

MINUTES
Township of West Milford
PLANNING BOARD
REGULAR MEETING
February 1, 2024
7:00 p.m.
Macopin Middle School

LEGAL

In accordance with Chapter 231, Public Laws of the State of New Jersey of 1975, adequate advance notice of this meeting was sent to The Herald News for publication, is posted on the Bulletin Board in the main corridor of Town Hall and is on file in the Township Clerk's Office. The Main Meeting Room is ADA accessible. Special needs can be accommodated by contacting the Zoning Board of Adjustment at (973) 728-2796. Formal action may be taken.

Call to Order 7:14

PLEDGE

ROLL CALL

Regular Members Mayor Dale, Councilwoman Erik, Chairman Garcia, James Rogers, Geoffry Syme, Steven Castronova

Absent: Michael Gerst

Alternates: JoAnn Blom

PUBLIC PORTION

30 minutes reserved for topics unrelated to Board Applications

Seeing no one Councilwoman Erik moved to close the public portion

Second: Steven Castronova

All were in favor

NEW APPLICATIONS

PB-10-22-09

VEOLIA WATER NEW JERSEY

Veolia Water New Jersey Seeking to upgrade the existing Wastewater Treatment Plant and replace the aging infrastructure.

Existing Treatment facility is located on Block 6203 Lot 17

SEEKING

Preliminary and Final Site Plan

Minor Subdivision / Lot Line Adjustment with Variance(s)

Block 6203, Lots 13, 13.1 & 17

184 & 200 Marshall Hill Road

Craig Bossong from the law firm of Florio, Perrucci, Steinhardt, Cappelli, Attorney for the Applicant stepped forward. Mr. Bossong stated Notice has been provided for a previously scheduled meeting, subsequently adjourned to this meeting. Re-notice has been provided for the meeting this evening with the new location. All documents have been provided.

Attorney for the Board, Tom Molica stated for the record and did confirm he examined the form of Notice and jurisdiction does fall within the Board.

Mr. Bossong stated a point of order regarding jurisdiction as it relates to an old legislative order on the books in Chapter 300 has been questioned. The ordinance was adopted 1961, before the municipal land use law existed. The ordinance set forth certain requirements for sewer systems. The requirements were similar to zoning. If setbacks

were required, it was stated that going before the Township Council was required. At this time MLUL did not exist. MLUL was put in place to standardize land use procedures in the state of NJ, allowing for the right to grant variances to the boards. Also referenced, multiple statutory sites with the department of health services that pertain to matters that have been preempted or repealed – All of the statutory sites in this ordinance have been repealed by 1977.

Mr. Bossong stated his opinion, because this was all in place before MLUL. Additionally, the township has adopted a zoning code that set forth setback requirements and like. An ordinance adopted later in time would prevail and be controlling over something adopted more than 50 years ago. Current zoning would apply.

Further, VEOLIA Water purchased the assets of the West Milford MUA in 2018. VEOLIA entered into an Administrative Consent Order “ACO” with the DEP which required VEOLIA to do mandatory upgrades to the assets that were part of the MUA. This “ACO” has been submitted to the Board. Mr. Bossong stated he had copies available for anyone present wishing to see the document. The DEP requires, *within a certain time frame*- Birch Hill site specific, improvement and correction be made to come into compliance. VEOLIA was required to come up with a long term plan to address this system that is more than 60 years old and “failing”. The long term plan and need is the construction of the new plant in the vicinity to address the issues and comply with the ACO and DEP.

Council for the Board, Tom Molica stated he agreed and offered the Township Attorney concurred as stated in a letter issued January 30, 2024. Mr. Molica stated the Board has exclusive jurisdiction from a zoning perspective of this matter. The prior ordinance 300 is not in effect and not applicable.

Mr. Bossong clarified, the Application pertains to lots 13, 13.1 and 17. Lot 13.1 legally does not exist as a lot on the tax map. *Explaining* – churches are exempt for up to 5 acres. Lots 13 and 13.1 totals 6.4 acres. VEOLIA's purchase to add to lot 17 brings the church property size to 5 acres. The Tax Assessor when designating – created a separate lot for the purpose of exempt/taxable without a subdivision, creating 13.1. If the Board approves the subdivision as part of this application the issue will be clarified and eliminated.

The Board Attorney found no issue with the explanation.

Mr. Bossong proceeded in stating the Application before the Board is to update an ageing plant with technically advanced equipment to provide less noise and odor, less truck traffic – no open tanks. The plant serves approximately 87 properties within the immediate vicinity of Marshall Hill Road and the wastewater treatment plant.

Property is located in the R1 zone, public utilities are permitted. A lot line adjustment is proposed. The existing plant is located in the wetlands riparian zone. The plant must stay in operation during the upgrade. Land was acquired to relocate the plant to the other side of the parking lot. The new plant is designed to fit in with the surrounding area and look less industrial and unintrusive as possible.

The Board will hear all the applicant's witnesses and take public questions after.

Mr. Bossong called their Civil Engineer – Mr. David A. Clark. He was sworn in by the Board Attorney and stated his credentials, A Graduate from NJIT IN 1989 with a bachelor's degree in Civil Engineering. His license is active and in good standing. He has appeared before and qualified as a professional engineer before numerous boards.

There were no questions from the Board.

Mr. Clark and a surveyor obtained by the Applicant prepared sheets listed as part of the submitted package –
G-001- Cover sheet
G-002 General Notes

SD-001 Existing Conditions Plan
SD-002 Subdivision layout

Additional plans in the set by Gardell Land Surveying
S-001 Overview of Minor Subdivision
S-002 Survey of existing lots
S-003 Proposed parcel and easement lines.

My Bossong stated for the record – all of the plans have been previously sent to the Board and part of the review packet.

Referring to SD-002, proposed subdivision.

Mr. Clark explained Lot 17 (VEOLIA) property comprised of a narrow strip off of Marshall Hill Road. Lot 13 (will refer to lot 13 and 13.1)– the church lot comes off of Marshall Hill Road with access from McKinley Place. (*described*) The proposed subdivision/lot line readjustment continues down in a southwest direction within the parking lot of the church and westward, then south again to the rear of the church. The adjustment will increase the lot approximately 1.36 acres. The church lot will be slightly reduced to 4.99 acres.

There are a number of existing non conformities.

EXHIBIT A1 – February 1, 2024 as described – RSD-002
Three shaded parking spaces to be removed.
No striping exists.
Spaces along the back will be eliminated
155 spaces exist, 121 are proposed to remain, 120 is required

The church is a conditional use in this zone. The church use (lot 13, 13.1) will comply with all of the zoning requirements and conditional use requirements with the exception of pre-existing nonconforming conditions.

The applicant, when adjusting the lot line, gained as little land as possible to make both sites work.

Frank Visingardi, Civil Engineer for the Applicant stepped forward, was sworn in by the Board Attorney. Mr. Visingardi stated he works with HDR Engineering. Mr. Visingardi stated his credentials on record including education and experience with previous testimony before boards. Mr. Visingardi has testified before this Board. Mr. Visingardi was recognized as an expert in the field of Civil Engineering.

Sheet 003- existing conditions plan.
Existing conditions described as a facility with structures in the rear side of the lot.
There are 2 buildings –

- Control building (electric room building)
- Treatment building to disinfect the wastewater before it is discharged.

Concrete tanks in the ground.
Steel tanks above ground

Mr. Visingardi stated treatment must remain working around the clock.

The side along the eastern boarder has a stream. There is a riparian zone that runs parallel to the stream. The riparian zone occupies the entire lot with pockets of wetlands along the stream bank and one that is proposed to be part of lot 17.

The current plan is within the riparian zone. One of the goals of this project is to remove the plant from within the riparian zone at a higher grade.

Sheet C-004- Proposed (if approved)
Two buildings to be removed. Removal of the building to the left improves the current setback.

Concrete tank to remain.
The above ground tankage to be removed

Sheet C-006 Proposed Site Plan
1200 sq ft operations building on the far west side of the newly formed lot
Covered concrete tanks. The top of the tanks will be 18" above grade
Pad with an odor control system on it.

The outdoor tanks are "for the most part" completely covered. The tops sit above grade by 18".

The process is more naturally, biologically breaking the waste down.

There is a generator on site to be used when utility power is unavailable. The generator is natural gas fired. The generator will be exercised on occasion during daylight hours once a month for approximately an hour. Noise attenuation is in place. Sound from the generator will comply with the noise ordinance at the property lines.

The Applicant is requesting an easement from the church along the side area of the generator. The easement will be used for parking and noise attenuation.

Maintenance vehicles will be on site daily. Sludge to be removed on a weekly basis. Truck trip reduction is estimated 400 less trips per year with the upgrade of this plant.

During wet weather, additional trucks may be on site to remove excess water.

The odor control equipment is labeled "B" on the Plans. Described as a tower, approximately 9 ft tall with 2 fans – drawing air from the treatment processes and blowing through the tower. Inside the tower there is activated carbon.

A masonry wall that runs alongside where the generator and odor control is located. It is a screen wall for the neighbors to the south of the facility.

Outdoor Lighting Calculation – submitted with the application
Sheet 1 of 1 – described as a couple of pole mounted lamps along the driveway. Lamps and fixtures mounted onto the operations building. Service lamps to be located around the odor control system.

The lights are on switches. The Veolia staff would be on site for the lights to be turned on.

Low light security will be in place around doorways. The light level will not exceed permitted by ordinance.

Landscaping Plan –
Sheet C-009

The southern boarder shows a series of shrubs and trees to be planted. Current vegetation to be filled in. Shrubs are proposed in front of the generator and odor control tower.

Within the riparian zone, stone gravel used as pavement to be removed and replaced with suitable vegetation.

Impervious coverage will be reduced and returned to a more natural cover.

Mr. Visingardi's testimony was complete.

Questions from the Board;

Mr. Visingardi stated there is not odor mitigation in place with the current system.

Waste water treatment must remain in place round the clock. The existing treatment plant will operate while the facility is upgraded.

Mayor Dale requested clarification and an understanding how the applicant chose the location for the upgrade and what options have been explored, including DEP permits.

Mr. Visingardi stated studies and investigations have been done to determine a suitable location that would allow the existing facility to run during the upgrade.

Mr. Bossong stated Veolia must stay within the franchise area. Moving down the street would require multiple pumping stations. The chosen location is the best possible location within the franchise area. The facility must be in the vicinity of the properties being serving.

The new facility is moving 130 ft.

Block 62.04 Lot 18 - The current facility sits 200 ft from the property line.
- The proposed facility will be 71.7 feet from the property line

Responding to the Board Engineer Mr. Visingardi indicated the riparian zone (from center line stream out) is about 75 feet. There is not a map flood plain. There is a flood elevation (provided by Fema) extends into the site. Mr. Visingardi stated "we are looking to protect these buildings up to the 500 year floods – protected against extreme events.

Part of permitting, the applicant must confirm that the project is outside the flood hazard. Regulations have changed and more stringent.

Mr. Bossong stated emergency generators are exempt from the noise control act of the state.

The odor control fans, located outdoor are equipped with sound attenuating enclosures. The enclosures reduce the sound coming off the fans. At the more strict criteria (evening hours) at 50 dba at the property line.

The generator is located 105 ft from the nearest residential property line. A screen wall/masonry wall is proposed between the generator and the nearest residential property.

A berm was discussed – Mr. Visingardi stated it would require removing existing vegetation. The current plan is to enhance the vegetation on site. Additional vegetation is along the southern property line. Rhododendrons and trees are proposed.

Mr. Visingardi produced a visual of what the neighbors would see (part of the packet). EXHIBIT A-2 A view from McKinley Place, the southern end of the lot. Looking northerly, the treatment plant is proposed to the left. The rendering is a future rendition – 3 years in the future. The rendering is approximately 70 feet from the building. A berm would cause vegetation loss and a new start of growth.

Mr. Visingardi stated there is no odor control in place at the current facility. All of the tanks are to be covered in the new facility. All odor is being directed to the odor control tower, an engineered system. The odor passes a bed of carbon. The carbon is monitored by Veolia. It is estimated a new bed of carbon to be replaced every third year.

Landscaping Planting Detail Sheet Described by Mr. Visingardi

Twenty-eight trees to be planted
21 trees/6 ft tall (Jersey Princess Holly)
3 trees/ 6-8 ft. Jersey Knight Holly
4 Colorado Blue Spruce

Shrubs

69 Rhododendron/Great Laurel #3 container
14 Mountain Laurel #3 container

The riparian Zone plantings consists of a conservation seed mix designed specific for a riparian zone and restoring it back to nature.

Mr. Austin Seid, Architect with the firm HDR for the Applicant. Mr. Seid provided his education, current license and has testified before this Board in the past. Mr. Seid was accepted as an expert as an expert.

Mr. Seid referenced A-006 – exterior elevations of the operations building. The 1 story building is approximately 27 ft high. The first floor has an equipment platform to accommodate ventilation equipment. The building is designed to fit in with the neighborhood and appear as a residential style building. The Roof is gable style and shingled. The exterior entry ways have canopy's and gable roofs. The siding is fiber cement, more durable than vinyl. The color is white with black accents. The windows are aluminum with black ornamental trim and ornamental fiberglass shutters. The building has an aesthetic approach to fit with the church and the neighborhood.

There is an overhead coiling door (side) in place to accommodate the need to move equipment into or out of the building.

Exhibit A-3 Architectural Rendering, February 1, 2024

Described as a simulation of the proposed building

View from the parking lot of the church adjacent to Marshall Hill Road looking south toward McKinley Place. The west side (r side of image) shows the operations building. The service equipment and generator are shown on the (l).

To the left of the building is a rectangular shape object, the masonry wall. A security perimeter fence is shown, approximately 6 feet. Powder coated galvanized steel fence designed to be porous and provides security to the facility.

The height of the operations building is 26' 2 1/8" as depicted on A-006.

Mr. Seid stated he took the photograph with a Nikon camera in October or November.

Mr. Daniel Bloch with Colliers Engineering & Design, Planner for the Applicant was sworn in by the Board Attorney. Mr. Bloch provided his educational background and stated his licenses are in good standing and has testified before many Boards. Mr. Bloch was accepted as an expert Professional Planner.

Mr. Bloch stated, the property is located in the R1 Zone- higher density residential district. There is an existing church on 1 lot and an existing wastewater treatment facility on the other lot. Lots are being reconfigured. The facility is being moved. The Applicant seeks Bulk Variance Relief for the new facility with the new lot adjustment for lot 17

Minimum lot width and lot frontage, 110 ft is required, 86.5 ft exists and proposed.

Side yard setback from the new proposed structure to the new lot line of lot 17.

Where 25 ft required, 11 ft is proposed from the new building. Accessory structures (generator pad, sludge tank and noise system) at or below ground level. Where 10 ft required, some are less than 10 ft to the new proposed lot line.

Rear Property setback requirements – adjacent to the residential property complies with the R1 requirements determined by the ordinance.

The variance sought was described as a setback from "an imaginary line" between the church and the sewer property. From the residential perspective there is no change.

The existing non-conforming structure will be removed. The new structure will be conforming with zoning laws.

Positive criteria

Purpose A "To encourage municipal action to guide the appropriate use or development of all lands in a manner which will promote the public health, safety, morals and general welfare". Mr. Bloch stated wastewater treatment is important for residential properties.

Purpose G "Provide sufficient space in an appropriate location for a variety of uses according to their respective environmental requirements to meet the needs of the

residence". Mr. Bloch stated the application supports purpose G, providing adequate infrastructure for the existing homes in the area.

Negative Criteria Substantial Detriment to the public good.

Mr. Bloch stated his opinion there is no substantial detriment. The existing treatment plant is being upgraded and relocated. The distance is more than adequate from the residential property line according to zoning. The internal setback from the church has no effect on the surrounding properties.

Referencing the Master Plan and the zoning ordinance considering the intent and purpose of the request for deviation from. The ordinance permits public utilities designed to serve the immediate community. The new location is "the most logical" as stated by Mr. Bloch - within the service area. The proposed structure is designed to blend in with the church and neighboring properties. The aesthetics enhancements will improve of the area.

An access and driveway easement exists from McKinley Place behind the church.

With no further witnesses from the Applicant the Application was opened to the public by the Chairman.

Jacklyn McGraw residing at 35 Cleveland Drive was sworn in by the Board Attorney. Ms. McGraw asked the residence of Birch Hill be considered prior to any approval. Ms. McGraw indicated she was very unhappy the building would be in her backyard, disturbing her right to enjoyment. Mr. McGraw referenced Title 7 of the NJ Administrative code, subchapter 23 - "a building needs to be built on a hill". Ms. McGraw stated concern for nearby wells, water runoff, odor, noise, truck traffic, light pollution, chemicals, property values and wetlands concerns.

Gerald Sheehan was sworn in by the Board Attorney. Mr. Sheehan stated the DEP permits are pending. He further stated the Application submitted by VEOLIA indicated no existing wells located within 100 ft of the property to be acquired. Mr. Sheehan stated his well "is about 40' for 50' from the property and questioned why the Application stated "N/A". Block 6203 Lot 18

Mr. Visingardi stated question #51 pertaining to wells within 100 ft of the property was marked as N/A. Further stating he would look into the well records for registered wells to make a determination.

Mr. Sheehan presented five photo exhibits, dated February 1, 2024

- EXHIBIT O1
- EXHIBIT O2
- EXHIBIT O3
- EXHIBIT O4
- EXHIBIT O5
- EXHIBIT O6

The Board Engineer stated this development has a public water system. During a time early 1970's some residents put in individual wells. Criteria set forth and monitored by the DEP.

The current setbacks proposed for this project are approved. There is not a variance relief requested for lot lines to the residential area. The Board is not determining where the facility will be located, it is permitted.

Mr. Sheehan shows pictures as the back of his and a neighbor's house after heavy rain and a stream after a "regular" rain and Cleveland Road.

The Board Engineer stated in addition to the wastewater treatment plant process design, the applicant will need to file with NJDEP to confirm the flood elevation, where it is located and the riparian buffer.

Mr. Visingardi stated (going back to May 2023) applications for NJDEP, riparian zone and the letter of interpretation have been requested. The waiver transition area around wetlands have been marked.

Barbara from Cleveland drive was sworn in by the Board Attorney. Barbara presented a picture of her backyard.

EXHIBIT O7 February 1, 2024

She stated concern for keeping the area safe and ask for consideration for the families that live in the neighborhood.

Mr. Bossong, Attorney for the Applicant stated - traffic will be reduced by an estimated 400 truck trips.

Mary Eggerling was sworn in by the Board Engineer. Ms. Eggerling is concerned with the amount of exemptions required to place the upgraded facility in the proposed location.

Anthony Pateri was sworn in by the Board Attorney. Mr. Pateri suggested a different location for the facility.

Roslyn Mangan, 31 Cleveland Drive was sworn in by the Board Attorney. Ms. Mangan expressed concern with truck traffic in the neighborhood and the driveway through the church.

It was determined through discussion with the Board and Applicant the truck traffic is directed by County requirements.

Russ Johnson, 24 Cleveland Drive was sworn in by the Board Attorney. Mr. Johnson inquired about any ordinance that would protect the day care located in the Olive Branch Church from a treatment plant in close proximity. Mr. Johnson would like the Board to consider a new location.

The Board Attorney explained the Application did not require a variance. The USE is permitted.

Michael Bender was sworn in by the Board Attorney. Mr. Bender spoke of existing pipes near Edgar Drive and their availability to this facility.

The Board Attorney stated this Board must review the Application before them.

Seeing no one, Councilwoman Erik moved to close the public portion

Second: Steven Castronova

All were in Favor

Discussion regarding the Applicant's obligation to obtain governmental approvals included a condition of approval "the applicant obtain any and all governmental approvals" is sufficient to address Mr. Sheehan's stated concerns.

In closing - Council for the Applicant stated the project consists of upgrading the aging and practically failing facility with a state of the art system. The Applicant is under an ACO to complete this upgrade. The site is a permitted USE. One setback of 11 feet in the rear of the property is being sought. Truck traffic will be reduced.

With nothing further from the Board or Professionals –

Motion to Approve: Steven Castronova, subject to all governmental approvals. The generator be exercised once a month on a week day, during daylight.

Second: Geoffrey Syme

Roll Call:

Yes: Mayor Dale, Councilwoman Erik, Chairman Garcia, Geoffry Syme, Steven Castronova

No: James Rogers

Planners Report:

Jessica Caldwell stated the Master Plan sub Committee meet earlier this evening. The Master Plan draft is near completion and submission to the Board for input.

Minutes for approval

*August 3, 2024

All present at the meeting approved

*September 7, 2024

All present at the meeting approved

*October 5, 2023

All present at the meeting approved

Motion to adjourn: Steven Castronova

Second: Councilwoman Erik

7:36 PM

All were in favor

Respectfully submitted;



Pamela Jordan
Zoning Board Secretary

Approved May 23, 2024