

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

October 28, 2010

Regular Meeting

The Regular Meeting of the Planning Board was opened at 7:32 pm 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, Linda Connolly, Christopher Garcia, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker, *Vacancy*, Michael Siesta, Thomas Harraka, Chairman Andrew Gargano, Board Attorney Thomas Germinario, Esq., Board Planner Chuck McGroarty, Board Engineer Paul Ferriero.

Absent: None.

Chairman Gargano requested Planning Board Alternate Michael Siesta to sit on the Board in the vacant position.

PUBLIC PORTION

Chairman Gargano opened the Public Portion of the meeting. No one present wished to address the Planning Board, and the Public Portion was **closed** on a **motion** by Councilman Weisbecker with a **second** by Michael Siesta.

Chairman Gargano advised that the Review of Master Plan Re-Examination Report and the Public Hearing on the Master Plan Amendment would be held until later in the meeting following Applications and Memorializations.

APPLICATIONS

NEW APPLICATIONS

WOJCEICH CZYKIER

Major Soil Removal/Fill Permit #PB-07-10-08

Block 9406; Lot 45

27 Weedon Road; R-3 Zone

Seeking: Soil Movement Permit for re-grading subject site.

Prior to the commencement of the public hearing, Planning Board Alternate Thomas Harraka recused himself from this application.

Applicant Wojceich Czykier appeared before the Board and was sworn in by Thomas Germinario, Board Attorney. Mr. Czykier advised the Board that his contractor would be appearing before the Board on his behalf, but that he was not currently present. Mr. Germinario inquired whether the applicant had read the recent report of the Board Engineer with regard to this application, and Mr. Czykier replied that he had. Gerald Gardner, P.E., the applicant's engineer, was sworn in and qualified himself for the Board, noting that he had previously testified before this Board on several occasions. Mr. Gardner was accepted as expert witness for the applicant, and reviewed the application for a soil movement permit that entailed terracing of the applicant's rear yard. He advised that a large deck had been constructed by the applicant on a steeply sloped site, which now requires re-grading of the site to fill in the foundation and allow the yard to be utilized. Mr. Gardner stated that he revised the original design following receipt of the Board's professional and departmental comments, and a global stability analysis had just recently been completed. It was noted that the ownership of a drain needs to be determined based on an easement that appears on the Township's tax maps. Paul Ferriero, Board Engineer, inquired about the height of a rock wall and Mr. Gardner replied that the wall is proposed to range from five to ten feet across the property. Mr. Germinario advised Mr. Gardner that revised plans need to reflect the correct revision dates. With regard to the soil, Mr. Gardner stated that he could not confirm the source of the fill to be brought on the site, but he contractor could provide this information. Mr. Germinario advised that the Board needed to know the source and route for the transportation of the soil. Chairman Gargano inquired if the trucks will be tandems and Mr. Ferriero estimated that this project would require about 80 to 100 tandem loads of soil. Councilman Weisbecker inquired if there had been any letters of complaint with regard to this project, which had begun prior to application being made, and it was reported that several neighboring property owners reviewed the application in the Planning Department, and one complaint had been received. Chairman Gargano noted that the neighboring property owners were not present at this time, so the Board could not address their concerns.

Mr. Ferriero requested an explanation of the proposed drainage, and Mr. Gardner advised that curtain drains and drop inlets would be utilized and water would be directed into storm drains. Mr. Ferriero noted that this will have minimal impact on the Township storm system, and the greatest impact occurred when all the vegetation and trees were removed previously by the applicant. He also noted that his report recommended that all drainage connections must be done properly. Mayor Bieri referred to photos that had been taken recently by Zoning Officer Jim Lupo when a complaint had been received about activity on the subject site, and requested clarification on where the terrace walls will be in relation to the deck. Mr. Gardner noted that the top of the house and the top of the wall will be almost equal, further explaining the terracing on the site. Mr. Ferriero commented that drainage could be resolved in various ways, but the intent is to utilize the rear yard, so terracing has been proposed. Councilman Weisbecker inquired about proposed vegetation, and Mayor Bieri suggested that it be a condition of

approval. Mr. Ferriero recommended screening with arborvitaes at the bottom of the site and small shrubs between the rock walls. Mr. Germinario advised that since Mr. Ferriero will have final sign off on this plan, it was not necessary to refer this residential project to the Board's landscape architect. Mr. Ferriero advised the applicant that a construction estimate needed to be submitted for bonding determination.

Chairman Gargano inquired about the condition of the street, and Mr. Ferriero stated that he would have the Township Engineering Division take photos of the street's condition before the project is completed, and maintaining the current state of the street can be a condition of approval. Steven Castronova inquired whether the drive was gravel and Mr. Ferriero advised that larger stone was needed in the drive, in addition to wheel cleaning blankets for the duration of the project to keep mud off the road. He also noted that bonding for the road would be required when several Board members expressed concern about possible damage to the blacktop. Thomas Harraka, a neighboring property owner, commented that the existing pavement was original to the development, estimating about 40 years old. Councilman Weisbecker expressed concern about the weight of the trucks on the side roads, and the transference of heat from the truck tires to the pavement, resulting in a breakdown of the asphalt. Mr. Ferriero observed that on a very hot day there could be some damage to the surface course, but that is the reason for bonding.

The applicant's contractor, Raymond Van Peenan, appeared before the Board and was sworn in by the Board Attorney Thomas Germinario. Mr. Van Peenan stated that he had reviewed the Board Engineer's report and noted that the main concern was the source of the soil and the route that it would travel. He advised that the soil would be "bank run" from a project in Parsippany, NJ, and the route would follow Route 23 to Echo Lake Road to Macopin Road. He testified that the project would consist of transportation of approximately 2100 yards of fill, with 15 yards per truck and 5 to 10 trucks per day. Mr. Van Peenan estimated that the soil transportation would take about 3 weeks and that it would commence in the cooler weather. He also advised that dust would be controlled by wetting the soil.

Chairman Gargano opened the meeting to the public. The following addressed the Planning Board regarding this application:

Jim Noble, 26 Evelyn Drive, addressed the Planning Board with his concerns about the project. He stated that he was directly downhill from the applicant's property, and with the proposed terracing of the site, he will be looking from his property at rock walls. He further stated that he has seen a transition in his property since the applicant's site was clear-cut and soil moved, and had to add a berm and pine trees to address the runoff and erosion. He also inquired why his berm and pine trees were not shown on the plans submitted by the applicant, and wanted them to be protected during construction. He proceeded to show photos of his view from the patio after the trees on the applicant's property were removed. Mr. Noble was concerned about the height of the proposed walls and the proximity of the walls to his property. Mr. Gardner, the applicant's engineer, clarified the height of the wall in relation to Mr. Noble's property. Councilman Weisbecker inquired whether the neighbor's trees would be impacted. Mr. Ferriero and Mr. Gardner discussed in detail the location of the rock wall, including height and length and reviewed same on the plans. Mr. Noble asked for vertical elements in the form of trees and vegetation, to which Chairman Gargano noted that it would be a condition of approval. Mr. Noble requested that the trees be planted by a professional, adding that the applicant used a backhoe on his property to do much of his own work. Mr. Ferriero advised that the whole operation should be supervised and stabilized by a professional contractor, and Chairman Gargano added that a certificate of insurance should be required from the contractor. Mr. Noble concluded by stating that he wanted his neighbor to have a usable, flat yard, and the plans submitted will help achieve that, and wished him the best in getting the project completed. Mayor Bieri inquired whether Mr. Noble preferred to have the project done in phases or during one continuous period of time, and Mr. Noble replied that it should be done efficiently and as quickly as possible.

Rich Bertha, Evelyn Drive, addressed the Board about his concerns with regard to this application. He commented that he had to have a berm and swale installed due to the drainage problems that have occurred from the activity on the applicant's site. He inquired about the amount of soil that will be brought in, and Mr. Gardner advised that 240 linear feet was proposed. Mr. Bertha expressed concern about the dry stacked rock walls and the tendency to shift over time. Mr. Van Peenan replied that he was trucking large natural stone to the site that will not shift, adding that he has constructed many rock walls during his 32 years of business. He noted that he will submit soil and compaction reports during the project. Mr. Bertha also expressed concern about possible natural springs on his and Mr. Czykier's yard that might affect the rock wall. Mr. Ferriero advised that any springs or water affecting the wall was related to the curtain drains behind the wall, adding that the curtain drain is only shown for the upper wall, but should be installed behind the lower wall also. Mr. Bertha also noted his concerns about stormwater runoff and viewing the rock wall from his property, and Chairman Gargano advised him that proper vegetation will be installed as a visual shield as a condition of approval. Mayor Bieri inquired whether he, too, wished the project to be done as quickly as possible, and Mr. Bertha replied in the affirmative. Mr. Castronova inquired whether a permit from the Soil Conservation District was needed, and Mr. Ferriero replied that it was not necessary for a single family home.

With no one else from the public wishing to speak on this matter, the public portion was **closed** on a **motion** by Councilman Weisbecker and a **second** by Michael Siesta.

Mayor Bieri inquired whether the rock wall height could be decreased, and Mr. Ferriero replied that a reconfiguration of the walls would not result in a much different view due to the constraints of the property. Mr. Germinario reviewed the conditions of approval as a result of the testimony heard on this matter. He advised that the Board Engineer required a copy of the tax map for the drainage easement; the plan shall show the revised date; the source of the fill that will be trucked to the subject site will be identified; the route that the trucks will follow to the site, i.e. Route 23 to Macopin, to the development; a landscaping plan would be submitted to the Board Engineer for approval; the construction cost of the project for the bond determination must be submitted; the condition of the road will be documented prior to the commencement of the work, including photos, and any damage to the road would be repaired; based on testimony and discussion, the line of the wall, 5 feet at the north end of the site will transition to 11 feet at the opposite end; the applicant's backhoe would be removed when the project is completed; a licensed contractor will perform the work; there will be supervision of the compaction and a report submitted to the Township Engineer by the designated engineering firm (AEL); and a row of white pines on the neighboring property will be protected during construction.

Motion by Councilman Weisbecker with a **second** by Steven Castronova to **approve** the Major Soil Removal/Fill Permit #PB-07-10-08 for Wojceich Czykier with the conditions noted.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
No: Linda Connolly.

Following the hearing, Planning Board Alternate Thomas Harraka rejoined the Board on the dais.

PENDING APPLICATIONS - None.

MEMORIALIZATIONS

RESOLUTION NO. 2010-15

KURT RENZLAND

Final Site Plan #PB-06-10-07 (Phase II)

Block 6002; Lot 39.02

921 Burnt Meadow Road; LMI Zone

Granted: Final Site Plan Approval for Phase II, Building #2.

Motion by Councilman Weisbecker with a **second** by Douglas Ott to **approve** Resolution No. 2010-15 granting Final Site Plan Approval for Phase II, Building 2 for Kurt Renzland.

Eligible to Vote Roll Call:

Yes: Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker.

No: None.

RESOLUTION NO. 2010-16

1952 UNION VALLEY ROAD, LLC

Preliminary & Final Site Plan With Variances

Block 3601; Lots 1 & 3

1952 Union Valley Road; CC Zone

Granted: Preliminary and Final Site Plan Approval with Variances for construction of a new deli with two apartments to replace existing deli.

Motion by Councilman Weisbecker with a **second** by Steven Castronova to **approve** Resolution No. 2010-16 granting Preliminary and Final Site Plan Approval with Variances for 1952 Union Valley Road, LLC.

Eligible to Vote Roll Call:

Yes: Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker.

No: None.

NEW BUSINESS

Board Attorney Thomas Germinario advised the Board of a recent meeting with the principals of Braemar at West Milford, LLC, (formerly Green Valley Estates) to review the status of the applicant's final subdivision approval. There were certain submission requirements, including aquifer testing and a hydro geologic report. He advised that the services of Matt Mulhall of M2 were necessary to review the report submitted, and the applicant would pay for the cost of Mr. Mulhall's review with their escrow funds. Mr. Germinario would contact Mr. Mulhall for an estimate of charges.

Motion by Councilman Weisbecker with a **second** by Michael Siesta to **approve** retaining Matt Mulhall of M2 to review the hydro geologic report submitted on behalf of the applicant, Braemar at West Milford, LLC. The Board **approved** the action by unanimous consent.

ORDINANCES FOR INTRODUCTION - None.

ORDINANCES REFERRED FROM COUNCIL - None.

PLANNER'S REPORT

Review Township Of West Milford 2010 Periodic Re-Examination Report Of The Master Plan And Development Regulations

Chuck McGroarty, Board Planner, began his review of the 2010 Re-Examination Report by advising the Board that a Re-examination Report is required every six years by a municipality, and that the last one was completed in 2003, and another one was due in 2009, but because West Milford was one of only 5 municipalities that is 100% in the Highlands Preservation area, we would be governed by the Highlands Master Plan. He noted that there was a concern that there would be a challenge in court regarding certain zoning in the Township, so it was determined that a Re-Examination Report was necessary at this time to avoid any potential litigation issues. He advised that there were generally five questions posed by the M.L.U.L. regarding the re-examination report and he outlined those for the Board: 1. Has the Township reviewed any problems that have arisen since the last re-exam report; 2. Were they addressed or have they been exacerbated; 3. Were there any significant changes since the last report; 4. Are there specific recommendations for the master plan and redevelopment; 5. Whether the issue of redevelopment was considered if it applies. Mr. McGroarty noted that the last re-examination report called for a need to protect the semi-rural character of the Township, and concerns were expressed about septic and wells, but there was no suggestion about re-zoning. Goals and objectives were also listed, but he hesitated in reviewing much detail. He observed that one of the 2003 objectives was the ongoing effort for construction of a new library. There was an absence of discussion in the 2003 report of the town center designation, and his research indicated that the Council at that time did not support the center designation. Due to this, rezoning was now being proposed for several tracts of land that are currently R1-PN that are part of the former town center plan. Mr. McGroarty continued his discussion of the report. A Board member inquired about the title of Public Zone and expressed concern about it being misconstrued, and it was noted that it could be renamed to Community Zone. There was Board consensus to change the "Public Zone" to "Community Zone". The Board discussed further details about the report including Wastewater Management Plan, Streetscape Plan, Open Space Plan, and Lakeside Residential Zone District evaluation. Mr. McGroarty advised that he will make the revisions based on the Board's discussion and provide a revised copy to the Board, but that the report could be adopted as amended.

Following discussion and review of the report, a **motion** was made by Councilman Philip Weisbecker with a **second** by Steven Castronova to **approve** the 2010 Periodic Re-Examination Report, as amended.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
 No: None.

BOARD ATTORNEY'S REPORT - None.

BOARD ENGINEER'S REPORT - None.

MISCELLANEOUS

The Board reviewed the 2011 Planning Board Meeting Schedule. Following review the Board approved the 2011 schedule by unanimous consent.

MINUTES

Motion by Councilman Philip Weisbecker with a **second** by Steven Castronova to **approve** the Planning Board Regular Meeting Minutes of August 26, 2010. The Minutes were **approved** by unanimous consent. The Minutes for September 23, 2010 would be held for approval until the next Planning Board meeting.

PUBLIC HEARING ON MASTER PLAN AMENDMENT

the Public Hearing on the Master Plan Amendment was opened by the Chairman. Mr. McGroarty advised that the amendment to the master plan was necessary in order to create a new public zone – or community zone. He reviewed the amendment, noting that the intention is to consolidate 16, 500 acres to a new zone. Two recommendations are made with the amendment: 1. to create a new public zone for active and passive recreation; and 2. to take undeveloped parcels that are zoned R1/P1 and rezone them to low density, R4 zones. He noted that the R1/P1 zone was originally part of the town center, and with the plan not adopted by the Township, the zoning is no longer necessary, in addition to the fact that the Highlands would not permit development of this scale with sewer and water utilities. A Board member inquired if parks owned by the Township will be included in this public zone, and Mr. McGroarty advised

that the language could be included to state that *all parks owned by the Township of West Milford will be included in the Community Zone*. Mayor Bieri requested that page 3 should be amended to include state parks.

Following discussion, the hearing was opened for public comment. With no one present wishing to address the Board the Public Portion was **closed** on a **motion** by Steven Castronova with a **second** by Councilman Weisbecker.

Motion by Councilman Weisbecker with a **second** by Michael Siesta to **approve** the Amendment to the Master Plan Land Use Plan Element.

Roll Call: **Yes:** Mayor Bettina Bieri, Steven Castronova, Linda Connolly, Christopher Garcia, Douglas Ott, Michael Siesta, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.
 No: None.

MISCELLANEOUS

Approval Of Invoices – Board Professionals

Motion by Councilman Philip Weisbecker with a **second** by Steven Castronova to **approve** the invoices submitted by the Planning Board professionals for August and September 2010. The payment of invoices was **approved** by unanimous consent. Mr. McGroarty was requested to submit an estimate for the 2011 Board Planner's contract due to the increased work that is anticipated as a result of the proposed rezoning and new Master Plan.

The following were noted by the Planning Board and filed:

COMMUNICATIONS

1. Copy of the 2010 Smart Growth Planning Grant Agreement from ANJEC, in the amount of \$5,000. for the development of a Trails Master Plan.
2. Notice from the Federal Energy Regulatory Commission of an intent to prepare and Environmental Assessment for the Northeast Upgrade Project for Tennessee Gas Pipeline and request for comments in writing or in person at a Public Hearing on Monday, November 1, 2010 at 7:00 pm at the E.G. Hewitt School in Ringwood, NJ.
3. Memo announcing an Open Space Subcommittee meeting with the Township Administration and the Environmental Commission on Monday, November 1, 2010 at 6:30.
4. Hudson Essex Passaic Soil Conservation District (HEPSCD) certifications received for the following: Your Home Team, 21 E. Park Drive, Block 12301, Lot 3; CFA Custom Homes, 290 Maple Road, Block 10817, Lot 4; Lower Mt. Glen Lake Dam Restoration, Block 11001, Lot 51, Broadway Terminus; Kunz Subdivision-Recertification, Block 14108, Lot 1.02, Germantown Road.
5. Memo dated October 19, 2010 from Kevin Boyle, Township Administrator to Steve Sangle, Environmental Commission Chairman, advising that the Township Council has requested that the Tennessee Gas Pipeline representatives meet with representatives of the EC for updated environmental information on the Wallisch Estate property as it relates to an easement request from Tennessee Gas Pipeline for the Northeast Upgrade Project.
6. Copy of a memo to Larry Miller, NJ Division of Parks and Forestry, from Kevin Boyle, Township Administrator, dated October 19, 2010 regarding an update on the NY/NJ Trails Conference Trails Signage Grant.

HIGHLANDS WATER PROTECTION & PLANNING ACT / NJ DEP CORRESPONDENCE

1. Notice of Administrative Completeness received from the NJDEP with regard to a Highlands Applicability and Water Quality Management Plan Consistency Determination for Alan Buffalino, Block 14301; Lot 14.01; 30 Misty Lane.
2. Highlands Applicability Determination application received for The Manor At Smith Mills Condominiums; Block 12701; Lots 9.01, 9.02, 9.03, 524 Hamburg Tpk. regarding the replacement of failed septic tank and an undersized tank with new conforming tanks.
3. Highlands Applicability Determination received from the NJDEP, dated October 25, 2010, for the Manor at Smith Mills, Block 12701; Lots 9.01, 9.02, 9.03, 524 Hamburg Turnpike, advising that the project is Not a Major Highlands Development, and the Water Quality Management Plan is consistent with Statewide Water Quality Management Planning Rules.
3. Copy of an application for a Highlands Applicability Determination received for the West Milford Municipal Complex and proposed Public Library, Block 7903; Lots 13, 14, 15, 16 from Ferriero Engineering, Inc.
4. Copy of an application for a Highlands Applicability Determination received on October 14, 2010 from MAP Engineering for Shoebox Storage, LLC (VanderPloeg), Paul Street, Block 16005; Lot 16, for construction of a single family dwelling.
5. Potable Well Water Analysis, dated October 12, 2010, received from the NJDEP for Sherrer Residence, Block 7508; Lot 17, 1368 Union Valley Road, in the vicinity of Lukoil 57215 site, finding the water to be

acceptable for drinking water purposes, and that current treatment methods have removed volatile organic constituents to within Primary Drinking Water Standards.

6. Notice from the NJDEP regarding the Nosenzo Pond Dam, advising that a review of the revised as-built plans, completion report, and the Bureau's site inspection have determined that the work has been completed in substantial accordance with the approved plans and specifications in the Dam Safety Permit #1337, and advising that the operation and maintenance manual must be updated, in addition to submission of an Emergency Action Plan.

7. Copy of an application for a Freshwater Wetlands GP #25 from Houser Engineering for 21 Grove Street, Block 16004; Lot 14, Michael Ramos, with regard to the upgrade of an existing septic system with an additional 500 gallon septic tank and new gravity fed Chamber disposal system.

8. Copy of an application for a Freshwater Wetlands GP #25 from Houser Engineering for 22 Rosemont Avenue, Block 11302; Lot 37, John Kasper, with regard to the replacement of an existing septic system with a new tank, pump tank, and pressure dosed chamber disposal bed.

ADJOURNMENT

With no further business to come before the Board, Chairman Andrew Gargano **adjourned** the October 28, 2010 Regular Meeting of the West Milford Planning Board at **10:35 pm** on a **motion** by Councilman Philip Weisbecker and a **second** by Linda Connolly.

Approved: February 3, 2011

Respectfully submitted by,

Tonya E. Cubby, Secretary