

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

**Minutes
JULY 24, 2002
Regular Meeting**

Chairman, Michael Tfank, called the meeting to order at 7:38 p.m. with the reading of the legal notice.

ROLL CALL

Present: Paul Donoghue, Robert Moshman, James O'Bryant, George Spence, Robert Szuskowski, Andrew Tynan, Kurt Wagner. Alternates: Ada Erik, Leslie Tallaksen. Chairman: Michael Tfank. Board Attorney: Glenn Kienz, Esq. Planning Director: William Drew, P.P. Consulting Engineer: Robert Kirkpatrick, P.E.

Absent: Edward Orthouse

Chairman appointed Ada Erik to sit for absent member.

PUBLIC PORTION

As no one wished to speak a **MOTION** was made by Ada Erik, seconded by Paul Donoghue, to close the public hearing. On voice vote all were in favor.

APPLICATIONS

KERRY GREENE

COMPLETE: 05-13-02

Preliminary Subdivision #0110-1910

DEADLINE: 09-10-02

Bulk Variance # 0130-0501

Block 10001; Lots 14, 19, 20, 23

Wooley Road; R-3 and R-4 Zones

Application for subdivision with variance relief requested to subdivide four existing lots to create 21 residential building lots.

Glenn Kienz, Esq., the Board Attorney, advised that the applicant had met with the Planning Staff and there were some differences as to the potential development of the site. Mr. Kienz received a call from the applicant's attorney, H. Shepard Peck, Esq., who requested that the application be carried and a meeting be scheduled with the staff to resolve the total number of lots that the property could accommodate. The applicant granted the Board a time extension and the matter was carried to the September 25th meeting with no further notice required. Applicant to submit revised plans at least 10 days prior to the meeting.

VINCENT LANZA

COMPLETE: 06-12-02

Minor Subdivision #0110-1941

DEADLINE: 10-10-02

Bulk Variance #0130-0548

Block 3508; Lot 3

Lakeside and Gleason Roads; R-1 Zone

Application for subdivision with variance relief to create two residential building lots.

The applicant testified that he proposed to create two building lots requiring variances for lot width on lot 3.01 and lot width and lot depth on lot 3.02. The County objected to access off of Lakeside Road. He indicated that access would be safer off of Gleason Road and he did not feel that water availability was a problem. The proposed lots are larger than the neighboring lots.

William Drew, Planning Director, expressed concern with creating flag lots with new homes constructed in the rear yards of existing homes. He suggested the applicant investigate alternative locations.

The applicant explained that the proposed plan provided a safer ingress and egress and in his opinion it was the best location for the homes. The proposed plan would not create an undesirable situation.

The meeting was opened to the public and as no one wished to speak a **MOTION** was made by James O'Bryant, seconded by Kurt Wagner, to close the public hearing. On voice vote all were in favor.

In discussion the Board noted that during a site inspection concern was expressed with the location of the proposed homes and it was felt that alternatives should be explored. The Board recommended that the applicant meet with the Planning Staff and work out some alternative locations for the homes and driveways as discussed.

The application was carried to the September 5th meeting of the Board with no further notice required.

DOUGLAS J. McMILLIN (Rita's Italian Ices)
Preliminary and Final Site Plan #0220-0128AB

COMPLETE: 07-10-02
DEADLINE: 08-24-02

Block 3503; Lot 23

1939 Union Valley Road; CC Zone

Preliminary and final site plan for site improvements to reoccupy existing building for commercial retail use.

Kurt Wagner recused himself and Leslie Tallaksen was appointed to sit in his place.

Ira Weiner, Esq. representing the applicant outlined the history behind the application.

William Drew, Planning Director, explained why the job was halted and noted that the applicant had been fully advised as to what was required of him.

Mr. McMillin testified that he proposed to sell Italian ices at a walk-up window at the front of an existing building; there would be no indoor seating. He explained the previous uses and condition of the building, which he leased. In addition to the commercial building there is an existing house to the rear of the property. The parking to the side of the building would remain the same. Three parking spaces at the front of the building were removed in order to provide a concrete deck and to prevent customers backing onto Union Valley Road, a County road. The County had also advised that the parking spaces should be removed. A sign approximately one foot from the property line and an awning had been installed. The Board requested that the sign be relocated and reduced in size to comply with Township Ordinances. The applicant agreed to this and stated that he would also conform to the recommendations of the County and the Building Subcode Official regarding ADA compliance.

A readjustment of the parking was discussed. Mr. Weiner indicated the A&P granted permission for the applicant's employees to utilize their parking lot, which is across the road.

During the public hearing Uwe Dreyhaupt, owner of the adjacent property, expressed concern that his parking lot would be used for overflow parking by the applicant's customers. He also requested that a fence be constructed between the two properties. The applicant agreed to install a fence to discourage patrons from using Mr. Dreyhaupt's property.

As no one else wished to speak a **MOTION** was made by James O'Bryant, seconded by Ada Erik, to close the public hearing. On voice vote all were in favor.

MOTION made by Paul Donoghue to approve the application subject to the conditions outlined in the Planning Director's report dated July 19th, the Health Department report dated July 17th and the Planning Board Engineer's report dated July 24th with the additional conditions that the sign be relocated; that a four-foot fence of natural material be installed along the property line and that comment 18 be removed from the plans. Seconded by Ada Erik.

The Board Attorney recommended that no Certificate of Occupancy be issued until all the outstanding issues have been completed.

On roll call vote: Yes - Paul Donoghue, Robert Moshman, James O'Bryant, George Spence, Robert Szuszkowski, Andrew Tynan, Ada Erik, Leslie Tallaksen, Michael Tfank.

VALLEY RIDGE DEVELOPMENT CO.

Preliminary Site Plan #9620-0041

Block 8002; Lot 4

Union Valley Road; R-1/PN Zone

Request for time extension for preliminary site plan of 108 townhouses.

William Drew stated that this application had been granted previous time extensions by the Board. The applicant had filed for final site plan approval and had also requested an extension of the preliminary approval. The Board Attorney explained that the MLUL permits an applicant to apply for final approval prior to the expiration of their preliminary approval and that this would protect the application. Mr. Drew indicated the formal final site plan application filed by the applicant was significantly incomplete. Board members noted that the applicant had previously stated he was waiting for state permits. There was discussion on whether or not the applicant had filed for the permits. The Board indicated that they had advised the applicant at the time of his last time extension request that this was the final extension that the Board would grant.

Mr. Kienz recommended that based on the incompleteness of the application that the Board set it down pre-emptorily and that the applicant be requested to complete the application and appear at the September 25th meeting of the Board.

MEMORIALIZATIONS

SCOTT LEONESCU

RESOLUTION NO. 2002 - 20

Minor Subdivision #0110-1940

Bulk Variance #0130-0547

Block 9801; Lot 28 & 29

Union Valley Road; R-1 Zone

APPROVED: Minor subdivision with variance relief to create 3 residential building lots.

William Drew, Planning Director, advised that there was a modification to one of the conditions regarding the metes and bounds description of the conservation easement along the rear of the property. The applicant expressed concern regarding the perpetuity of the conservation area and the effect it would have on the future subdivision of the property. Mr. Drew indicated that an expiration clause could be incorporated into the deed to extinguish the conservation area should a new subdivision be proposed. The resolution before the Board included the change requested by the applicant.

Several Board members indicated that this was not what they had approved and they were uncomfortable with the change.

MOTION made by George Spence to memorialize Resolution 2002 – 20 provided that on page 4 of said resolution that the last two lines of condition 2B(2) are stricken. Seconded by Ada Erik.

A vote was taken which resulted in a tie. The matter was further discussed and a new motion was presented.

MOTION made by George Spence to memorialize the resolution as drafted with the exception of revising condition #2B(2) to read as follows: "For proposed lots 28.02 and 28.02 contain a deed restriction to prohibit any disturbance within the rear 30 feet of the lots, said conservation area to be described by metes and bound." The two lines after that are to be stricken. The purpose of this change is to create a conservation easement in

perpetuity with the land. There would be no extinguishing of it and it would run with the land. Seconded by Ada Erik.

On roll call vote: Yes – George Spence, Robert Szuszkowski, Kurt Wagner Ada Erik
No - None

The applicant, Scott Leonescu, requested to speak and explained that his concern was that if the property was recombined that it could not be used as farmland. The Board Attorney advised him that this was not a concern.

PATRICIA SCALA

RESOLUTION NO. 2002 - 24

Minor Subdivision #0110-1931

Variance #0130-0495

Block 5003; Lot 8

Rockburn Pass; R-4 Zone

APPROVED: Subdivision with variance relief to subdivide an existing lot to create three (3) residential building lots.

William Drew advised that the applicant's engineer questioned condition 2B(2) regarding the term conservation area. He suggested that the wording "deed restricted conservation area" be deleted from the resolution. The condition should read, "Include the wetlands and transition areas described by metes and bounds."

MOTION made by George Spence to memorialize Resolution No. 2002 – 24 with correction to condition 2B(2) of staff report dated July 19, 2002. Seconded by Ada Erik.

On roll call vote: Yes - George Spence, Andrew Tynan, Kurt Wagner, Ada Erik, Michael Tfank.
No - None

VINCENT LANZA

RESOLUTION NO. 2002 - 25

FINAL SUBDIVISION #0110-1893B

Block 6002; Lot 2

Morsetown Road; R-4 Zone

APPROVED: Final subdivision for the creation of 4 building lots.

MOTION made by Paul Donoghue to memorialize Resolution No. 2002 – 25, seconded by Kurt Wagner.

On roll call vote: Yes – Paul Donoghue, Robert Moshman, James O'Bryant, George Spence, Andrew Tynan, Kurt Wagner, Ada Erik, Michael Tfank.
No - None

RONN KIDD

RESOLUTION NO. 2002 - 26

Amended Preliminary Subdivision #9610-1876A

Final Subdivision #0110-1876B

Block 2202; Lot 1

Long House Dr.; R-4 Zone

APPROVED: Amended preliminary and final subdivision to create 8 building lots.

MOTION made by James O'Bryant, seconded by Ada Erik, to memorialize Resolution No. 2002 – 26.

On roll call vote: Yes - James O'Bryant, George Spence, Andrew Tynan, Kurt Wagner, Ada Erik, Michael Tfank.
No - None

ORDINANCES REFERRED BY COUNCIL - None

PLANNING DIRECTOR'S REPORT – No report.

PLANNING BOARD ATTORNEY'S REPORT – No report.

MISCELLANEOUS

Report of findings of Natural Resource subcommittee concerning Master Plan review included in packet sent to Board members. Members suggested letters be sent to the members of the committees thanking them for their help and cooperation.

William Drew advised that an affordable housing unit at Bald Eagle was for sale. Currently there is a resident interested in purchasing the unit. However, although she is eligible under the income requirements, she does not meet the age restriction of the facility, which was created by Township Ordinance. The owner of the facility was contacted and he did not object to waiving the age restriction. It was noted that this had been done once before.

MOTION made by James O'Bryant, seconded by Kurt Wagner, to waiver the age restriction.

On roll call vote: Yes – Paul Donoghue, Robert Moshman, James O'Bryant, George Spence, Robert Szuszkowski, Andrew Tynan, Kurt Wagner, Ada Erik, Michael Tfank.
 No - None

Status of Post Office discussed. Board Attorney to follow up on matter.

By unanimous consent the August regular meeting was cancelled.

William Drew noted that the Township had received an Office of Environmental Services grant. David Bell, PHD, was hired to perform water quality assessments that will help protect stream corridors in the Township. In connection with this a new Master Plan subcommittee on water quality was being created. The High School Science Department would be involved with this project as well as two Environmental Commission members and two Planning Board members. James O'Bryant and Robert Szuszkowski volunteered to serve on the committee.

STAFF REPORTS/MEMOS TO TOWNSHIP MANAGER/COUNCIL

Following noted and filed:

Memo from William Drew to Kenneth Hetrick, Township Manager, regarding T&M's billing for Smart Growth.

Memo from William Drew to Kenneth Hetrick and Township Council re Rita's Italian Ices.

Memo from William Drew dated July 16, 2002 to Kenneth Hetrick regarding Interoffice Data Sharing with Health Department.

Memo dated July 17, 2002 from Kevin J. Byrnes, Township Clerk, regarding Open Public Records Act Update.

MINUTES

MOTION made by James O'Bryant, seconded by Paul Donoghue, to approve the minutes of the February 27, 2002 regular meeting. On voice vote all eligible members voted yes.

COMMUNICATIONS

Letters from the Passaic County Planning Board regarding the following applications:

Orchard View Estates – Preliminary Subdivision – Block 7701; Lots 7 and 8, Union Valley Road – approval withheld pending receipt of additional information.

Rita's Italian Ice – Site Plan – Block 3503; Lot 23, 1939 Union Valley Road – approval withheld pending receipt of revised plans.

Valley Ridge at West Milford – Site Plan – Block 8002; Lot 4, Union Valley Road – request to waive traffic study was denied and additional information was requested concerning the proposed deed.

Copy of letter dated June 17, 2002 from Roman Szymansky to the Department of Environmental Protection expressing concern regarding the disturbance of wetlands in connection with the construction of Lake Isle Drive, Block 11701; Lot 11 and Block 11701; Lot 1.10.

Copy of letter dated July 2, 2002 from Kenneth Hetrick to the Association of New Jersey Environmental Commissions re supplement to a grant application filed on May 10, 2002 for Water Resources as a Development Constraint in a Planned Community.

Notice dated July 1, 2002 advising that WM UV Associates, LLC is applying for a Letter of Interpretation, General Permit, and Transition Area Waiver for property located on Union Valley Road, Block 7701; Lots 7 and 8.

Notice dated June 26, 2002 from Ballester & Associates advising that Albertine Cuttillo is applying for a Letter of Interpretation for property located at 23 Macopin Terrace, Block 13203; Lot 42.

Letter from Douglas McKittrick dated June 25, 2002 advising that Dennis Kyle is applying for a Letter of Interpretation for property located on Cherry Ridge Road, Block 17201; Lot 17.

Notice dated July 3, 2002 advising that Charles Aikey is applying for a Letter of Interpretation for property located on Clinton Road, Block 17302; Lot 3.

Notice dated July 1, 2002 advising that the Township is applying for a Letter of Interpretation for property known as Farrell Field, Block 6002; Portion of Lot 28.02.

Letter dated July 19, 2002 from McKittrick Engineering Associates, Inc. advising that Ernest Oakes is applying for a Letter of Interpretation for property located on Burnt Meadow Road, Block 6002; Lot 44.03.

Copy of letter dated July 22, 2002 to Michael Tfank from Kenneth Hetrick, Township Manager, in response to Mr. Tfank's letter regarding the billing for the T&M Contract.

Copy of letter dated July 19, 2002 from Kenneth Hetrick, Township Manager, to the Association of New Jersey Environmental Commissions enclosing supplements to the ANJEC grant application.

ADJOURNMENT

Meeting adjourned by unanimous consent at 9:51 p.m.

Respectfully submitted,

Grace R. Davis
Secretary