

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**October 3, 2013**

**Regular Meeting**

The October 3, 2013 Regular Meeting of the West Milford Planning Board was opened at **7:30 p.m.** by Chairman Geoffrey Syme with a reading of the Legal Notice, followed by the Pledge of Allegiance and Roll Call.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Linda Connolly, Christopher Garcia, Andrew Gargano, Robert Nolan, Douglas Ott, Councilman Luciano Signorino (8:01), Glenn Wenzel Chairman Geoffrey Syme, Board Attorney Thomas Germinario, Board Engineer John Hansen, Board Planner Charles McGroarty.

**Absent:** Steven Castronova, Michael Siesta.

Chairman Geoffrey Syme noted that there was a quorum present for this regular meeting.

**PUBLIC PORTION**

Chairman Syme opened the Public Portion of the meeting. There being no one present wishing to address the Board, the Public Portion was **closed** on a **motion** by Andrew Gargano and a **second** by Douglas Ott.

**PRESENTATIONS** - None.

**NEW APPLICATIONS**

**CHELSEA AT BALD EAGLE**

**Preliminary & Final Site Plan  
& Bulk Variance #PB-03-12-03**

Block 5310; Lot 1

197 Cahill Cross Road; SCC Zone

**Seeking:** Preliminary and Final Site Plan with Bulk Variance approval for a 2 story, 20 bed addition to an existing 128 bed assisted living facility, with bulk variance requested for building height, where 35 feet is permitted and 36.75 is proposed.

Sharon Weiner, Esq. of Murphy, Mckee, LLP, appeared before the Planning Board, as counsel for the applicant, Chelsea Senior Living (Chelsea at Bald Eagle). Roger Bernier, President and C.O.O. of Chelsea Senior Living, also present, was sworn in by Board Attorney Tom Germinario. Mr. Bernier testified that Chelsea owned 17 properties in New York and New Jersey. Their privately owned company was based in Fanwood, NJ. He testified that his company closed on the property at Bald Eagle in 2012 with the intention of expanding the assisted living facility due to the increase in demand for additional units. He reviewed the number of units for the Board, advising that there were 62 independent living units, with 56 assisted living units, and 10 for memory impaired residents. The application was proposing an addition for 16 more units that would contain 20 beds specifically for Alzheimer and memory impaired residents. Mr. Bernier testified that the addition will require 3 more employees, and there will be no disruption to traffic with the additional residents and staff. In response to Ms. Weiner's inquiry about Medicare patients, Mr. Bernier responded that approximately 28% of the residents were on Medicare, but the facility also had a "spend down" program that could eventually lead to Medicare assistance. He further testified that the memory impaired residents who live in the current Chelsea facility will be moved to the new addition, which will be a self-contained facility, have 24-hour security, and will be designed to allow the residents to interact with each other.

Kevin Seidel, Executive Director of Chelsea at Bald Eagle, was sworn in and testified regarding the Health Department's comments in a memo dated September 12, 2013 regarding the collapse of the sewer/septic field retaining wall. Mr. Seidel advised that he had contacted the Bald Eagle Commons Association and they are preparing the necessary documents to have repairs made to the wall. The proposed sewer hook-up for the addition should proceed as planned, and they anticipate that the new connection fees will contribute to the operating capital and repair costs of the wall. Ms. Weiner inquired about the medical and emergency first aid calls, referring to the Police Dept. memo of September 5, 2013, citing the growing strain on the local volunteer services. Mr. Seidel replied that Chelsea wants to be a good neighbor, but one of the challenges they have is that there are residents with independently owned apartments who call for ambulances on their own. With regard to using a private company for emergency services, Mr. Seidel testified that he would try to secure the services of a private transporter. He emphasized that Chelsea wants to be a contributing member of the community, and noted several events that they host for the benefit of local community groups.

Mitch Ardman, P.E., Vice President of The Reynolds Group, Inc., was sworn in and presented his qualifications as engineer and planner for the Board, noting that he had testified before numerous Boards in the State of New Jersey, but had never been before the West Milford Planning Board. Mr. Germinario advised that Mr. Ardman was accepted as an expert witness as engineer and planner for the applicant. Mr. Ardman presented several exhibits for the Board: A-1 Overall Site Plan with Landscape Plan superimposed, A-2 Site Plan that is Color-Keyed to Tim Ligus report items, A-3

Photos of existing building, A-4 Colorized Floor Plan, A-5 Existing Interior Photo. Mr. Ardman reviewed the current site conditions, and testified that the addition will be constructed on a flat, level area, with the two –story addition consisting of 12,988 sq. ft., with a height of 36.75 feet, and corridor access to the existing building. He noted that the current building is 48.3 feet high. The amenities proposed include a patio at the rear, with vegetation and landscaping. A second access off Richmond Road will help to tie together all the buildings in the complex. At a recent site visit, Mr., Ardman testified that there was ample parking, and noted that the applicant is exceeding the parking requirements for the facility with 84 spaces, more than the 73 required. With regard to grading and stormwater runoff, Mr. Ardman testified that inlets are proposed which will lead to underground detention basins. He noted that even though the project is classified as a minor stormwater project, they must still comply with the requirements for 25, 50 and 100-year storm events. With regard to lighting, Mr. Ardman advised that there will be door mounted security lighting. The site is in the SCC – Senior Congregate Care Zone, and the proposed addition will result in 30% of new building lot coverage, but less than 40% of impervious cover. He testified that the applicant was requesting a flexible C-2 Variance for the additional 1.75 feet for building height. Mr. Ardman testified to the Board that the addition was designed to minimize the site disturbance and to keep the footprint within the Highlands regulations. Ms. Weiner inquired whether the purpose of the MLUL was being upheld with the variance requested, Mr. Ardman responded that the additional height resulted in a smaller footprint and kept disturbance to a minimum. The new building proposed is designed lower than the existing structures, the site will not be detrimental to neighboring properties, and it will not impair the intent of the zoning regulations. Ms. Weiner advised the Planning Board that upon receipt of the memos from the various Township departments, Chelsea’s engineer met with the construction official, and the applicant has agreed to the changes to the plans that were suggested. Mr. Ardman confirmed this, noting that the project manager met with Tim Ligus at the site and he referred to Exhibit A-2, which represents changes made as a result of Mr. Ligus’ memo. Addressing each comment, Mr. Ardman noted that the septic field wall would be repaired and additional medical transportation would be handled by the Chelsea Director, Kevin Seidel. With regard to the ramp comments, Mr. Ardman acknowledged that there was a blind location due to the pillars, and after meeting at the site, it was determined that another section of ramp could be installed. As for the EMT’s access to the building, the applicant has agreed to stripe out 5 parking spaces specifically for emergency vehicles, and Ms. Weiner noted that the applicant had originally exceeded the spaces by 10, so they still have 5 more than the required amount. Mr. Ardman testified that a sidewalk feature by the ADA ramp was added, as well as an area for a fire access lane.

Ms. Weiner advised that she had been in contact with the Highlands Office after receiving comments from Paul Ferriero that the site numbers may change and may exceed the maximum coverage permitted, and she was informed by “Barbara Greenhow Weidman” that the local Planning Board can confirm whether the math is correct, and that the application may not have to be re-submitted. Mr. Ardman reviewed the report from Paul Ferreiro, Board Engineer, noting that the applicant proposes to disturb one slope by installing a wall; this was indicated on plan sheet C-1. With regard to generator requirements, the setback will be 62 ft from the property line, with Unit A enclosed, and the units will be powered by natural gas. Testing will occur during daytime hours, but they were confident that it will meet the standards. Mr. Nolan inquired whether there were generators at the current site, and Mr. Ardman responded that there was one by the lower parking lot. Returning to Mr. Ferriero’s report, Mr. Ardman advised that the applicant will provide sanitary documentation and new “Will Serve” letters from United Water. The Hudson Essex Passaic Soil Conservation District certification was received and it will be provided to the Planning Office, as well as the Stormwater and Maintenance Manuals. Mr. Ardman advised the Board that they had no issues with any comments from Mr. Ferreiro. Mr. Germinario advised Mr. Ardman that the area of disturbance needs to be corrected on the plan. Chuck McGroarty, Board Planner, commented on the parking calculations and the classification of nursing home parking requirements. He requested clarification on the nursing units notation, and Mr. Ardman responded that there was initially both nursing home and assisted living units proposed for the original facility, but the beds at Chelsea are not considered nursing home beds. Mr. McGroarty advised the Board that the Township does not get COAH credit for nursing home beds. Mayor Bieri commented that she has visited the facility many times and there has never been a parking problem. She also commended them for their preparedness during Hurricane Sandy, noting that they had an emergency generator, and their facility suffered no storm related issues.

Robert Longo, Architect, was sworn in by Mr. Germinario and qualified as an expert witness for the applicant. Mr. Longo presented Exhibit A-3 that included photos of the site, including an aerial photo from Google Maps. He indicated the location to the rear of the existing building, which will be the site of the new addition. Exhibit A-4 represented the floor plan of the new addition, with the dining, kitchen, corridors and the resident’s units, totaling 6494 sq ft for each floor. Mr. Longo testified that there would be two types of units, 10 for each floor: shared units with two bedrooms and shared kitchen and bath, and private studio units. Mr. Longo reviewed the elevations of the proposed addition and noted that they were designed to resemble the existing building. With regard to the elevator, Mr. Longo testified that there was one elevator in the existing facility, and the one proposed for the addition will be larger to accommodate gurneys. He stressed that the new addition was intended to be a stand-alone facility, connected only by a corridor to the existing assisted living facility. It will have its own dining hall, with food prepared in the commercial kitchen and brought to the addition, and separate linen services and mechanical systems. Access to the addition will be through the main entrance for Chelsea, with the doors used only for exiting the addition. Mr. Longo reviewed the exterior fenced area and alarm system on the gates and doors that will provide added security for the residents. Board member Andrew Gargano inquired about the sprinkler system and

Mr. Longo replied that the building will be steel framed and fully non-combustible, with a sprinkler system. Mr. McGroarty attempted to clarify the number of beds at the existing facility, since there appeared to be some inconsistencies with the past resolutions adopted by the Board in the past, adding that historical record seems to be checkered over time. He reviewed the 1992 resolution for site plan approval for 120 beds, and inquired how the facility currently has 128 beds. He requested that the Board, in granting approval, impose a condition that Chelsea must work with the Township to verify all the beds in the facility, which should include 14 congregate care beds for low and moderate income. Mr. McGroarty advised that the Township receives credit for COAH, and more information was needed to confirm the numbers. Ms. Weiner advised the Board and the Board professionals that she researched numerous files and it was difficult to determine the number of approved beds. Mr. Bernier interjected that Chelsea did not add any beds, and that the number there now was the number that was there when they purchased the facility. Mr. McGroarty observed that there were changes to the commercial portion of the complex, but did not find the approval for the change of number of beds or change in the building use. Chairman Syme inquired whether the Board could approve the addition to a 128 facility if it was approved for 120 beds, and Mr. McGroarty advised that the Board would approve the 20 bed addition to a facility that includes 128 beds since that number still complies with the density requirement. Mayor Bieri noted that it was essentially pre-existing for this applicant, to which Mr. McGroarty and the Board concurred. Mr. Germinario advised that when the resolution was drafted, the record will be set straight. Board member Linda Connolly inquired whether the applicant would contract on site medical personnel, and Mr. Bernier testified that Chelsea would contract with a third party provider for medical transportation, but would still have to rely on the services of the local volunteer emergency services. With regard to the independent residents, Mr. Bernier testified that they would be requested to call a third party medical service. Mr. Gargano questioned the practicality of this in an emergency, and Mr. Bernier responded that if the response time is inadequate, the company could be liable for damages. Board member Robert Nolan noted that a third party ambulance service could bill Medicare and Medicaid, and Mr. Bernier replied that not all services can do this, but he would do what he could. In response to the inquiry about medical staff on site, Mr. Bernier advised that there are LPN's and nurses, as well as caregivers and hospice services. The Board discussed the number of ambulance calls noted by the Police Dept. memo, and Kevin Seidel, Director, testified that a brief analysis revealed that during the past year, 52 calls were cardiac related or falls, and he noted Chelsea's policy regarding referrals to the hospital in the case of suspected head trauma. Mr. Seidel also noted that 25% of the emergency calls were from the independent living units, and were initiated by the residents themselves. Mr. Bernier noted the higher occupancy rate at the current facility as opposed to the prior ownership, which may be the reason for the increase in emergency calls from the past. He commented that Chelsea planned to donate funds from a recent golf outing to West Milford for emergency services, but they would also try to educate the residents to have them reduce the calls for emergency medical transportation. Mr. Seidel noted that the new addition is planned for the memory impaired and Alzheimer residents, and will be monitored more carefully. Mr. Seidel advised the Board that they employ approximately 85 staff locally or from the surrounding area.

John Hansen, Board Engineer, requested the name and contact information of the DEP staff member who advised the applicant's attorney that a local exemption can be done when additional impervious cover is proposed, since he did not know that this was possible. Ms. Weiner advised the Board that the applicant had submitted an L.O.I. application to the NJDEP. Mr. Bernier advised that they anticipated beginning construction in the Spring of 2014. Mayor Bieri wanted confirmation that there would be no disposal issues for the additional sewer capacity, and Mr. Bernier responded that they received a letter to serve from United Water for the on-site septic system, as well as for the water.

Mr. Germinario reviewed the conditions of approval as agreed by the applicant during testimony and as they were included in the Board Engineer's memo of September 18, 2013:

- Applicant shall either verify that the increase in disturbance and/or impervious coverage associated with the proposed improvements are within the scope of the existing NJDEP Highlands Exemption or obtain a new Highlands Exemption.
- Revised plans shall provide for an additional length of handicapped ramp in front of the existing building and additional sidewalk for access from the ramp to the parking area. The locations of existing handicapped parking stalls will be adjusted to better align with the new ramp.
- Revised plans shall provide that five parking spaces in the northeasterly parking area shall be striped out for use by Township emergency ambulance and fire vehicles only.
- Revised plans shall provide a fire access lane within approximately 20 feet from the new building addition.
- Revised plans shall enlarge the elevator in the building addition to a size sufficient to accommodate an EMT gurney.
- Revised plans shall contain a note indicating that the facility is not classified as a nursing home.
- Revised plans shall include additional handicapped parking spaces close to the entrance of the addition, as well as a ramp and access from the existing parking lot.
- Applicant shall cooperate with the Township to verify a set-aside of 14 units at the facility for low and moderate-income residents so that the Township may obtain COAH credits.

- This approval recognizes the existence of 128 beds in the existing assisted living facility, and that the addition of 20 more beds does not exceed applicable density requirements.
- Applicant shall use best efforts to use third-party transport and/or family transport of its residents to outside medical facilities instead of using the Township's EMT squad, where to do so will not unreasonably endanger the health and safety of the resident being transported.
- Since various structures and land disturbance are proposed within the wetlands transition area delineated on the plans, approval from the NJDEP is required prior to signature of the plans.
- The delineation and disturbance of the steep slopes need to be clarified/corrected to the satisfaction of the Township Engineer.
- The Sheet 3 of the plan shows a new emergency generator to be installed approximately 60 feet from the residential property line to the north. Noise attenuation shall be provided to comply with the NJDEP noise standards. If the generator is of such a size that it requires a DEP air permit, Applicant shall obtain said permit. Testing shall only be performed on weekdays during from 9 am to 6 p.m.
- Documentation in the form of new "will serve" letters shall be provided to confirm that water and sewer capacity has been secured for the project.

Following testimony, a **motion** was made by Andrew Gargano, with a **second** by Robert Nolan to **approve** the preliminary and final site plan and bulk variance application # PB-03-12-03 for Chelsea at Bald Eagle, for a 20-bed addition to an existing assisted living facility.

**Roll Call:**

**Yes:** Mayor Bettina Bieri, Linda Connolly, Christopher Garcia, Andrew Gargano, Robert Nolan, Douglas Ott, Councilman Luciano Signorino, Glenn Wenzel, Chairman Geoffrey Syme.

**No:** None.

**Motion approved.**

**MEMORIALIZATIONS** – None.

**NEW BUSINESS** - None.

**ORDINANCES FOR INTRODUCTION OR REFERRED FROM COUNCIL** – None.

**BOARD PLANNER'S REPORT** - Chuck McGroarty reported that the NJ Supreme Court had recently made a ruling that struck down NJ's current affordable housing regulations. The Council on Affordable Housing has been given five months to develop new quotas to ensure that the municipalities provide their fair share of low and moderate income housing, and the Township may now be required to re-do the housing element that was previously approved [in 2010].

**BOARD ATTORNEY'S REPORT** – None.

**BOARD ENGINEER'S REPORT** – John Hansen, P.E. reported that we are at the "one yard line" with regard to the Sun Young Joo Major Soil Removal/Fill Permit project. His office was waiting for additional documents from the applicant's engineer. Upon receipt of the required information, the plans will be signed and the work can proceed.

**MISCELLANEOUS**

**Approval Of Invoices – Board Professionals**

The invoices submitted by the Planning Board professionals for services performed during the months of August 2013 were **unanimously approved** on a **motion** by Mayor Bettina Bieri with a **second** by Glenn Wenzel.

**MINUTES**

Minutes from the **June 6, 2013** Regular meeting were **carried** to the next regular meeting on a **motion** by Andrew Gargano and a **second** by Mayor Bettina Bieri.

**THE FOLLOWING CORRESPONDENCE ITEMS WERE REVIEWED BY THE PLANNING BOARD AND FILED:**

**Highlands Water Protection And Planning Act Correspondence** - None.

**NJ Department of Environmental Protection Correspondence**

1. Notice from the Reynolds Group Inc. dated September 19, 2013 advising that an application for a Transition Area Waiver – Averaging Plan has been submitted to the NJDEP for Chelsea at Bald Eagle Senior Residences for approval to perform work within the transition area including earthwork/grading associated with the proposed construction of the building addition.
2. Application for a Freshwater Wetlands General Permit #10A received September 17, 2013 for Vincent Lanza regarding Block 206; Lot 14.02, 28 Lookover Road, for the installation of a driveway and construction of a new single family dwelling.

**MISCELLANEOUS CORRESPONDENCE**

1. HEPSCD - Hudson Essex Passaic Soil Conservation District certification, dated August 19, 2013, received for the proposed new Township Library 's septic system disposal bed, with certification valid for 3.5 years.
2. HEPSCD - Hudson Essex Passaic Soil Conservation District certification, dated August 19, 2013, received for PSEG Branchburg-Ramapo Static Wire Replacement at various blocks and lots within West Milford Township and Ringwood Borough.
3. ANJEC 40<sup>th</sup> Annual Environmental Congress – “Planning in a Changing Environment”, October 19, 2013, Middlesex County College, Edison, NJ.
4. Notice of program on “Pipeline Safety,” October 23, 2013, The Knoll Country Club West, Parsippany, NJ 07054, hosted by local pipeline and gas distribution companies.
5. Notice from Rockaway Township regarding the Highlands Master Plan Re-Examination Report and Resolution, advising that a public hearing will be held on Monday, September 16, 2013, at 7:30 P.M.

**ADJOURNMENT**

With no further business to come before the Planning Board, Chairman Syme **adjourned** the Regular Meeting of October 3, 2013 at **9:20 p.m.** on a **motion** made by Andrew Gargano with a **second** by Robert Nolan.

Approved: December 5, 2013

Respectfully submitted by,

Tonya E. Cubby, Secretary