

# **TOWNSHIP OF WEST MILFORD**

## **PLANNING BOARD**

### **REGULAR MINUTES**

**December 18, 2008**

**7:30 p.m.**

#### **Main Meeting Room of Town Hall**

The regular meeting of the Planning Board was opened at 7:35 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, Chris Rosica Clinton Smith (7:48), Councilman Philip Weisbecker, Alternate Kerry Goceljak, Consulting Planner Joanna Schlagle, Board Engineer Paul Ferriero, Board Attorney Thomas Germinario, and Michael Hakim, Landscape Architect.

**Absent:** Michael Siesta.

Chairman Gargano asked Kerry Goceljak to sit on the Board until Clinton Smith arrived.

#### **PUBLIC PORTION**

Ray Kilgallon – Adelaide Terrace – Mr. Kilgallon inquired about the lights on the trees in Veterans Park not being lit, adding that it is an insult to the veterans. Councilman Weisbecker advised that Mr. Kilgallon should contact Karl Danckwerth for any concerns about the Veterans Park.

**SITE PLAN APPLICATION REVIEW WAIVERS** - None

#### **APPLICATIONS**

##### **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 clarification of specific conditions of Resolution No. 2008-7.

Vincent Lanza was present to address the Board and was sworn in by Mr. Germinario. Mr. Lanza requested clarification of condition #11 of the approval for his preliminary and final for the former Vreeland Store on Macopin Road. Mr. Germinario reviewed the condition #11 for the Board, advising that this condition limited the use of the store to general retail sale of goods and ancillary sale of prepared food, with up to 10% of the retail area for counter and stools. Mr. Lanza advised that he applied for a "zoning permit" for a country inn, which was a permitted use, but the zoning permit also said that he had to abide by the conditions set forth in the Planning Board resolution. Mr. Lanza said that it was his understanding that the adaptive re-use ordinance permitted him to have a country inn with a restaurant. Mr. Germinario stated that the ordinance permitted a country inn with a restaurant or a country store engaged in general retail, but that the applicant could not have both, to which Mr. Lanza concurred. He added that he applied for zoning for a country inn with a restaurant, as that was a permitted use. The Chairman inquired if there was a percentage determining the size of the restaurant required with a country inn. Mr. Germinario advised that the permitted adaptive use for a country inn was a country inn providing rooms for transient guests, which may include a restaurant open to the public. There is no limitation on the space that the restaurant needs to encompass, noting that room must be reserved for transient guests. Mr. Germinario advised the Board that he had no problem with amending the site plan as long as the Board concurred. He added that a new approval could be issued for a country inn use, but noted that the applicant had opted for the country store use during the public hearing for this application. Mr. Lanza stated that he was not aware at the public hearing that he could only have one use for the site, and he is still not convinced that he is only permitted to have one use. He asked for more clarification on the permitted use, whether it is a country inn and antique store, a country store, or a bed and breakfast. Mr. Germinario advised Mr. Lanza that there may be different planning considerations that go into a site functioning as one of the noted uses. The Planning Board has to review these issues and determine what works best for the site in question so that it is consistent with the use proposed. Mr. Lanza was advised to apply for an amended site plan approval and then the site will be reviewed for functioning as a country inn. Mr. Germinario also advised Mr. Lanza that the matter would go to the Board of Adjustment if he wanted to add uses in addition to the permitted use, such as office space or a restaurant use, but if he was changing from a general store to a country inn, the matter can be brought to the Planning Board through an amended site plan approval. Mr. Ferriero, Board Engineer, advised that submission of floor plans of the building would be necessary in order to determine the number of seats and rooms for guests, to evaluate the parking, and septic capacity. Mr. Germinario advised that if Mr. Lanza is substantially changing the permitted use, which Mr. Lanza proposes, then an amended site plan is necessary for review of the site as it relates to the changed use.

**CARRIED APPLICATIONS**

**INSERRA/WEST MILFORD, LLC (SHOPRITE)**

**Preliminary & Final Site Plan #0720-0308AB**

**Bulk Variance #0730-0793**

Block 6303; Lots 15 & 16

Marshall Hill Road; CC Zone

Seeking preliminary & final site plan approval and variance relief for expansion of existing supermarket and improvements to Shopping Center.

John Wyciskala, attorney for the applicant Inserra/West Milford LLC (Shop Rite), addressed the Board regarding the new plans that were submitted as a result of prior testimony and the resulting comments of the Board and Board professionals. Mr. Wyciskala briefly reviewed the architectural and engineering revisions that included added handicapped spaces and sidewalks at one of the entranceways in response to Mr. Hakim's comments. The new plans also include a total of 150 feet of acoustic panels on the fencing in the rear of the shopping center as a sound barrier. Prior to the revisions that would be presented by the applicant's architect, Anthony Guzzo, Mr. Wyciskala commented on a complaint about the discarding of grease into storm drains behind Shop Rite. Mr. Wyciskala advised that in response, Shop Rite installed security cameras and lighting in an effort to discourage further incidents, but Shop Rite subsequently received complaints about the halogen lighting affecting a neighboring property owner. He advised that the applicant has been responsive in trying to get this matter resolved.

Anthony Guzzo, the applicant's architect, reviewed the revised plans with regard to signage and roof equipment. He reviewed Exhibit A-9, dated 12/18/08 depicting elevations of the West Milford Shopping Center. Mr. Guzzo referred to Exhibit A-8 in comparison of the new plans presented, noting the cleaner lines overall and simplified rooflines in the new plans. He presented samples of the materials proposed for the renovation including the cultured stone, brick and cement board siding and noted that the lighting will include decorative fixtures in the retail area. Board member, Chris Rosica, inquired about using murals of historic photos, and Mr. Guzzo replied that he would not be opposed to this providing the manufacturer could reproduce. Mr. Rosica noted that the local museum and Heritage Committee have photos that could be available for use.

Mr. Guzzo reviewed Exhibit A-10, dated 12/17/08, depicting signage on the buildings and the site. Mr. Guzzo noted that there is no new signage proposed for the tenants at this time, but signs would be replaced if tenancy changed. He reviewed details of the Shop Rite logo that would appear on the shopping center. The Board discussed the sign proposed for the parking area, including height, width, materials proposed. Exhibit A-11 prepared by Omland Engineering, representing the proposed site plan and parking area, was reviewed. It was noted that there were two existing signs and no new signage was being proposed for Wachovia at this time due to the ambiguity with regard to administration of the bank. The sign height was discussed, and the Board concurred that it should be shorter than the proposed 20 feet. The Board also concurred that the Wachovia sign should be reduced to 18 feet in height and possibly relocated to the corner. The applicant will contact the owner.

Next reviewed for the Board was Exhibit A-12, dated 12/17/08, depicting roof top equipment. It was noted that most of the equipment was being reused and, for the most part, will not be visible from the adjacent properties. Exhibit A-13 illustrated a side section of the roof line, with the existing mechanical units closer to the edge and the new units about 60 feet from the edge. Mr. Guzzo testified that an attempt will be made to make the roof lines three dimensional wherever possible. Mr. Wyciskala clarified for the Board that the height of the towers would be 38.6 feet, noting that an incorrect height was denoted on the plans and would be corrected in the revised plans.

Bill Hamilton, Omland Engineering, was present to testify for the applicant as a professional planner. He reviewed the variances that would be necessary with approval of this site plan: rear yard setback, lot coverage, impervious cover, parking lot buffers, signage area below the minimum required, number of parking spaces below the minimum required, and building height. Mr. Hamilton noted that all requests for variances resulted from the renovation of an existing facility. The project includes architectural upgrades, improved lighting, drainage, traffic flow, and addresses the general safety and welfare of the public, provides adequate space and transportation routes, circulation improvements, and a desirable visual environment. Mr. Ferriero referred to his memo of December 12, 2008 and Mr. Hamilton advised that all issues would be addressed. Michael Hakim, the Board's Landscape Architect, referred to his report from December 9, 2008 outlining some concerns. Mr. Hakim raised the issue of coordinating the streetscape plan with the site plans for the applicant. Richard McFadden noted that the sidewalks are proposed to be concrete and the lighting has not been chosen yet. He stated that he had met with the county that week on the conceptual plans, and the plans will need to go to the Planning Board then the Council before approval. The applicant agreed to Belgium block curbing to be installed along Marshall Hill Road. Mr. Ferriero advised that the applicant should bond for any changes to their site that are necessary as a result of the approved streetscape plan, adding that the bond will insure that the final design will match the streetscape.

With testimony completed, the Chairman opened the hearing to the public. The following addressed their concerns with the Board:

Ray Kilgallon – 48 Adelaide Terrace – Mr. Kilgallon expressed concern about the dumping of grease into the drainage pipes. He commented that the Health Department advised him that this was not the first incidence on the site, and he asked for the light on the Shop Rite property to be relocated to illuminate the area in question. He noted that the water draining from the subject pipe drains onto neighboring properties. Mr. Kilgallon requested a fence or buffer in front of the drain to discourage illegal dumping. He also raised an issue of drainage from roof runoff. Mr. Ferriero, Board Engineer, advised that when the project is completed less water runoff will occur, adding that a curb will not alleviate all the water from draining unto neighboring properties. Mr. Hamilton advised that a new curb is proposed with  $\frac{3}{4}$  in stone and inlets added to assist in drainage throughout the site.

Marilyn Lichtenberg - Hudson Drive – Mrs. Lichtenberg inquired about the entrances and exits to the grocery store, in particular the size of the doors, width of the entrance and the use of vending machines in the entrance. Mr. Guzzo advised that the ingress and egress have been improved with the new plans, with two new entrances and exits, wider doors than the existing that are ADA accessible. He advised that he would try to soften the bend for the exiting, and noted that the addition of a second entrance and exit would help to alleviate congestion. Mrs. Lichtenberg asked the Board to consider not allowing vending machines at the exits.

Pete Oselador - Heather Lane – Mr. Oselador asked for clarification on the fencing, and the architect advised that the sound barrier would be installed on two 75-foot sections, behind the shopping center and the theater. Mr. Oselador inquired about shrub planting on the resident's side of the fence, and the applicant's attorney responded that they are proposing shrubs on the backside of the sound barrier sections in response to Mr. Hakim's report.

Jim Novack – Larchmont Drive - Mr. Novack inquired about grease dumpsters being installed. The Chairman advised that this was a Health Department issue. Mr. Novack inquired about the maintenance of sidewalk snow shoveling, maintenance of the trees, to which Mr. Hakim responded that the applicant has provided a two-year guarantee on the trees. Mr. Novack also questioned the hours of construction and noise levels, and Mr. Wyciskala advised that this would be addressed in pre-application meetings, adding that the applicant will adhere to all ordinances.

With no one else wishing to address this matter, the public portion was closed on a **motion** by Councilman Philip Weisbecker and **seconded** by Chris Rosica.

Mr. Germinario reviewed the following conditions for the Board:

The applicant will contact the Wachovia Bank owner and attempt to have them move their sign to the corner, or reduce the height of the sign to 18 feet.

The height calculations on the plans will be corrected.

Receipt of a Highlands Exemption.

The applicant will meet with the Fire Marshall to address emergency fire access, referencing his memo of December 18.

The shopping center rear lighting will have cut off shields installed as soon as possible.

All items in the Board Engineer's report of December will be addressed.

All vacant trees will be replanted per Mr. Hakim's report.

The plans will reflect that the Wachovia islands will have trees.

Items # 4 and 5 in Mr. Hakim's report will be addressed.

All improvements will be bonded and the construction will comply with the streetscape design.

Belgium block curbing will be installed along Marshall Hill Road.

The applicant will comply with the ordinance regarding outside storage of materials.

The applicant agrees to have storage / delivery trucks removed from the site within 8 hours.

Emptying of the sweeper machine will not occur before 8:00 am or after 7:00 pm.

**Motion** by Chris Rosica with a **second** by Councilman Philip Weisbecker to approve the preliminary and final site plan with variances for Inserra/West Milford, LLC (Shop Rite) with conditions.

**Roll Call:**   **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Geoffrey Syme, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
                  **No** - Clinton Smith.

## MEMORIALIZATIONS

**RESOLUTION NO. 2008-27**

**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

**Granted:** Time extension for filing Minor Subdivision deeds.

**Motion** by Councilman Philip Weisbecker with a **second** by Geoffrey Syme 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, Clinton Smith, Geoffrey Syme, Councilman Philip Weisbecker.

**No** - None.

**RESOLUTION NO. 2008-28**  
**AWOSTING ASSOCIATION INC.**  
**Minor Subdivision #0810-1984**  
**Bulk Variance #0830-0807**

Block 4106; Lot 1

99 Long Pond Road; LR Zone

**Granted:** Minor Subdivision approval with conditions and Variance relief to subdivide one lot with an existing structure into two building lots.

**Motion** by Steven Castronova with a **second** by Councilman Philip Weisbecker to approve Resolution No. 2008-28 granting Minor Subdivision with Bulk Variances to Awosting Association, Inc.

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

**No** - None.

**ORDINANCES FOR INTRODUCTION** – None.

**ORDINANCES REFERRED FROM COUNCIL** – None.

**BOARD ATTORNEY’S REPORT** – Mr. Germinario advised that he has prepared amendments to the By Laws, and Board members were asked to be prepared to discuss and adopt them at the January 8, 2009 Workshop meeting.

**PLANNER’S REPORT** – None.

**MISCELLANEOUS**

**Planning Board By-laws Amendments**

The Board members discussed the following as possible amendments to the By-laws: the addition of an Engineer’s report on the agenda; clarification of mandatory education for members; clarification of absences; deadlines for new testimony at Board meetings; and clarification of appointments and terms for members. Mr. Germinario has been discussing the By-laws amendments with the Township Attorney, Fred Semrau, in an effort to have them comply with State and local laws. Mr. Germinario noted that the order of business can be changed at the discretion of the Chairman. The by-laws amendments will be discussed further in January.

**SUBCOMMITTEE REPORTS**

**Master Plan Subcommittee** – None.

**Ordinance Subcommittee** – The Chairman announced that the Ordinance Subcommittee will meet at 5:00 on January 22, 2009.

**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., and Hakim Associates.

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

**No** - None.

**MINUTES**

**Motion** was made by Steven Castronova with a **second** by Councilman Philip Weisbecker to approve the minutes of the November 6, 2008 Planning Board Regular meeting.

**Roll Call:**   **Yes** - Mayor Bettina Bieri, Steven Castronova, Richard McFadden, Douglas Ott, Chris Rosica, Clinton Smith, Councilman Philip Weisbecker, Chairman Andrew Gargano.  
                  **No** - None.

The Chairman announced that the December 4, 2008 Planning Board Regular meeting minutes will be on the agenda for approval at the next Planning Board meeting.

### **COMMUNICATIONS**

*The following communications were noted and filed:*

1. Letter from the NJ DEP Office of Engineering & Construction dated November 26, 2008 regarding an Inspection Report for Henion Pond Dam, Camp Vacamas, Macopin Road – dam found to be in need of repair. Request for submission of a 2004 Hazard Classification Study by December 31, 2008.
2. Letter from NJ DEP – Green Acres Program requesting information on Block 17302; Lot 9, off Hemlock Lane, owner Pinecliff Lake Community Club, for possible acquisition.
3. Notice from NJ DEP regarding West Milford Lake Dam, denying a request for a six-month extension, and advising the owner of a January 12, 2009 deadline for submission of a schedule for complete repair or permanent removal of the West Milford Lake Dam.
4. Letter to Michael Friedman, Camp Vacamas, regarding Henion Pond Dam, Macopin Road, advising of an inspection report finding the dam to be in poor condition with repairs and maintenance of the site necessary, in addition to requesting a 2004 Hazard Classification Study by December 31, 2008.

### **HIGHLANDS WATER PROTECTION AND PLANNING ACT**

*The following were noted and filed:*

1. Letter dated December 3, 2008 from the NJ DEP Highlands Office to Richard Slifer, Block 10602; Lot 39 for 62 Schofield Road, noting that the matter of wood chip piles in the 300 ft riparian buffer is resolved - the piles were present prior to the Category 1 classification of Westbrook Creek. Also advising that further disturbance is prohibited.
2. Letter to the NJ DEP - Highlands Office from Tibor Lanticsics of Conklin Associates dated December 10, 2008 regarding the Awosting Minor Subdivision, 99 Long Pond Road, Block 4106; Lot 1 - submission of additional items for Highlands review, including a copy of a Resolution of approval and revised plans.

### **ADJOURNMENT**

With no further business to come before the Board, the meeting adjourned at **10:47 p.m.** on a **motion** by Councilman Philip Weisbecker and a **second** by Richard McFadden.

Approved: January 22, 2009

Respectfully submitted by,

Tonya E. Cubby  
Secretary