

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

October 24, 2013

Regular Meeting

In the absence of Chairman Geoffrey Syme, the October 24, 2013 Regular Meeting of the West Milford Planning Board was opened at **7:30 p.m.** by Acting Chairman Christopher Garcia, 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, Glenn Wenzel, Alternates Steven Castronova, Michael Siesta, Board Attorney Thomas Germinario, Board Engineer Mark Denisiuk.

Absent: Geoffrey Syme, Board Planner Charles McGroarty.

Acting Chairman Garcia advised that a quorum was present for this meeting.

PUBLIC PORTION

Acting Chairman Garcia 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 Mayor Bettina Bieri and a **second** by Douglas Ott.

PRESENTATIONS - None.

EXTENSIONS OF TIME

**NY SMSA LP d/b/a VERIZON WIRELESS (CANISTEAR RD) - West Milford 12
Preliminary & Final Site Plan #0720-0285AB**

Bulk Variance #0730-0771

Block 16901; Lot 2

3520 Route 23; R-4 Zone

Seeking: Extension of Time for Preliminary and Final Site Plan approval with Bulk Variance (rear yard setback) approved on January 24, 2008 under Resolution No. 2007-36 for the co-location of twelve antennas on an existing monopole with slight modification to the installation of a 11.5' x 20' equipment shelter.

Attorney Steven Tombalakian introduced himself to the Planning Board and advised that he was representing the Applicant [NYSMSA LP dba Verizon Wireless (Canistear)] who was requesting an extension of time for their preliminary final site plan approval that was granted by the Board in 2007 and memorialized in 2008. Mr. Tombalakian explained to the Board that the poor economy prevented the Applicant from completing the collocation and equipment shelter construction, and in the interim, the site plan approval had lapsed. The expired final site plan approval was discovered when the Applicant's contractors attempted to submit permits and were advised that since construction permits had not been issued by January 24, 2010, the site plan approval was no longer valid without an extension. In addition, it was discovered that there were modifications to the originally approved plan, requiring further examination by the Board professionals. The revised plans were provided to the Planning Board Engineer, Ferriero Engineering, and The Board Attorney, Thomas Germinario, who advised, following comparison of the approved plan with the revised plan, that the changes were not substantial and did not require an amended site plan application from the Applicant. Mr. Tombalakian noted that the revisions included the placement of the proposed equipment shelter further into the existing compound area, which made it more compliant with the Highlands' regulations. Councilman Lou Signorino inquired if anything had changed in the plans that would affect or interfere with the transmissions by the existing antennas at the site, and Mr. Tombalakian responded that he was not aware of any potential interference with other carriers. He explained to the Board that each carrier purchased their own band-width, and any changes they make to upgrade or alterations made would only conflict with their own equipment. He further noted that in 2007 there was testimony to the Planning Board about bandwidth with regard to collocations. Councilman Signorino questioned whether this would be something that the Board should look into to insure that there was no interference with other towers/antennas in the area, including those owned by or used by local fire departments and emergency services. Mr. Tombalakian noted that there were 12 coverage areas, and that there wasn't an issue with interference. Board Member Robert Nolan inquired about the requested time extension and assumed that all the documents and approvals were in order from Passaic County and the [Hudson Essex Passaic] Soil Conservation District. Thomas Germinario, Board Attorney, advised that the Applicant's expiration in January 2010 would allow for three one-year extensions that would result in the expiration of the site plan in January 2013. Mr. Tombalakian requested that the Board consider a brief extension so that the permits can be issued and work completed in the upcoming months. Mr. Germinario advised the Board and Mr. Tombalakian that the M.L.U.L. does provide for a one-year extension under 40:55D-52d beyond the three one-year extensions under 40:55D-52a, but Mr. Tombalakian would need to justify the extension with the

Board. Mr. Tombalakian advised that the applicant had made revisions to the location of the equipment shelter to make it more compliant to the Highlands regulations, and there were delays in getting the revisions completed, as well as securing other required approvals. Mr. Germinario advised Mr. Tombalakian that the information presented was sufficient for the Board to make a determination on the extension.

Following testimony, a **motion** was made by Andrew Gargano, with a **second** by Douglas Ott to **approve** three one-year extensions under M.L.U.L. 40:55D-52a with an additional one-year extension under M.L.U.L. 40:55D-52d for NYSMSA LP dba Verizon Wireless (Canistear) – West Milford 12, application #0720-0285AB for the co-location of twelve antennas on an existing monopole with slight modifications to the location of the 11.5' x 20' equipment shelter, until January 24, 2014.

Roll Call:

Yes: Mayor Bettina Bieri, Linda Connolly, Andrew Gargano, Robert Nolan, Douglas Ott, Michael Siesta, Councilman Luciano Signorino, Glenn Wenzel, Acting Chairman Christopher Garcia.

No: None.

Motion approved.

SUN YOUNG JOO

Major Soil Removal/Fill Permit #PB-05-12-05-A

Block 10402; Lot 12

55 Green Terrace Way; R-4 Zone

Seeking: 6-Month Extension of Time, or until April 15, 2014, for completion of drainage improvements related to the Major Soil Removal/Fill Permit #PB-05-12-05-A for stormwater management at subject site.

James Lott, Attorney for the applicant Sun Young Joo, advised the Board that he was not sufficiently prepared for this meeting since he assumed that the extension would be granted by virtue of the letter that he submitted to the Board. Mr. Germinario advised that one of the conditions under Resolution 2013-12 states that *“The Applicant shall substantially complete the improvements approved hereunder to the reasonable satisfaction of the Board Engineer on or before October 15, 2013, failing which the Applicant shall appear before the Board to request an extension based on good cause.”* Mr. Lott advised the Board that the Applicant had not hired a contractor and did not get the necessary permits, to date, but he spoke with the Applicant the prior day and was advised that the Applicant was very close to hiring a contractor. Mr. Lott further noted that it was early September by the time that they received their Highlands and HEPSCD approvals, and due to the delays, the Applicant is respectfully requesting a 6-month extension of time on his major soil removal/fill permit to April 15, 2014. By April, Mr. Lott stated, the basin construction and a majority of the work should be completed, although the seeding and landscaping may not be completed by that date. Robert Nolan inquired if more escrow would be required if the extension is granted, and the Board Secretary advised that the escrow is monitored and additional escrow will be requested from the Applicant when necessary, adding that the Applicant has always complied with requests for additional deposits. Mr. Lott noted that the Applicant had been trying to secure a contractor for the past several months, and Mr. Signorino commented that from personal experience he knew that many of the contractors are busy with other projects. When asked for comment, Board Engineer Mark Denisiuk had no specific comments to make other than to state that the Applicant should proceed as soon as possible with the project. Mr. Germinario advised the Board that the Applicant's attorney, Mr. Lott, has been diligent in securing the required approvals and the delays should not be a negative reflection on him.

The matter was opened to the public for comment, and Barbara Ziegler, 82 Green Terrace Way, addressed the Board, stating that she appeared at this meeting to determine what the status of the project was since she had not seen any construction occurring at 55 Green Terrace Way, and from what she heard at this meeting, there has been no apparent progress. She had no further comments for the Board.

With no other comments from the public, the Public Portion of the testimony was **closed** by Acting Chairman Garcia on a **motion** by Robert Nolan with a **second** by Glenn Wenzel.

Mr. Lott noted that one of the items that needed to be determined was whether a road-opening permit was required since there was no County approval needed, and the right of entry agreement had been prepared for processing. Board member Linda Connolly inquired whether the Applicant was seriously attempting to hire a contractor, or was the cost factor for the project the reason for the delay, and Mr. Lott responded that financing was always a factor. Mr. Nolan inquired whether the project will be completed in time if the extension was granted to April 15, 2014, and Mayor Bieri requested the Board to address the possibility of the Applicant not hiring a contractor, and what recourse the Board would have. Board member Andrew Gargano commented that it appears that the Applicant is prepared to proceed with the project. Board member Douglas Ott requested notification to the Planning Board when a contractor has been hired for the project, and Mr. Lott confirmed that a project report will be provided to the Board by March 15, 2014 if the majority of the work has not been completed.

Following testimony, a **motion** was made by Councilman Luciano Signorino, with a **second** by Robert Nolan to **approve** a 6-Month Extension of Time, or until April 15, 2014, for completion of drainage improvements related to the Major Soil Removal/Fill Permit #PB-05-12-05-A for stormwater management at subject site.

Roll Call:

Yes: Mayor Bettina Bieri, Linda Connolly, Andrew Gargano, Robert Nolan, Douglas Ott, Michael Siesta, Councilman Luciano Signorino, Glenn Wenzel, Acting Chairman Christopher Garcia.

No: None.

Motion approved.

MEMORIALIZATIONS

RESOLUTION NO. 2013-16

**CHELSEA AT BALD EAGLE
Preliminary & Final Site Plan
& Bulk Variance #PB-03-12-03**

Block 5310; Lot 1
197 Cahill Cross Road; SCC Zone

Granted: Preliminary and Final Site Plan with Bulk Variance approval for a 2-story, 20 bed addition to an existing 127 bed assisted living facility, with bulk variance approved for building height, where 35 feet is permitted and 36.75 is proposed.

Motion was made by Andrew Gargano, with a **second** by Glenn Wenzel to **approve** Resolution 2013-16 granting Preliminary and Final Site Plan and Bulk Variance approval under application #PB-03-12-03 for Chelsea at Bald Eagle, for a 2-story, 20-bed addition to an existing assisted living facility.

Roll Call - Eligible to Vote:

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

No: None.

Motion approved.

NEW BUSINESS - None.

ORDINANCES FOR INTRODUCTION OR REFERRED FROM COUNCIL – None.

BOARD PLANNER’S REPORT – None.

BOARD ATTORNEY’S REPORT – None.

BOARD ENGINEER’S REPORT – None.

MISCELLANEOUS

Approval Of Invoices – Board Professionals

The invoices submitted by the Planning Board professionals for services performed during the months of August and September 2013 were **unanimously approved** on a **motion** by Robert Nolan with a **second** by Councilman Luciano Signorino.

MINUTES

The Minutes from the **June 6, 2013** Regular Planning Board meeting were **unanimously approved** by all who were present at that meeting on a **motion** by Andrew Gargano and a **second** by Robert Nolan.

The Minutes from the **August 22, 2013** Regular Planning Board meeting were **unanimously approved** by all who were present at that meeting on a **motion** by Andrew Gargano and a **second** by Douglas Ott.

CORRESPONDENCE RECEIVED – *The following correspondence was reviewed by the Planning Board and filed:*

Highlands Water Protection And Planning Act Correspondence

1. Notice from Conklin Associates received Oct. 1, 2013 that a Highlands Applicability Determination Application was being submitted to the NJDEP for the Awosting Association New Community Clubhouse at Long Pond Road, Block 4105; Lot 1.
2. Notice from Charles Aikey, dated Oct. 1, 2013, advising that he was applying to the NJDEP for a waiver for property located at 144 Wesley Drive, Block 9501; Lot 19.02, per NJAC 7:1B from Rule 7:14A-22.8 (a) 11 and any other related rules to be permitted to complete previously approved subdivision.
3. Notice from the NJDEP dated Sept. 24, 2013 regarding Verizon Wireless-Ringwood 4 at 750 Westbrook Road, Block 4701; Lot 61, advising that the Highlands Act Exempt/WQMP-Not Addressed Determination has not changed with the new site plan submission on August 14, 2013, and all stipulations from the determination letter of April 12, 2013 still apply.
4. Notice of Technical Incompleteness dated Oct. 3, 2013 received for a Highlands Applicability and WQMP Consistency Determination application regarding Vitale Single Family Dwelling, 1060 Westbrook Road, Block 5010; Lot 1, requiring additional information including a land survey, site

plan showing existing and proposed development, and calculated values for proposed impervious surfaces, proposed disturbance, and existing disturbance to be restored.

NJ Department of Environmental Protection Correspondence

1. 1. Notice dated Sept. 25, 2013 from James and Linda Antonucci, 270 Cherry Ridge Road, Block 101; Lot 29, that an application was being made to the NJDEP for a Letter of Interpretation, Line Verification, Transition Area Waiver, Averaging Plan and Freshwater Wetlands General Permit #10A for the construction of a single family dwelling, garage, septic system, well, and driveway on 31 acres.
2. Flood Hazard Area Applicability Determination dated Sept. 17, 2013 received for Lisa Fleming regarding a proposed extension to an existing dock along Beaver Lake off West Shore Road, advising that a Flood Hazard Area permit is not required.
3. Notice dated Sept. 30, 2013 from McKittrick Eng. that Myhren Builders is making application to the NJDEP for a Treatment Works Approval for Block 11001; Lot 12 for the construction of a septic system that is not in conformance with NJAC 7:9A et seq. with the proposed system to service a reconstructed dwelling with no expansion or change in use.
4. Notice dated Sept. 30, 2013 from McKittrick Eng. that Paul Contino is making application to the NJDEP for a Treatment Works Approval for 60 Lake Park Terrace, Block 4202; Lots 7 & 8, for the construction of a septic system that is not in conformance with NJAC 7:9A et seq. with the proposed system to service a reconstructed dwelling with no expansion or change in use.
5. Notice received from the Township of West Milford dated Oct. 10, 2013 advising of a public hearing on Nov. 13, 2013 at 6:30 pm at the West Milford Municipal Building rectifying a prior diversion of 1.15 acres of Bubbling Springs Park under the Green Acres Program with a Township owned property, Block 3001; Lot 11, comprising 43.1 acres.
6. No Further Action-Covenant Not To Sue from the NJDEP, dated Oct. 2, 2013, for the removal of a 550 Gal #2 Heat Oil UGST, for White Mt. Realty, 15 Evergreen Road, Block 402; Lot 14.
7. Notification dated Oct. 1, 2013 received from Envirotrac Environmental Services regarding the BP Service Station No. 4300, 2847 Route 23, Block 15804; Lot 18, NJDEP ID #000986, NJDEP Case # 12-10-12-1510-26, advising that remedial activities are ongoing at the site.
8. Notification from the NJDEP Bureau of Dam Safety, dated Sept. 30, 2013, to Brian Douglas, 25 Charissa Court, advising that the Carpi Lake Dam (File #22-129) 2013 Inspection Report indicated that the dam was in FAIR Condition with repairs necessary. Per the Dam Safety Compliance Schedule, general maintenance was to be completed by Sept. 30, 2013 and long-term improvements that were not undertaken must be completed by Dec. 31, 2103.
9. Notice of Violation dated October 16, 2013 received from the NJDEP regarding 21 Dockerty Hollow Road, Block 9901; Lot 23.01 for violations of the Freshwater Wetlands Act for destruction of 47,274 sf of vegetation, and the placement of 14,874 sf of fill material in the form of soil, boulders, wood debris, and asphalt for improvements to a horse farm. Submission of a restoration plan is required within 30 days to restore site to pre-disturbance condition.

Miscellaneous Correspondence – None.

ADJOURNMENT

Prior to adjourning, Acting Chairman Garcia advised that the Planning Board meeting scheduled for November 7, 2013 may be cancelled and Board members will be advised. With no further business to come before the Planning Board, Acting Chairman Garcia **adjourned** the Regular Meeting of October 24, 2013 at **8:10 p.m.** on a **motion** made by Linda Connolly with a **second** by Robert Nolan.

Approved: January 23, 2014

Respectfully submitted by,

Tonya E. Cubby, Secretary