

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

**Minutes
July 12, 2007
REGULAR MEETING**

The regular meeting of the Township of West Milford Planning Board was called to order at 7:33 pm by Leslie Tallaksen, Vice Chairperson, with a reading of the Legal Notice and the Pledge of Allegiance.

ROLL CALL

Present: Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, Alternates: Thomas Harraka, David Volpe. Acting Chairperson: Leslie Tallaksen. Board Attorney: Byrant Gonzalez. Planning Director: William Drew, P.P. Board Engineer: Robert Kirkpatrick, P.E.

Absent: Chairman Michael Tfrank, James O'Bryant, Douglas Ott, Michael Siesta.

Chairperson Leslie Tallaksen appointed Thomas Harraka and David Volpe to sit for absent Board members.

PUBLIC PORTION

With no one present wishing to be heard, a motion to close the public portion of the meeting was made by Steven Castronova, with a second by Kurt Wagner.

SITE PLAN WAIVERS

None.

APPLICATIONS

ERNEST OBERER

Minor Subdivision #0510-1975

Block 14201; Lots 14 & 15

350 Germantown Road; R-3 Zone

Lot line adjustment to provide for construction of a single-family dwelling.

COMPLETE: 02-22-07

DEADLINE: 04-08-07

EXTENSION: 08-07-07

The applicant, Ernest Oberer, 350 Germantown Road, West Milford, NJ was present, along with his engineer, Douwe Dykstra of Dykstra Associates, PO Box 1047, Sparta, NJ. Mr. Gonzalez, Board Attorney, qualified Mr. Dykstra. The applicant initially appeared before the Board on March 22, 2007, and following concerns expressed by the Board Engineer regarding retaining walls and the proposed structure, Mr. Oberer asked for the matter to be carried in order to retain a professional to address these issues. An extension was subsequently granted by the Board on May 24, 2007, following a request by the applicant.

Mr. Dykstra, the applicant's engineer, reviewed the application for a Minor Subdivision, requesting a lot line adjustment to the common side property line for Lots 14 and 15 in Block 14201. The applicant had, prior to this hearing, submitted revised plans and the Board Engineer advised that same were acceptable. The Board Attorney confirmed with the applicant's engineer that the property is located in the R-3 Residential Zone and both properties will fully conform to the requirements of the R-3 Zone. William Drew, Planning Director, reviewed the application and explained that the relocation of this property line, as proposed, will correct that nonconforming status. Access to Lot 15 is provided by means of a driveway from Germantown Road. He further discussed the steep grades that are existing, and the location of the new dwelling proposed for the site. He questioned the applicant's engineer regarding the proposed driveway grades. Board member Steven Castronova inquired about the proposed driveway, location of the septic, and rocks on the site.

Robert Kirkpatrick, Board Engineer, advised that there were no outstanding issues of engineering significance and no issues with the plan submitted. Mr. Harraka questioned the applicant on the ownership of the two lots, as a questions had been raised at a prior meeting. Mr. Oberer stated that he was the owner of both lots, and an affidavit had been submitted attesting to this.

The Chair opened the meeting to the public for comment on the application. With no members of the public present expressing an interest in this application, the Board closed the public comment portion of the hearing on a motion by Steven Castronova with a second by Philip Weisbecker.

Motion made by Steven Castronova, seconded by Philip Weisbecker, to approve the application subject to conditions requested by the Board Planner and Engineer.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, David Volpe, Thomas Harraka, Leslie Tallaksen
No - None

SCOTT FLAMMER
Soil Fill Application #0760-0283
Block 5611; Lot 4
99 Center Street; LR Zone
Seeking Major Soil Fill Permit

COMPLETE: 06/18/07
DEADLINE: 08/02/07

Applicant Scott Flammer, 99 Center Street, West Milford, NJ, and his engineer Mark Palus, P.E., 170 Kinnelon Road, Kinnelon, NJ appeared before the Board for this application.

Mr. Palus reviewed the application before the Board, asserting that Mr. Flammer is the owner of the property. He noted that the property had considerable sloping issues, and the applicant desired to utilize the rear yard. The applicant applied for a major soil fill permit after the site work had already begun. The applicant's engineer outlined the work that needed to be completed, including moving in additional cubic yards of soil, the expansion of a driveway, removal of a gravel area and installation of a new gravel area with pavement, and a stone retaining wall in the rear.

Mr. Kirkpatrick advised that he had visited the site and he has issues with the driveway encroaching on the neighbor's property. He noted the differences in elevation on the site, and voiced his concern about the retaining walls. He questioned the gravel area for drainage, and the installation of a 1000-gallon collection tank that may have an adverse affect on the retaining wall.

Mr. Palus stated that Mr. Flammer had discussed the driveway encroachment issues with his neighbor. He had agreed to remove the gravel and replace and re-seed the soil.

Mr. Kirkpatrick advised that the applicant and his engineer need to revise the plans to reflect the current conditions. The applicant's engineer and the Board Engineer discussed the permeability of the soil, the seepage pit, the retaining wall, and the grade of the site. Mr. Kirkpatrick reiterated that the details necessary for proper analysis of the plans are not indicated.

Mr. Drew advised that the Board should deny the soil fill application based on the numerous concerns of the Board Engineer. He further advised that the applicant could revise his plan and submit the new plan for consideration by the Board. The applicant's engineer expressed concern about the site work that is half way completed, and noted that weather may become a factor if this application is not approved. He asked the Board to approve the application based on the Board Engineer's conditions. Mr. Kirkpatrick advised the applicant to have revised plans prepared and submitted to him for review, so that this matter could proceed as expeditiously as possible.

The Chair opened the meeting to the public for comment on the application. With no members of the public present wishing to speak on this matter, the Board closed the public comment portion of the hearing on a motion by Philip Weisbecker with a second by David Volpe.

The Board followed with questions for the applicant. Mr. Smith inquired if the site was commercial or residential, to which the applicant replied 'residential.' A Board member noted that if any neighbors objected, no one was present at this meeting to voice their opposition to the application. Mr. Weisbecker asked if the applicant had filed for Highlands approval, to which Mr. Drew replied that the site was an existing single-family house and was exempt. The Board members inquired about the Township right of way. Mr. Palus stated that Caroline Street had been vacated in June 2001, and that half of the vacated portion belonged to Mr. Flammer and half belonged to the neighbor. Mr. Weisbecker inquired about flooding issues and drainage, to which Mr. Palus replied that there were no problems with the recent April storms. Mr. Weisbecker noted that the work that had been performed was a violation of Township ordinance. The Board Attorney stated that the applicant was technically in violation of the ordinance, but that there were no harmful effects on the environment based on the proposed plans. He advised that the Board could not grant an extension of the application as the soil fill permits were very limiting in nature and had a 45 day period for decision. He further advised that they could deny the application without prejudice, and the applicant could revise and resubmit his plans.

Motion made by Philip Weisbecker, seconded by Thomas Harraka, to deny the application without prejudice.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, David Volpe, Thomas Harraka, Leslie Tallaksen
No - None

JON KLECKNER
Minor Subdivision # 0710-1981
Block 6303; Lots 6 and 7
Marshall Hill Road; CC Zone
Lot line correction

COMPLETE: 06/18/07
DEADLINE: 08/02/07

The applicant, Jon Kleckner, Marshall Hill Road, West Milford, NJ, was represented by John Barbarula, Esq., Barbarula & Associates, 242 Route 23 North, Butler, NJ. Mr. Barbarula reviewed the application, noting that the applicant is seeking approval of a lot line adjustment subdividing property from Lot 7, Block 6303 and annexing it to adjacent Lot 6 in Block 6303, and eliminate a building encroachment from Lot 6 onto Lot 7. He stated that both properties are currently occupied with existing single-family dwellings, and the Township zoning ordinance permits existing residential dwellings as a permitted use in the CC Zone. The applicant's attorney advised that the applicant would agree to provide a ten-foot wide sidewalk and shade tree easement along the entire frontage of both properties should sidewalks be installed in the future. This was in response to Board concerns about the draft Planning report indicating sidewalks on Marshall Hill Road. The Board noted that this easement must show on revised plans and be reflected in the subject deeds. When questioned about the use of the site, Mr. Barbarula stated that the applicant desired to renovate the existing dwelling in order to reside in it. He noted that the site is on a County road, and application to Passaic County Planning Board would be necessary. He also stated that the adjoining property is being sold. The approval of the minor subdivision will necessitate correction of the deeds. He stated that the lots will be more conforming with the subdivision proposed. He has alerted the attorney representing the owner of the adjacent property regarding the irregularities between the lots.

The applicant's attorney then addressed the concerns of the Board Engineer regarding the property gore and overlaps depicted on the submitted plan. It was advised that this should be referred to the applicant's surveyor, discussed with the Board Engineer, and

reflected on revised plans. The Board members questioned the ownership of Lot 13, and the parking area that was shared by the two properties. Several members expressed concern about approval of the application and any implication of approval of encroachment on the adjacent Lot 13. The application was clarified by the applicant's attorney, the Board Engineer, and the Board Attorney.

The Chair opened the meeting to the public for comment on the application. With no members of the public present wishing to speak on this matter, Ms. Tallaksen closed the public comment portion of the hearing on a motion by David Volpe with a second by Philip Weisbecker.

Motion made by Philip Weisbecker, seconded by Steven Castronova, to approve the application without approving an encroachment on other properties, subject to granting of easement by the applicant, and any other conditions requested by the Board Planner and Engineer.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, David Volpe, Thomas Harraka, Leslie Tallaksen
 No - None

MEMORIALIZATIONS – None.

ORDINANCES FOR INTRODUCTION

The Chairperson advised that the Fence Ordinance would be discussed at the Workshop meeting immediately following this meeting.

ORDINANCES REFERRED FROM COUNCIL - None.

PLANNING DIRECTOR'S REPORT - None.

PLANNING BOARD ATTORNEY'S REPORT - None.

MISCELLANEOUS

Mr. Drew advised that a correction was necessary to the amount authorized in Resolution 2006-16 for Stephen Glatt, Esq. to represent the Board in the matter stated in the resolution. A certification of funds was received from the Township Treasurer.

Resolution No. 2007-25

Amending Resolution No. 2006-16, Authorization For STEPHEN B. GLATT, ESQ. To Supersede As Counsel To The Planning Board With Respect To Docket No. Pas-1429-06

Motion made by Kurt Wagner, seconded by David Volpe, to approve Resolution 2007-25.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, Thomas Harraka, David Volpe, Leslie Tallaksen
 No - None

Mr. Drew advised the Board that the following resolution was necessary to correct the account number that had been incorrectly stated in the original resolution adopted in January.

Resolution No. 2007-26

Amending Resolution 2007-1, A Resolution Authorizing the Award of A Non-Fair and Open Contract for the Position of Planning Board Engineer – ROBERT KIRKPATRICK

Motion made by Kurt Wagner, seconded by Thomas Harraka, to approve Resolution 2007-26.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, Thomas Harraka, David Volpe, Leslie Tallaksen
No - None

Vacation Of Ricker Street

Mr. Drew reviewed the proposed vacation of Ricker Street and referred to the Board Engineer for a recommendation on the matter. Mr. Kirkpatrick commented on the information available and noted that 60 years was insufficient for establishing dedication of a street. He stated that vacation of the road was not clear with the evidence available and presented. Mr. Drew advised that the road should not be vacated until all questions have been answered. Several Board members inquired about the right of way, and the Board Engineer noted that a deed of 1942 references the right of way. He reiterated that further information is needed before recommending vacation of Ricker Street. The Chair advised that the Township Council should be informed of the Board Engineer's recommendation.

Motion made by Kurt Wagner, seconded by Thomas Harraka not to approve the vacation of Ricker Street until all information and evidence had been reviewed.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, David Volpe, Thomas Harraka, Leslie Tallaksen
No - None

MINUTES

Motion made by Philip Weisbecker, seconded by Steven Castronova, to approve the minutes of the June 7, 2007 Workshop meeting.

On roll call vote: Yes - Steven Castronova, Clinton Smith, Kurt Wagner, Philip Weisbecker, Thomas Harraka, David Volpe, Leslie Tallaksen
No - None

COMMUNICATIONS

The following correspondence was received and filed:

Smart Growth Grant #00-6076-02 Request for Amendment to NJ DCA (Corey Piasecki), July 2, 2007

Letter to Elizabeth Newton, Passaic County Planning Department, regarding Eric and Carol Loer and the County Planning Board Report dated May 21, 2007.

HIGHLANDS WATER PROTECTION AND PLANNING ACT - None

ADJOURNMENT

Motion by Philip Weisbecker and a second by Kurt Wagner to adjourn the Regular meeting of the West Milford Planning Board at 8:55 p.m., to be followed immediately by the Planning Board Workshop meeting. On a Voice Vote, all were in favor.

Approved: September 6, 2007

Respectfully submitted,

Tonya E. Cubby
Secretary

Planning Board Minutes

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Regular Meeting

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