

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

December 5, 2019

Regular Meeting

Chairman Christopher Garcia opened the December 5, 2019 regular meeting of the West Milford Planning Board at 7:02 p.m. with a reading of the Legal Notice followed by the Pledge of Allegiance.

ROLL CALL

Present: Steven Castronova, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Board Attorney Thomas Germinario, Board Engineer Mark Denisiuk, Board Planner Owen Bonnet.

Absent: Matthew Conlon, Linda Connolly, Douglas Ott, Councilman Luciano Signorino,

Chairman Christopher Garcia requested James Rogers to sit on the Board for one of the absent members and advised that a quorum was present to hold this regular meeting.

PUBLIC PORTION

The public portion was opened by Chairman Christopher Garcia. With no members of the public wishing to address the Board, the public portion was **closed** on a **motion** by Ada Erik with a **second** by Steven Castronova.

APPLICATIONS

ESTATE OF EDWARD J. SCHAFFER

Minor Subdivision & Bulk Variance #PB-10-19-04

Block 16004; Lot 1

3061 Route 23 So; R-4 Zone

Seeking: Minor Subdivision and Bulk Variance approval for an existing parcel with two existing dwellings, with individual wells and septic systems, into two separate lots, with bulk variances requested for lot area, lot frontage, lot width, side yard setback, and front yard setback.

Patricia and Charles Gilroy, 15 Jefferson Street, appeared on behalf of the Estate of Edward J. Schaffer, and were sworn in for testimony by Thomas Germinario, Board Attorney. Ms. Gilroy, Executrix for the estate, provided a brief overview of the minor subdivision that was being sought for Block 16004; Lot 1. She testified that the subdivision was necessary in order to provide a separate lot for each dwelling, each with their own septic systems and wells. Mr. Germinario inquired whether she planned to reside in one of the dwellings, and Ms. Gilroy stated that their intent is to sell her late father's house, and they may reside in the other dwelling sometime in the future, after renovations have been made. She noted that they currently reside in a house to the rear of the subject lot.

Tyler VanderValk, P.E., was present to address the Planning Board regarding the applicant's proposed minor subdivision, and was sworn in to provide testimony on this matter. He reviewed the proposed subdivision of the lot, noting that there were several accessory structures on the site, and he indicated that there were a number of variances that are being requested for this subdivision. The access is from Route 23 and a shared driveway is proposed for both lots due to a pond that is located on the proposed homestead lot. The current lot consists of 3.38 acres, and Lot 1.01 is proposed to be 2.68 acres and Lot 2 will be .7 acres. Mr. VanderValk reviewed the variances that are associated with this application, and through testimony it was determined that the following variances were necessary: side yard setback, rear yard setback, front yard setback, lot area, lot frontage, lot width, lot depth, accessory side yard and rear yard setbacks.

The Board Engineer and Board Planner's reports were reviewed and several matters were discussed with respect to recording the deed, establishing an easement for the shared driveway including the metes and bounds, creating a maintenance document,

and recording a utilities easement. Surveys are also required to be submitted for each lot.

Following testimony, the matter was opened to the public for comment. With no one present wishing to address the Board on this application, the public portion was **closed** on a **motion** by Steven Castronova with a **second** by Ada Erik.

The Board considered the approval of the minor subdivision for Block 16004; Lot 1 to include the following conditions:

- A shared driveway agreement must be prepared and recorded with the minor subdivision deeds.
- A shared driveway easement for Lot 1.01 crossing into Lot 1.02 shall include the metes and bounds description of the easement area and be depicted on the revised plans.
- A utilities easement will be recorded in the deeds, as well as on the revised subdivision plans.
- A survey must be submitted for the lot that is proposed for subdivision.
- Removal of a shed that encroaches across the property line.
- The subdivision will not create encroachments on the existing septic systems or potable wells for each dwelling.
- All documents including deeds, easement and maintenance agreements must be submitted for review and approval prior to filing.

A **motion** was made by Steven Castronova with a **second** by Warren Gross to **approve** Application #PB-10-19-04 for a Minor Subdivision with Bulk Variances for the Estate of Edward J. Schaffer at 3061 Route 23, Block 16004; Lot 1.

Roll Call

Yes: Steven Castronova, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

No: None.

Motion approved.

ABDD LLC (DUNKIN DONUTS)

Minor Site Plan & Bulk Variance #PB-09-19-03

Block 7621; Lot 2

1521 Union Valley Road; VC Zone

Seeking: Minor Site Plan and Bulk Variance approval for the installation of a walk-in freezer to the rear of an existing Dunkin Donuts facility, with a bulk variance requested for rear yard setback where 50 ft is required, 41.47 ft is existing, and 26.49 is proposed.

Steven Schepis, Esq., attorney for the applicant, ABDD, LLC, was present to address the Board on behalf of his client. Also present was Joseph Golden, P.E., and Paul Bunker, VP of Operations for the owner. Mr. Golden and Mr. Bunker were sworn in by the Board Attorney, Thomas Germinario, to provide testimony for this matter. Mr. Schepis proceeded to review the application for the Board, noting that the facility was an existing Dunkin Donuts with a drive thru, and the applicant was seeking approval for a 10 x 15 foot walk in freezer to the rear of the building. During testimony, several exhibits were presented to the Board, including A-1 depicting the site plan of the existing Dunkin Donuts, A-2 depicting a walk in freezer at another location, A-3 indicating the existing floor plan and the building exterior, and A-4 an aerial photo of the site.

The applicant was seeking variance relief for a rear yard setback, where 50 ft. minimum is required, 41.47 ft. exists, and 26.49 is proposed with the new freezer unit. Mr. Bunker testified that the applicant purchased the business 5 years prior, and no new updates have been made until those being proposed. Currently there is a reach-in refrigerator which is inefficient from the heat generated by the existing unit and the floor space that is taken up in the interior of the building. He testified that the proposed unit will not interfere with the drive thru, and since it will be on a cement slab, it will not impact the well. Mr. Bunker further noted that the motor housing will be located at the top of the unit, and will generate very little noise. Mr. Schepis made several inquiries including the age of the building, and Mr. Bunker testified that the new Dunkin Donuts facilities have walk in units with access from inside the facility. Several of the Board members made inquiries of the applicant and their professionals regarding the floor plan, emergency access, and sidewalk and parking. The Board reviewed the proposed color of

the refrigerator unit and suggested that the unit be painted to match the unit, and following discussion, the applicant proposed updating the building façade paint to match the new refrigerator/freezer unit.

Mazen Hajjeh, the maintenance manager for ABDD LLC, was sworn in by Mr. Germinario, and provided testimony regarding the septic system issues that were identified in a memo from the Health Dept. He noted during testimony that the septic manifold had a crack, but it was repaired by Zuidema approximately one year ago. Board Member James Rogers inquired about the distance between the drive and the slab for the refrigerator unit, and Mr. Golden stated that there was 2.5 – 3 feet from the drive thru and the back of the unit. Mr. Rogers inquired if there will be any bollards to protect cars from hitting the unit, and Mr. Golden indicated the existing bollard protects the well, menu board, and will protect the unit based on the location of the bollard. Mr. Golden reviewed the traffic flow, and indicating on the site plan, noted that there was no other location to situate the unit than what was proposed. He reviewed the lighting, landscaping, and following discussion, the applicant agreed to install additional landscaping to the rear of the site near the residential area, including boxwoods. The memo from the Health Dept. and Environmental Commission, as well as the reports from Paul Ferriero and Jessica Caldwell, the Board's Engineer and Planner, were reviewed and addressed. The Board inquired about the lighting and dumpster location, and it was noted by the Board Engineer Mark Denisiuk that a spotlight on the building was burned out and a spotlight was shining directly on the dumpster, possibly for security reasons, but the applicant will check the lighting to make sure that it is in compliance.

The meeting was opened to the public and the following addressed the Board regarding this application:

William Hinch, 99 Overlook Road, stated that he resides directly behind the Dunkin Donuts business, and noted that most of his concerns were addressed during the testimony. He observed that the light for the dumpster shines in his bedroom and he hears the dumpster noise every morning. He was concerned about noise and fumes, but with the proposed new landscaping and buffer that exists, he feels that it will help.

With no further comments from the public, the public portion was **closed** on a **motion** by Ada Erik and a **second** by Steven Castronova.

Following a review of the various conditions of approval discussed during testimony, a **motion** was made by Steven Castronova with a **second** by Ada Erik to **approve** Application #PB-09-19-03 for a Minor Site Plan with Bulk Variance for ABDD LLC T/A Dunkin Donuts at 1521 Union Valley Road, Block 7621; Lot 2.

Roll Call

Yes: Steven Castronova, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

No: None.

Motion approved.

PENDING APPLICATIONS – None.

MEMORIALIZATIONS – None.

NEW OR ONGOING BUSINESS

Redevelopment Study – Planner Owen Bonnet advised the Board that the Governing Body has requested a redevelopment study for property located at 1938 Union Valley Road, the site of the former A & P Shopping Center, to determine if they can meet the criteria for a re-development area. Research will begin in January, and a subcommittee will be formed to review the information. If the Board concurs with the finding of the study, a recommendation will be made to the Governing Body for redevelopment designation. This study should take about 30-60 days and is anticipated to be completed by March 2020. Chairman Christopher Garcia commented that this matter should be under the Master Plan Committee, and those members will be appointed at the Planning Board Re-organization meeting in January.

Highlands Economic Development Study

Mr. Bonnet further advised that the Highlands Council has provided grant funds for a Highlands Economic Development study, and a subcommittee of the Board must be formed to begin the research required for the study. This project will take about one

year for completion and will entail public outreach and meetings, demographic analysis, etc. The focus will be the downtown area of Hewitt, near Greenwood Lake. Board member Ada Erik commented that it may be overwhelming for one committee to do the work for both matters, and suggested two separate committees. Chairman Garcia requested more information and clarification from the Board Planner, Jessica Caldwell, and advised that this matter will be on the January 23, 2019 agenda.

BOA Annual Report for 2018 – Chairman Christopher Garcia advised that the Board and their professionals were in receipt of the Board of Adjustment Annual Report for 2018 and it will be reviewed.

On another matter, Board Member Ada Erik inquired about the procedure for paying the Board professionals for special meetings, referring to a recent Board of Adjustment application that required several special meetings to accommodate the applicant and residents, in addition to the regular meeting schedule. The Board Secretary advised that the applicant will be charged for the Board professionals' fees when a special meeting is required for a particular application. Ms. Erik requested that the Ordinance Subcommittee prepare a draft ordinance, or an amendment to the existing land use ordinance that stipulates this. The Board concurred that this should wait until the new year after appointments to the subcommittees are made at the annual re-organization meeting of the Board. Ada Erik noted that the Governing Body is reviewing the attendance records and will take them into consideration when making appointments to the various Boards and Committees.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL – Chairman Christopher Garcia advised the Board that the Short Term Rental Ordinance was adopted, and Ada Erik reported that the Governing Body made some adjustments to the ordinance based on the comments received from the prior Planning Board meeting on November 7, 2019. She reviewed some of the items including lake association notification, 3 day minimum rental period, and appeals for denials.

BOARD PLANNER'S REPORT – None.

BOARD ATTORNEY'S REPORT – None.

BOARD ENGINEER'S REPORT – None.

MISCELLANEOUS

Invoices

The Board professional's invoices for the months of October and November were **unanimously approved** on a **motion** by Steven Castronova with a **second** by Warren Gross.

MINUTES

The Minutes from the November 7, 2019 regular meeting were **unanimously approved** by the Board members who were present at that meeting, on a **motion** by Geoffrey Syme and a **second** by Warren Gross.

CORRESPONDENCE RECEIVED:

The following correspondence items were reviewed by the Board:

Highlands Water Protection and Planning Act Correspondence – None.

NJ Department of Environmental Protection Correspondence

1. NJDEP Freshwater Wetlands LOI-Line Verification, dated Nov. 1, 2019, received for George Mesiha, Block 16901; Lot 4, Canistear Road, regarding the construction of a new S.F. dwelling.
2. Correspondence from McKittrick Engineering, dated October 31, 2019, advising of a Treatment Works Approval Permit to alter a septic system.
3. Correspondence from Houser Engineering, dated November 19, 2019 regarding 687 Morsetown Road, Block 5708; Lot 11, for a FW G.P. #24 with respect to the repair of an existing septic system.

4. NJDEP Suspected Hazardous Substance Discharge notification, dated November 24, 2019, regarding Block 6203; Lot 13.1, Marshall Hill Road, for a release due to a cracked chemical feed line at the Birch Hill Sewer Plant, with clean up pending.
5. NJDEP Suspected Hazardous Substance Discharge notification, dated November 23, 2019, regarding Block 14102; Lot 1, Route 23, City of Newark Pequannock Water Treatment Plant, advising of a spill of fluids (potassium permanganate) inside the facility from a line that feeds a large bin, with fluids exiting the building. Non-emergent at this time.
6. Classification Exception Area (CEA) correspondence, dated November 20, 2019, received from Practical Environmental Services, advising of an investigation of ground water contamination at the Belcher Run Shopping Center site, 1590-1610 Union Valley Road, Block 6401; Lots 1 & 3.

Miscellaneous Correspondence – None.

ADJOURNMENT

Prior to adjourning, the Board members reviewed the upcoming meeting schedule. Mr. Germinario advised that the resolutions for the application approved at this meeting will be prepared and ready for adoption at the December 19, 2019 Planning Board meeting. The Planning Board Re-organization meeting and first Regular meeting will be held on January 23, 2020.

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the regular meeting of December 5, 2019 at 9:15 p.m. on a **motion** made by Steven Castronova with a **second** by Ada Erik.

Approved: December 19, 2019

Respectfully submitted by,

Tonya E. Cubby, Secretary