

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
February 21, 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 February 16, 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.

**Attendance – Roll Call**

**Present:** Lonnie Baldino  
Stephen Bergenfeld  
George Fisher  
John Haug – *(arrived at 8:05 PM and remained in the audience recused from the Bender public hearing.)*  
Zach Rich  
Hal Shute  
Rob Tomenchok  
Chester Urbanski  
Joan Van der Veen  
Nella Hamtil – Alt. #1  
Ted Hills – Alt. #2  
Attorney Shurts  
Engineer Burr  
Planner McManus

**Excused:** No one

**Approval of Bill List**

A motion by Fisher, seconded by Rich to approve the vouchers for payment as listed on the Board's 2/21/12 bill list was unanimously approved by roll call vote.

**Approval of Professionals Contracts**

A motion by Urbanski, seconded by Bergenfeld to approve the legal services contract with Attorney Shurts for 2012 was unanimously approved by roll call vote.

A motion by Fisher, seconded by Urbanski to approve the Planners contract with Clarke Caton Hintz for 2012 was unanimously approved by roll call vote. Mr. Shute remarked that the mapping rate in the submitted bill was \$95 but the new contract reflects a rate of \$105. Planner McManus commented that she believed the rate should have always been \$105 and indicated she would look into the matter.

A motion by Fisher, seconded by Bergenfeld to approve the Engineering contract with Maser Consulting for 2012 was unanimously approved by roll call vote.

### **Applications**

#### **Completeness Determination/Public Hearing: Bender Realty – Block 8 Lot 23.01 – Minor Site Plan Approval with Variance(s)**

Present for the application was property owner Mike Stroeber, his business partner Mark Wright, Attorney Richard Mongelli and Architect Michael Burns.

Engineer Burr reviewed his memo regarding completeness and noted that the applicant needs to submit an amended site plan showing the list of property owners within 200 feet of the subject site. Architect Burns noted that they have revised the plan to include the list of property owners within 200 feet as well as the Floor Area Ratio (FAR) calculations. He commented that they were originally supplied with an incorrect certified list of property owners by the Township's Tax Assessor.

Engineer Burr noted the following requested submission waivers and indicated they were reasonable for the proposed application:

1. Soil tests and logs
2. Drainage calculations
3. Flood hazard calculations
4. A letter of interpretation from the New Jersey Department of Environmental Protection (NJDEP)
5. Contours at 2 ft. and 5 ft. intervals
6. Location of man-made and natural site features for areas 500 ft. and beyond the site
7. Test sites for perc and soil log data
8. Critical environmental area calculations
9. Stream corridor protection documentation
10. Detailed landscaping plan
11. Stormwater management plan
12. Signage details
13. Lighting plan
14. Wetlands compliance statement
15. Paving and curbing specifications

Mr. Rich asked for clarification on why this application was coming to the Planning Board. Attorney Shurts explained that the prior approval for this site had specific guidelines for the amount of retail and warehouse space and the applicant is requesting to change those guidelines. Mr. Baldino commented that Mr. Stroeber is trying to rent building space and is having a hard time finding warehouse tenants so he would like to request the rental guidelines be changed to include more retail space.

A motion by Urbanski, seconded by Fisher to deem the application complete was unanimously approved by voice vote.

Attorney Shurts noted for the record that the applicant had provided public notice in accordance with the Municipal Land Use Law (MLUL) requirements and indicated the Board had jurisdiction to proceed with the public hearing.

The following exhibits were marked:

Exhibit A-1: The Bender Realty application

Exhibit A-2: The affidavit of service

Exhibit A-3: The proof of publication

Mr. Urbanski commented that the letter labels for each of the buildings (A, B & C) need to be revised because they don't correspond correctly with the depictions. Architect Burns agreed.

Attorney Shurts swore everyone in and Attorney Mongelli explained that they are seeking minor site plan approval to re-allocate the rental space available on the site to less warehouse space and more retail space. He noted a variance from the parking requirement is needed because the Ordinance requires more spaces than the tenants will actually utilize. He noted Architect Burns will provide additional testimony on this matter.

The site is an 8 acre parcel in the Highway Commercial District and is located on Route 179. The site contains 3 buildings and two parking lots. It was noted that Building A is occupied by a daycare facility that accommodates 43 children per the Board of Health guidelines. Building B is occupied by Animal Allies, Springer Custom Cycles and Dunrite Pools. The applicant is proposing to add a pet food store and a dog training facility. Building C is currently occupied with office and warehouse tenants and no changes were proposed for this space. Buildings A and B have frontage on Route 179 and contain driveway access and a parking lot in front of each building. Building C is located at the rear of the site and has a parking lot with access to Kari Drive.

Attorney Mongelli noted that they have no issues with any of the recommendations contained in Planner McManus or Engineer Burr's review memos. He asked Mr. Stroeber if he anticipated any water or septic issues if the pet food tenant moved in. Mr. Stroeber said no, based on information he had from the Board of Health.

Architect Burns came forward and provided his background credentials for the Board. He was accepted as an expert to provide testimony on this application. Architect Burns commented on specific details regarding the tenants. He explained that the Ordinance requires approximately 60 parking spaces, they have approximately 55 existing but only need about 30 based on the tenants on site and related activity. He indicated the daycare facility has 4 employees with the majority of the parents dropping off their children, leaving the site and then returning for pick up. Dunrite Pools is a maintenance pool service with only 1 or 2 on-site employees. Springer Custom Cycles was explained as an internet based business with customers on-site by appointment only because the space serves to simply warehouse motorcycles. Animal Allies is an animal hospital by appointment only and has 2 to 3 on-site employees. The proposed pet food store will have 1 or 2 employees on-site and the proposed dog training facility will be operated by the pet food store owner after hours by appointment only and on a one-to-one basis. Architect Burns noted that Building C is a combination of office space, retail space and warehouse space and indicated they actually have 4 excess parking spaces under the ordinance guidelines.

Planner McManus questioned the Board granting blanket approval for retail use explaining that if they approve the proposed new businesses and the tenants change the applicant will have to come back to the Planning

Board each time. Attorney Mongelli suggested that the Board could approve the retail space based on the testimony and by establishing parking space parameters. He stated he believes the approval can be based on the parking space demand rather than on a specific business.

Planner McManus commented that what they are proposing is based on what they anticipate the parking demands to be rather than what the actual parking standards require in the Ordinance. She added if they want to be able to utilize excess parking from Building C for tenants contained in Buildings A and B, the Board needs to ensure that the parking isn't going to disappear in the future. She commented that if the Board grants the requested relief, they may want to consider whether or not the applicant should be required to return to the Planning Board for approval each time a tenant changes. Mr. Urbanski remarked that he would like to see the applicant come back to the Planning Board if any changes to the retail space are made.

Attorney Shurts commented that interpreting uses and parking requirements puts quite a burden on the Zoning Officer and requiring the applicant to return to the Planning Board every time there is a change in tenants also puts a burden on the applicant. Mr. Bergenfeld remarked that the Board can grant relief for what is being proposed and stated that if there are any changes in use the applicant would have to return to the Board. Architect Burns noted section 109 of the Township's Ordinance specifically allows for alternative parking standards based on demonstrated demand. Chairman Tomenchok added that it would then be up to the Zoning Officer to make the distinction whether the new use constitutes the same type of use.

Mr. Baldino suggested that there is a parking schedule in the Ordinance and commented if the retail uses are kept to a standard that meets the schedule requirements he has no issue.

The following square footage was noted: The dog training facility is 890 sq. ft. and the pet food store is 1785 sq. ft. Planner McManus explained that essentially the applicant is just asking for parking relief for these two stores. She asked how many spaces remain in the parking lot for the pet store and dog training facility based on the other tenants in that building and the Township's parking requirements. Architect Burns said the Ordinance requires 13 parking spaces and they have 11 spaces available. Planner McManus noted they have a deficiency of only 2 parking spaces. She clarified that since Building A is occupied by a daycare the total parking deficiency is a 10 space maximum for the whole site.

Chairman Tomenchok suggested the Planning Board develop a process document to establish parking guidelines.

Planner McManus clarified that the Board is amending the applicant's current preliminary site plan approval and granting final site plan approval because the final approval previously granted was done administratively several years ago. Attorney Mongelli agreed with the suggestion as a housekeeping matter, noting that their Certificates of Occupancy have already been issued.

Attorney Mongelli wanted the record to reflect some of the MLUL criteria. He commented that the application is for a C-2 variance and he asked Architect Burns if the Board granted the variance would it advance any of the purposes of the MLUL. Architect Burns said yes and explained that the approval would promote public health and safety because the applicant is proposing allowed uses under the ordinance and he indicated that they believe they have adequate parking. He added that the buildings on-site meet all of the bulk requirements in the zone and also allow for access by emergency vehicles.

Attorney Mongelli asked Architect Burns if the variance can be granted without substantial detriment to the public good. He said yes and explained that all of the proposed uses are allowed in the zone and are in keeping with the objectives of the Township's zoning ordinance and he indicated the application in promoting the purposes of the MLUL.

Attorney Mongelli asked Architect Burns if the benefits of granting the variance outweigh any detriment to the public good. Architect Burns said yes and explained that he believes they have demonstrated that they have adequate parking with respect to the all of the uses on-site which are all permitted in the zone.

Attorney Mongelli asked Architect Burns if granting the variance would substantially impair the intent and purpose of the zone plan and the zoning ordinance. Architect Burns said no. He then asked if the Board considered the variance a C-1 variance, would his testimony be the same regarding the positive and negative criteria. Architect Burns said yes.

Mr. Urbanski asked why there is no bathroom in the proposed dog training facility. Architect Burns commented that there will likely be a bathroom installed because the plumbing is in the building but at that time they did not know who the tenant would be in the space. He noted that there may simply be a door installed between the two spaces and remarked that if a new bathroom is installed it is a building code matter.

A motion by Rich, seconded by Fisher to open to the public for comments on this application was unanimously approved by voice vote.

Sean Pfeiffer of 74 Rocktown-Lambertville Road came forward and asked if the access to the site is through Kari Drive. Architect Burns noted that Kari Drive provides one of the accesses to the site and stated that there are no changes being proposed to any of the existing access points.

Attorney Shurts clarified for the record that the original resolution of approval was PB#2004-08. He explained that the reason there was no formal final site plan approval was because there weren't any provisions in the ordinance at the time so the as-built plan was accepted administratively as the applicant's final approval.

A motion by Urbanski, seconded by Bergenfeld to close to the public on this matter was unanimously approved by voice vote.

Attorney Shurts suggested the Board consider the application in two parts: Address the relief items or waiver from such and then the site plan waiver. Planner McManus remarked that she is satisfied with the way the Board is currently considering the application. She noted the applicant has provided testimony regarding the parking demands for the specific tenants and the Board is requiring that he seek approval for any changes in use which protects the Township from any intensified parking demands.

West Amwell Township Planning Board Minutes – 2/21/12

A motion by Bergenfeld, seconded by Urbanski to grant the requested waivers associated with the Bender Realty application was approved by roll call vote with Mr. Baldino abstaining.

A motion by Bergenfeld, seconded by Van der Veen to grant Bender Realty a site plan waiver subject to review by the Township Zoning Officer for any change in use was approved by roll call vote with Mr. Baldino abstaining.

It was noted that Mr. Haug joined the Planning Board meeting at this time, 9:15 PM.

## **Resolutions of Approval**

It was noted for the record that there were no resolutions of approval listed on the agenda.

## **Unfinished Business**

### **Discussion – Mapping: Open Space and Tax Map Revisions**

Mr. Shute provided a copy of a newly revised open space map that Cathy Urbanski had photo shopped from the map contained on the Township's website. He explained that this is the best update we can come up with for the time being until the County updates their geographic information system (GIS) mapping. Mr. Shute noted that the revised map meets the Master Plan requirements and suggested that it be put on the Township's website with some type of disclaimer alerting the public that it may not be entirely complete and will be revised when the County updates their GIS.

It was noted for the record that the Planning Board was pleased with the updated map and suggested Mr. Shute let the Open Space Committee review it. Planner McManus commented that once the County updates their GIS, she or Engineer Burr can provide a current preservation map for the Township.

Mr. Bergenfeld asked if the agenda needs to specifically list an Open to the Public item. Ms. Andrews explained that the Planning Board has typically handled open public comment under *New Business – "Other"* on the agenda. Mr. Shute remarked that he didn't believe having an open to the public item on the agenda was a legal requirement. Mr. Urbanski remarked that opening to the public is at the discretion of the Board's Chairman.

It was noted for the record that Planner McManus and Engineer Burr were excused from the meeting at this time, 9:32 PM.

## **New Business**

### **Discussion – Recommend Adoption of Ordinance 3, 2012 – *An Ordinance to Amend Ordinance 3, 2011 Amending Chapter 109 of the Code of the Township of West Amwell (Renewable Energy Facilities)***

Mr. Bergenfeld commented that he has an issue with the minor solar ground mounted facilities producing more than 15 kilowatts of power requiring site plan approval. He commented that he doesn't agree with the Planning Board regulating the size of a solar array that will be producing power for someone's home. He noted that his research shows a 15 kilowatt system produces roughly 1500 kilowatt hours of power. He stated he uses approximately 3000 kilowatt hours per month at his home.

Chairman Tomenchok noted that the ordinance is scheduled for adoption by the Township Committee tomorrow night and the Planning Board cannot make revisions at this point. Ms. Andrews commented that Mr. Bergenfeld could attend the Township Committee meeting and express his concerns there if he wished to.

A motion by Urbanski, seconded by Haug finding Ordinance 3, 2012 consistent with the Master Plan and recommending adoption by the Township Committee was approved by voice vote with Mr. Bergenfeld opposing.

### **Discussion – Adoption of Revised Planning Board By-Laws**

Chairman Tomenchok thanked Mr. Urbanski, Mr. Haug and Ms. Hamtil for the time they put into revising the document. The Board reviewed the By-Laws with a few minor revisions noted. Mr. Shute asked why the approval of the minutes is listed at the end of the Planning Board's agenda and suggested it be moved to the beginning of the meeting. Mr. Haug explained that the Planning Board had moved this item to the end of the

meeting several years ago because the minutes sometimes became a lengthy topic of discussion or revision and in the cases where public hearings were scheduled approving the minutes was taking up valuable time.

A motion was made by Rich, seconded by Fisher to approve the By-Laws as revised. The motion was unanimously approved by voice vote.

#### **Discussion – SHREC Update**

Mr. Fisher reported that they are waiting on information regarding debt financing and noted that the construction office will be sending Swan Creek a letter requesting new, updated site plans. This matter will be listed on the Planning Board's March agenda for continued update.

It was noted for the record that Attorney Shurts was excused from the meeting at this time, 9:55 PM.

#### **Discussion – Master Plan Printing**

Mr. Shute requested this discussion be carried to the Board's March meeting. He commented that it may be a good idea to make CD's of the Master Plan rather than print copies of the document. It was noted this matter will be listed on next month's agenda for further discussion.

#### **Discussion – E-Packets vs. Traditional Mail or Pick-up**

Ms. Andrews commented that some of the Boards in the other Townships she works for have been accepting E-Packets rather than sending paperwork through the mail in an effort to work more efficiently and be "green." She explained she only does this when there are no applications on the agenda because site plans are typically too large to be scanned and emailed.

There was some discussion on the matter with the final consensus being to continue mailing the packets out traditionally.

#### **Correspondence**

It was noted for the record that there were no comments made on any of the correspondence listed on the agenda.

#### **Open to the Public**

A motion by Bergenfeld, seconded by Van der Veen to open to the public was unanimously approved. Sean Pfeiffer of 74 Rocktown-Lambertville Road came forward and clarified that approving the minutes was moved to the end of the Planning Board agenda several years ago for the reasons Mr. Haug had expressed, but also in an effort to save money on the Board's professionals and not have them sitting at the meeting while the minutes were being reviewed. He also noted that he did not believe there was a statutory requirement that the open space map be updated and explained that he had suggested it be updated because it was last done in 2006 and was missing nearly 1500 acres of preserved land.

A motion by Urbanski, seconded by Bergenfeld to close to the public was unanimously approved by voice vote.

Mr. Baldino commented that the revised Schedule 3 (Section 109) was being reviewed by Planner McManus and he indicated it will likely be ready for comment at the Planning Board's March meeting.

#### **Approval of Minutes – Open Session 1/17/12**

A motion by Bergenfeld, seconded by Van der Veen to approve the Board's open session minutes from 1/17/12 as revised was approved by voice vote with Mr. Haug abstaining.

**Approval of Minutes – Closed Session 1/17/12**

A motion by Van der Veen, seconded by Fisher to approve the Board's closed session minutes from 1/17/12 as revised was approved by voice vote with Mr. Haug abstaining.

**Adjournment**

A motion by Urbanski, seconded by Baldino to adjourn was unanimously approved by voice vote.

The meeting adjourned at 10:21 PM.

---

Maria Andrews, Planning Board Secretary