

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**September 24, 2015**

**Regular Meeting**

Chairman Christopher Garcia opened the September 24, 2015 Regular Meeting of the West Milford Planning Board at **7:32 p.m.** with a reading of the Legal Notice, followed by the Pledge of Allegiance and Roll Call.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Councilwoman Ada Erik, Andrew Gargano, Warren Gross, Douglas Ott, Glenn Wenzel, Alternate Michael Siesta, Alternate Steven Castronova, Chairman Christopher Garcia, Board Attorney Thomas Germinario, Board Planner Chuck McGroarty (7:43), Board Engineer Paul Ferriero.

**Absent:** Linda Connolly, Geoffrey Syme.

Chairman Garcia requested Alternates Michael Siesta and Steven Castronova to sit in for the absent Board members and advised that a quorum was present to hold this meeting.

**PUBLIC PORTION**

Chairman Garcia opened the meeting for public comment and the following addressed the Planning Board:

Pamela Sorensen, Cottage Cove Road, addressed the Planning Board regarding the new Ice Cream Shop/Fox Creamery at 1934 Greenwood Lake Tpk., expressing concerns about changes to the former restaurant/bar, in addition to the issuance of a deck permit for a rear deck. Ms. Sorensen inquired why the owner was not required to comply with commercial building codes, and noted that the new ice cream shop will lower property values, increase risk of trespassers onto neighboring properties, invite traffic on a private road, and create septic issues. Board Attorney Thomas Germinario advised that the application for the new business was approved under a zoning permit, and the Planning Board had no jurisdiction in this matter unless site plan approval was required. He noted that there was a possibility that a zoning permit was approved incorrectly, in which case the resident could appeal the decision of the zoning officer, although MLUL requires that the appeal be filed within 20 days of a decision by the zoning officer, and he was under the impression that the zoning permit was issued quite some time ago. Board Attorney Thomas Germinario requested that the Planning Board Secretary provide Ms. Sorensen with the information regarding an appeal. Mayor Bieri stated that she concurred with Mr. Germinario and that she had been receiving emails regarding this matter, and subsequently had the Planning Board Planner research this. She was not making a determination one way or the other, but was aware that there is a procedure that residents can follow with regard to an appeal.

With no one else present wishing to address the Planning Board, the public portion was closed by a unanimous vote on a **motion** by Councilwoman Ada Erik, with a **second** by Steven Castronova.

**APPLICATIONS**

**EXTENSION OF TIME**

**RESOLUTION NO. 2015 - 08**

**AWOSTING ASSOCIATION INC.**

**Preliminary & Final Site Plan and Conditional Use #0820-0320AB**

Block 4105; Lot 1

Long Pond Road; LR Zone

**Seeking:** Extension of Final Site Plan and Conditional Use Approval, memorialized January 3, 2013, for the construction of a new private lake community clubhouse.

Stacey Dwyer, Esq., from the law firm of Lee M. Levitt LLC, attorneys for Awosting Association, Inc., addressed a request for a one-year extension of time for the Awosting Association Final Site Plan with Conditional Use Approval, originally approved on January 3, 2013. Ms. Dwyer maintained that the Applicant was unable to move forward with the project due to an inability to obtain non-municipal approvals, and due to a change in the project manager and subsequent revisions to the proposed clubhouse building. The Board Attorney advised that under Section 52 A the Board may grant extension of final site plan approval for one year increments, and the Applicant has represented that there were permitting issues and other reasons for delay which fall under the statute. Mayor Bieri clarified that there were non-municipal approvals that the Applicant could not obtain which delayed the commencement of the project.

Mr. Germinario advised that the Board would entertain a motion on the approval of Resolution No. 2015 –08 for a One Year Extension of Time for the Awosting Association Inc., Application #0820-0320AB.

**Motion** by Board Member Glenn Wenzel, with a **second** by Steven Castronova to **approve** a one-year extension of site plan approval, until January 3, 2016.

**Eligible to Vote Roll Call**

**Yes:** Mayor Bettina Bieri, Steven Castronova, Councilwoman Ada Erik, Andrew Gargano, Warren Gross, Douglas Ott, Michael Siesta, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**PENDING APPLICATIONS**

**538 LAKESIDE ROAD LLC**

**Preliminary & Final Site Plan #PB-09-14-03**

Block 3610; Lot 30

Greenwood Lake Turnpike; LC Zone

**Seeking:** Continuance of the hearing for Preliminary and Final Site Plan approval for Block 3610; Lot 30, Greenwood Lake Turnpike for the construction of a boat storage facility on an existing gravel parking lot, with installation of privacy fencing and parking for boat storage. A hearing for this matter was held on June 25, 2015.

Richard Clemack, Esq., representing the Applicant, 538 Lakeside Road LLC, addressed the Board regarding the proposed use for the boat storage facility, advising that there would be no permanent employees stationed at the site, and that there would be no maintenance or sales. He noted that at the prior hearing, there was an issue regarding the height of the boat storage rack. Documents were subsequently submitted to support the proposed height of the boat storage not to exceed 21 feet. The Board Attorney advised that there were conditional use criteria that were required to be met. Board Engineer Paul Ferreiro advised that there were several items that needed to be addressed by the Applicant's engineer, but that it should not stop the Board from approving this application. When asked if the Applicant had any objections or needed clarification of the items raised in Mr. Ferreiro's report dated September 22, 2015, Mr. Clemack advised that all the conditions were acceptable. Chuck McGroarty, Board Planner, advised the Board that the Applicant's revised plans had addressed all the conditional use criteria including the storage rack height and signage. Mr. Ferreiro noted that the Highlands Exemption was received on September 25, 2013 and was still valid.

Chairman Garcia inquired whether the Board members had any comments. Board member Steven Castronova requested clarification regarding the boat storage in the Lake Commercial Zone, and suggested that this appeared to be an accessory use without a primary building. Mr. Germinario advised that under the conditional use criteria, the ordinance allows the boat storage, adding that there were 9 conditional use standards that must be met to allow the boat storage in the LC Zone. A report had been prepared by the Board Planner (dated June 17, 2015) and was provided to the Board for review. Mr. Germinario advised that the revised plans submitted by the Applicant's engineer satisfies the conditional use requirements. Mr. Castronova then questioned whether the proposed new business across the street will have sufficient parking since the former business used the subject site for additional parking. He also commented on the boat rack system and suggested that it may interfere with the view of the lake for some of the surrounding properties. Tyler VanderValk, P.E., engineer for the Applicant, advised that sheet #4 of the revised plans included a rendering of the proposed rack system, noting that the façade that will face the street will be a solid surface, and the boats would not be visible from Greenwood Lake Tpk. Mr. Castronova observed that he did not have sheet #4 in his set of plans. With regard to using the boat storage facility for additional parking for the business across from the subject site, Mr. VanderValk testified that the County had made it clear that they did not want customers crossing the County road to gain access to additional parking. Signage for this application specifically notes that the parking is for the boat storage facility. Mr. Clemack advised the Board that the application before the Board was for the boat storage facility and it was designed to meet the standards for this use. Mr. Castronova suggested that the property across from this may need additional parking and the Board's approval of this application may create a problem with insufficient parking for another business. Board member Andrew Gargano inquired why this issue was being discussed, and Mayor Bieri commented that since no deed or legal access agreement existed for parking across the street, it was not a matter for this Board since it was a separate block and lot and must be treated separately. Mr. Germinario advised that the properties under discussion have common ownership, and the other property may be impacted with limitations on the extent to which they can expand with a limited parking lot. He noted that while it was a good point raised by Mr. Castronova, it does not affect the Board's decision on the parcel that is the subject of the boat storage application. Mr. McGroarty commented that the County cannot approve municipal site plans. Mr. Germinario suggested that in the event of an expansion, the Applicant would have to provide parking and crossing provisions, but he was not sure what they would require. Mr. McGroarty advised that parking in that case was a non-

permitted principal use and would require a use variance. Mayor Bieri commented that it was the Board's concern as to whether or not an Applicant complies with the requirements for this approval.

Chairman Garcia opened the hearing to the public. With no one present wishing to comment on this application, the public portion was **closed** on a **motion** by Councilwoman Ada Erik, with a **second** by Michael Siesta.

**Motion** by Board Member Glenn Wenzel, with a **second** by Michael Siesta to **approve** the Preliminary and Final Site Plan with Conditional Use Approval for 538 Lakeside Road LLC to include all the conditions outlined in Paul Ferriero's and Mr. McGroarty's reports, including, but not limited to: no employees working regularly on the site, no additional lighting, no boat maintenance on the site, and the standard conditions of approval for site plan applications.

**Roll Call**

**Yes:** Mayor Bettina Bieri, Steven Castronova, Councilwoman Ada Erik, Andrew Gargano, Warren Gross, Douglas Ott, Michael Siesta, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**MEMORIALIZATIONS**

**RESOLUTION NO. 2015 - 09  
BRAEMAR AT WEST MILFORD, LLC  
(Greene Valley Estates)  
Final Subdivision #0610-1910B**

Block 10001; Lots 14, 19, 20, 23  
Wooley Road; R-3 and R-4 Zones

**Re:** Memorialization of the Planning Board's determination that the Applicant has not satisfied Condition Precedent (A) of the Board's Resolution No. 2012-16, insofar as it has not complied with all requirements of the Water Supply Ordinance (§470-15.1) following the Compliance Hearings held on August 24, 2015 and September 3, 2015.

Mr. Germinario advised the Board that a prior Resolution No. 2012-16 included two conditions precedent, one that states that the Applicant must comply with the Township's Water Supply and Water Quality Ordinance, and the second was compliance with Highlands requirements. Hearings were held on this matter on August 24, 2015 and September 3, 2015, and based on the evidence presented at the hearings, this resolution before the Board finds that Condition Precedent A, regarding the requirements of the Water Supply and Water Quality ordinance, was not satisfied. Mr. Germinario continued to advise that, although the time period for satisfying the Conditions Precedent has expired, he included in the resolution an option for the Applicant stating that the Board is willing to entertain a request for an extension to enable the Applicant to adjust the demand and/or extent of the proposed development, based on consultation between the Board's hydrogeologist and the Applicant's hydrogeologist. Mr. Germinario advised that transcripts of the hearings were ordered and he fact checked the resolution against the testimony in the transcripts and believes that he has been thorough with the resolution.

Following Mr. Germinario's briefing, a **motion** was made by Board Member Glenn Wenzel, with a **second** by Mayor Bettina Bieri to **approve** Resolution No. 2015-09, finding that the Applicant failed to comply with the Conditions Precedent outlined in Resolution No. 2012-16.

**Eligible to Vote Roll Call**

**Yes:** Mayor Bettina Bieri, Steven Castronova, Councilwoman Ada Erik, Douglas Ott, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**\*RESOLUTION NO. 2015 –  
RESOLUTION OF THE TOWNSHIP OF WEST MILFORD PLANNING BOARD  
ADOPTING THE LAND USE PLAN ELEMENT OF THE TOWNSHIP OF WEST  
MILFORD MASTER PLAN**

\*(This matter has been carried in order to permit a review by the Zoning Board of Adjustment as requested by the Planning Board and Township Council)

Board Planner Chuck McGroarty advised that the Master Plan Committee will meet to discuss the correspondence received from the Zoning Board of Adjustment before this matter is brought back to the Board. Mr. McGroarty noted that a meeting will take place prior to the next meeting that he will be present at.

**NEW OR ONGOING BUSINESS** – The Board Secretary advised that the TJ Maxx project will be starting soon since the demolition/building permit had been issued. She further reported that

the Chelsea at Bald Eagle addition received their NJDES approval from the State and their building permits are under review. Mr. Gargano advised that the Library should be breaking ground on the new Library project soon.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** – None.

**BOARD PLANNER'S REPORT** – Mr. McGroarty advised that he will be reporting to the Board in Closed Session regarding recent COAH activities.

**BOARD ATTORNEY'S REPORT** – No report.

**BOARD ENGINEER'S REPORT** – No report.

### **MISCELLANEOUS**

The Invoices from the Planning Board professionals for August 2015 were **unanimously approved** on a **motion** by Andrew Gargano with a **second** by Councilwoman Ada Erik.

### **MINUTES**

The Minutes from the Planning Board regular meeting of June 25, 2015 were **unanimously approved** on a **motion** by Councilwoman Ada Erik with a **second** by Andrew Gargano.

***The following correspondence was reviewed and filed:***

### **Highlands Water Protection And Planning Act Correspondence**

1. Notification of an application being submitted for a Highlands Exemption, dated September 2, 2015, from Langan Engineering regarding an Orange & Rockland Utilities project for the installation of new underground electrical distribution circuit totaling approximately 1.75 miles on Block 6002; Lot 20, on Union Valley Road, Macopin Road, Marshall Hill Road and West Shore Road. Also submitted was notification of an application for a Freshwater Wetlands General Permit #2 and Individual Flood Hazard Area Permit.
2. Notice of an application for a Highlands Applicability Determination/Exemption received from NY SMSA LP d/b/a Verizon Wireless with respect to a cell tower related project on Deer Path Road, Block 12001; Lot 6.
3. Notice of an application for a Highlands Applicability Determination/Exemption dated August 27, 2015 received from Greenwood Lake Services LLC regarding property at 341 & 330 Lakeside Road, Block 3101; Lot 9 and Block 3107; Lot 2. No information regarding the proposed project was included with the notice.
4. Notice of an application for a Highlands Applicability Determination/Exemption dated August 27, 2015 received from Greenwood Lake Services LLC regarding property at 1975 Greenwood Lake Tpk., Block 3610; Lot 26. No information regarding the proposed project was included with the notice.
5. Notification from the NJ Highlands Council, dated September 2, 2015, transmitting a copy of the Water Use and Conservation Management Plan (WUCMP), which involved a program that the Township voluntarily participated in and will serve as a model for the Highlands Council's water resource management planning in the future.

### **NJ Department of Environmental Protection Correspondence**

1. NJDEP notice dated August 4, 2015 announcing a Motorized Access Plan for Wharton State Forest to protect the environment and encourage responsible use of Off-Road Vehicles (Jeeps, 4-wheel drive pick up trucks), with maps available at the Batso Village Information Center and Atsion Recreation Area. ATV's and unregistered dirt bikes will not be permitted in Wharton and are not permitted in any other state owned land in New Jersey.
2. No Further Action notice received from the NJDEP, dated August 26, 2015, regarding removal of a 1000 gal #2 heating oil UGST at 188 Lakeside Road, Block 3406; Lot 32.
3. Receptor Evaluation Forms and documents received from Geo-Enviro Consulting and Remediation regarding SB Petroleum, 555 Warwick Tpk, Hewitt, regarding an updated Re-Submission due to the known concentration or extent of contamination has increased.
4. Copy of an application to the NJDEP, dated September 15, 2015, from Environmental Technology Inc. regarding a Letter of Interpretation and Line Verification Extension for Lipari, 42 Lone Pine Lane, Block 5306; Lot 4.02 for the construction of a 4 bedroom s.f. house.

### **Miscellaneous Correspondence Received/Sent**

1. Correspondence received from COA - Clean Ocean Action, advising of a Municipal Blue Star Certification program promoting a clean coastal ecosystem and economy for municipalities involved in the Sustainable Jersey program.
2. Announcement from ANJEC regarding the 42<sup>nd</sup> Annual Environmental Congress on October 9, 2015, Raritan Valley Community college, Branchburg, NJ.
3. The New Jersey Planner July/August 2015.

### **CLOSED SESSION**

**Motion** by Mayor Bettina Bieri with a **second** by Michael Siesta to **close the meeting to the public** at **8:18 p.m.** and withdraw into Closed Session. Chairman Garcia read the following resolution into the record:

#### **RESOLUTION NO. 2015-10**

Prior to the conclusion of this meeting, the Planning Board of the Township of West Milford 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. sub-section (s):

(7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.

- **COAH**

Following the Closed Session, **motion** by Mayor Bettina Bieri with a **second** by Douglas Ott to **reopen the meeting to the public** at **8:42 p.m.**

### **ADJOURNMENT**

With no further business to come before the Planning Board, Chairman Garcia **adjourned** the Regular meeting of September 24, 2015 at **8:43 p.m.** on a **motion** made by Michael Siesta and a **second** by Steven Castronova.

Approved: November 5, 2015

Respectfully submitted by,

Tonya E. Cubby, Secretary