

TOWNSHIP OF WEST MILFORD
PLANNING BOARD
MINUTES
October 23, 2008
REGULAR MEETING

The regular meeting of the Planning Board was opened at 7:34 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, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano, Alternate Kerry Goceljak, Board Planning Consultant Joanna Schlagel, Board Engineer Paul Ferriero, Board Attorney Thomas Germinario.

Absent: Chris Rosica, Michael Siesta.

Chairman Gargano asked Kerry Goceljak to sit on the Board for Chris Rosica.

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 Steven Castronova and a **second** by Douglas Ott.

Chairman Gargano advised that the Planning Board would go into Closed Session prior to continuing with the Regular meeting.

EXECUTIVE SESSION

Chairman Andrew Gargano read the following:

RESOLUTION NO. 2008-25
Executive Session

BE IT RESOLVED by the Planning Board of the Township of West Milford on this **23rd** day of **October, 2008** that:

1. Prior to the conclusion of this Regular Meeting, the Township of West Milford Planning Board 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:
 - b. (7) Potential Litigation
Living Word Alliance Church
2. The time when the matters discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matters.

Motion by Chairman Gargano with a **second** by Councilman Philip Weisbecker to approve Resolution 2008-25 for Executive Session at 7:41 pm.

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

Following the Closed Session, Chairman Gargano reopened the Regular meeting at 7:50 pm.

SITE PLAN APPLICATION REVIEW WAIVERS – None.

APPLICATIONS

CARRIED 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.

Board member Steven Castronova recused himself from this application and left the meeting at this time.

Steven Sheung, Esq. attorney for the applicant Mr. Wonton, LLC, and George Gloede, P.E., engineer for the applicant were present in addition to Yan Huang, the managing member of the LLC and Zhong Huang, Mr. Huang's son and tenant. Mr. Gloede was sworn in by Mr. Germinario, Board Attorney. and was qualified for the Board. Mr. Gloede reviewed the existing site and structure for the Board, testifying that the lot fronted on Union Valley Road, had an existing septic, and a 20-foot wide access easement on either side of the building. The proposal is for improvements to the parking lot that consists of mixed pavement and dirt. He reviewed the drainage system and parking configuration. He testified that the applicant intended to use the building for a construction office, that no trucks will be

parked at the site except for vans used by the employees or customers. He noted that parking in the rear would not work well as the septic was located in the rear and the parking would be too close to the adjoining properties. He answered questions from the Board and advised that the removal of trees at the site was originally to prepare the site for a shed, noting that this was no longer an option for the applicant. He added that a fence was not proposed by the applicant, but landscaping was proposed to shield the site from the neighboring properties. He testified that the septic system was approximately 15 years old and was operating. In answer to an inquiry about the site being used for a restaurant, Mr. Gloede replied that the soils were very poor and the site could not accommodate the flow that would result from a restaurant, in addition to the limited parking that would be available. There was discussion about a trailer on the site and the applicant was advised to have it removed.

Mr. Germinario swore in Zhong Huang, son and tenant of the applicant. He testified that the septic is operating well, that he has two employees at the current time, and has an electrical and general contracting business. He testified that he did not intend on keeping any equipment at the site, and a dumpster is on site currently for debris from renovations. The Board discussed the lighting on the building and the applicant agreed to change them to reflect accurately on the plans. There was consensus from the Board to provide a copy of the submitted plan to Michael Hakim, the Township's landscape architect, for review. Joanna Schlagel, Board Planning Consultant, discussed lighting, storage, signage, easements, design waivers and variances required. Mr. Gloede reported on the status with Passaic County approval relative to drainage, an easement for the sidewalk, and Highland's approval.

The Chairman opened the meeting to the public. The following addressed the Board about this application:

Ray Kilgallon – 48 Adelaide Terrace – Mr. Kilgallon distributed a list of his concerns to the Board and inquired about ice problems from water flows on the corner of Adelaide Terrace. Mr. Gloede noted that trench drains would help to interrupt the flow. He noted that there is a low point and a catch basin installed could help alleviate the problem. Mr. Kilgallon inquired about vehicles parked in the rear and overnight parking, lighting, hours of operation, and also the size of the business sign. He expressed concern about sight distance from Adelaide Terrace, overgrown weeds, property maintenance, proposed tree and shrub planting, and dumpster removal. Mr. Gloede commented that a dumpster pad with a board on board would shield the dumpster. The Board concurred that there was no need for a dumpster at the site and asked the applicant to remove the dumpster from the site as soon as possible until one is needed in the future. Mr. Kilgallon requested that the applicant maintain the sidewalk and the parking lot in the winter and the applicant agreed that he would.

Pete Oselador – Heather Lane – Mr. Oselador advised that there are small children near the site and he wanted confirmation that there will be no vehicles left on the site. Mr. Germinario noted that it would be in the resolution.

Jim Novack – Larchmont Drive – Mr. Novack discussed the use of garbage cans versus dumpsters, and inquired about the hours of trash pick up. The Chairman advised that the dumpster pickup times should be between the hours of 8am and 7pm. Following discussion, the Board requested that the applicant use plastic garbage containers instead of a dumpster for trash and recyclables. Mr. Novack inquired about handicapped parking and curbing. The applicant's engineer noted that the county required concrete curbing; Rich McFadden noted that the county would allow Belgium block curbing if the town requires it. Mr. Novack requested the Board to require the applicant to replace the trees removed from the site. The applicant advised that there was no one residing in the building at this time.

Michele Buntzen – 53 Adelaide Terrace – Ms. Buntzen inquired about the plans submitted and asked for clarification about the grassy areas on the site. She expressed concerns about the property maintenance including replanting of trees and grass mowing. The Board discussed property maintenance and the issue of curbing. Mr. Gloede asked for a letter from the Township recommending the use of Belgium block curbing to coordinate with the proposed streetscape project. Mr. McFadden advised that he would do a letter to the County regarding this matter with Mr. Gloede to follow up with him on this.

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

The Board discussed the various conditions with the applicant that should be included with the approval of the site plan, which include the following:

- no outdoor storage of trucks or equipment and no overnight parking of commercial vehicles on the site.
- no storage of construction debris on the site.
- additional landscaping depicted on revised plans in accordance with the Board's landscape consultant Michael Hakim of Hakim Associates.
- building mounted lights shall be designated as shoebox type on revised plans.

- the Applicant shall grant the Township an easement for public use of the new sidewalk depicted on the site plan across the lot frontage.
- two design waivers for no pavement on the rear parking lot and rear lighting.
- two variances for parking in the front and setbacks from Union Valley Road.
- the building shall be occupied by only one tenant at a time and that there shall be no residential occupancy of the building at any time.
- a catch basin to be tied into the trench drain along Adelaide Terrance and the catch basin shall be connected to a new manhole to be installed in Union Valley Road, approved by the Township Engineer.
- the 30-foot trailer on the site shall be removed.
- solid waste on the site will be stored in plastic trash not in dumpsters, and that trash pickup will occur between the hours of 8 a.m. and 7 p.m.
- grass on the site will be mowed at least once per week during the months of April through October.
- subject to County approval, use of Belgian block curbing instead of concrete curbing along the Union Valley Road frontage.
- two parking stalls in the rear of the property shall be for use of employees only.
- drywell tanks shall be noted to be traffic bearing. The bottom of the pit excavation shall be shown to confirm the depth required by the stormwater design.

Motion by Councilman Weisbecker with a **second** by Geoffrey Syme to approve the preliminary and final site plan application for Mr. Wonton, LLC with conditions noted by the Board attorney.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano
 No – None.

AWOSTING ASSOCIATION INC.

Minor Subdivision #0810-1984

Bulk Variance #0830-0807

Block 4106; Lot 1

99 Long Pond Road; LR Zone

Seeking minor subdivision approval and variance relief to subdivide one lot with an existing structure into two building lots.

Chairman Gargano announced that the Awosting Association, Inc. minor subdivision and bulk variance application would be carried to the December 4, 2008 Regular meeting. Mr. Germinario advised that there would no further notice to the public required. A 60-day extension has been granted by the applicant.

NEW APPLICATIONS

1952 UNION VALLEY ROAD, LLC

Preliminary & Final Site Plan #0820-0167AB

Block 3601; Lots 1 & 3

1952 Union Valley Road; CC Zone

Seeking preliminary and final site plan approval and variance relief for the removal of an existing structure and the construction of a new deli/convenience store with two apartments.

Chairman Gargano announced that the application for 1952 Union Valley Road, LLC for a Preliminary & Final Site Plan would be carried to the November 6, 2008 Regular meeting. Mr. Germinario advised that there were noticing deficiencies for the public hearing, necessitating re-noticing by the applicant.

MEMORIALIZATIONS

RESOLUTION NO. 2008-24

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

Authorizing an amendment to Paragraph 7 of the professional services contract for Planning Board Attorney Thomas J. Germinario, for a not to exceed amount of \$13,000.00 for non-litigation for services not charged to applicants' escrow accounts, and \$14,000.00 for litigation services.

Motion by Richard McFadden with a **second** by Geoffrey Syme to approve Resolution No. 2008-24 authorizing the amendment of the contract for professional services for Thomas Germinario, Esq., Planning Board Attorney for non-litigation and litigation services.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker and Chairman Andrew Gargano.
No - None.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – None.

BOARD ATTORNEY’S REPORT – None.

PLANNER’S REPORT – None.

MISCELLANEOUS

APPROVAL OF PLANNING BOARD MEETING DATES FOR 2009.

Motion by Mayor Bettina Bieri with a **second** by Douglas Ott to approve the meeting dates for 2009 as presented, reflecting the Planning Board meetings to be held on the first and fourth Thursday.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker and Chairman Andrew Gargano.
No - None.

The Mayor asked Mr. Germinario about amending the Board by-laws to include the meeting dates on the first and fourth Thursdays, invoice requirements from Board professionals to reflect a running total for each escrow account, and new testimony time limits for Board applications to allow the Board adequate time to complete business. A copy of the by-laws was requested by Mr. Germinario for review and recommendation on the amendments.

DISCUSSION OF TOWNSHIP EMAIL ACCOUNTS.

The Board members discussed the Township draft email policy as prepared by the Township Attorney, Fred Semrau, Esq. Chairman Gargano advised that he now has a Township email account and that all official Planning Board business should be directed to this account. The Board concurred that the Chairman and the Vice Chairman should have a Township email account, and that all business should be copied to the Planning Board Secretary so that a record will be on file with the Planning office. The Chairman reminded the Board members that there should never be discussion by email about any application before the Board, and Mr. Germinario noted that he made recommendations about email use by the Board members at a prior workshop meeting. The Mayor suggested that an email policy be included in the by-laws so that future Boards would be aware of the policy.

SUBCOMMITTEE REPORTS

Master Plan Subcommittee – None.

Ordinance Subcommittee – None.

Building Design Subcommittee – None.

Site Plan Subcommittee – None.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

Motion by Councilman Weisbecker with a **second** by Geoffrey Syme to approve the payment of current invoices from Paul Ferriero, P.E. and Thomas Germinario, Esq.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker and Chairman Andrew Gargano.
No - None.

MINUTES

Chairman Gargano advised that following a vote on the Closed Session minutes, the Board copies of the minutes should be returned to the Secretary until such time that the matters have been resolved and the minutes are released to the public.

Motion by Geoffrey Syme with a **second** by Mayor Bettina Bieri to approve the Closed Session minutes of the April 24, 2008 and May 22, 2008 Closed Session meetings of the Planning Board, such minutes not to be released to the public.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker and Chairman Andrew Gargano.
No - None.

Motion by Douglas Ott with a **second** by Geoffrey Syme to approve the minutes of the July 24, 2008 Regular meeting and the August 24, 2008 Regular meeting, the September 4, 2008 Workshop meeting, the September 4, 2008 Regular meeting, and the September 25, 2008 Regular meeting, **as amended**, to reflect that Chairman Gargano was absent from the August 28, 2008 meeting.

Roll Call: **Yes** - Mayor Bettina Bieri, Kerry Goceljak, Richard McFadden, Douglas Ott, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker and Chairman Andrew Gargano.
No - None.

COMMUNICATIONS

The following communications were noted and filed:

1. Elements of Sustainability – Greening Your Master Plan and Ordinances – 10/30/08 – Highland Park, NJ – hosted by ANJEC.
2. 6th Annual Volunteer Monitoring & Education Summit – hosted by NJ DEP and Watershed Watch Advisory Council – 11/17 & 18, 2008 – Frelinghuysen Aboretum, Whippany, NJ.
3. 4. No Further Action and Covenant Not to Sue letter received from NJ DEP for Barbara Surpless, Block 6303; Lot 1, 115 Marshall Hill Road, regarding removal of 1,000 underground fuel oil tank.
4. Notice from NJ DEP to County of Passaic Engineer received October 8, 2008 regarding the Apshawa Main Dam and Apshawa Auxiliary Dam, requiring as-builts with project details and specifications to be submitted with the completion report by November 30, 2008.
5. Notice received from the Hudson-Essex-Passaic- Soil Conservation District regarding UGL POA Lake Bottom Restoration, Blocks 2901; 601; 704; 510, Lots NA, 2, 2, 1, 4, 12 - Certification of plan dated 08/27/08, subject to conditions, valid for 3 1/2 years.
6. Notice received from the Hudson-Essex-Passaic- Soil Conservation District regarding Cedarbrook – Avalon SFD Demo & Rebuild, Block 1809; Lot 1.02, 20 Avalon Road – Certification of plan dated 02/01/07, subject to conditions, valid for 3 1/2 years.
7. Letter to NJ DEP – Office of Land Management from Rob Sparkes regarding the 2005 Recreational Trails Program Grant Change of Scope of Work including details on trailhead signage.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following Highland's correspondence was noted and filed:

1. Notice from NJ DEP received September 29, 2008 regarding Ronald & Marianne Schmid, Block 2404; Lot 7, Upper Greenwood Road. Agency Determination: Highlands Exemption #1; Water Quality Management Plan – Consistent.
2. Notice of Intent to Cancel received on September 25, 2008 from the NJ DEP regarding a Highlands Applicability and Water Quality Management Plan Application for WV's Coffee Expresso, Block 16001; Lots 5 & 6, 3043 Route 23.
3. Agency Determination notice received October 7, 2008 from the NJ DEP Highlands Office regarding Mountain Lakes Autowash, Block 6701; Lot 13, 1946 Union Valley Road – Highlands Act - Not Exempt, Water Quality Management Plan – Inconsistent.
4. Agency Determination notice received October 7, 2008 from the NJ DEP Highlands Office regarding Elaine Kramer, Block 4301; Lot 11, 715 East Shore Road – Highlands Act – Exempt #1, Water Quality Management Plan – Consistent.
5. Notice from NJ DEP Highlands Office received October 8, 2008 regarding James Rupeikis, Block 504; Lot 2, 2 Island Trail, with reference to rehabilitation of a stone wall in the Flood Hazard Area of Mount Laurel Lake – requirements satisfied, violation of February 26, 2007 has been resolved.
6. Notice from NJ DEP Highlands Office received October 8, 2008 regarding Greenwood Lake Marina, Block 3015; Lot 1, 538 Lakeside Road, with reference to General Permit #1 -repair to a currently serviceable structure, fill roadway, etc. - requirements satisfied, violation of December 20, 2007 has been resolved.

ADJOURNMENT

With no further business to come before the Board, the October 23, 2008 Regular meeting was adjourned at 9:40 p.m. by unanimous consent on a **motion** by Mayor Bettina Bieri with a **second** by Douglas Ott.

Approved: December 4, 2008

Respectfully submitted by

Tonya E. Cubby, Secretary