

WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING

October 16, 2012

The West Amwell Township Planning Board meeting was called to order at 7:30 PM by Chairman Tomenchok followed by the salute to the flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Chairman Tomenchok: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 26, 2012. Notice has been posted on the bulletin board at Town Hall on October 11, 2012, and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Planning Board and Township Clerk.

The following general policy statement of the Board was read into the record by Chairman Tomenchok: The Board's general policy is to end the presentation of testimony on applications by 10:30 PM and to conclude all Board business by 11:00 PM. When necessary, the Chairman may permit a reasonable extension of those time limits.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Planning Board.

It was noted for the record that Attorney Stewart Palilonis was filling in for regular Board Attorney William Shurts this evening.

Attendance – Roll Call

Present: Lonnie Baldino
Stephen Bergenfeld – *(arrived at 7:31 PM)*
George Fisher
John Haug
Zach Rich
Hal Shute
Rob Tomenchok
Chester Urbanski
Art Neufeld
Nella Hamtil – Alt. #1 – *(arrived at 8:08 PM)*
Ted Hills – Alt. #2
Attorney Palilonis
Engineer Burr
Planner McManus

Excused: No one

Approval of Bill List

A motion by Urbanski, seconded by Fisher to approve the vouchers for payment as listed on the 10/16/12 bill list was unanimously approved by roll call vote.

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Resolutions of Approval

Resolution PB#2012-09: Preliminary and Final Site Plan Approval for ABC Supply Company, Inc. – Block 8 Lot 62

It was noted for the record that Mr. Haug recused himself from this discussion and stepped away from the dais.

Chairman Tomenchok explained that the Planning Board still technically needed to grant the C-2 Variance to allow the 3-sided structure instead of a fully enclosed structure per the ordinance requirement. He noted that the Board had thoroughly discussed the matter at the public hearing on 8/21/12 and agreed to allow the 3-sided structure but did not officially act on it by motion. He stated this matter was brought up at last month's Board meeting with the consensus being to hold off on any action until the Board's 10/16/12 meeting since the applicant's attorney had requested the matter be tabled until then in order to give them time to try and resolve any outstanding issues with the wetlands transition area.

Mr. Urbanski and Mr. Bergenfeld both expressed that they would feel more comfortable having the applicant confirm that they have addressed all of the outstanding issues raised by the Board's professionals prior to granting the C-2 Variance.

Planner McManus explained there are a few relevant conditions: (1) on page 7 item d – submission of a Letter of Interpretation (LOI) and Transition Area Waiver (TAW) and such other documentation as is determined to be needed for review by the Board professionals with final determination by the Township Planner and/or Engineer as to whether or not the applicant's 1999 LOI and TAW approvals from the New Jersey Department of Environmental Protection (NJDEP) were broad enough to approve the existence of the gravel surface and storage area which are currently existing as shown on the 2012 site plan documents. (2) on page 7 item e – if Board professionals determine that the current conditions constitute a violation of the prior LOI and/or TAW, then the applicant will be required to disclose the situation to the NJDEP and provide a current approval of the existing conditions from the NJDEP prior to commencing construction of any improvements. If the NJDEP requires significant changes to the existing plan, the applicant will have to obtain Board approval for any such changes to the plan. The Township Engineer will determine what constitutes a "significant" change.

Planner McManus noted that since the Board's last meeting, the applicant has submitted a copy of the 1999 LOI and the 1999 site plan. She indicated that she and Engineer Burr are satisfied that the existing gravel shown on the site plan as being within the wetlands transition area was in fact approved by the NJDEP. She commented that the remaining outstanding issue is that it appears that portions of the wetlands transition area that were undisturbed as of 1999 have since been disturbed and contain gravel. Planner McManus remarked that she believes this to be a violation that the applicant needs to address with the NJDEP. Engineer Burr agreed with Planner McManus.

Mr. Fisher asked if the LOI had an expiration date. Engineer Burr explained that LOI's are good for 5 years. He commented that the applicant is not required to obtain an updated LOI in this

case because technically their most recently proposed project is to be constructed on an existing impervious surface. He stated that if this was a new site plan that was not subject to previous development a current LOI would have been required. Engineer Burr noted that the newly discovered minor violation of the wetlands transition area will need approval by the NJDEP.

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Mr. Urbanski asked if the resolution needed to be revised if the Board grants the C-2 Variance. Attorney Palilonis commented that the variance is already addressed in the resolution. Chairman Tomenchok noted that those eligible to vote on the C-2 Variance are: Himself, Stephen Bergenfeld, George Fisher and Chester Urbanski. Attorney Palilonis noted that 4 members are enough to memorialize the resolution but 5 members are needed to vote on the variance.

Attorney Mongelli explained that he believes that the variance has already been approved and that they were only present this evening to clarify one of the conditions of approval. Attorney Palilonis commented that it was determined at the Board's last meeting that the variance was not officially acted on.

Mr. Urbanski asked why the Board Members present this evening couldn't vote on the variance. Attorney Palilonis remarked that those members present at tonight's meeting should feel free to vote if they feel qualified to do so as long as they were present for the public hearing and heard the testimony.

Planner McManus referred to the Board's 8/21/12 minutes and stated that the minutes note that the Board recognized the applicant's proposal was for a 3-sided structure and she said that there is reference in the resolution to the ordinance provision. Attorney Palilonis commented that if the variance was applied for on the application form then the Board can simply act on the resolution because the application was approved at the August meeting. Attorney Mongelli clarified that they requested a design waiver from Section 109-86:B(7) of the zoning ordinance and that's what the Board approved. He remarked that there was no further discussion on a variance because the warehouse they were proposing was a permitted use.

It was noted for the record that Ms. Hamtil had arrived at the meeting. A motion by Urbanski, seconded by Bergenfeld to approve the C-2 Variance to allow a 3-sided structure instead of a fully enclosed structure per Section 109-86:B(7) of the ordinance was approved by roll call vote.

A motion by Fisher, seconded by Urbanski to approve Resolution PB#2012-09 was approved by roll call vote.

It was noted for the record that Mr. Haug returned to the dais at this time, 8:13 PM.

It was noted for the record that Attorney Palilonis was excused from the meeting at this time, 8:14 PM.

The agenda was re-ordered to address the correspondence from D&R Canal Commission regarding the ABC Supply application. Planner McManus explained that the letter received from

D&R Canal Commission indicated they require additional information from the applicant before they can make any determination on the application. Mr. Urbanski had asked if this has any impact on the Board's decision. Planner McManus indicated that it should not prohibit the Board from moving forward with their business. She stated that D&R Canal Commission is considered an outside agency and the Board cannot hold up its approvals because of them. Planner McManus noted that outside agency approvals are addressed as a condition of approval in the resolution and she stated that if the applicant cannot satisfy any of the outside agencies they will have to come back to the Planning Board for amended site plan approval.

It was noted for the record that Planner McManus was excused from the meeting at this time, 8:17 PM.

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Unfinished Business

Discussion – Review of Proposed Inspection Escrow Fee Ordinance

Mr. Baldino explained that the Board suggested the fees be included in the fee schedule and he agrees. Mr. Bergenfeld remarked that he disagrees and said he believes the fees are on the steep side. He said the way the ordinance is written indicates the Engineer will be going out to each job site to review the project. He said this could create excessive costs to residents. He suggested the fee structure be different for residential properties. Mr. Fisher asked if the cost to perform the inspection is different based on a residential or commercial property. Mr. Bergenfeld commented that he believes it is.

Engineer Burr commented that the intent of the ordinance was related to residential because on the commercial side everything is typically captured under the site plan process. It was noted that the Planning Board recommended that the inspection escrow fees be implemented by the Township Committee but the Committee kicked it back with questions on how intensive the Planning Board wants the regulation to be and what the fees should be. Mr. Rich remarked that the Planning Board recommended fees but they did not establish what is covered by the fees.

Chairman Tomenchok noted that the motivation for getting the fees on the books was because there is a need to do some inspections due to recent development within the Township. Mr. Urbanski commented that he agrees with Mr. Baldino that the inspection fees should be passed so there is a mechanism for the inspections to be performed and paid for. Mr. Bergenfeld expressed concern that the fees the Planning Board is proposing are the same for a developer who wishes to build one house or 50 houses and he believes there should be a better fee structure.

Chairman Tomenchok stated that the Planning Board has already agreed that an inspection escrow fee needs to be put in place and at this point the question is, does a single lot of development represent the same amount of inspection work as a multiple lot development? Mr. Baldino remarked that the fee should be considered an escrow which would allow for any unused money to be returned to the developer or for the Township to be able to ask for additional funding if necessary.

A motion was made by Urbanski, seconded by Haug to define the inspection fee as an escrow and recommend the ordinance be introduced by the Township Committee as proposed was approved by voice vote with Mr. Bergenfeld opposing.

Discussion – Review of Proposed Chapter 109 Ordinance Amendment, re: Font Styles

Chairman Tomenchok explained this amendment requires all site plans to be produced using standard block style fonts rather than fancy script style fonts.

A motion by Fisher, seconded by Hills to recommend the Township Committee introduce the proposed ordinance amendment to Chapter 109 regarding font styles was unanimously approved by voice vote.

Discussion – Proposed Changes to Escrow Fees: Status Update

Mr. Baldino commented that he and Mr. Bergenfeld had reviewed the escrow fee schedule and they proposed the following changes to Section 6 of Chapter 109:

Commercial Development

\$1000 application fee

\$2500 escrow fee, per variance

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Residential Development

\$200 application fee

\$500 escrow fee, per variance

A motion by Fisher, seconded by Urbanski recommending the proposed amendments to the escrow fees be introduced by the Township Committee was unanimously approved by voice vote.

Discussion – County Sewer Service Area Map: Status Update

Mr. Fisher clarified that he had confirmed with the County that the language used on their map to depict sewer service areas are actually septic systems with specific design criteria and are not actual sewer service areas.

Discussion – Recreation and Open Space Inventory (ROSI) – Status Update

Mr. Shute explained that the Township's ROSI was last updated in February of 2011. He said they wanted to simply add one property to the ROSI this year and when they attempted to do so they found out that Green Acres has completely revised the ROSI form and are now requesting additional information. Mr. Shute said they made the revisions, the Planning Board approved it at a previous meeting, it went to the Township Committee where resident Sean Pfeiffer raised some concerns and the ROSI was revised again.

Mr. Shute indicated that the discrepancies seem to be rounding issues with the sizes of the various parcels contained on the ROSI. He remarked that the critical aspect of the ROSI is that the encumbered acres must be correct. Mr. Hills remarked that the new ROSI form asks for total acreage in addition to encumbered acreage and what was discovered during the review of the ROSI is that the tax book, the tax map and the property surveys don't always match. Mr. Hills stated that the open space surveys often differ from the Township's tax book and tax map.

Mr. Shute noted the largest problem with the tax map is the Machinga property subdivision which was approved in 2009. The deeds were filed in 2010 but the tax map doesn't reflect the subdivision changes.

It was noted that Mr. Shute will bring the signature page for the ROSI to next month's Planning Board meeting for Chairman Tomenchok to sign off on.

Discussion – Tax Map Update

Chairman Tomenchok explained that there have been some difficulties communicating with Tax Assessor Gill regarding updating the tax maps. He noted that he had asked Mr. Gill to attend tonight's meeting in order for him to be able to participate in the discussion but Mr. Gill had indicated he had a schedule conflict. Chairman Tomenchok noted that in January they began the project of trying to update the tax map and Engineer Burr has requested information from Mr. Gill which he has not yet provided. Chairman Tomenchok stated he is running out of patience and asked that the record reflect that 10 months have elapsed and an employee of the Township has not been cooperative in producing information requested of him.

Engineer Burr commented that Fall is typically the time of year when Tax Assessors provide all of their updates to the Township Engineers so the tax maps can be updated accordingly. Mr. Urbanski remarked that if Engineer Burr could provide a deadline date for Mr. Gill to provide the information by, he believes he will comply.

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Mr. Bergenfeld remarked that this is an important issue because applicants have been provided with incorrect certified property owner lists. Chairman Tomenchok noted that this was the reason they began taking action back in January to update the tax map.

Open to the Public

Chairman Tomenchok opened the floor to public comment. Sean Pfeiffer of 74 Rocktown-Lambertville Road came forward and stated that Toll Brothers Developers contacted him recently regarding a farmland preservation application and asked him for some guidance and information. He said that they are aware he is acting as a member of the public but wanted his input because of his prior knowledge of the application.

Approval of Minutes

A motion by Bergenfeld, seconded by Urbanski to approve the Board's minutes from 10/16/12 as revised was approved by voice vote with Mr. Shute abstaining.

Adjournment

A motion by Urbanski, seconded by Fisher to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 9:06 PM.

Maria Andrews, Planning Board Secretary

