

TOWNSHIP OF WEST MILFORD

PLANNING BOARD

Minutes
July 27, 2006
REGULAR MEETING

Chairman, Michael Tfank, called the meeting to order at 7:36 p.m. with the reading of the legal notice.

ROLL CALL

Present: Steven Castronova, Douglas Ott, Michael Siesta, Clinton Smith, Kurt Wagner, Philip Weisbecker. Chairman: Michael Tfank. Board Attorneys: Bryant Gonzalez, Esq. Planning Director: William Drew, P.P. Consulting Engineer: Robert Kirkpatrick, P.E.

Absent: James O'Bryant, Leslie Tallaksen. Alternate: Thomas Harraka.

PUBLIC PORTION

Donald Partington, 572 Snake Den Road, West Milford, NJ addressed the Board regarding changes to the Township zoning regulations for fences. Mr. Partington updated the Board on a situation involving a fence abutting his property. He presented several photographs showing changes to the fence erected by his neighbor, which he opined was offensive in a residential area. He questioned the safety and installation of the fence and requested that it be condemned. Mr. Partington further inquired about the status of the changes he had proposed to the fence ordinance.

William Drew, Planning Director, advised that the Planning Department was reviewing ordinances with regard to what would be appropriate for the Township. He noted that nothing had been forwarded to the Planning Board from the Council regarding this matter.

John Panariello, 608 Snake Den Road, West Milford, NJ advised that the Township had required him to install the yellow pipe along the top of the fence. This was in response to complaints to the Township from Mr. Partington regarding the safety of the fence. He further provided the Board with an explanation as to why the fence had been erected and the status of his property.

Eleanor Decker, Lincoln Hill Senior Housing, West Milford, NJ, inquired as to the status of the sidewalks from the senior housing facility to the shopping area. She noted the need for a safe place to walk and requested that something be done as soon as possible. Ms. Decker advised that she would contact the County for help in this matter.

SITE PLAN WAIVER APPLICATIONS

LINH HO

Site Plan Waiver #0620-0248W

Block 15804; Lot 15

2915 Route 23 South; CC Zone

Ms. Ho, 5 Maplewood Lane, Stockholm, NJ, the applicant, and Jill Dutna, 10 Stone Hollow Road, Montvale, NJ, the owner of the subject property appeared before the Board. Ms. Ho explained that she proposed to open a nail salon in space previously occupied by a dance studio.

William Drew, Planning Director, advised that the property is located on Route 23, south of Oak Ridge Road, and is in conformance with the property maintenance code. The parking lot is paved and striped and meets the zoning requirements.

With respect to the variance requests, Mr. Koestler noted that he required variance relief for lot area and lot frontage but that these variances could be granted by the Board since the lots to be proposed were of similar size and not out of character with the lots on the existing neighborhood. In this regard he specifically noted that adjacent lots in the neighborhood namely Lots 8 and 9 were smaller lots or of similar size to the lots proposed for the subject property. With respect to lot area, this was really not an issue because most of the subject property was constrained by topographical conditions such as rock outcroppings and steep slopes such that most of the property was not usable. He further indicated that he was not proposing any additions or construction on either of the lots rather just seeking a lot line adjustment. He further remarked that the existing lot coverage on both lots would not be changed nor would there be any additions to lot coverage and that again all he was doing was seeking a lot line adjustment between Lots 17 and 18.

Mr. Koestler noted that the subdivision of Lot 18 also created a variance situation in that there was an existing carport in what would now be the front yard as a result of the subdivision. The zone does not allow accessory structures to be located in the front yard and thus a variance was technically required. He explained that the subdivision line for the proposed new Lot 18 would place the existing carport squarely within proposed Lot 18 rather than within Lot 17 as it currently exists. The same would go for the existing frame garage, which presently encroached upon Lot 14. Both of these structures he noted serviced Lot 18 and were constructed on Lot 17 without regard to lot lines since he owned both lots.

William Drew, the Board Planner, noted that Lot 17 presently measured 17,825 square feet the purpose of the application was to subdivide 5,800 square feet from Lot 17 and annex this portion to adjacent Lot 18 resulting in Lot 18 increasing in an area from 28,064 square feet to 33,864 square feet according to the plan submitted. Lot 17 would thereby be reduced to 12,025 square feet.

Mr. Drew further noted that variances for lot area, lot frontage, building coverage and accessory structure located in the front yard were required for the subject property. In terms of lot area, proposed Lot 17 would require a variance in that 20,000 square feet are required in the Zone and only 12,025 square feet were being provided. In terms of lot frontage, proposed Lot 17 would require variance relief in that 120 feet are required but only 33.58 feet are being provided. With respect to building coverage, proposed Lot 17 would require variance relief in that the maximum of building coverage allowed in the Zone is 10 percent (10%) of a lot whereas Lot 17 was providing building coverage at 11.1 percent (11.1%). Lastly, with respect to the location of accessory structures, proposed Lot 18 required a variance for locating the existing carport within the front yard of the new proposed lot.

Mr. Drew noted that the submitted location survey reflected the Valley Road right-of-way as a continuous roadway crossing over Lot 18 with a note stating that section of Valley Road on Lot 18 had been vacated. The two (2) dwellings on the subject property were each provided with separate access from either end of Valley Road. He further noted that the Township of West Milford Street Index revised by the Township Engineer's office on May 20, 2005 indicated Valley Road as a non-Township street, which meant that it was a road dedicated but not accepted by the Township. The dwellings on both lots he noted were preexisting and therefore a private road variance was not required. Furthermore, unless there were some improvements required within the rights-of-way of Valley Road, a de minimus exception from the Residential Site Improvement Standards was also not required. He noted that a site inspection revealed that the road was adequately improved to provide suitable access similar to other roads in that community.

Mr. Drew further noted that both properties were under the same ownership and had been improved over the years without regard to the lot lines separating the two (2) tax lots. Therefore, improvements existed such as detached garages and carports, driveway pavements and walkways that cross back and forth between the two (2) subject properties. In attempting to address this situation, the applicant he noted was proposing the subdivision of Lot 17 so as to annex two (2) existing accessory structures

apparently being used by the occupant of Lot 18 to that lot. These two (2) structures were a carport and an existing frame garage. He noted that the applicant should attempt to receive approval from the neighboring property owner (Lot 14) with respect to the encroachment of the existing frame garage onto said lot. He noted, however, that based upon a visual inspection relocating the garage did not appear to be a viable option.

Mr. Drew further noted that in terms of the proposed irregular shapes of the lots, the Applicant had advised in his application that the shape of the lots proposed were due to a vegetable garden for the home on Lot 18. It was also noted that there were several inconsistencies between the location survey and the minor subdivision map submitted on the application.

Mr. Koestler indicated that he would comply with the Board Planner's report and revise any drafting inconsistencies so that the documents were consistent.

Mr. Drew then reviewed with the Board the matter of chain-linked fencing on the subject property a portion of which was located in the right-of-way next to proposed Lot 18. After some discussion with the applicant with respect to this fence, the applicant indicated that he would be willing to remove said fence from the right-of-way as a condition of approval. He further agreed to satisfy the professional reports submitted by the Board Planner and the Board Engineer dated July 16, 2006.

Robert Kirkpatrick, the Board Engineer, then noted that an easement from Lot 18 would have to be granted to Lot 17 for the provision of utility services. The applicant agreed that he would provide such an easement.

The Board then opened the meeting to the public for comment on the application. The Board first heard from Timothy Sullivan and Michael Dwyer, 66 Glendale Road, Hewitt, NJ, who indicated that they were the owners of Lot 14. In this regard, Mr. Sullivan introduced into evidence a survey prepared by Eric R. Smart, P.L.S. from 1991, which showed the encroachment of the frame garage onto Lot 14. Messrs. Sullivan and Dwyer indicated their concern about the encroachment of the frame garage onto their property.

Mr. Koestler responded that the encroachment had been with the knowledge of the former owner of Lot 14 but that he was willing to resolve this issue with the owners as a condition of approval. In this regard, the Board Attorney noted that an easement was preferable or an agreement resolving the encroachment issues with the owners of Lot 14. The easement or covenant should be recorded with the County Clerk with the Deeds to be utilized to perfect the subdivision such that future owners of Lots 18 and 14 would be aware of the issue and how it had been addressed.

The Board next heard from Wendy Welch, 62 Glendale Road, Hewitt, NJ, who indicated she was the owner of Lot 15. Ms. Welch had general questions with respect to the layout of the proposed subdivision.

The Board next heard from Greg Dill, 71 Glendale Road, Hewitt, NJ, who indicated he was with the Lakeside Road Improvement Corporation. In this regard, he noted that he was concerned with whether Valley Road was vacated and whether the Lakeside Road Improvement Corporation or the applicant had any responsibility for the portion of Valley Road adjoining Lot 18.

The Board Engineer commented that based upon his review of the plans and documents submitted it appeared that the specific portion of Valley Road to which Mr. Dill referred to had not been vacated by the Township and as such this portion of Valley Road which turned into and faced Lot 18 was not the responsibility of either the applicant or the Lakeside Road Improvement Corporation.

The Board next heard from Charles Schneider, 1 Kushaqua Trail, Hewitt, NJ, who indicated that he was the President of Lakeside Road Improvement Corporation. In this regard he expressed concerns about the vacating of the roads as expressed by Mr. Dill and noted that he had been authorized by the owner of Lot 22, Kathleen Hickey, to

advise the Board as to the existence of unsightly rubbish and/or concrete in a portion of Lot 18 that adjoined Lot 22.

The applicant indicated that he would stabilize this portion of Lot 18 and that his intent was to put up a small wall in that area.

With no other members of the public present expressing an interest in this application, the Board promptly closed the public comment portion of the hearing.

MOTION made by Michael Siesta, seconded by Kurt Wagner, to approve the application subject to the recommendations in the Planning Director's and Board Engineer's report, subject to an easement or agreement between the applicant and the owner of Lot 14, subject to an easement with respect to utilities from Lot 18 to Lot 17; removal of the construction debris; removal of the fence; and all other conditions as discussed.

On roll call vote: Yes - Steven Castronova, Douglas Ott, Michael Siesta, Clinton Smith, Kurt Wagner, Philip Weisbecker, Michael Tfrank
 No - None

Recess

APSHAWA VOLUNTEER FIRE COMPANY
Preliminary & Final Site Plan #0520-0210AB
Conditional Use
Variance #0630-0740
Block 12501; Lot 26
666 Macopin Road; R-3 Zone
Add garage bay to existing firehouse

COMPLETE: 06-28-06
DEADLINE: 10-26-06

Appearing on behalf of the applicant were Ralph Vilecca, 27 Sherwood Court, Newfoundland, NJ, who indicated that he was an officer of the Fire Company as well as Louis P. Jacobitti, RA, P.P., 170 Kinnelon Road, Kinnelon, NJ. Both individuals were sworn prior to testifying in this matter. Jacobitti was sworn in for purposes of providing expert planning testimony with respect to the variances requested in the application.

Mr. Jacobitti indicated that the applicant was seeking an additional garage bay for fire equipment to be utilized on the subject property. He noted that there were existing bays on the Macopin side of the building of the subject property and only one side could be utilized for the proposed garage bay. In this regard the other location on the subject property was where the applicant stored its vehicles. Specifically, Mr. Vilecca testified that the Fire Company stacked its vehicles on one side of the property as a matter of organization such that this assisted vehicle movements on-site and any other type of reconfiguration of where vehicles would be stacked would affect the Fire Company's ability to respond quickly.

Mr. Jacobitti indicated that the proposed bay would measure 20 feet in width by 57 feet in depth and was proposed to be closer to the road than allowed by the bulk requirements of the zone. In this regard, he noted that at present the zone required a setback of 100 feet of the building and accessory structures from the property line. The applicant at present has a preexisting nonconforming situation in that only 40.6 feet of setback are provided to the property line. The applicant is looking to encroach further into the setback requirement through the construction of the proposed garage bay on the subject property such that the setback would now be only 21.5 feet.

Mr. Jacobitti indicated that the applicant was in conformance with the conditional use standards for essential service uses and as such there was no conditional use variance relief required. In terms of variance relief, the only variance required was the bulk variance for the setback encroachment proposed by the applicant.

William Drew, the Planner Director, noted that there were several discrepancies between the information provided on the application form and the information provided on the professional plans submitted with the application. These discrepancies included

the correct lot size, the correct figure of impervious coverage, the correct number of parking spaces and correction of the north arrow on both the survey and site plan.

The applicant indicated that it would revise these discrepancies to the Board's satisfaction.

Mr. Drew then noted that there were other changes proposed to the subject property, which included augmentation of the yellow striping on the property as well as providing one-way traffic flow markings on the parking lot as required by the Passaic County Planning Board. There were other changes to the property that were required by the County Planning Board, which the applicant would have to satisfy as a condition of approval. Issues with respect to drainage and stormwater would need to be addressed to the satisfaction of the Board's Engineer. Mr. Drew further noted that pursuant to the architectural plans submitted there would be no new lighting fixtures affixed to the building by the new garage doors.

The applicant responded that with respect to the lighting plan for the subject property, there would be one light eliminated and one light installed for the bay area but in total there would be no additional lighting.

With respect to landscaping, the Board Planner noted that general note number 11 on the plans submitted indicated that no additional landscaping was proposed. The Board Planner further noted that with respect to the architectural renderings submitted, new stucco treatment would be applied to the entire facade of the building (on the south side) and to the side of the building that would face the street. Replacement windows were proposed but colors were not indicated.

Mr. Jacobitti then showed the Board sample materials to be utilized for the shingles and roof for the proposed garage bay.

Upon reviewing all nine (9) initial recommendations of the Board Planner's report, the applicant indicated that it would be able to comply with all of the recommendations as a condition of approval.

The Board Planner then noted that the Health Department had objected to the application.

Mr. Vilecca indicated that the Health Department was under the impression that there was a septic system within the area proposed for the garage bay. He noted, however, that the applicant could not find any record of a septic system in the area but would make best efforts to ensure that it would review the area for the proposed garage bay to ensure that there was no septic system located therein. Mr. Vilecca remarked that the applicant was agreeable to this as a condition of approval.

Mr. Vilecca further indicated that the applicant was agreeable to satisfying the terms and conditions of the Board Engineer's report submitted with regard to this application as a condition of approval.

There were no members of the public present expressing an interest in this application.

MOTION made by Kurt Wagner, seconded by Steven Castronova, to approve the application subject to the conditions discussed.

On roll call vote: Yes - Steven Castronova, Douglas Ott, Michael Siesta, Clinton Smith, Kurt Wagner, Philip Weisbecker, Michael Tfrank
 No - None

MEMORIALIZATIONS

The following resolutions with the exception of Resolution No. 2006 – 26 were carried to the next meeting:

KERRY GREENE

Resolution No. 2006 –19
Preliminary Subdivision #0110-1910
Bulk Variance # 0130-0501
Block 10001; Lots 14, 19, 20, 23
Wooley Road; R-3 and R-4 Zones
APPROVED: One-year time extension

DEMOTT POST

Resolution No. 2006 –20
Minor Subdivision #0410-1971
Block 12106; Lots 2 and 3
802 and 810 Macopin Road; R-2 Zone
APPROVED: One-year time extension

VICTOR MARCHIAFAVA

Resolution No. 2006 – 21
Amended Minor Subdivision #0510-1972
Amended Variance #0530-0713
Block 13602; Lot 7
1894 Route 23 North; LMI Zone
APPROVED: Amended minor subdivision

MICHAEL ZUPP

Resolution No. 2006 –22
Minor Subdivision #0610-1977
Variance # 0630-0734
Block 12110; Lots 6 & 17
463 Germantown Rd. & 9 Martha St.; R-2 Zone
APPROVED: Relocation of lot line

JACK & GERALDINE LIPARI

Resolution No. 2006 - 23
Amended Subdivision #0610-1936
Amended Variance #0630-0534
Block 5306; Lot 4.02
42 Lone Pine Lane, R-4 Zone
APPROVED: Amended minor subdivision with variance.

Resolution No. 2006 – 24

Adoption of Open Space Plan as an Element of the Master Plan

Resolution No. 2006 – 25

Adoption of Stormwater Management Plan as an Element of the Master Plan

TCR NJ/PA LAND ACQUISITION L.P.
(VALLEY RIDGE)

Resolution No. 2006 - 26
Final Site Plan #0220-0041B
Block 8002; Lot 4
Union Valley Road; R-1/PN Zone
DENIED: Final site plan approval for the construction of 100 townhouses

MOTION made by Michael Siesta, seconded by Douglas Ott, to memorialize the resolution as amended.

On roll call vote: Yes - Douglas Ott, Michael Siesta, Clinton Smith, Kurt Wagner,
Michael Tfank
No - None

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL - None.

MISCELLANEOUS

PLANNING DIRECTOR'S REPORT

Mr. Drew provided an update on the visioning sessions conducted by a consultant from the County. The consultant will submit a report shortly.

PLANNING BOARD ATTORNEY'S REPORT

Mr. Gonzalez reported that a date had not been set for a hearing of the motion filed by Castle Rock appealing the decision of the Superior Court. He further noted that Castle Rock had also filed an appeal, which is also pending. All matters before the Appellate Division, including the O'Shea matter, would be heard sometime in November. It was noted that several attempts to settle the matter with Mr. O'Shea have been unsuccessful.

MINUTES

MOTION made by Kurt Wagner, seconded by Douglas Ott, to approve the minutes of the June 29, 2006 regular meeting as amended. On voice vote all eligible members voted in the affirmative.

COMMUNICATIONS

The following correspondence was noted and filed:

County Planning Board reports to the Planning Board regarding the following applications:

Jack Jaust, Site Plan, 96 Oak Ridge Road, Block 16005; Lot 12. Approval withheld pending receipt of additional information

Copy of letter dated June 7, 2006 from William Drew, Planning Director, to the Bureau of Watershed Regulation regarding their response to the Environmental Commission's request for a definition of impervious cover.

Notice dated June 20, 2006 advising that Frank Scott is applying for a General Permit for property located at 41 Teal Road, Block 13907; Lot 1 for the repair of an existing septic system.

Notice dated June 30, 2006 advising that Mark & Cindy Lindsey are applying for a general permit for the installation of a sub-surface sanitary disposal system for property located at 1087 Union Valley Road, Block 7701; Lot 2.02.

Letter dated July 6, 2006 from EcolSciences, Inc. advising that TCR NJ/PA Land Acquisition LP are resubmitting their application for Statewide General Permit Nos. 2, 10B and 11 and Transition Area Waiver – Averaging Plan for property located on Union Valley Road, Block 8002; Lot 4.

Letter dated June 14, 2006 from Stewart Surveying & Engineering, LLC advising that Michael Fitzpatrick is applying for Treatment Works Approval for property located on Upper High Crest Road, Block 13102; Lot 37.

Notice dated July 10, 2006 advising that K. Douglas Smith (Catlas Const. LLC) is applying for a General Permit for the installation of a sub-surface sanitary disposal field for property located at 3 Riverside Road, Block 2401; Lot 2.

Notice dated June 29, 2006 advising that Nicholas Pallis is applying for a General Permit for the installation of a sub-surface sanitary disposal system for property located at 1858 Route 23, Block 13602; Lot 3.

ADJOURNMENT

Meeting adjourned by unanimous consent at 10:11 p.m.

Respectfully submitted,

Grace R. Davis
Secretary