous night's Council meeting about lake community development. Mr. McGroarty explained that there are exemptions with the Highlands Act as they apply to existing lots. In the preservation area, new septic systems are restricted to 1 system for every 88 acres where the land is forested. Where it is not forested, on agricultural, or grass and open land, it is 1 system for every 25 acres. There are many lots that are under an acre, and they may or may not qualify as an exempt property, depending on the circumstances, including whether it was in existence prior to the Highlands. The property owner may still have to go to the local Zoning Board of Adjustment if it is a substandard lot. Mr. McGroarty stated that there will be an additional burden of proof that will be applied to an applicant, adding that the criteria to prove that there won't be a negative effect on the zone plan of the Township and the surrounding properties may be difficult, and there may be challenging arguments to try to justify a variance. With a substandard lot, an applicant must provide quality expert testimony that a septic system and well can function on a small lot and not be a detriment to the environment or neighboring properties. Mr. McGroarty commented about a Councilmember's suggestion to utilize open space funds to acquire these properties, satisfying a property owner who would receive compensation for the land, and the Township would have decreased development around the lakes. Mr. Weisbecker raised the issue of the designated areas around the lakes that would allow for some additional development, adding that the lake residents do not want any more growth.

Several Board members commented about the overview provided by Mr. McGroarty. Michael Siesta inquired whether any changes that are made to the documents will be brought before the Board before submission to the Highland's Council. Mr. McGroarty concurred, noting that he has not made any additional changes. Mr. Siesta also requested a copy of the 17 exemptions that Mr. McGroarty had distributed to the Council. The Board Secretary was requested to make copies and provide them to the Board members, and post them on the Township website.

Chairman Gargano opened the meeting for public comments and the following addressed the Board:

Mark Kleindeinst, Allison Avenue, inquired if the Board received any update from Mr. Slifer, and the Board indicated that it had received a letter that evening from Mr. Slifer updating on the status of his property sale and site plan. Mr. Kleindeinst inquired whether the septic system issues were settled, and referred to a Health Dept. memo about the ISSDS. He commented about the property being very old, and other houses in the neighborhood that have had to replace their systems. He also inquired about changes in the driveway, was belgium block installed, and were the slopes correct? In addition, he stated that shrubs planted on the property were planted incorrectly. Mr. Kleindeinst also noted that the owner may sell the property and lease the site to park his commercial vehicles. Chairman Gargano stated that the correspondence had been received that evening and the Board was not prepared to comment on this matter.

Councilman Joseph Smolinski, Camelot Drive, thanked Mr. McGroarty for the information and encouragement on the "infill situation." He commented that this was one way to protect the water, and benefit the Township. The funding issue that Councilman Jurkovic raised was one suggestion that needs to be explored further. He also commented about reduction and recharge areas.

Darlene Kane, Highcrest Drive, inquired about the FAR, and Mr. McGroarty reviewed the Floor Area Ratio and his concerns about using this tool, but added that this will be changed in the revised model ordinance. Ms. Kane noted that she was involved with the last master plan review and wanted to be brought up to date on the matter. Ms. Kane also inquired about the 17

exemptions and Mr. McGroarty reviewed the Highlands exemptions as they relate to residential and commercial development.

Following the public comments, Chairman Gargano closed the public portion.

It was noted that the Highlands Master Plan discussion will be kept on upcoming Planning Board agendas, and if there are no updates, it will be so noted. Mr. McGroarty again urged the Board and the public to forward any comments to the Board Secretary. This announcement will also be posted on the Township website. A copy of the ERI will also be provided to the Environmental Commission.

SITE PLAN APPLICATION REVIEW WAIVERS – None.

APPLICATIONS

TIME EXTENSIONS – None.

PENDING APPLICATIONS – None.

NEW APPLICATIONS – None.

NEW BUSINESS – None.

MEMORIALIZATIONS

Resolution #2009-15

MICHAEL J. HOEK

Minor Site Plan #PB-05-09-01

Bulk Variance

Block 7903; Lot 12

1468 Union Valley Road; VC

Granted: Minor Site Plan and Bulk Variance Approval for the renovation to the second floor of a bicycle shop to accommodate a photography studio, parking lot upgrades with ADA accessible ramp, paving and striping.

Resolution No. 2009-15, memorializing a Minor Site Plan with Bulk Variance Approval for Michael J. Hoek was approved on a **motion** by Mayor Bettina Bieri, with a **second** by Douglas Ott.

Eligible to Vote Roll Call:

Yes - Mayor Bettina Bieri, Douglas Ott, Clinton Smith, Geoffrey Syme, and Chairman Andrew Gargano.

No - None.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL- None.

PLANNING BOARD PLANNER'S REPORT- Planner's report provided with the Highlands Master Plan update.

PLANNING BOARD ATTORNEY'S REPORT- None.

PLANNING BOARD ENGINEER'S REPORT- None.

MISCELLANEOUS

October 1, 2009 Planning Board Meeting Cancelled

Following a brief discussion, Chairman Gargano announced that the October 1, 2009 Planning Board meeting will be cancelled. All necessary notices will be sent.

Approval Of Invoices – Board Professionals

The invoices for the month of August were unanimously approved on a **motion** by Councilman Weisbecker and a **second** by Geoffrey Syme.

Subcommittee Reports

Chairman Gargano announced that there were vacancies on several subcommittees as a result of Chris Rosica's resignation. Board members discussed their preferences for various subcommittees. Following appointments by the Chairman, the subcommittees consisted of:

Design Standards Subcommittee: Steven Castronova, Douglas Ott, Geoffrey Syme, Chairman Andrew Gargano

Master Plan Subcommittee: Linda Connolly, Douglas Ott, Geoffrey Syme, Chairman Andrew Gargano

Ordinance Subcommittee: Mayor Bettina Bieri, Clinton Smith, Richard McFadden, Chairman Andrew Gargano

Site Plan/Subdivision Subcommittee: Steven Castronova, Clinton Smith, Geoffrey Syme, Chairman Andrew Gargano

Chairman Gargano announced that there would be an ordinance subcommittee meeting before the October 22, 2009 Planning Board meeting at 5:30 p.m. in the main meeting room. It was noted that the revised sign ordinance was a matter that needed to be discussed.

MINUTES

The minutes of the August 6, 2009 Planning Board meeting were unanimously approved on a **motion** by Councilman Weisbecker and a **second** by Geoffrey Syme. The minutes for August 27 2009 were available in draft form and will be on the agenda for approval at the next meeting. The Secretary was requested to contact the Township Attorney and the Board Attorney regarding a recent court decision on minutes and inquire whether it pertains to Boards and Commission or only to the Township Council minutes.

The following were reviewed by the Planning Board and filed:

COMMUNICATIONS

1. Notice of Draft Permit Actions regarding Scrap Metal Industrial Stormwater General Permit (SM2) and Vehicle Recycling Industrial Stormwater General Permit (RVR), advising that the DEP recognizes the significant difference between the two industries, with separate permitting standards set for each with the issuance of new permits.
2. Notice from the NJ DEP dated August 31, 2009 regarding signs that will be posted at sites being remediated by the DEP or other parties, and advising that public funds are being used to cover the costs of the sign installation. The signs will be 2' x 3' and will say "Environmental Investigation/Cleanup in Progress at this Site" and provide contact information for the DEP.
3. Notice from the NJ DEP dated August 18, 2009 regarding Agatha Majchrzak for 28 Mountain Spring Road, Block 13901; Lot 8, advising of No Further Action and Covenant Not to Sue.
4. Authorization for a GP 25 and Waiver of Transition Area for Access received from the NJDEP on August 7, 2009 for Stephanie Vreeland, Block 16504; Lot 9.
5. Report from Passaic County Planning Dept. dated July 28, 2009 regarding Jack Jaust, Block 16005; Lot 12, 96 Oak Ridge Road, withholding approval of a site plan pending receipt of revised plans for drainage, TV inspection of abandoned pipe, permission from Newark Watershed to discharge stormwater across Newark's property, and agreement to maintain abandoned drainage system being used by applicant.
6. Notice from the Hudson-Essex-Passaic Soil Conservation of certification of soil erosion and sediment plan for Ken Carroll, 26 Commanche Lane, Block 401; Lots 19 & 21.
7. Notice from the Hudson-Essex-Passaic Soil Conservation of certification of soil erosion and sediment plan for Scott Leonescu, Warwick Tpk SFD, 694 Warwick Tpk, West Milford, Block 1816; Lot 1.
8. Letter dated September 10, 2009 to Anthony Patire from Kevin Boyle, Township Administrator, regarding West Milford Lake, advising Mr. Patire to contact the Highlands Council about possible development of the West Milford Lake site, and also advising of a re-evaluation of properties at this site to identify whether a lake association exists, and the possibility of assessment on these properties for dam repair costs.
9. Notice from Synergy Environmental, Inc., dated September 1, 2009, regarding ongoing environmental investigations at Lakeside Amoco, 2 Lakeside Road, Block 3609; 16, and advising that groundwater contamination at the site is being remediated.
10. Notice from Lukoil, Getty Petroleum, dated August 13, 2009, regarding remediation of environmental contamination at 1367 Union Valley Road, Block 7508; Lot 16.
11. Notice sent to Scott Leonescu, Your Home Team, from the Hudson Essex Passaic Soil Conservation District, dated August 12, 2009, regarding Papscoe Road & Chickadee Lane, Block 2312; Lot 16, certifying the soil erosion and sediment control plan submitted.
12. Notice from Brockerhoff Environmental Services, dated August 28, 2009, regarding SB Petroleum, 555 Warwick Tpk., advising of coordination of potable well sampling at the site.
13. Notice from PSE&G regarding removal of vegetation along the electric transmission right-of-way in West Milford Township beginning on or about October 1, 2009 through April 1, 2010.
14. Notice from GES Groundwater & Environmental Services received August 31, 2009 regarding investigation of environmental conditions at the former Exxon station, currently the Petro Two, Inc., at 4 Marshall Hill Road, Block 5701: Lot 3.

HIGHLANDS WATER PROTECTION AND PLANNING ACT – None.

1. Letter dated July 31, 2009 from Giordano, Halleran & Ciesla for Tennessee Gas Pipeline to NJ DEP regarding Highlands Exemption for the 300 Line Project – Eastern Alternative,

specifically requesting that this alternative project be assigned a separate Program Interest Number and Activity Number than the original primary route for the 300 Line Project that is currently under review for exemption.

2. Notice and application from Dr. Greg Rubenstein for a Highlands Exemption #2 for Block 4201; Lot 12, 49 Lake Park Terrace.

3. Copy of revised plans for a Highlands Determination and Northeast Water Quality Management Plan, dated August 5, 2009, received from Schwanewede/Hals Engineering for Shoebox Storage, LLC, 140 Oak Ridge Road, Block 16006; Lot 1.01.

4. Letter from the NJDEP dated September 9, 2009 to Jack Levkovitz regarding Village on Ridge, Block 5203; Lots 1-14, 19-30; Block 5204; Lots 2-15; Block 5205; Lots 1-9; Block 5202; Lots 1-3 & 6, confirming that the Exemption #3 issued in 2006 was still valid and the CLUE letter issued in February 2009 was rescinded.

ADJOURNMENT

With no further business to come before the Board, the Planning Board meeting of September 24, 2009 **adjourned** at **8:51 pm** on a **motion** by Councilman Philip Weisbecker and a **second** by Steven Castronova.

Approved: December 3, 2009

Respectfully submitted by,

Tonya E. Cubby, Secretary