

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD
MINUTES
December 4, 2008
REGULAR MEETING**

The regular meeting of the Planning Board was opened at 7:38 by Acting Chairman Geoffrey Syme 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 (8:08pm), Clinton Smith, Councilman Philip Weisbecker, Alternates Michael Siesta, Kerry Goceljak, Board Planner Charles McGroarty, Board Engineer John Hansen, Board Attorney Thomas Germinario.

Absent: Andrew Gargano.

Acting Chairman Syme requested Michael Siesta and Kerry Goceljak to sit on the Board for absent members.

PUBLIC PORTION

No one present wished to address the Board.

SITE PLAN APPLICATION REVIEW WAIVERS – None.

APPLICATIONS

CARRIED APPLICATIONS

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.

The applicant was represented by attorney Ben Cascio, and Dale Van Nimwegen the authorized agent, and Tibor Latincsics of Conklin Engineering, the applicant's engineer. Ms. Van Nimwegen gave the following update on the application: the Awosting community met and overwhelmingly approved the subdivision and sale of the lots, but the Highland's approval and site plan approval was needed. The concerns of the residents were addressed, the plans were revised, and the cul de sac or closing of a section of road was abandoned. A driveway was moved on one proposed lot, and more green and open space was added by making the lot sizes smaller. Ms. Van Nimwegen advised that Board that every effort was made to address the major objections and concerns expressed by the Board, the Awosting community, and the NJ DEP.

Tibor Latincsics, the applicant's engineer, presented revised plans, dated November 19, 2008, depicting two lots, 13,651 sq ft and 11,558 sq ft in size, that were designed to comply with NJ DEP standards and requirements for Highland's exemption or approval. He noted that the lot is within the 300 foot C-1 buffer of the Wanaque River, and will require NJ DEP review. The homes proposed on the two lots were designed at 1700 sq ft footprints with design elements such as porches added to make them characteristic of surrounding properties. He noted that a reduction in impervious cover is proposed with the lot reconfiguration. Mr. Latincsics advised that, while variances are required for lot size, his analysis on the average lot size in the lake community was 13,592 sq ft, making Lot 1.01 slightly larger and Lot 1.02 smaller than the average, but the proposed lots were actually in character with the properties surrounding the subject site. In review of the subdivision and the proposed lots, Mr. Latincsics testified that these lots satisfy the intent of the criteria with relation to the Land Development Ordinance. He reviewed the existing lot size and structure, noting that the clubhouse is currently a conditional permitted use, but the applicant is proposing to remove a high intensity use clubhouse from an undersized lot and relocating it to a larger lot. He added that the parking issues that currently exist will be alleviated with the two new residential lots with off street parking, and the new lots will be serviced by water and sewer. A Board member inquired about the requirement for purchasers of the lots to build within the footprint that is being proposed, and Mr. Latincsics noted what the applicant is proposing is the optimal plan for the lots. Mr. Germinario advised the Board that the variances being granted are for the plan being presented and deed restrictions should be imposed. Mr. Cascio agreed that a deed restriction can be included in the resolution of approval. John Hansen, Board Engineer, advised that approval can be subject to a lot development plan. When asked whether this subdivision was contingent on the site plan approval of the new clubhouse, Ms. Van Nimwegen advised the Board that preliminary and final site plan approval for the new clubhouse would permit the subdivided lots to be sold. Mr. Latincsics noted that he expected to get Highland's exemption as they are reducing sewer capacity with the two smaller lots.

Mr. Hansen addressed the comments made in the December 1, 2008 correspondence from Paul Ferriero regarding a riparian buffer permit needed and highland's exemption, deed restrictions, and that a lot development plan be submitted. Chuck McGroarty, Board Planner added his comments on lot size, current zoning ordinances, and the need for variances for both lots. Mr. Latincics reviewed keeping one large lot with the potential of construction of a "McMansion", and maintained that creating two smaller lots with the proposed houses are in keeping with surrounding properties. Mr. Cascio reminded the Board that the lots and the Awosting lake community were created in 1915, long before the current zoning ordinance was developed, so the smaller lots are compatible with most of the lots in Awosting. Mr. Cascio also agreed to have the subdivision subject to M.U.A. approval, noting that an approval for a sewer connection had been received prior to this.

The hearing was open to the public and the following addressed the Board regarding this application:

Michael Moray – 100 Long Pond Road – Mr. Moray noted that he was pleased with the revised plans, but was objecting to the size of the proposed footprint of the houses for each lot. He requested that the houses do not exceed the 10% lot coverage required by ordinance.

Eberhard Dietrich – Long Pond Road – Mr. Eberhard commented that the lot sizes were too small as they fell below the zoning standards, and he was concerned about the size and the height of the buildings proposed, adding that he felt they were not in keeping with the character of the community.

The Board and their professionals discussed several issues including negative criteria, reduction of the roadway, and reduction in the size of the footprint.

Jim Novack – Larchmont Drive – Mr. Novack commented on Packanack Lake and subdivided property at that lake, and commended the plan to remove the old clubhouse and replace it with a new, more functional clubhouse.

With no further comments from the public, Acting Chairman Syme closed the public portion on a **motion** by Steven Castronova and a **second** by Councilman Weisbecker.

Mr. Germinario reviewed the conditions if the Board granted approval, adding that this minor subdivision could be approved as presented subject to MUA approval, the lot development plan approved by the Township Engineer, Highlands approval or exemption, COAH determination, receipt of a flood hazard permit, and deed restriction of lot closure. Mr. McFadden noted that two non-conforming lots were being created, adding that during testimony the applicant did not seem willing to consider reducing the size of the proposed structures for the lots. Councilman Weisbecker spoke in favor of the application, noting that the lots will enhance the community. Mr. Rosica commented that he understood the restrictions of the lots in relation to their location, but requested that more trees and landscape buffers be required as a condition of approval. Mr. Castronova approved of the Lot 1.01 size but requested that Lot 1.02 be developed at a maximum of 12% lot coverage. Mr. Cascio advised that, after calculations, it appeared that a smaller house could be constructed on the lots at approximately 1550 sq ft. He also agreed to a landscaping plan as a condition of approval. Mayor Bieri noted that concessions have been made and the safety of the residents and the quality of life did not appear to be impacted, and that the revised plans addressed the primary concerns of the Board.

Motion by Steven Castronova with a **second** by Councilman Philip Weisbecker to approve the minor subdivision and bulk variances for Awosting Association, Inc subject to conditions.

Roll Call: **Yes** - Mayor Bettina Bieri, Steven Castronova, Douglas Ott, Michael Siesta, Clinton Smith, Councilman Philip Weisbecker, Kerry Goceljak, and Acting Chairman Geoffrey Syme.
 No - Richard McFadden.

TIME EXTENSION REQUEST

VINCENT LANZA

Minor Subdivision #0510-1976

Bulk Variance #0530-0718

Preliminary and Final Site Plan #0520-219AB

Block 9501; Lot 12

1383 Macopin Road; R-3 Zone

Seeking a time extension for filing Minor Subdivision deeds and clarification of Resolution No. 2008-7.

Vincent Lanza was present to request that the Planning Board grant a time extension for filing his minor subdivision deeds. He advised that he has experienced delays in getting Highland's approval for his project, adding that he has made application four times to the Highlands and he wanted Highland's approval before proceeding. He also asked for clarification on two items related to use that were included on Resolution 2008-7. Mr. Lanza was asked to return to the next meeting for

discussion with the Board on the resolution matter. The Board concurred on a one-year time extension for filing the minor subdivision deeds.

Motion by Michael Siesta with a **second** by Councilman Philip Weisbecker to approve a one-year time extension for filing minor subdivision deeds for Vincent Lanza.

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

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.

The applicant was in attendance and was represented by his attorney, John Barbarula, Esq. Mr. Barbarula gave an overview of the preliminary and final site plan for 1952 Union Valley Road. George Gloede, professional engineer and planner was sworn in by Mr. Germinario and provided his qualifications to the Board. Mr. Gloede testified that the site is in the Community Commercial Zone and there is an existing 1200 sq ft building, with no curbing and no designated driveway, and the site included 17,086 sq ft of impervious cover. He referenced the plans submitted, and reviewed the surrounding properties for the Board, noting the adjacent car wash, gas station across the street, a liquor store that was adjacent, and residences to the rear of the site. The applicant is proposing a 5000 sq ft store with two apartments, parking for 28 cars with 2 handicapped spaces. The original entrance and exit was proposed for Union Valley Road and Stainsby Road, and a new septic and storm drainage would be installed. He reviewed the storm water requirements and storm interceptor proposed, the improved water quality, and the proposed shoebox fixture lighting. With regard to the landscaping, Mr. Gloede noted that the majority of the site will be landscaped with lawn and trees. Mr. Gloede reviewed Exhibit A-1 and noted that the Board Planner had made comments in his report regarding elimination of the Stainsby Road entrance, so the plans presented at this hearing reflects this revision. Mr. Barbarula clarified for the Board that the elimination of the driveway on Stainsby Road would bring the site under the maximum for impervious cover. Mr. Gloede advised that with the new driveway configurations, new variances will not be necessary, adding that a single driveway entrance and exit would allow for more parking spaces that would be in keeping with the ordinance. Mr. Barbarula advised that there is one existing variance for lot width, and due to the odd shape of the property, it cannot change. He reviewed the benefits of the new plan, noting that there would be no additional variances created, there would be a decrease in impervious cover, increase in landscaping, a conforming parking plan, and the entrance would be further away from the intersection, eliminating a potential hazard.

Mr. Hansen, Board Engineer, advised that Passaic County does not want any access from a county road, and the revision to move the driveway away from the intersection is preferable. When questioned why the applicant did not get county approval before coming before the Board for Township approval, Mr. Barbarula explained that the applicant wanted an approved plan from the Township and would present that plan to the county and try to get that approved, adding that the intent was to try to accommodate the residents and Township with a plan. Mr. McGroarty commented that access from the main road, albeit a county road, was the preferred plan, with the least impact on surrounding properties. Mr. Gloede reviewed the correspondence received from the county with their suggestions for the site. At this point, Mr. Barbarula qualified Mr. Gloede as a professional planner for his testimony on planning issues. Mr. Germinario advised that the Board should express their preference on the county road access as it may help to influence the county decision. With regard to COAH, Mr. Barbarula advised that the applicant was willing to make one apartment a COAH rental apartment. Mr. Gloede testified that he had to make revisions to the grading and drainage, but wanted to apprise the Board of the plan to eliminate Stainsby Road access, and the reduced impact on the adjacent properties. With regard to signage, Mr. Gloede said that this will be addressed in the revisions. Mr. McGroarty suggested an open space area that would allow for a movable picnic table and the applicant was agreeable. He also suggested a monument sign with landscaping at the base for an aesthetic improvement, and the owner agreed. Mr. Rosica suggested the use of cultured stone on the foundation, and Mr. Barbarula advised that the applicant will accept this if a condition of approval. Lewis Qarmout, the applicant, was present to answer questions from the Board on truck deliveries, and noted that they have some control over the timing of the vendor deliveries. Sidewalks and circulation patterns were discussed, and outside storage and sales were raised, to which the applicant answered that only outdoor seasonal items will be sold. Mr. Qarmout advised the Board that the architect they are using is a "green architect." He testified that the facility is not a 24-hour operation now, but may be in the future, as their food services grow. He agreed to add trees and landscaping to shield lighting from the neighboring properties, but requested lighting from dusk to dawn for security and safety reasons.

Mr. Hansen commented about the limited ADA access and asked the applicant's engineer to meet with him to resolve the issues.

The following members of the public addressed the Board regarding the testimony presented at this meeting:

John Aiello – East Shore Road – He inquired about a curfew for giving testimony, and the Board Attorney noted that there is nothing in the by-laws at this time with regard to this. He stated that he would wait until the next public meeting to address the Board about his concerns.

Jim Novack – Larchmont Drive – Mr. Novack noted that the owner has been in business in this town for 16 years and spoke favorably about the application, but noted that handicapped parking was not present or delineated and wanted this matter addressed.

With no further public wishing to address the Board on this application, the public portion was closed on a **motion** by Councilman Weisbecker with a **second** by Steven Castronova.

Mr. Barbarula advised that revisions to the plans need to be made to reflect one large entrance/exit and drainage recalculations, and other items discussed by the Board. He requested that they **carry** this matter until the Planning Board meeting on February 5, 2009. Mr. Barbarula also noted that he had a prior commitment that night, but would be in attendance at 9:00 p.m. to continue with the public hearing following the Workshop meeting.

Mr. Germinario announced that this matter was **carried** to February 5, 2009 and no further notice would be necessary.

MEMORIALIZATIONS

RESOLUTION NO. 2008-26

MR. WONTON LLC

Preliminary & Final Site Plan #0720-0305AB

Block 6303; Lot 18

1546 Union Valley Road; VC Zone

Granted: Preliminary and final site plan approval and variance relief for proposed site improvements to existing parking lot, with conditions.

Motion by Douglas Ott with a **second** by Councilman Philip Weisbecker to approve Resolution No. 2008-26 granting preliminary and final site plan approval with variance relief for Mr. Wonton, LLC.

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

ORDINANCES FOR INTRODUCTION- None.

ORDINANCES REFERRED FROM COUNCIL- None.

BOARD ATTORNEY'S REPORT- None.

PLANNER'S REPORT- None.

ENGINEER'S REPORT – John Hansen, Board Engineer, reported that Walgreen's will be moving forward with work at their site, adding that the following week the applicant plans to place a trailer on the site and a supervisor will be present during construction.

MISCELLANEOUS – Acting Chairman Syme advised the Board that the By-laws for the Planning Board are to be reviewed with noted amendments made by the Board Attorney. There will be discussion on the By-laws at the December 18, 2008 meeting.

SUBCOMMITTEE REPORTS

MASTER PLAN SUBCOMMITTEE – None.

ORDINANCE SUBCOMMITTEE – None.

BUILDING DESIGN SUBCOMMITTEE – None.

SITE PLAN COMMITTEE – None.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

Motion was made by Chris Rosica with a **second** by Douglas Ott to approve the payment of current invoices from Paul Ferriero, P.E., Thomas Germinario, Esq., Charles McGroarty, P.P., and Hakim Associates.

Roll Call: **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Councilman Philip Weisbecker and Acting Chairman Geoffrey Syme.

No - None.
Abstain – Michael Siesta

MINUTES

Motion was made by Steven Castronova with a **second** by Douglas Ott to approve the minutes of the October 23, 2008 Planning Board Regular meeting.

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

Motion was made by Chris Rosica with a **second** by Rich McFadden to approve the Closed Session Excerpt Minutes of the August 28, 2008 Planning Board meeting, and the Closed Session Minutes - Not For Release To The Public – of the August 28, 2008 Planning Board meeting.

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

COMMUNICATIONS

The following communications were noted and filed:

1. Evaluation request received from the NJ DEP Green Acres Program for possible acquisition of Block 1604; Lot 1.901, Lien Times LLC, Daretown Road.
2. Copy of notice from NJ DEP Office of Engineering and Construction to Marshall Hill, LLC regarding West Milford Lake Dam, approving the opening of the low level outlet valve, maintaining the impoundment in a drained condition. Additionally, a reminder for submission of a detailed plan by November 12, 2008 or a request for an extension of time.
3. Letter from NJ DEP to WV's Coffee Espresso, Block 16001; Lots 5 & 6, 3034 Route 23, dated November 5, 2008 regarding a Northeast Water Quality Management Plan – Agency Determination – Cancelled.
4. Letter from Passaic County Agriculture Development Board regarding the Final Passaic County Farmland Preservation Plan, adopted September 18, 2008, a copy available on line at [www.passaiccountynj.org-Departments-Planning Department-Farmland Preservation Plan](http://www.passaiccountynj.org-Departments-Planning%20Department-Farmland%20Preservation%20Plan) or in the Passaic County Planning Office, 930 Riverview Drive, Suite 250, Totowa, NJ.
5. Letter received November 10, 2008 from NJ DEP regarding a 550 gallon #2 heating oil underground storage tank at 56 Princeton Road, Block 1003; Lot 3, Unrestricted Use – No Further Action – Covenant Not To Sue
6. Letter received November 10, 2008 from NJ DEP regarding a 1000 gallon #2 heating oil underground storage tank at 152 Lincoln Avenue, Block 143; Lot 1, Unrestricted Use – No Further Action – Covenant Not To Sue
7. Copy of letter received November 20, 2008 from Bureau of Dam Safety to the Office of Resource Development regarding Green Turtle Dam, noting that it is in Fair condition with repairs necessary.
8. Receipt of a Flood Hazard General Permit and Freshwater Wetlands General Permit for Route 23 and Hamburg Turnpike Bridge repair from the Township Clerk's office.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

The following documents were noted and filed:

1. Notice of Technical Incompleteness received on November 4, 2008 from the NJ DEP – Highlands Applicability Determination regarding Block 4106; Lot 1, 99 Long Pond Road, Awosting Association.
2. Copy of Highlands Applicability Determination Re-Application for 99 Long Pond Road, Block 4106; Lot 1 from Awosting Association, received November 24, 2008, addressing incompleteness items.

ADJOURNMENT – With no further business to come before the Board, the meeting adjourned at 11:22 p.m. by unanimous consent on a **motion** by Steven Castronova and a **second** by Richard McFadden.

Approved: January 8, 2009

Respectfully submitted by,

Tonya E. Cubby, Secretary