

**TOWNSHIP OF WEST MILFORD**  
**PLANNING BOARD**  
**MINUTES**  
**September 25, 2008**  
**REGULAR MEETING**

The regular meeting of the Planning Board was opened at 7:32 by Chairman Andrew Gargano with a reading of the Legal Notice followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Alternates Michael Siesta, Kerry Goceljak, Board Planner Charles McGroarty, Paul Ferriero, Board Engineer, Thomas Germinario, Board Attorney.

**Absent:** None.

**PUBLIC PORTION**

With no one present wishing to address the Board on matters other than those on the agenda, the Public Portion was closed on a **motion** by Chris Rosica and a **second** by Douglas Ott.

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

**APPLICATIONS**

**NEW APPLICATIONS**

**MR. WONTON LLC**

**Preliminary & Final Site Plan #0720-0305AB**

**Block 6303; Lot 18**

1546 Union Valley Road; VC Zone

Seeking preliminary and final site plan approval and variance relief for proposed site improvements to existing parking lot.

Steven Castronova recused himself from this application.

The applicant, Yan Huang of Mr. Wonton, LLC of 25 Reidy Place, was present before the Board. The Board Attorney, Thomas Germinario, advised the Board that the applicant had a deficiency in his noticing of the public hearing. He was requested to come back before the Board on October 23, 2008 and was advised by the Board Attorney to re-notice the new date to all property owners required by law. The applicant provided a 60-day extension for a decision on this application.

**MISCELLANEOUS**

Utopia Deli - Mr. Germinario advised the Board that the Township Attorney had requested he review the matter of Utopia Deli of Hewitt holding a two-day local event for charity and the possibility of granting a site plan waiver. Utopia Deli was denied a zoning permit, as outdoor sales are not permitted in the Neighborhood Commercial Zone. Mr. Germinario met with the Board Planner and the Board Engineer and they determined that this was not a site plan waiver. Their recommendation is that this falls under the jurisdiction of the police or administration. He added that some towns have special event permits, but West Milford does not have an ordinance for this. He advised that the Planning Board has no authority to deal with this. He suggested that the owner contact the Health Department for guidance, to which the owner replied that they have done so. Susan Costanza, 4 Emerson Road, was present to address the Board. She advised that she was proposing to use the two-day festival as an event to provide a forum for non-profit organizations. This was to be a community event with community vendors. She has a current food handler's license, so food can be served at this event. She contacted the police and neighbors. Mr. Rosica asked if the Board can make a recommendation. Mr. Germinario advised that this was not a land use issue, and recommended that an ordinance be established for future purposes. This matter should be referred to the Police, Administration and Health. Ms. Costanza noted that overflow parking would be directed to the adjacent property, owned by Mr. John Cardinale. The Board Attorney advised Ms. Costanza to have adequate insurance. Councilman Weisbecker commented that the business owner has gone through all the channels and wondered what the Board could do to allow them to hold the event that was scheduled for the following weekend. Mr. Germinario stated that the Planning Board could not allow or disallow the event, adding that he was not saying the Board was denying the request for approval, but that the Board was not in the position, nor did it have the jurisdiction, to permit the event. He referred them to the Police Department for approval. The Chairman noted that this issue should be added to the next ordinance subcommittee agenda.

**NEW APPLICATIONS**

**INSERRA/WEST MILFORD, LLC (SHOPRITE)**

**Preliminary & Final Site Plan #0720-0308AB**

**Bulk Variance #0730-0793**

Block 6303; Lots 15 & 16

Marshall Hill Road; CC Zone

Seeking preliminary & final site plan approval and variance relief for expansion of existing supermarket and improvements to Shopping Center.

The applicant, Inserra/West Milford, LLC was represented by John Wyciskala, Esq., their attorney. He provided a brief introduction on this application, recapping some of the highlights of the July 24, 2008 concept hearing that was before the Board. He noted that Inserra owns Block 6303; Lot 15. Mr. Wyciskala stated that Inserra does not own the McDonald's site nor the Wachovia Bank site, although the Wachovia site will be included in the renovation project. The expansion will be 9,000 sq ft with an upgrade of the current facilities. The applicant seeks to add space to the rear of the existing Shop Rite and reconfigure the interior of the building that will include more fresh and prepared foods and organic choices. The improvement in the parking lot will include landscaping and other upgrades that will be coordinated with the proposed streetscape plans. The presentation for the Board at this meeting was to provide a review of revisions to the original concept plans presented in July that resulted from the comments made by the Board and the residents at that meeting.

Jim Woods, P.E. of Omland Engineering, was sworn in and qualified for the Board, advising that he has a BA and MS in Civil Engineering from NJIT. He noted that he was before the West Milford Planning Board approximately 20 years ago. He presented and reviewed three exhibits for the Board: A-1, Aerial Plan of the current shopping center dated 07-22-08; A-2, Shop Rite Rendering dated 09-25-08, and A-3, Shop Rite Expansion Pedestrian Striping & Dumpster Screening dated 09-25-08. He noted the main elements to the site modifications and revisions: 1) expansion of existing Shop Rite; 2) additional landscaping and islands were added; 3) relocation of the water tank to the rear of the shopping center and supermarket. He noted that the five points of ingress and egress will be maintained, but there was a modification of the entrances and the configurations were also modified. 768 parking spaces are now proposed, with 844 required. Mr. Woods stated that two of the six preexisting non-conforming conditions will be improved. The applicant's attorney noted that the access to the rear of the building from Union Valley Road would be one way with one loading dock, but access to the bank would be two way. There was discussion about the loading docks, retaining walls, elevation of the loading docks and grade levels, new lighting with 16 foot high shoebox fixtures, and new signage, which is being reviewed with the Planner. A Board member requested comments from the Board Engineer on lighting. Mr. Ferriero, Board Engineer, noted that shoebox fixtures are the best option. Mr. Woods, the applicant's engineer, added that additional lighting will be installed along the building to better illuminate the walkway area. Upon concerns expressed by some Board members, the dumpsters will be reviewed and reworked as necessary. The fencing to the rear of the Shop Rite is proposed to be board on board, but additional screening for the residents was discussed. Mr. Woods noted that William Hamilton of his firm would discuss the landscaping. There was discussion on the water tank and the height and visibility to the residents in the rear. The parking to the rear of the movie theater was discussed and it was noted by Mr. Wyciskala that the tenancy may change in the future and the applicant did not want to remove pavement and parking in the event it may be needed. Rich McFadden, Township Engineer, inquired about underground retention systems. There was discussion by the applicant's engineer on the matter, noting the topography restraints of the site in question. The applicant's engineer advised that they would meet with the fire bureau to come to an agreement on the fire lanes, striping, etc. The Board discussed additional trees and shrubs being added, especially along Marshall Hill Road. Steve Hittman, project developer for Inserra, was sworn in and provided testimony on the suggested revisions to the site plan by the Board. The Mayor inquired about snow removal and a proposed location for the snow, in addition to adding more pedestrian areas. There was discussion about sidewalk alignment and crosswalks.

The Chairman opened the meeting to the public. The following addressed the Board about their concerns:

Pete Oselador – Heather Lane – Displayed photos from his house to the subject site, expressed concerns about the utility building, water tower, sewer treatment plant, dumpsters, sweeper noise, water issues affecting his property, debris from the shopping center site, and disturbance from skateboarders that use the shopping center for loitering. The applicant's representative commented that the operator of the garbage company will be contacted regarding the noise from collections.

Ray Kilgallon – 48 Adelaide Terrace – Distributed a list of concerns and photos. He expressed concerns about drains, existing fence at the rear of the shopping center, snow problems and drainage, and numerous dumpsters creating excess noise and trash. He suggested the dumpsters be located in one area with a cover, and the installation of speed bumps in front of the Shop Rite near handicapped parking to slow traffic.

Jim Novack – Larchmont Drive – Criticized the current landscaping and inquired about maintenance of the additional trees and shrubbery that are requested or proposed. Requested additional handicapped parking spaces be included in the parking design. He noted that the plastic bags used at the supermarket create excess garbage around the site.

Deanna Bussanich - 40 Adelaide Terrace - Resides adjacent to the subject site and noted the loud noise that results from the sweeper that cleans the site each night. She has reported this to the shopping center management company. She also expressed concerns with skateboarders using the site for their activities, refrigerated trucks running all night, drainage concerns, snow removal being dumped into a 15 foot easement, and the sanitary treatment plant noise and odors. She inquired about lighting in the rear, and noted that the water tank and utility buildings should be moved away from residences.

Ralph Maupay – 3 Heather Lane - Advised the Board and the applicant that the trucks entering the site damaged curbing and created a water problem.

Michele Buntzen – 54 Adelaide Terrace - She expressed concerns about drainage problems affecting her built-in pool, asked that loading and unloading times for the trucks be addressed, suggested one way traffic for trucks entering or exiting the site on specific days, asked for the water treatment tower to be relocated, requested pedestrian friendly walkways and mother infant parking to be installed, and expressed concerns about landscaping at the rear of the site.

Dennis Kirwan – 47 Barnegat Road – Distributed concerns about the site plan, addressed impervious cover and suggested that parking spaces be kept and the numbers maintained, proposed the owner install 24/7 security operations, and installation of a larger fence as a buffer for the residents, in addition to landscaping along the fence.

With no one else present wishing to be heard on this matter, the public portion was closed on a **motion** by Chris Rosica with a **second** by Douglas Ott.

The applicant requested to come back before the Board at the next meeting on October 2, 2008 to review changes and revisions to be made that will address the Board members' and residents' concerns. At that meeting, the architect and planner would review signage, lighting and building facade plans. A Board member asked that facade revisions be made to accommodate the town center design preferences. There was Board consensus that this application be carried to the October 2, 2008 at which time conceptual plans will be presented.

### **MEMORIALIZATIONS**

#### **RESOLUTION NO. 2008-23**

#### **Authorizing Amendment Of The Contract For Professional Services To Thomas J. Germinario, Esq., Planning Board Attorney**

**Motion** by Chris Rosica and a **second** by Richard McFadden to approve the amendment to the contract for professional services for Thomas J. Germinario, Esq. to increase the amount not to exceed \$13,000.00 for non-escrow, non-litigation matters.

**Roll Call:**   **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
                  **No** - None.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** – None.

### **BOARD ATTORNEY'S REPORT**

Mr. Germinario advised the Board that he may have an update at the October meeting on the Living Word Alliance Church matter.

### **PLANNER'S REPORT**

Mr. McGroarty reported that following Governor Corzine's order the prior week, there seems to be some confusion on the part of municipalities with regard to Highlands and COAH. A letter has been issued from the Highlands and it appears that towns that adopt a resolution that they intend to conform will have a one-year extension for filing their housing plan with COAH. No confirmation was received yet, but the five municipalities that are in the Highlands may have an additional year for filing their housing element. He noted that the COAH numbers that are required currently are too high for West Milford. At this time, he is putting the vacant land assessment work on hold until we hear something more concrete from COAH. He is hopeful that very shortly COAH will clarify its position. The Mayor inquired about the \$15,000.00 in grant monies for the initial assessment that was awarded to the Township, and Mr. McGroarty replied that this was a separate matter for conformance and the Township could request an extension. He spoke to the Highlands and it is not a problem for them if that is acceptable to the Township. The Mayor commented that this was fine as long as the money is not lost.

### **MISCELLANEOUS**

The Chairman advised that applications will not be heard by the Board if the escrow accounts are not up to date. The Board Attorney advised that the Board would have to deny the application without prejudice.

### **SUBCOMMITTEE REPORTS**

**MASTER PLAN SUBCOMMITTEE** – The Chairman advised that he had been copied on a letter regarding downsizing Eagles Ridge property. Mr. Germinario advised that the Board could propose an ordinance to the Township Council. The Chairman would refer this matter to Fred Semrau, Township Attorney. Mr. McGroarty commented that a master plan amendment would be necessary, and said that he would draft one and circulate it to the members.

**ORDINANCE SUBCOMMITTEE** – The Chairman announced that the ordinance subcommittee would meet on November 6, 2008 at 5:00 pm. Councilman Weisbecker asked that the sign ordinance and billboard ordinance be addressed. The Mayor commented that she will email the committee with a list of items to be discussed.

**BUILDING DESIGN SUBCOMMITTEE** – Nothing to report at this time.

**SITE PLAN COMMITTEE** – Nothing to report at this time.

**APPROVAL OF INVOICES – BOARD PROFESSIONALS**

**Motion** by Steven Castronova with a **second** by Geoffrey Syme to approve the payment of current invoices from Paul Ferriero, Thomas Germinario, Esq., and Charles McGroarty.

**Roll Call:**   **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Geoffrey Syme, Councilman Philip Wesibecker and Chairman Andrew Gargano.  
                  **No** - None.

**MINUTES**

Approval of minutes of the July 24, 2008 Regular meeting was carried to the next meeting.

**COMMUNICATIONS**

The following communications were noted and filed:

1. Copy of Authorization for Freshwater Wetlands and Statewide General Permit No. 25 and Waiver of Transition Area for Access received on September 16, 2008 for Michael & Maryanne Baumohl, Block 5714; Lot 5.
2. Copy of Authorization for Freshwater Wetlands and Statewide General Permit No. 25 and Waiver of Transition Area for Access received on September 4, 2008 for Ron Kurkowski, Block 1611; Lot 15.
3. Copy of Revisions of State Applications for Dredging Permits & Additional Flood Hazard Area Individual Permit received on September 9, 2008 from Upper Greenwood Lake Property Owners Association.
4. Copy of application for Letter of Interpretation received September 4, 2008 for Kurt Gardenier, 83 McKinley Place, Block 6204; Lot 16.
5. Copy of application for General Permit #25 received September 3, 2008 for Gerald Storms, 1043 Westbrook Road, Block 11104; Lot 2.
6. Copy of NJ DEP No Further Action & Covenant Not to Sue letter regarding removal of 550 gallon underground fuel oil tank received on September 15, 2008 for Susan Adair Spagnulo, 9 Bradrick Lane, Block 8801; Lot 11.
7. Copy of NJ DEP No Further Action & Covenant Not to Sue letter regarding removal of 550 gallon underground fuel oil tank received on September 9, 2008 for Jeffrey Grove, 36 Banker Road, Block 1101; Lot 27.
8. Notice of Potable Well Water Analysis received on September 3, 2008 from the NJ DEP regarding Lakeland Plaza 1, Route 23, Block 14605; Lot 1-4 – water is acceptable for drinking water purposes.
9. Notice of Potable Well Water Analysis received on September 3, 2008 from the NJ DEP regarding Lakeland Plaza 2, Route 23, Block 14605; Lot 1-4 - water is acceptable for drinking water purposes.
10. Notice of Potable Well Water Analysis received on September 3, 2008 from the NJ DEP regarding 23 Electric Supply, Block 576; Lot 1 - water is acceptable for drinking water purposes.
11. Notice of Potable Well Water Analysis received on September 3, 2008 from the NJ DEP regarding Shell Oil Co., Route 23, Block 14604, Lot 1 - water is acceptable for drinking water purposes.

**HIGHLANDS WATER PROTECTION AND PLANNING ACT**

The following was noted and filed:

1. Copy of application for Highlands Exemption received September 8, 2008 received from Eugene & Renata Hazelman, 774 Macopin Road, Block 12107; Lot 2.

**ADJOURNMENT**

With no further business to come before the Planning Board, the meeting was adjourned at 10:45 p.m. by unanimous consent on a **motion** by Chris Rosica with a **second** by Geoffrey Syme.

Approved: October 23, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary