

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

July 1, 2021

Regular Meeting

Chairman Christopher Garcia opened the July 1, 2021 regular meeting of the West Milford Planning Board at 7:05 p.m. with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Steven Castronova, Councilwoman Ada Erik, Councilman Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Chairman Christopher Garcia, Alt. #1 Michael DeJohn, Alt. 2 JoAnn Blom, Associate Planner Alison Kopsco.

Absent: Linda Connolly, Glenn Wenzel, Board Attorney Thomas J. Germinario, Board Engineer Paul W. Ferriero.

Chairman Christopher Garcia requested Michael DeJohn and JoAnn Blom to sit in for the absent members, and 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 Warren Gross.

PRESENTATIONS – None.

APPLICATIONS – None.

NEW OR ONGOING BUSINESS

Highlands Sustainable Economic Development Plan – Alison Kopsco of J. Caldwell and Associates advised that the Highlands Sustainable Economic Development Plan document is in final draft mode, and a document will be available for the Master Plan Committee to review in the next month. Chairman Garcia advised that once the Master Plan Committee has met to review the SEDP, the Planning Board would need to review it. He noted that this plan, as well as the Open Space and Recreation Plan Update, will be considered for incorporation into the Township Master Plan.

Open Space and Recreation Plan Update – Chairman Garcia advised that the Master Plan Committee reviewed the Open Space and Recreation Plan Update and there were no issues with regard to being inconsistent with the Master Plan. The public hearing will be scheduled for August 5, 2021 at a regular Planning Board meeting. The Board Secretary will publish the public notice and the adjacent municipalities will be advised of the date, time and purpose for the hearing. Once the public hearing has occurred, the Board will consider adoption of the Open Space document as an element of the Township Master Plan. Jim Rogers requested that the Township Library receive a copy for the public to review.

ORDINANCES/RESOLUTIONS REFERRED FROM COUNCIL

Ordinance #2021-013 – Bulk Standards and Zoning - Chairman Garcia reviewed the events leading up to the amended bulk standards ordinance review, including the subsequent roundtable meetings with various stakeholders, as well as the Ordinance Committee. He explained that the focus of the meetings was to discuss the proposed amended ordinance on bulk standards, recommend revisions to that ordinance, and also provide clarification on zoning and building matters. In the review process, certain areas of the zoning ordinance were not well defined, and recommendations were made that will help to eliminate the “grey areas” that were evident. Chairman Garcia advised that shipping containers was one area that was addressed, as well the definitions of temporary structures, as well as recommending a waiver for a zoning permit for interior renovations. He referenced the memo that was prepared by the Board Planner to the

Governing Body, and commented that the intention of the participants, in all of the review meetings, was to simplify the process and bring more clarity for property owners. Board member Jim Rogers inquired if the new amended ordinance referred to front and side yard setbacks, and Chairman Garcia responded that it does, but not in chart form, adding that the amendments provide exceptions to bulk area requirements, i.e. certain structures might be permitted at half of the distance for required setbacks. Mr. Rogers inquired if there are any setbacks less than 5 feet, and Chairman Garcia noted that fences and decks would be permitted one foot in from a property line. Several examples were given in response to inquiries from the Board members regarding the setbacks and the suggested amendments which are intended to reduce the number of variances that will be required. Board member Geoffrey Syme commented about the issues with shipping containers, and observed that there is a lot of text in the ordinance recommendations regarding them. Chairman Garcia agreed, noting that there are numerous sites with these containers, and they create issues when they are used for storage facilities, and sometimes as living spaces. The recommendations being made require them to be clad if they are used as a shed, and their temporary status is defined, with provisions included to accommodate existing containers and proposed, that will require a permit within one year.

Chairman Garcia addressed his comments to Councilwoman Ada Erik and Councilman Warren Gross, hoping that the new recommendations on the zoning ordinance would achieve the Governing Body's intent to simplify the process for residents. He stressed that the discussions that took place during several meetings attempted to review and improve specific areas that were a common concern. Ms. Erik remarked that Councilwoman Marilyn Lichtenberg had questioned why West Milford did not require C.O.'s for sales of properties like some of the towns, and Chairman Garcia responded that additional staffing would have to be in place, and the staffing would have to be funded in the budget. He noted that a discussion on this ensued during the Master Plan Committee meeting, and it is apparent that the Township needs to fund enforcement if the new ordinances are adopted. With regard to C.O.'s for resale of properties, he remarked that Oakland had hired a separate company to conduct the C.O.'s, but it would require a qualified professional or additional licensed staff to conduct all the inspections of sales in the Township.

At the conclusion of the discussion on this matter, the Board recommended that the Board Planner's memo with recommendations for zoning amendments, prepared subsequent to discussions and meetings involving the Ordinance Committee and other professionals, should be forwarded to Administration for the Governing Body to review.

Ordinance #2021-25 – Soil Removal and Soil Fill – With regard to Ordinance #2021-25, Chairman Garcia advised the Board that the ordinance had been introduced by the Governing Body, and the Board can provide comments on the ordinance, but have been requested to determine whether or not it is inconsistent with the Master Plan. He further advised that the Master Plan Committee had met prior to this regular meeting to review the ordinances that had been referred to the Board for Master Plan Consistency. The Chairman reviewed the memo from Board Planner, Jessica Caldwell, a copy of which had been provided to the Board members. Ada Erik remarked that the ordinance did not have a time limit included in the language for the completion of the soil movement activities. The Board discussed several options, and concurred that the soil movement activities should generally be completed in 18 months or two years. The Board discussed other recommendations for compliance with the ordinance, including holding the contractor accountable for non-compliance, limiting the number of permits in a period of time, notice to the neighboring property owner, how to address multiple soil movement incidents on a property, and increased fees to reflect the costs for processing the permits. Subsequent to the discussion, the Board requested the following recommendations to be forwarded to the Governing Body for consideration and adopted Resolution No. 2021-12:

- The Planning Board recommended that a provision be included in the ordinance that would hold the contractor responsible in the event of non-compliance.
- The Planning Board recommended an increase in the minor and major soil permit fees to allow for adequate funding of enforcement, as well as sufficient funds for plan and permit reviews and inspections. The Board suggested that a review of surrounding municipalities' soil permit fees should be conducted to provide a benchmark for updated application and escrow fees in West Milford.

- Pertaining to Definitions in §460-2, “Major Soil Fill Permit” and “Minor Soil Fill Permit”, the Board recommended that both contain an explicit applicable time period, as well as a cumulative volume parameter. Specifically, a provision that would discourage cumulative incidents of unpermitted activity, for example, movement of 90 cubic yards of soil movement on multiple occasions in order to avoid having to file a permit.
- The Planning Board recommended that “Enforcement” be included in the Definitions under §420-6, referencing §460-14.

RESOLUTION NO. 2021 – 12

Finding Master Plan Consistency Regarding Ordinance 2021-25, Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey Amending Chapter 460 “Soil Removal And Soil Fill” Of The Code Of The Township Of West Milford – Amended

A **motion** was made by Geoffrey Syme, with a **second** by Steven Castronova, to **approve** Planning Board Resolution No. 2021-12 finding Master Plan Consistency regarding Ordinance #2021-25 – Amending Chapter 460 – Soil Removal and Soil Fill, with the Planning Board recommendations to be forwarded to the Governing Body.

Roll Call

Yes: Steven Castronova, Ada Erik, Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Michael DeJohn, JoAnn Blom, Chairman Christopher Garcia.

No: None.

Motion approved.

Ordinance #2021-029 – Cannabis – Chairman Garcia advised the Planning Board that the ordinance had been introduced by the Governing Body and the ordinances were reviewed by the Master Plan Committee prior to this regular meeting. The Board Planner had provided a memo regarding Master Plan Compliance and a resolution has been prepared by the Board Attorney. With regard to regulating the businesses, the Chairman suggested that it may be similar to the alcohol regulations. Robert Nolan inquired whether the Township would consider limiting the number of licenses, and Steven Castronova remarked that the State regulates the number of alcohol licenses in a municipality. With regard to fees, Chairman Garcia thought that the fees may be controlled by the State. Ada Erik remarked that the Township Attorney advised them that the Township has to adopt the ordinance by August 21, 2021 or we will lose out for five years. Several Board members suggested that the municipalities’ deadline from the State may be amended since they did not have the State regulations established yet. Ms. Erik commented that the Township has been contacted by interested parties who want to farm the cannabis, but the regulations being considered specify that the plant must be grown inside of a building, not in a greenhouse, and the locations will be limited. Jim Rogers inquired if the Township had been contacted about establishing sites for retail sales for cannabis, and Ms. Erik responded that she is only aware of the Township being contacted about wholesale sites. Mr. Rogers commented that the CRC – Cannabis Regulatory Commission - has barely gotten off the ground and the regulations are not even clear at this point. Subsequent to the discussion, the Board requested the following recommendations to be forwarded to the Governing Body for consideration and adopted Resolution No. 2021-11:

- The Planning Board recommended that the Governing Body institute provisions to account for the additional costs to be incurred, and the personnel required, for appropriate enforcement activity. Specifically, it is expected that law enforcement and zoning enforcement may incur significant stress on their departments’ limited resources upon the approval and implementation of cannabis production, distribution, and sale within the Township of West Milford, and funding should be designated to provide additional means for proper enforcement.
- The Planning Board recommends that the “schools” and “parks” be more clearly defined. The current mapping for Eligible Locations for Facilities are missing some of the parks (Bubbling Springs, County Parks, State Parks, etc.). The Board also inquired if private schools and day care centers are defined as “schools”.
- Referencing § 500-192 (7), the Board concurred that the current provision in the ordinance for hours of operation are vague and ambiguous. They recommended that the hours of operation reflect more specific parameters that are not subject

to seasonal variables (i.e. “early evening” may fluctuate, dependent upon the season).

RESOLUTION NO. 2021-11

Finding Master Plan Consistency Regarding Ordinance 2021-029, Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey Amending the Township Code Chapter 500 Entitled “Zoning”... To Permit the Cultivation, Manufacturing, Wholesale, Distribution, Retail, and Delivery of Cannabis Within the Township

A **motion** was made by Steven Castronova, with a **second** by Warren Gross, to **approve** Planning Board Resolution No. 2021-11 finding Master Plan Consistency regarding Ordinance #2021-29 – Amending Chapter 500 – to permit cultivation, manufacturing, wholesale, distribution, retail and delivery of cannabis in the Township, with the Planning Board recommendations to be forwarded to the Governing Body.

Roll Call

Yes: Steven Castronova, Ada Erik, Warren Gross, Robert Nolan, James Rogers, Geoffrey Syme, Michael DeJohn, JoAnn Blom, Chairman Christopher Garcia.

No: None.

Motion approved.

BOARD PLANNER’S REPORT – None.

BOARD ATTORNEY’S REPORT – None.

BOARD ENGINEER’S REPORT – None.

MISCELLANEOUS

Chairman Garcia commented on a recent news article regarding 5G technology, which is becoming more available in the metropolitan region. He noted that some towns are looking to regulate this technology, and without regulations in place, they can install the equipment anywhere. Robert Nolan commented that the 5G equipment being installed for cell phone use requires the poles to be closer together, and without an ordinance in place, the companies will install wherever it benefits them, not necessarily the residents. He also noted that there are quite a few health concerns about this technology. Chairman Garcia advised that he would share the article and draft a memo for the Board and professionals to review regarding this matter. Ada Erik advised that she is on the Board of J.A.G. (Jersey Access Group) and they have a lot of information on 5G technology. The Board requested more information on this matter to review for recommendation to the Governing Body.

Invoices

The Planning Board professionals’ recent invoices were **approved** on **motion** by Robert Nolan with a **second** by Steven Castronova.

MINUTES

The Minutes from the June 3, 2021 Regular Meeting were **approved** by those members present at that meeting on a **motion** by Steven Castronova 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 Act – Exemption #11, WQMP – Not Addressed, received from the NJDEP Bureau of Freshwater Wetlands and Highlands Permitting, dated June 10, 2021, regarding Suez Water New Jersey, Inc, for site improvements for regional water supply facilities at B 3503, L 18.02; B 4302, L 13; B 4501, L 1; B 5503, L 1; B 6201, L 29; B 9711, L 21; B 9901, L 9.

NJ Department of Environmental Protection Correspondence

1. Notification of Treatment Works Approval Permit Application received from Arcadis U.S., Inc., dated June 2, 2021, regarding the former Texaco Service Station #211126, 1463 Union Valley Road, Block 7601; Lot 2. The treatment system will be constructed to treat all groundwater extracted during this dual-phase remediation project

(groundwater and soil vapor extraction). The treatment system will be comprised of one influent equalization tank, four particulate bag filters, two liquid phase granular activated carbon absorbers, and associated pumps, piping and instrumentation. The primary pollutants in the system influent are anticipated to include benzene, ethylbenzene, xylenes, naphthalene, tentatively identified compounds, and lead. The treated water will be conveyed through an underground pipe to a nearby storm sewer that discharges to Belchers Creek.

2. ADR Environmental Response Action “Outcome, dated June 1, 2021, regarding the completion of remediation at the site of two 550 gallon leaded gasoline UST’s with associated dispenser at Block 16901; Lot 2, 3520 Rt. 23, owner Tareq Elsamna, Preferred ID: 90763, Com Ctr #01-03-29-1433-57, UST Reg # 90763, UST Closure # N01-0085.
3. Suspected Hazardous Discharge notice, dated June 9, 2021, received for 14 Kanouse Road, Block 14702; Lot 6, regarding the removal of a 550 G UST, with clean up pending.
4. Suspected Hazardous Discharge notice, dated June 19, 2021, received for 256 Macopin Road, Block 12501; Lot 41.01, regarding an anonymous report of contaminated soil (sand) being disposed of at the site.
5. Flood Hazard Area Extension Request, dated June 8, 2021, received from the NJDEP Division of Watershed Protection, regarding File No. 1615-14-0002.1 FHA 210001 for the City of Newark Dept. of Water and Sewer Utility, advising that the Flood Hazard Area Verification is extended for five years, expiring on June 7, 2026.
6. Copy of an application for a Freshwater Wetlands General Permit #24 being submitted to the NJDEP by Careaga Engineering, dated June 15, 2021, regarding a septic repair for Scordato, 255 Canistear Road, Block 16901; Lot 6.
7. NJDEP FW GP #20 and FHA GP#3, dated June 24, 2021, Permit No. 1615-19-0001.1 LUP2100001, regarding the installation of a scour protection measures (rip-rap) along the channel of the Pequannock River at the Route 23 Bridge (MP 25.52).

Miscellaneous

1. HEPSCD Certification of soil erosion and sediment control plan dated April 9, 2021, received June 2, 2021, for Renzland Garage, 900 Burnt Meadow Road, Block 4601; Lot 16.
2. HEPSCD Certification of soil erosion and sediment control plan dated April 23, 2021, received June 2, 2021, for Vitale Westbrook SFD, Revised to add pool and cabana, 1060 Westbrook Road, Block 5010; Lot 1.
3. HEPSCD Certification of soil erosion and sediment control plan dated April 15, 2021, received June 2, 2021, for Ashley – Virginia Lane SFD, 70 Virginia Lane, Block 10002; Lot 10.
4. Draft Report and notification from the County of Passaic, Dept. of Planning & Economic Development, dated June 15, 2021, advising of a Public Hearing to be held on July 8, 2021 at 5:00 pm at the regularly scheduled meeting of the Passaic County Planning Board, regarding the Paterson-Newark Transit Market Study, proposed as an additional element of the Passaic County Master Plan. The Paterson-Newark Transit Market Study was commissioned to determine the feasibility and scope of implementing a new high quality transit service between Paterson and Newark along the existing Newark Industrial Track freight rail corridor. The Element includes an assessment of existing infrastructure and transit service, as well as ridership projections for potential light rail and bus rapid transit services to the corridor. The document identifies potential transit stations and route alignment options.

ADJOURNMENT

Prior to adjourning, the Board was advised that the July 22, 2021 meeting will most likely be cancelled, with the next regular meeting scheduled for August 5, 2021.

With no other matters to come before the Planning Board, Chairman Christopher Garcia **adjourned** the meeting of June 3, 2021 at 9:20 pm on a **motion** by Steven Castronova, with a **second** by Robert Nolan.

Approved: August 5, 2021

Respectfully submitted by

Tonya E. Cubby, Secretary