

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD  
MINUTES**

**September 23, 2021**

**Regular Meeting**

Chairman Christopher Garcia opened the September 23, 2021 regular meeting of the West Milford Planning Board at 7:00 p.m. with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Steven Castronova, Linda Connolly, Councilwoman Ada Erik, Councilman Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Alt. #1 Michael DeJohn, Board Planner Jessica Caldwell.

**Absent:** Alt. #2 JoAnn Blom, Board Attorney Thomas J. Germinario, Board Engineer Paul W. Ferriero.

The Chairman advised that a quorum was present to hold this regular meeting.

**PUBLIC PORTION**

The public portion was opened by Chairman 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.

**Sustainable Economic Development Plan** – Chairman Garcia read a letter from the NJ Highlands Council regarding the Township of West Milford Sustainable Economic Development Plan, acknowledging receipt of the final plan and their approval. He advised that the reimbursement invoices for the budgeted grant project can be submitted to the Highlands Council. Board member Geoffrey Syme inquired if the invoices exceeded the \$33,000. in grant funds, and the Board Planner, Jessica Caldwell, advised that they did not exceed the grant amount. The Chairman commented that the SEDP included a successful outreach to the residents and business community. A public hearing will be scheduled for October 28, 2021 and a resolution amending the master plan with the adoption of the SEDP will be available at the next Planning Board meeting.

**ORDINANCES/RESOLUTIONS REFERRED FROM/TO COUNCIL**

Chairman Garcia advised that several ordinances were recently introduced by the Governing Body, and noted that two were not brought to the Board's attention prior to introduction. Board Planner Jessica Caldwell commented that the bulk standards ordinance was reviewed by the Board, and this may be slightly different, but contains essentially the same standards. The Board Secretary noted that the Council may be under deadlines to get the documents adopted, so there may be time constraints with some of the ordinances. Chairman Garcia stated that there needs to be more efficiency [with the drafting of the documents and distribution for review.] He expressed concern that the Board and the Township may be in a compromised position if the land use ordinances are adopted without review for consistency with the Township Master Plan. Board Member Ada Erik stated that the Planning Board includes the Mayor's Designee and a Councilman on the Board, but the Council has no member from the Planning Board sitting on the Council. Chairman Garcia responded that Ms. Erik and Mr. Gross were the Council liaisons, and as such, were designated to report Board information/issues to the Council, as well as advise the Board of potential land use and planning matters that are discussed at the Council meetings. Board member Robert Nolan advised that there is always an option to table a matter until the Planning Board reviews the document for Master Plan consistency, adding that when he was on the Council and saw a matter that was Planning Board related, he inquired if the Board had provided their comments. Ms. Erik was advised that the positions of Mayor or Designee and Council member on the Planning Board requires them to report back to the Council on matters, but they are not to report on Council matters to the Planning Board. Chairman Garcia stressed that there needs to be open lines of communication between both entities. Board member Jim Rogers remarked that he is the Environmental Commission member on

the Planning Board and he takes information back and forth to both [on pertinent matters]. Board member Glenn Wenzel remarked that he spent 4 years as a liaison and 2 years as Mayor and it was always a two-way street with the Council and the Planning Board. Chairman Garcia advised that he has discussed with Board Attorney Tom Germinario the reoccurring issue of the “after the fact” ordinances and resolutions being brought to the Board’s attention and Mr. Germinario will be contacting Fred Semrau, the Township Attorney, regarding these matters. Ms. Erik noted that usually the ordinances and resolutions originate with the Attorney, Administration and the Clerk’s Office before the Governing Body receives them.

**Model Statewide Electrical Vehicle Ordinance- Draft**

The Board reviewed the state provided model electric vehicle charging station ordinance. Board Planner Jessica Caldwell commented that the Township would benefit from refining the ordinance, and add some options so that it is more tailored to the Township. Chairman Garcia suggested that about 90% would be applicable and the rest can be customized for our municipality. He noted that the Ordinance Committee will meet and discuss it before reviewing with the Planning Board prior to referral to the Governing Body. Board member Steven Castronova inquired if grant money is available for the charging stations and purchase of vehicles. Ms. Caldwell responded that the electric companies are providing funding, and noted that this was a model ordinance for legislation that is retroactive to September 10, 2021. If we receive a commercial site plan application the following day, she advised that we could require them to install a charging station. Ms. Erik noted that the Council has not seen the electric vehicle ordinance, so the Planning Board could be ahead of the game if it was drafted and forwarded to the Council. With regard to enforcement for possible loitering, Ms. Caldwell noted that the Police Dept would be responsible for monitoring the charging stations, just as they do with the handicapped parking spaces. Mr. Nolan inquired if we can exceed the number of charging stations since the auto industry will be producing more electric vehicles in the next several years. Board member Warren Gross commented that the state is already 5 years behind. Ms. Erik commented that the Planning Board requires sidewalks with new development under the streetscape plan, and electric charging stations may also need to be included. This matter will be reviewed further at subsequent meetings.

**ORDINANCE NO. 2021-033 - Ordinance Of The Code Of The Township Of West Milford, County Of Passaic, State Of New Jersey, Adding A New Section §500-191, Notice Of Zoning Violations; Time To Abate And Modify All Code Provisions Regarding Abatement Of Zoning Issues, And To Require Such Abatement No Later Than Twenty (20) Days After An Owner Learns Of The Violation**

Ms. Erik advised that the amendment in Ordinance No. 2021-033 is the change in the time for abatement of a violation from 10 days to 20 days. Ms. Caldwell explained that the 20 days provides more time for a property owner to take care of the issues that they received notice about. The amendment would provide additional time to track down the owners, as they may not always be residing on the properties. Ms. Erik added that the Tax Dept. has a process for tracking down the owners or responsible parties. Chairman Garcia advised that there is no reason that this ordinance is inconsistent with the Master Plan.

**RESOLUTION NO. 2021-14**

**Master Plan Consistency Determination for Ordinance No. 2021-033 – Ordinance Of The Code Of The Township Of West Milford, County Of Passaic, State Of New Jersey, Adding A New Section §500-191, Notice Of Zoning Violations; Time To Abate And Modify All Code Provisions Regarding Abatement Of Zoning Issues, And To Require Such Abatement No Later Than Twenty (20) Days After An Owner Learns Of The Violation.**

**Motion** by Steven Castronova, with a **second** by Geoffrey Syme to **approve** Planning Board Resolution No. 2021-14.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**ORDINANCE NO. 2021-034 – Ordinance Of The Township Of West Milford, County Of Passaic, Amending Chapter 470, Subdivision Of Land And Site Plan Review, Article XX Wireless Telecommunications Facilities To Create A Priority Of Locations For The Siting Of Communication Antennas.**

Ms. Erik reviewed the ordinance for the Board, noting that there is a new carrier and the new ordinance is required to permit the new company to install wires on existing poles. The Board members had several questions regarding the ordinance: What would deter another company from coming in to install new wiring? Is this 5G? Is it competition for Optimum? Is it just for internet and telephone and will it take the place of cell towers and/or provide the same service? Ms. Erik commented that she believed it was for fiber optics, adding that Verizon owns the poles, but the Township owns the right of way and that we collect franchise fees on them. It appears that the new company wants the ordinance adopted by October 1, 2021. Mr. Nolan inquired if the public was advised of this, and Ms. Erik responded that the Mayor located this company and brought them into the Township. Glenn Wenzel commented that if they become obsolete, the Township will have to exert pressure on them to remove the equipment, the same that must be done with obsolete cell towers. Ms. Erik remarked that one of the companies wanted to install boxes for 5G and J.A.G. is opposing this since there are health concerns with the 5G technology. Chairman Garcia noted that the ordinance amends the existing ordinance to give the Township priority for locating on the telecommunication facilities. Subsequent to the discussion, the Board considered the following resolution:

**RESOLUTION NO. 2021-15**

**Master Plan Consistency Determination for Ordinance No. 2021-034 – Ordinance Of The Township Of West Milford, County Of Passaic, Amending Chapter 470, Subdivision Of Land And Site Plan Review, Article XX Wireless Telecommunications Facilities To Create A Priority Of Locations For The Siting Of Communication Antennas.**

**Motion** by Steven Castronova, with a **second** by Geoffrey Syme to **approve** Planning Board Resolution No. 2021-15.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**ORDINANCE NO. 2021-035 - Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey Amending The Following Township Of West Milford Town Code Chapter 420 Land Use Procedures, Chapter 470 Subdivision Of Land And Site Plan Review, Adding A New Section To Chapter 500-Xx Exceptions And Supplemental Regulations To Bulk And Area Requirements And Amending Chapter 500-68 Fences, Walls And Sight Triangles**

Ms. Caldwell reviewed the Ordinance No. 2021-035 for the Planning Board regarding the bulk standards. She noted that a portion of what the Ordinance Committee and Planning Board had recommended was included in the ordinance, and some matters that they included in their recommendations to the Council are still being worked on. The shipping containers is one item that is not included in this resolution, and the Council is considering permitting them on larger residential properties. They are also considering how to address the property owners who currently have the shipping containers on their properties, and language is being drafted that will allow the property owner to apply for certification. Ms. Erik noted that the language in the ordinance referred to containers that may contain combustible materials, including hay, but many farms are using it for that purpose. Ms. Caldwell advised that the language is being reviewed, but the main concern is the locations and zones. Chairman Garcia stated that the Ordinance Committee addressed the condition of the

container if it is sided and resembles a shed. Board member Linda Connolly requested clarification on setbacks and deck coverage. Subsequent to the review of this ordinance, the Board considered the following resolution:

**RESOLUTION NO. 2021-16**

**Master Plan Consistency Determination for Ordinance No. 2021-035 - Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey Amending The Following Township Of West Milford Town Code Chapter 420 Land Use Procedures, Chapter 470 Subdivision Of Land And Site Plan Review, Adding A New Section To Chapter 500-Xx Exceptions And Supplemental Regulations To Bulk And Area Requirements And Amending Chapter 500-68 Fences, Walls And Sight Triangles**

**Motion** by Steven Castronova, with a **second** by Glenn Wenzel to **approve** Planning Board Resolution No. 2021-16.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**RESOLUTION NO. 2021-353 Authorizing The West Milford Planning Board To Undertake A Preliminary Investigation To Determine Whether The Proposed Study Area, Which Includes 960 Burnt Meadow Road, West Milford Township Qualifies As An Area In Need Of Non-Condensation Redevelopment Pursuant To N.J.S.A. 40A:12A Et Seq.**

Ms. Caldwell noted that the purpose for this resolution was to permit more local control over the site that is the proposed location of the Tennessee Gas Pipeline (TGP) gas compressor station by requiring a redevelopment plan for this location. The Council has tasked the Planning Board with conducting a study, which she would assist in preparing, and the Planning Board would review before sending recommendations to the Governing Body. Chairman Garcia inquired who this designation would benefit, and cautioned that the Township would be giving away tax dollars by authorizing a tax abatement. The Board members requested more clarification on the resolution. Ms. Caldwell explained that with the adoption of the resolution, the Council directed the Planning Board to conduct a study to find if the 960 Burnt Meadow Road meets the criteria of a non-condemnation redevelopment area, and then make a recommendation for the designation. Ms. Erik commented that the purpose of the resolution is to permit the Township to establish rules, not roadblocks. Chairman Garcia remarked that the Board has been charged with a task, but it is not clear what the Board is expected to do and why. Ms. Caldwell explained that the first step was to determine if the area qualifies as an area in need of redevelopment. She noted that we do not have the ability to discuss what the result will be since it is up to the Governing Body to decide what they want to do, even if it includes a tax abatement. There are several criteria that will be considered in determining the status of the site, including if the site is underutilized. Mr. Rogers inquired whether this study will give TGP more flexibility and opportunity to reduce their taxes, and Ms. Caldwell responded that the Council can decide not to include a tax abatement. Ms. Erik observed that this project received a Highlands Exemption, and the Chairman inquired if the Highlands approval was an added incentive. Ms. Erik stated that the building is not small from the initial plans that she reviewed, but she was still waiting for more plans and details. She noted that the first plan had a "blow-off" of 100 feet and wondered who regulates this. Mr. Gross commented that at 100 feet, the gas will not be a threat, and stated that he attended several meetings and the TGP representatives maintained that the blow-offs only occur 4 to 6 times a year. He added that the Township's hands are basically tied on this. Ms. Erik is concerned about the carcinogens that are in the air from the burn-offs and they can get into the water supplies. She stressed that it is up to the Board to determine what issues must be addressed and how they can require compliance. She questioned why a redevelopment designation is necessary when we are in the Highlands and development is restricted. Ms. Caldwell said it is a bit confusing since the land had been in use, so it is not a typical redevelopment. As for the cost of the study, she

assumed that the Governing Body would cover the contract fees that will be incurred, and Mr. Rogers commented that the Council should have known how much the cost would be before authorizing the study. Ms. Connolly inquired if there was a way to understand what is proposed as well as the conditions of the site, and she suggested a site visit. Ms. Caldwell advised that it was more prudent if she prepared the report and the Planning Board reviewed and responded to it, adding that this can be reviewed first in subcommittee. Chairman Garcia noted that a redevelopment subcommittee was not needed at this time. Ms. Erik said that she will discuss this with the Administrator and maybe he could provide more insight on the matter. With regard to a recent designation of the entire Township as an area in need of rehabilitation, Ms. Erik noted that it permitted a 5 year tax abatement on improvements to properties. With regard to the former A & P tax abatement, she stated that the owners have committed to reinvest in capital improvements on their site in exchange for reduced taxes. She suggested that the redevelopment area may include a 3 ? year tax abatement, and Ms. Caldwell noted that the Township would work with the tax issue.

Subsequent to the discussion on Resolution No. 2021-353 adopted by the Governing Body, a **motion** was made by Ada Erik, with a **second** by Warren Gross, to **authorize** the Planning Board Planner to undertake a preliminary investigation for the determination of 960 Burnt Meadow Road as an area in need of non-condemnation redevelopment.

### **Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Ada Erik, Warren Gross, Robert Nolan, James Rogers,

**No:** Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia. Mr. Syme, Mr. Wenzel, and Chairman Garcia concurred that this was an unfunded mandate.

**Motion approved.**

**BOARD PLANNER'S REPORT** – None.

**BOARD ATTORNEY'S REPORT** – None.

**BOARD ENGINEER'S REPORT** – None.

### **MISCELLANEOUS**

#### **Invoices**

The Planning Board professionals' recent invoices were **approved** on **motion** by Robert Nolan with a **second** by Geoffrey Syme.

#### **Review Increase to Planning Board Planner's 2021 Contract**

The Board members discussed the need for an increase to the Board Planner's contract for 2021 due to the additional meetings, reviews and reports required as a result of the numerous Township land use and zoning ordinances and resolutions, necessitating the expertise of the Planner. Following discussion, the Board authorized the increase for a total amount not to exceed \$16,500. from the original \$9, 375.00 contract. Chairman Garcia suggested that funds be appropriated for any Master Plan amendment fees for 2022. A resolution will be prepared for the increase in the Planner's contract for the next meeting.

On another matter, Ms. Connolly commented that the Ordinance Committee Roundtable discussions included redefining Farms in the zoning ordinance. Ms. Caldwell advised that this could be done, but the Township would have to follow the state regulations on farms. Mr. Rogers commented that the cannabis issue is new and cannot be referred to as a farm under the current definitions.

### **MINUTES**

The Minutes from the August 5, 2021 Regular Meeting were **approved** by those members present at the August meeting on a **motion** by Glenn Wenzel and a **second** by Jim Rogers.

### **CORRESPONDENCE RECEIVED:**

*The following correspondence items were reviewed by the Board:*

### **Highlands Water Protection and Planning Act Correspondence**

1. Highlands Exemption #4, Water Quality Management Plan=Consistent, dated August 9, 2021, received for Nosenzo Pond Road, Block 9302; Lot 16, for renovations to Nosenzo Pond Park.
2. Highlands Applicability Determination Exemption Request #9 application, dated September 2, 2021, received from Colliers Engineering & Design on behalf of the County of Passaic, regarding the Lincoln Avenue Culvert Replacement at the Morsetown Brook.

### **NJ Department of Environmental Protection Correspondence**

1. Notice dated 08-06-21 of an application for a Freshwater Wetlands General Permit to be submitted to the NJDEP by Robert Delillo, 29 Eisenhower Drive, Block 6503; Lot 9 for authorization to construct in wetlands and adjacent transitions areas.
2. NJDEP Suspected Hazardous Discharge notice, dated August 13, 2021, NJDEP Case #21-08-12-1706-00, regarding Suez Water North, Richmond Road, Block 5308; Lot 1 and Block 5501; Lots 21 & 22, for exceedance of nitrogen readings (17.794 ppm) with a maximum allowance of 10 ppm under NJDES Permit #NJ0081914.
3. NJDEP Suspected Hazardous Discharge notice, dated August 15, 2021, NJDEP Case #21-08-14-1216-02, regarding 30 Dongan Lane, Block 15302; Lot 8, for improper disposal of Freon from air conditioners and refrigerators in scrap metal at the site.
4. NJDEP Dam Permit #1608, dated August 10, 2021, regarding Farm Crest Acres Association for the rehabilitation of the Upper and Lower Crest Lake Dams, with proposed raising of each dam embankments, constructing new concrete primary spillways, installing seepage collection systems, lining the discharge channels with riprap. A permanent siphon system at the Upper Crest Lake Dam will also be installed.
5. NJDEP Groundwater Remedial Action Permit #RAP210001, dated August 23, 2021, received for Frank Kasabri - Dena Car LLC, 2048 Rt. 23, Block 14104; Lot 2, SRP Program Interest #001649 regarding remediation at the former Getty Station 56009 for contamination from benzene.
6. NJDEP FW Letter of Interpretation: Footprint of Disturbance Determination, File # 1615-20-0013.1 for James Antonucci, Block 10202; Lot 5.02, advising that freshwater wetlands and/or State open waters are not present in the limit of disturbance indicated on the site plan prepared by MCB Engineering Associates, revised date of July 8, 2021. In addition, no part of the area of disturbance occurs within a transition area or buffer. Exceptional wetlands exist on the site so the transition area or buffer is 150 feet.
7. NJDEP Suspected Hazardous Discharge notice, dated September 2, 2021, NJDEP Case #21-09-01-1608-33, regarding the removal of a 550 gal UST with clean up pending.
8. NJDEP Treatment Works Approval No. 21-0238, dated 09-02-21, received for 1463 Union Valley Road, Block 7601; Lot 2, regarding a remediation system for a site plan prepared by Arcadis, dated February 23, 2020. This permit is valid for two years from the issuance date.

### **Miscellaneous**

1. HEPSCD certification of a soil erosion and sediment control plan, dated August 6, 2021, for Farm Crest Acres Rehab of Upper & Lower Dams, Doremus Road, Block 16701; Lots 4, 5, 6, 10, 11, 12.
2. HEPSCD violation notification, dated August 23, 2021, for residential site improvements and disturbance of more than 5,000 square feet of soil without a soil erosion and sediment control plan for JAN LLC at 7 Cottage Cover, Block 3611; Lot 6.
3. HEPSCD Report of Compliance, dated 08-19-21, received for Melillo Vreeland Grading & Improvements, 40 Vreeland Road, Block 9001; Lot 21.
4. HEPSCD Report of Compliance, dated 08-19-21, received for Cielplak Soil Movement, 246 Morsetown Road, Block 4701; Lot 22.
5. HEPSCD Report of Compliance, dated 08-19-21, received for Cutugno Soil Movement, 65 Vreeland Road, Block 8802; Lot 49.

6. HEPSCD Recertification of B & B Organic Waste Recycling Stabilization Measures, dated August 31, 2021, for 280 Marshall Hill Road, Block 6002; Lots 29, 18.02, 28.03.

**ADJOURNMENT**

Prior to adjourning, the Board was advised that the next scheduled meetings were on October 7 and 28, 2021. A revised cannabis ordinance introduced by the Council may be on the agenda for Board review. Members will be notified by email regarding a cancellation of a meeting.

With no other matters to come before the Planning Board, Chairman Christopher Garcia **adjourned** the meeting of September 23, 2021 at 9:25 p.m. on a **motion** by Linda Connolly, with a **second** by Glenn Wenzel.

Approved: December 2, 2021

Respectfully submitted by

Tonya E. Cubby, Secretary