

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**November 3, 2016**

**Regular Meeting**

Chairman Christopher Garcia opened the November 3, 2016 Regular Meeting of the West Milford Planning Board at **7:58 p.m.** with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Mayor Bettina Bieri, Andrew Gargano, Warren Gross, Councilman Lou Signorino (8:09), Geoffrey Syme, Chairman Christopher Garcia.

**Absent:** Linda Connolly, Steven Castronova, Douglas Ott, Glenn Wenzel, Michael Siesta, Board Attorney Thomas Germinario, Board Engineer Paul Ferriero, Board Planner Chuck McGroarty.

Chairman Garcia advised that the Board professionals were excused from attending this meeting, and further advised that a quorum was present to hold this meeting.

**PUBLIC PORTION**

Chairman Garcia opened the meeting for public comment. The following addressed the Board:

Richard Randazzo, 278 Wooley Road, commented on the Braemar at West Milford, subdivision application, noting that there was no pending application, nor litigation, with the Board at this time. He expressed his personal disappointment with the Board's decision in this matter, but understood that their "hands were tied" with litigation issues. He reviewed the history of the application and was surprised that neither the Board, nor the Board professionals, questioned the testimony that was presented, especially with relation to the occupancy load per household. Mr. Randazzo advised that the subject property was being auctioned on November 30, 2016, as evidenced by a large sign that was erected on the property, and he requested that the Township submit a bid for the property to stop any development due to existing water issues. He raised the issue of the well data from the initial aquifer testing, prior to the adoption of the well testing ordinance, and maintained that he was never provided a copy of the initial data. Mr. Randazzo did note that he received the data from the more recent well testing procedures. He advised the Board that he was presenting his request to the Mayor and Council at the next Township Council meeting for the house and property to be purchased by the Township, an environmental group, committee or open space organization to [preserve] the land and not allow the homes to be built. Mr. Randazzo commented that he felt the Planning Board had lost their credibility and should have challenged the Board's professional hydrogeologist when he concluded that there was sufficient water for the subdivision. Board member Warren Gross inquired if other residents have water issues in that location, and noted that there has been an extended drought that may be affecting others. Mr. Randazzo replied that he did not know if others are affected, adding that he had issues with his old well and his family had to be careful not to waste water, but with his new well he has water, although he conserves his usage. He added that he was concerned that if a new development is built, he may run out of water. He reviewed the well testing ordinance and maintained that it benefited the applicant by allowing them to repeat the test with another aquifer.

With no one else present wishing to address the Planning Board on matters other than those pending or those on the current agenda, the public portion was **closed** by unanimous vote on a **motion** by Mayor Bettina Bieri, with a **second** by Councilman Lou Signorino.

Chairman Christopher Garcia responded to the comments by Mr. Randazzo, noting that the occupancy benchmark that was used was addressed by the Board and their professionals, and said that he and the Mayor questioned it since they were curious about this use of the criteria. But, he noted, that at the end of the day, it was an emotional matter, and it was not the purpose of the Board to perform their duty based on emotion. He stressed that the Board is obligated to operate within the confines of the law and not on emotion. Mayor Bieri commented that she recalled the 3.1 occupancy per household issue being raised at another meeting, but the standard and justification had already been established, although the Board did question it. She agreed that many on the Board may have felt reluctant to, or forced to [approve] the application, but that they had to rely on their professionals who advised that everything had been done according to the ordinance. The applicant conducted all the tests to the satisfaction of the professionals, even if it didn't make sense to the Board. She reiterated that the Board has to rely on their professionals since they purportedly understand all the rules, regulations and requirements to make their determination. She

requested, with consensus of the Board, for the Secretary to reach out to the Board Attorney to inquire if the property is sold, would all the approvals get passed on to the new owner. She suggested that Mr. Randazzo reach out to the Land Conservancy, the Highlands Coalition, and other environmental organizations. She did not know if the Township would even be in a position to purchase the property, and with the holidays coming, and what would be involved with this, there was not much time to proceed. Mr. Randazzo noted that it was being auctioned to the highest bidder, and he was already in the process of contacting other organizations. Councilman Signorino commented that, as a Councilmember, he would not be in support of a Township purchase of this property, but he thought Mr. Randazzo should reach out to other organizations since it was a nice site. He thanked the Chairman for expressing the sentiments of the Board and clarifying their role. Mayor Bieri concurred, noting that it was about rules, not emotions, and it sometimes is difficult to distinguish between the two. Chairman Garcia observed that the Ordinance Committee had reviewed the ordinance and was working on some amendments to the well testing ordinance, but were waiting for feedback from the Board professionals. They hoped to close up some of the loose ends that surfaced during this matter, benefiting future, not past, issues. Board member Geoffrey Syme wanted to clarify that he voted no for the application. Mr. Randazzo made some further comments and noted that he was relying on one of the Township Health inspectors to do her job regarding the wells and septic at the [Virginia Lane] site, but the Chairman advised that the public portion had been closed.

**APPLICATIONS** – None.

**NEW APPLICATIONS** – None.

**MEMORIALIZATIONS** – None.

**NEW OR ONGOING BUSINESS** – None.

**ORDINANCES FOR INTRODUCTION** – Chairman Garcia advised that the Ordinance Committee was waiting for comments from Matt Mulhall, the Board's hydrogeological consultant, on recommendations for amendments for the water supply and water quality ordinance. He will reach out to Mr. Mulhall to determine when his comments will be available.

With regard to the Master Plan, Chairman Garcia advised that he would reach out to Mr. McGroarty, the Board Planner, to inquire what needs to be done to get the Master Plan – Land Use Plan Element approved.

**ORDINANCES REFERRED FROM COUNCIL** – None.

**BOARD PLANNER'S REPORT** – None.

**BOARD ATTORNEY'S REPORT** – None.

**BOARD ENGINEER'S REPORT** – None.

## **MISCELLANEOUS**

### **Approval of Invoices**

The invoices from the Planning Board professionals for the month of September were **unanimously approved** on a **motion** by Andrew Gargano with a **second** by Mayor Bieri.

## **MINUTES**

The Minutes from the Planning Board regular meeting of October 6, 2016 were **unanimously approved** by all those present at the subject meeting on a **motion** by Geoffrey Syme with a **second** by Warren Gross.

## **CORRESPONDENCE**

***The following correspondence was reviewed by the Board and filed:***

**Highlands Water Protection and Planning Act Correspondence** – None.

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

1. Response Action Outcome notification received from Viridian Environmental Consultants regarding the West Milford Shop Rite, 23 Marshall Hill Road, Block 6303; Lot 15, ID # 162692, with reference to the Area of Concern#1 – Soil impacted by discharge from transformers and no

other area, advising that the remediation has been completed in compliance with Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C).

2. Suspected Hazardous Substance Discharge Notice – NJDEP Case # 16-10-17-1819-18 received from the NJDEP, dated October 18, 2016, regarding Selling Precision, 264 Marshall Hill Road, Block 6002; Lot 27, for improper removal of an underground storage tank from the site approximately 20 years ago, with soil contamination suspected.
3. Suspected Hazardous Substance Discharge Notice – NJDEP Case # 16-10-14-1440-45 received from the NJDEP, dated October 15, 2016, regarding 366 High Crest Drive, Block 13102; Lot 12, for the removal of one 330 gallon #2 heating oil above ground tank, with weeping, removal and clean up pending.
4. Suspected Hazardous Substance Discharge Notice – NJDEP Case # 16-10-14-0941-04 received from the NJDEP, dated October 15, 2016, regarding 370 High Crest Drive, Block 13102; Lot 13, for the removal of one 550 gallon #2 heating oil underground tank, with clean up pending.
5. Suspected Hazardous Substance Discharge Notice – NJDEP Case # 16-10-06-1015-54 received from the NJDEP, dated October 7, 2016, regarding 8 Upper High Crest Drive, Block 13103; Lot 6, for the removal of one 550 gallon #2 heating oil underground tank, with clean up pending.
6. Warning Letter from the NJDEP Bureau of Coastal and Land Use Compliance and Enforcement, dated September 29, 2016, to the New Jersey Conservation Foundation, regarding Tranquility Ridge County Park, Block 4502; Lot 4, advising that activities have taken place at the site that require a Highlands Preservation Area approval or Forest Management Plan approval. Activities included chemical or mechanical tree girdling with a disturbance of 15 acres of upland forest, with 1 acre in the Highlands open water buffer, conducted in connection with the golden winged warbler and timber rattlesnake enhancement project. Since the activities involve more than one-quarter acre of disturbance in the Highlands Preservation Area, application is to be made to the Division of Land Use Regulation for a Highlands Preservation Area Approval and/or Forest Management Plan from the Division of Parks & Forestry.
7. NJDEP Dam Permit, dated September 27, 2016 (Permit #1521) for Kerry Green, 267 Wooley Road, Block 9901; Lot 27.01 regarding the decommissioning of the Green Valley Front Lake Dam including, but not limited to a permanent breach opening structure; subject dam is located on an unnamed tributary to Belcher Creek.
8. Correspondence from the NJDEP Office of Dam Safety and Flood Control, dated October 17, 2016, to Passaic County Engineering regarding the Apshawa Main Dam (File #22-1) and Apshawa Auxilliary Dam (File #22-314) advising that the inspection report found the dams to be in Satisfactory Condition with no repairs or maintenance necessary, with the next inspection to be performed by August 16, 2018, and a recommendation that low level outlet valves should be operated two to four times a year to prevent siltation of the inlet and to ensure operability of the valves.

#### **Miscellaneous Correspondence Received/Sent**

1. HEPSCD certification, dated September 1, 2016, received for Coppola West Brook Single Family Dwelling, 939 West Brook Road, Block 4801; Lot 32.
2. HEPSCD certification, dated September 14, 2016, received for Passaic County Hewitt State Forest Parking Area & Demolition of 1753 House, 22 Warwick Tpk, Block 2902; Lot 3.

#### **ADJOURNMENT**

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the Regular meeting of November 3, 2016 at **8:42 p.m.** on a **motion** made by Mayor Bettina Bieri and a **second** by Andrew Gargano.

Approved: January 5, 2017

Respectfully submitted by,

Tonya E. Cubby, Secretary