

**WEST AMWELL TOWNSHIP
PLANNING BOARD
REORGANIZATION MEETING
JANUARY 20, 2009**

The West Amwell Township Planning Board meeting was called to order at 7:35 PM by Attorney William Shurts 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 Attorney Shurts: This meeting is 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 17, 2008. Notice has been posted on the bulletin board at Town Hall on January 17, 2008, 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 Attorney Shurts: 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 Chair may permit a reasonable extension of those time limits.

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

Oath of Office – Appointment/Reappointed Members

Mr. Urbanski noted that Joan Van der Veen's appointment is for a three year term and not a four year term, and will expire in 2011. This is because, according to the Municipal Land Use Law (MLUL) she is a member of the Environmental Commission as well. Ms. Van der Veen was appointed to a 3 year term on the Environmental Commission and her appointment to the Planning Board should run concurrently. The following oaths of office were administered by Attorney Shurts:

Class I – Bill Corboy – 1 year term (exp. 12/31/09)
Class II – Tom Davis – 1 year term (exp. 12/31/09)
Class III – Tom Molnar – 1 year term (exp. 12/31/09)
Class IV – Joan Van der Veen – 3 year term (12/31/11)
Unexpired Class IV Member – Ron Shapella (12/31/09)
Alternate #2 – Joan Smith (exp. 12/31/10)

Attendance – Roll Call

Present: Bill Corboy
Tom Davis
Alex Greenwood
John Haug
Tom Molnar
Sean Pfeiffer - Chairman
Ron Shapella
Chester Urbanski
Joan Van der Veen
Alison Sommers-Sayre – Alt. #1
Joan Smith – Alt. #2
Engineer Clerico

Attorney Shurts

Nominations/Appointments:

Attorney Shurts stated the first order of business is to appoint a chairperson for 2009. He opened the floor to nominations for the Board's chairperson. A nomination was made by Van der Veen, seconded by Greenwood to nominate Sean Pfeiffer as the Board's Chairman. Hearing no other nominations, a motion by Shapella, seconded by Urbanski to close the nominations was approved by voice vote with Mr. Pfeiffer abstaining. Attorney Shurts stated it wasn't necessary to take a vote, he casted one vote for the appointment of Sean Pfeiffer as the Chairman of the Planning Board for 2009 and congratulated him. Mr. Pfeiffer thanked the Board for their vote of confidence and took over the meeting at this point.

Chairman Pfeiffer asked for nominations for the Board's Vice Chair for 2009. A nomination was made by Urbanski, seconded by Van der Veen to nominate Ron Shapella as the Board's Vice Chair. Hearing no other nominations, a motion by Davis, seconded by Corboy to close the nominations was unanimously approved. The nomination to appoint Ron Shapella as the Board's Vice Chair for 2009 was unanimously approved by roll call vote.

Chairman Pfeiffer welcomed Maria Andrews as the Board's Secretary for 2009. Ms. Andrews was previously the Board's Deputy Secretary for a number of years and accepted the position on a regular basis when it was offered in December. A motion by Shapella, seconded by Urbanski to make a formal appointment for Maria Andrews to be the Board's Secretary for 2009 was unanimously approved by roll call vote.

Chairman Pfeiffer asked for the appointment of the Board's Deputy Secretary noting Donna Griffiths who had been the Board's Secretary for the past several years has agreed to stay on as the Deputy Secretary. A motion by Urbanski, seconded by Smith to appoint Donna Griffiths as the Board's Deputy Secretary for 2009 was unanimously approved by roll call vote.

The following subcommittee appointments were made:

By-laws Subcommittee

Chairman Pfeiffer asked Mr. Urbanski if he was willing to serve on the By-Laws Subcommittee. Mr. Urbanski said yes. Tom Davis and Joan Van der Veen were then also asked to serve on the subcommittee. Ms. Van der Veen apologized and indicated she felt she was already serving on enough committees. Chairman Pfeiffer then asked Joan Smith if she would be willing to serve on the By-Laws Subcommittee. She said yes. Chairman Pfeiffer asked that the subcommittee look into an issue raised at the December meeting with respect to the procedures that came up with a case in 2005. It was noted at the December meeting that the Board would look into establishing a policy if there isn't already a requirement under State Statute as far as reopening public hearings in such matters. Chairman Pfeiffer asked Mr. Urbanski, Mr. Davis and Ms. Smith to look into this matter and report back to the Board with a recommendation along with any other amendments that may need to be made to the By-Laws. Mr. Urbanski asked for more specific clarification on exactly what Chairman Pfeiffer was looking for. Chairman Pfeiffer referred to the Board's 12/16/08 minutes: Pages 7 & 8 noting paragraph 3 on page 8 he read, "Chairman Pfeiffer agreed that while it has been his practice to err on the side of caution when determining when a public hearing should be held, this is a procedure that should be looked at so that if it comes up in the future, it is acted on appropriately." Chairman Pfeiffer asked Mr. Urbanski if he recalled the December meeting discussion. Mr. Urbanski said yes and Chairman Pfeiffer added that he believed the Board should review whether or not appropriate policy needs to be established.

Subdivision Subcommittee

Chairman Pfeiffer asked Mr. Shapella if he was willing to serve on the subdivision subcommittee. He said yes. Chairman Pfeiffer then asked Mr. Corboy and Mr. Haug if they would serve on the subcommittee. Both Board members indicated they would.

Approval of Minutes

The following comments were made regarding the special meeting minutes of 12/8/08:

John Haug was present at the meeting, but the agenda indicates he should be abstaining. Chairman Pfeiffer asked Ms. Andrews to clarify this with previous Board Secretary Griffiths. A motion by Davis, seconded by Corboy to approve the special meeting minutes was approved by roll call vote – all ayes with Molnar, Smith, Sommers-Sayre and Van der Veen abstaining.

Approval and possible release of the executive session minutes from 12/8/08 was discussed. The last motion states that Van der Veen seconded the motion to return to open session. Ms. Van der Veen indicated that she she was not present at the meeting and could not have made the motion. Chairman Pfeiffer directed Ms. Andrews to clarify this with Ms. Griffiths who prepared the minutes. Attorney Shurts indicated the minutes could be released upon approval. The minutes will be placed on the Board's 2/17/09 agenda for approval.

Approval of the 12/16/08 regular meeting minutes was discussed with the following corrections noted:

Page 7, paragraph 4: *Board member/Township Committee member Shapella* – The word Township will be added for clarification.

Page 9, paragraph 1: *The homeowner is concerned as to potential liability if someone jumps from the Orleans fence into their swimming pool.* The sentence will be changed to read: **The homeowner is concerned as to potential liability regarding the swimming pool.**

Page 9, paragraph 3: *...the property owner and Calton Homes.* Calton Homes will be replaced with the name **Orleans.**

Page 9, paragraph 6: *Mr. Shapella advised that the issue discussed was plan endorsement which is involved with the Fulper litigation.* This sentence will be deleted.

Page 10, paragraph 1: *He expressed his opinion that the Township will not get approval from OSG unless they (Township) give a center.* The word give will be replaced with the word **designate.**

Page 10, paragraph 2: *Mr. Pfeiffer offered that he has made the point in that past...* The word that will be replaced with the word **the.**

Page 12, paragraph 4: *Copy of the proposed 2009 Budget as composed by Secretary Griffiths...* The word budget will be added.

Page 13, last paragraph: The paragraph will be split into two paragraphs as follows:

Chairman Pfeiffer related that the Township entered into contract with Toll Brothers to preserve the south side property on Route 179.

The north side property...

(Toll Brothers submitted a signed application and an option agreement for the easement...but they haven't returned the signed option agreement to the county. The words to the county will be added for clarification.)

A motion by Shapella, seconded by Van der Veen to approve the 12/16/08 minutes with corrections was approved by roll call vote. Mr. Urbanski noted for the record that he would like to thank Donna Griffiths, one more time, for her excellent minutes.

Approval and possible release of the Executive Session minutes from 12/16/08 was discussed. Chairman Pfeiffer stated that Attorney Shurts had indicated these minutes could be released upon approval. The following correction was noted:

Page 1, paragraph 6: *Formal action to be taken in open session.* This sentence will be deleted because the next paragraph states the same thing.

A motion by Shapella, seconded by Davis to approve and release the 12/16/08 executive session minutes was approved by roll call vote.

Approval of Bill List – January 20, 2009

Mr. Urbanski questioned why Linda Weber's name was listed under Hunterdon County Democrat bills. Ms. Andrews replied that the bill was for the published notice to hire Ms. Weber. Chairman Pfeiffer concurred. Ms. Van der Veen questioned the date of 11/2008. Chairman Pfeiffer explained that Ms. Weber was hired in 12/2008, but the Housing Element Adoption was in November so it may have been that it was just put in one line. Ms. Andrews explained she received one invoice in December that covered all of these bills and she did not break it out.

A motion by Shapella, seconded by Smith to approve the 1/20/09 bill list for payment was unanimously approved by roll call vote.

Reorganization Resolutions

The following resolutions were listed for approval:

PB2009-01 – Consent Agenda

PB2009-02 – Meeting Schedule: Chairman Pfeiffer noted the April meeting date of 4/21/09 typically conflicts with the school board elections and Ms. Andrews will have to check with Clerk Olsen and possibly reschedule the Board's April meeting.

PB2009-03 – Designation of Official Newspaper

PB2009-04 – Appointment of Board Attorney

PB2009-05 – Appointment of Board Engineer

(Chairman Pfeiffer indicated Resolution 2009-06 – Appointment of Board Planner will not be dealt with at this point.)

PB2009-07 – Appointment of Consulting Engineer: Chairman Pfeiffer indicated this Resolution will be held for approval at the Board's 2/17/09 meeting because Mr. Lorentz has not submitted his information to date.

PB2009-08 – Appointment of Hydrogeologist: Chairman Pfeiffer indicated this Resolution will be held for approval at the Board's 2/17/09 meeting because Mr. Mulhall has not submitted his information to date.

PB2009-09 – Appointment of Woodlands Advisor: Ms. Smith asked how many times Mr. Stearns was used in 2008. Chairman Pfeiffer noted he was used for at least one application, and specifically mentioned the Heritage application. Mr. Shapella noted Mr. Stearns is only called upon if the application deals with Woodlands ordinance issues. Chairman Pfeiffer added that the fees are charged to the applicant's escrow. Ms. Andrews stated that Mr. Stearns rate for 2009 is \$125.00 per hour. Mr. Urbanski asked what the rate was for 2008. Mr. Shapella indicated he thought it was the same amount.

There being no further discussion on the resolutions, Chairman Pfeiffer asked for a motion to adopt all of the resolutions. A motion by Shapella, seconded by Urbanski to approve Resolutions PB2009-01, 02, 03, 04, 05 & 09 was unanimously approved by roll call vote.

Resolution of Approval

PB2009-10: Machinga – Block 23 Lot 10 – Route 31 Minor Subdivision/Variance Application

Chairman Pfeiffer commented that he assumed a clean version, without the edits shown, will be supplied by Attorney Shurts for signature. Attorney Shurts indicated showing the edits made it easy for the Board to see the

changes that were noted. He commented that since the latest revision, he has had a few different conversations and also reviewed the minutes. He said he realized there are a few additional changes and noted the following: Page 2, paragraph 2: *The subject property is long and narrow and somewhat irregularly shaped.* The applicant suggests the word **somewhat** be deleted.

Page 2, paragraph 6: *The Board made it clear that regardless of the resolution many other issues which might some up...the word some will be replaced with the word **come**.*

Page 4, paragraph 4: *The acreage for lot 10.02 will be changed to reflect the correct acreage of **1.2193** acres.* It was noted this change will be consistently made throughout the resolution.

Page 5, paragraph 5: *A 36" long – **5/8" diameter** rebar will be installed...* Engineer Clerico suggested the diameter of the rebar be added for clarification. Attorney Shurts explained he attached a copy of a drawing (from another application) to illustrate this. Chairman Pfeiffer added that this was discussed with the applicant when they were before the Board.

Page 7, paragraph 10: *...no substantial detriment to the public good sine the condition...*The word sine will be replaced with the correct word of **since**.

Attorney Shurts added that throughout the Resolution (paragraphs #42, #47, and on page 10 paragraphs c, f & h) there is reference to *conservation and public access area easement*, but the applicant prefers that the reference is **conservation easement with provision for public access** since there is no specific area that is subject to public access and there will not be any trail as such. Attorney Shurts indicated he didn't believe it made a great deal of difference, but it obviously mattered to someone otherwise he would not have come up with the rather awkward wording. Chairman Pfeiffer clarified that the entire area of the conservation easement will have public access but it will be left in its natural state.

Page 10, Paragraph letter h: After the first sentence, the following sentence will be added: **Before the revised map is stamped as "approved" and signed by the Board Chairman and Secretary, it shall be reviewed and approved by the Township Engineer. Thereafter, the Township Engineer will provide the Board Secretary with a copy of the approved plat, copies of which will be provided to the Board Members for review.**

*#3 on page 10 will now read: **The minor subdivision and variance relief granted herein shall expire 190 days from the adoption of this resolution unless an approved plat or deeds are recorded to perfect the minor subdivision as required by law.***

Mr. Greenwood referred to the drawing attached to the resolution, noting that the rebar does not go into the concrete and is not serving any purpose. He said someone could easily pull the rebar out and then cut it (the post) off. Chairman Pfeiffer commented that this was something the Board could forward to Glenn Baran of the Open Space Committee, since he is working on a spec for future projects. He also added that when this was discussed with Heritage they indicated the reason for the rebar was to discourage removal. Mr. Shapella suggested the drawing simply be amended to show the rebar going into the concrete. Attorney Shurts stated the drawing (schedule A) is from another application. Chairman Pfeiffer suggested that since the Board provided the drawing, the applicant can be asked if they are okay with a note indicating that *the Board having reviewed the drawing wants the rebar to go into the concrete.* Attorney Shurts thought this would be fine and will speak to the applicant's attorney.

Mr. Urbanski questioned a map on the local area that was to be submitted. Engineer Clerico stated that the applicant had submitted a map to his office pursuant to the condition of approval. He indicated he was satisfied with the information they provided.

Mr. Shapella noted that page 5, paragraph 27 of the resolution could be amended to say that the rebar should go into the concrete. Mr. Urbanski agreed and added that it would have to say that the rebar would be installed behind each post into the concrete. He noted that if the rebar was to be 2 feet into the ground, a longer rebar may be necessary because only 1 foot of rebar would be above grade. Chairman Pfeiffer commented that the idea was to hinder someone from cutting the easement marker off at the ground.

A motion by Shapella, seconded by Urbanski to approve Resolution PB#2009-10 with the noted changes was unanimously approved by roll call vote.

Applications

Public Hearing: Gross/Boan – Block 13 Lots 4 & 5 – State Hwy. 179 – Boundary Line Adjustment/Variance Relief

Attorney Shurts indicated he had received a photocopy of a notice that appeared in the Hunterdon County Democrat on January 8, 2009 which was published within sufficient time to allow the public hearing to go forward. However, there is a list of property owners and utilities that were to be served. The list of 8 property owners have all been notified, notice was sent to State of NJ Department of Transportation, Duke Energy and United Telephone. The list also mentions the West Amwell Township Clerk at 150 Rocktown-Lambertville Road as a party that required notice. Attorney Shurts stated he wasn't sure why that specific entity is listed, but since it is and a notice was not provided, the Board cannot take jurisdiction and cannot continue with the public hearing. Attorney Shurts said he had no way to determine why the Clerk is listed and whether or not it is an error. Attorney Shurts addressed an unidentified member of the public saying she used to be a clerk and asked her if she had any idea why the Clerk was listed as a party to be noticed. The woman replied that she did not know why the Clerk would be on the certified list of property owners unless the Township owned land within 200 ft. of the subject property. Chairman Pfeiffer asked if Attorney Shurts had seen this on other applications. He said he couldn't recall. Chairman Pfeiffer then clarified that Attorney Shurts was telling the Board that they couldn't take action on this application because there is a problem with the noticing.

Attorney Shurts said that unless there is some explanation, there was no way he knew of to obtain a waiver from the Township to allow the matter to go forward. Mr. Corboy indicated that a majority of the governing body was present and he said he didn't know why it couldn't be waived. Chairman Pfeiffer expressed a procedural concern that the meeting had not been noticed as a Township Committee meeting. Attorney Shurts said this is just a simple action to waive the notice requirement to a party on the certified list. Attorney Shurts said he had never done this before, and he didn't know why the Township would be different than any other party. He said the only entity that could waive it would be the governing body and if they were willing to waive the notice requirement to the Clerk then the public hearing could proceed. Mr. Corboy and Mr. Molnar indicated they were both willing to waive the notice requirement. Attorney Shurts said he will do a quick memo to Clerk Olsen regarding the waiving of the noticing requirement to be included in the file. Additionally, the applicant's Planner Randall Grant was instructed to provide an affidavit of service for the noticing.

Present for the application was Planner Randall Grant and the applicant Robert Boan. Attorney Shurts marked the application as Exhibit A-1, the notices were marked as Exhibit A-2 and the map titled Proposed Minor Subdivision/Boundary Line Adjustment Lots 4 & 5 Block 13 with an original date of 9/4/08 and the latest revision date of 11/11/08 was marked as Exhibit A-3. The parties were sworn in and Planner Grant explained the proposal. He said Mr. Boan is the owner of Lot 4. The application involves both lots 4 & 5 in block 13 on State Route 179. Lot 4 is the property known as Boan's Marine Shop and lot 5 is the property with the brick residential dwelling to the east of the Marine Shop. The owners of lot 5 will be transferring some land to Mr. Boan. The following variances will be required:

1. Lot area for lot 4 (3.8675 acres) which is less than the required 5 acres

2. Lot area for lot 5 (3.2878 acres) which is less than the required 5 acres
3. Rear yard setback for the garage on lot 5 which is currently 110 ft. off the property line and will be 77 ft. off the property line (not the required 100 ft.) after the minor subdivision/lot line adjustment.

It was noted that no new construction is presently being proposed for either lot, and any future construction would require NJDEP and Township approval due to the wetlands and C-1 waterway classification. Both lots are encumbered by a 300 ft. special water resource buffer and stream corridor buffer established by NJDEP.

Mr. Boan explained that he is buying the land with the intent of keeping it the way it is and has no problem granting a conservation easement on the entire portion of the land to be acquired. Ms. Van der Veen questioned whether or not the easement would remain effective forever or just during the time Mr. Boan owns the property. Chairman Pfeiffer noted that the easement runs with the deed. Attorney Shurts added that the easement goes to the Township and the Township can always take some later action with regard to it. Attorney Shurts stated possible changes to the easement in the future are not preventable.

Engineer Clerico briefly reviewed his report to the Planning Board noting that the applicant's plan indicates the approximate location of the existing septic disposal field that is located to the rear of the existing dwelling on lot 5. Under the applicant's plan, the septic field would now be located closer to the adjusted property line and the applicant needs to provide appropriate assurance that the septic field will remain on lot 5 after the minor subdivision/lot line adjustment. Planner Grant's professional opinion was deemed appropriate assurance.

Chairman Pfeiffer opened the floor to public comment on this application. Seeing no one come forward, a motion by Urbanski, seconded by Shapella to close the public comment period was unanimously approved by roll call vote.

Chairman Pfeiffer summarized the proposed application for clarification. He stated the applicant is requesting three variances related to the proposed minor subdivision/lot line adjustment, and Mr. Boan will place a conservation easement on the entire portion of the newly acquired land to prevent any future construction.

A motion by Shapella, seconded by Urbanski to approve the three requested variances was unanimously approved by roll call vote.

A motion by Davis, seconded by Haug to approve the minor subdivision/lot line adjustment with the previously discussed conditions was unanimously approved by roll call vote. Attorney Shurts noted this is a minor subdivision created to immediately be merged with Mr. Boan's existing property.

Unfinished Business

Chairman Pfeiffer indicated he was reordering the agenda to address members of the public who were present. Rich Storcella of 40 Woodsville Road, Hopewell came forward to follow up on last month's meeting regarding the status of the conservation easement that was repealed by the Township Committee based on a prior recommendation by the Planning Board in 2004.

Mr. Storcella explained again that the Township Committee revised the deed repealing a conservation easement on Block 23 Lot 19.04 in 2007. He read from a document saying *a motion was approved and recommendation to the Township Committee was made that a map showing an area to be used for horses and what the restrictions would be and the balance of the land should be put into a conservation easement.* He asked if anyone was able to look into the maps and determine what the recommendation was.

Chairman Pfeiffer addressed Mr. Storcella saying he had asked about this at the last meeting and Mr. Storcella indicated he wasn't sure beyond that what additional information there may be. Attorney Shurts stated he has no indication that the Board did anything other than make a recommendation. Chairman Pfeiffer clarified that ultimately the action was taken by the Township Committee. He added that the Board had just discussed reviewing their By-Laws regarding procedural grounds related to establishing a policy for notice requirements.

Mr. Storcella asked if a map was ever submitted or if a resolution was adopted. Chairman Pfeiffer indicated this happened before his time on the Board. Ms. Smith stated she did not recall anything other than someone purposing to purchase that property in question and the sale of the property was to be contingent on the outcome of the proposed potential application. She said she does not remember them moving forward before the Planning Board. Ms. Van der Veen explained that the Board has a process for potential applicants to present concepts to the Board and she believes this was the level at which this matter transpired. Ms. Van der Veen said she does not recall seeing any specific maps outlining the designated easement areas. No one recalled any formal application being presented to the Planning Board on this matter. Chairman Pfeiffer commented that he thought the Township Committee needed to address the process on their end because they took the action and presumably they had some kind of basis for taking that action.

Mr. Storcella said he reviewed all of the Township Committee meeting minutes and there is no record of anything. He stated that the property owner went to the Township Committee prior to purchasing the lot and was told to go to the Planning Board regarding the easement recommendation. Ms. Smith said she recalls the owner coming in with the Realtor at that time. Mr. Storcella said this transpired in 2004 and Chairman Pfeiffer noted nothing has come to the Board subsequent to this.

Mr. Storcella stated again that he can't find any record of anything other than the deed being changed and he said five acres of woods have been cleared and there was an application before the Board of Adjustment for an 11,000 sq. ft. indoor riding arena. Mr. Storcella asked the Board for direction on where to go from here now that the deed has been altered.

Chairman Pfeiffer said the fact is the Board can only review applications before them. Since no application on this matter has been received and if there is a potential application, nothing has been filed yet. He suggested no specifics should be discussed about the property in question since the landowner wasn't present and from a procedural view point, Attorney Shurts is correct in that the easement was changed by the Township Committee.

Ms. Smith asked Mr. Storcella if he is positive the deed was changed. He replied that he has a copy of it. He said the deed was recorded 4/11/07. Chairman Pfeiffer said it is not for this Planning Board to look at that aspect. He noted the Board can make a referral to the Township Committee and ask them to look into this and provide an accounting for how things tracked.

Mr. Corboy commented that there had to be an action taken and he imagined it was the letter of intent from the NJDEP that prompted the Township Committee to take some action to relieve that conservation easement. He said they would not have done it simply impromptu. He said someone had to bring some rationale to do it. Mr. Corboy did not recall acting on it.

Mr. Storcella read from the 11/16/04 Planning Board meeting minutes saying, it says here *he would like to purchase Block 23 Lot 19.04 which has a home...the property has a large conservation easement which he would like to amend...the applicant should submit a letter of approval by the current owner...Mr. Baill indicated from his*

map he submitted the area the applicant would like to turn into a horse pasture. He requested the Board grant amendment to remove the easement so he could install fencing and construct a barn.

Chairman Pfeiffer inquired whether Mr. Storcella found anything in his research that showed the matter came to the Planning Board subsequent to that meeting. Mr. Storcella said no. Chairman Pfeiffer then said he believes at that point the Township Committee began doing things with it and suggested the Township Clerk could probably help research the history of what may have happened in 2005, 2006 and 2007.

Mr. Storcella asked if the Planning Board ever spelled out what their recommendations were to the Township Committee. Mr. Shapalla seemed to recall that there was a recommendation. Mr. Storcella continued reading from the 11/16/04 Planning Board minutes saying *the existing wetland maps are 13 years old. The letter of interpretation was done by Kyle Peterson which says substantially diminished wetlands. Hal Shute said he walked the site after 2 inches of rain on the previous Friday and he said the area in question was high and dry. The land supported red maples and cedar although the interpretation expired on 8/16/99, the applicant requests approval of the modification of the wetlands as per the most recent letter of interpretation.*

Chairman Pfeiffer suggested anything that is on file in the Planning Board can be made available through the Board Secretary. He also noted that the Township Clerk may have files to help with the history of what happened. He stated again that nothing has happened subsequent to 2004. Mr. Corbo commented that the Township Clerk will need to research anything that Mr. Storcella may bring forward to the Township Committee. Mr. Corbo said he will find out tomorrow if any action has been taken and if no action has been taken, then he will request research be done as to why the Township Committee relaxed the conservation easement and what supporting documentation was behind the decision.

Mr. Storcella asked if the conservation easement can be changed back. Attorney Shurts told Mr. Storcella he was asking the Board to be his attorney and he said we are the Planning Board.

Discussion - 16 Williamson Lane – Block 11.01 Lot 6

Property owners Tom and Kathi Petrelli came forward regarding a fence dispute. Mr. Shapella explained the matter had been discussed at the Board's December meeting. The Petrellis have installed a pool in their back yard with a fence and recently the housing developer, Orleans, has installed a split rail fence in accordance with their approved subdivision that is approximately 18 inches away from the Petrelli's fence which is presenting a problem. The property owners are concerned as to potential liability regarding their swimming pool. Chairman Pfeiffer indicated the Petrellis had submitted a letter to the Board dated 11/10/08 that was included in the Board's packets regarding this matter.

Ms. Petrelli stated they moved into the property in June 2002. The pool was installed in May 2003. The fence was installed prior to the pool to secure their back yard for their dog. There is an aluminum fence in the front of the home, and a 4 foot split rail in the back which is pool compliant with the wire mesh. The Petrelli's indicated they obtained all of the required permits and passed all inspections.

In 2006 a gentleman representing Orleans was placing stakes in the ground alongside the Petrelli's fence per the subdivision approval and related Fisk plan. The Orleans fence is split rail without the wire mesh and is not pool compliant. The Petrellis had asked Orleans to install their fence in conjunction with their existing fencing so there wouldn't be two split rail fences back to back in close proximity. Orleans did not agree with the suggestion. The Petrellis are concerned if they were to remove their fencing and rely on the Orleans fence, that someone could gain access to their pool and their dog is not secure.

Ms. Petrelli stated that prior to the Orleans fence being built they came to the Township and spoke with the former Zoning Officer, Gene Venetone who informed them the fence should be 4 to 5 feet away from the existing fence in order to be pool compliant and he apparently informed the Petrellis that no one should be able to place anything over the two fences to scale them. The Petrellis also sent a letter to their Homeowners Association and received no response. Ms. Petrelli indicated the matter was in the Planning Board's hands because Orleans installed the fence in order to meet all of their conditions of approval because Orleans wants their escrow money returned.

Engineer Clerico explained the Orleans fence was installed to delineate between the detention basin on the adjoining private property that is in an easement from the other homeowners. He clarified that the fence was not installed to corral anything. The Petrellis indicated they have never been able to see a copy of the Fisk plan. Engineer Clerico said he has a copy of the plan in his office.

Engineer Clerico asked if the problem would be solved if Orleans installed wire mesh on their fence. Mr. Petrelli said no because the two fences are like parallel bars that anyone could simply get up on. Ms. Smith noted that this fence along with all of the other Orleans fences have been on their plans since 1998-1999. Ms. Petrelli stated there is another issue. She said Orleans did not give them about 100 square feet of their property, and when Orleans planted the landscaping around the detention basin, the plants were installed on their (Petrelli's) property by about 30 feet. Therefore, Ms. Petrelli claims that the fence in question is probably 30 feet on their property. She believes on the Fisk plan the fence will be shown on her property.

Attorney Shurts stated that Orleans constructed the fence according to a plan and the first thing that needs to be done is to determine whether or not the placement of the fence is accurate. He stated if it is accurate he is not sure how the Planning Board would deal with the situation under the Statutes but if the fence is installed inaccurately, then the Construction Official would have to get involved. Attorney Shurts did not believe, at this time, that the Planning Board has jurisdiction in this matter.

Engineer Clerico suggested a request be made to Orleans for a survey map of where their fence is installed and showing where the Petrelli's fence is, then the Planning Board can compare the survey to the original plan. Mr. Shapella said even if the Orleans fence is where it's supposed to be, the situation presents a problem that was unforeseen at the time. Chairman Pfeiffer commented that the matter does raise a question for future applications as a condition of approval whether or not these fences are installed prior to the housing units being sold.

Mr. Corboy said he thought the Governing body could request the Orleans fence be taken down. He used the example of the Jessica Savitch story. He said 15 years ago she drove in the water and drowned—the State of Pennsylvania said if they put up a fence they would look guilty so they didn't put up a fence. A year later another person drove in the water and drowned and then the State put up a fence. Mr. Corboy said the Petrelli situation is the opposite. The fence is the dilemma. Chairman Pfeiffer asked who owns the fence in question. Engineer Clerico said the fence is part of an easement on private property and he didn't recall if the easement is to the Homeowners Association or owned by the lot owner. Ms. Petrelli stated it is unclear if the Homeowners Association is responsible for maintaining the fence, and the homeowner refuses to take it down. Mr. Petrelli commented that that particular property owner is 14 acres away so presumably he is indifferent to the situation.

Mr. Urbanski asked why the Orleans fence can't be made higher. Mr. Corboy thought that would be more difficult. The Petrellis maintain the problem is the proximity of the fences because people would still be able to walk between them regardless of the height.

Ms. Smith commented that the development was started in 1999 and they had a plan in place. She believes that when people purchase these predesignated lots it is the homeowner's responsibility to know exactly what is going on surrounding their lot. Ms. Petrelli defended herself saying she spent \$9000.00 on her Attorney doing research for the surrounding lots and she said there was no indication of any fence being installed next to hers and she believes common sense should prevail. Mr. Petrelli asked why the Township would approve their fence knowing the Orleans's fence would be installed so close. Mr. Shapella commented that a letter from the Township Committee will probably be needed asking Orleans to dismantle the portion of the fence near the Petrelli's fence. Chairman Pfeiffer said the Planning Board has no jurisdiction to take any action on this matter at this time. He noted there were two members of the governing body present who may be willing to look into the matter further. Mr. Corboy stated he would ask the Township Attorney at tomorrow night's Township Committee meeting whether or not a letter can be sent to Orleans requesting they remove the portion of fencing posing a safety hazard.

Master Plan Amendment Update – Municipal Comprehensive Farmland Preservation Guidelines

Special Planner Linda Weber came forward and explained she was hired to prepare revisions to the Farmland Preservation Plan which is an element of the Master Plan. The original plan was dated December 2007 and was submitted to the State Agriculture Development Committee (SADC) and they said it was incomplete. The SADC sent back a 9 page letter noting various items that needed to be addressed in the plan. Ms. Weber is currently preparing the requested items and working with the Township's Agricultural Advisory Committee and several other sources. She stated the revisions will be submitted to the Planning Board the first week in February. The Township's original plan was done prior to the adoption of the State's 2007 guidelines. Ms. Weber said the new plan will mirror the State's requirements to include: the raw data regarding agricultural industry and farming trends in the Township as well as opportunities, trends and needs for farming. Ms. Weber commented that she did need some data on water supply throughout the Township. Chairman Pfeiffer suggested there may be something in the Natural Resource Inventory completed by the Environmental Commission that may be helpful as well as the report from Hydrogeologist Matt Mulhall.

It was noted that the Planning Board will try to hold a special meeting for the review and comments of the Farmland Preservation Plan either 2/5/09 or 2/9/09, after the Agricultural Committee has had a chance to review and comment on the plan.

Discussion – Possible Amendment to Conditional Uses Section of Zoning Ordinance

Chairman Pfeiffer noted this matter will be placed on the Board's 2/17/09 agenda since Planner Bolan was unable to locate the electronic revisions done by previous Planner Mercantante.

Final Site Plan Application/Checklist Procedures – Draft Ordinance Update

Engineer Clerico said he reviewed the checklist revisions prepared by Planner Bolan. He said it appears that he took the preliminary final site plan checklist and added to it. Chairman Pfeiffer asked Engineer Clerico to review the documentation and send his comments to Ms. Andrews. Engineer Clerico said he has no issues with the items Planner Bolan added, but he did notice he reduced the number of required copies to be submitted and he thinks the amount of copies should be the same as what is requested for preliminary site plans. Chairman Pfeiffer suggested that the number may even need to be increased. The matter will be placed on the Board's 2/17/09 agenda for further discussion. Engineer Clerico noted he will be on vacation for the 2/17/09 meeting but will submit a review memo on the matter.

Plan Endorsement Update

Chairman Pfeiffer commented that as was previously discussed, something needs to be submitted to the State in February and the Township needs to decide whether or not they are going to proceed. Someone will need to tell the Office of Smart Growth (OSG) what the Township's turnaround time is on the plan Ms. Weber is preparing and presumably the communication should come from the Mayor. Mr. Corboy agreed. Chairman Pfeiffer suggested an additional week or two. He said when they originally applied for plan endorsement there were two reasons: COAH and the elimination of the sewer service area. Chairman Pfeiffer said both matters have been resolved and the way it was left was that the Agricultural Plan had to be done anyway for the PIG funding and if it is satisfactory with OSG then we can consider proceeding with Plan Endorsement and if it isn't then the Board will need to decide whether to continue working on the matter.

Discussion – Natural Resource Inventory (NRI)

Chairman Pfeiffer said there was an ordinance prepared by Planner Bolan and asked if there were any comments. Mr. Urbanski commented that he liked the way the ordinance states the NRI shall be utilized on the assessment of site characteristics including geology, soils, topography, ecology, existing vegetation and visual features—but general site context, climate and structures were left out. Mr. Urbanski said he likes the idea of the NRI being referenced but there are other things in 109-155:A(1) that are already in the book that make it more inclusive and he questioned why Planner Bolan left the items out. Chairman Pfeiffer noted this will need further review and possibly be expanded upon by whoever the Board decides to hire as their Planner for 2009. Mr. Urbanski asked if the Environmental Commission should review any of this material. Chairman Pfeiffer said yes and requested that Ms. Andrews send a copy of the NRI draft Ordinance be sent to the Environmental Commission for their review and comments. The matter will be discussed further at the Board's 2/17/09 meeting.

Hunterdon County Transportation Plan – Response to Strategies and Action Plan

Chairman Pfeiffer explained this matter has been kept on the agenda to verify that the plan was actually transmitted to the County. He said he will call Mr. Bogen (*Hunterdon County Planning Board*) and confirm that the plan has been received. The matter will be removed from the agenda.

Discussion – Master Plan Reexamination

Chairman Pfeiffer indicated he had asked Attorney Shurts the statutory requirements regarding the timeline for review of the plan. Attorney Shurts said the 2003 master plan was adopted in October 2003. He said he spoke with Clerk Olsen who indicated there was something in a set of minutes indicating a special meeting on October 29, 2003 at which the Master Plan was adopted. Attorney Shurts commented that he believes the adoption of the Master Plan in 2003 took away the need for any reexamination and started the clock over. The Master Plan must be reexamined every 6 years, therefore the Board will need to complete a Master Plan reexamination by October of this year. Attorney Shurts indicated he will be researching additional information more fully and he will report back to the Board at the 2/17/09 meeting.

Chairman Pfeiffer indicated he would like to hold a number of special meetings to conduct the reexamination of the Master Plan and would like to get as much public input as possible. He asked the Board members to review the Master Plan and be prepared to make comments at the Board's 2/17/09 meeting.

Mr. Corboy expressed the severe budget situation the Township is facing and stated there is no money to turn the review of the Master Plan over to the Board's professionals. Mr. Corboy asked Attorney Shurts what would happen if there was no reexamination conducted. He stated that if the reexamination is not done the presumption is that the municipal development regulations are no longer reasonable. The Board agreed that a reexamination must be conducted using as much of the Board member's time as possible.

Discussion – Subdivision Applications – LOI Criteria

Engineer Clerico explained the question really is: What degree of reliability does the Board want to have on an application before them? Mr. Clerico believes that a request for a letter of interpretation (LOI) should be asked for consistently on all applications. Chairman Pfeiffer clarified that everyone on the Board had indicated that an LOI should be required for all major subdivisions but some members were unsure about requiring one for minor subdivisions. Mr. Clerico noted that even if an LOI were part of the checklist, an applicant could still request a waiver. Mr. Greenwood asked how long it takes to get an LOI and what the cost is. Mr. Clerico responded that it could take anywhere from 4 months to 18 months and the cost ranges from \$2000 to \$5000.

A poll of the Board members was taken asking whether an LOI should be requested for all applications. The results were as follows:

Mr. Greenwood – no formal comment was made

Ms. Sommers-Sayre – Major subdivisions as long as the applicant is aware they can request a waiver

Ms. Smith – Major subdivisions

Ms. Van der Veen – All applications

Mr. Molnar – Major subdivisions as long as the applicant is aware they can request a waiver

Mr. Corboy – Major subdivisions and with proper documentation a waiver can be requested

Mr. Pfeiffer – All applications with waiver language being noted

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Mr. Shapella – All applications because an applicant can ask for a waiver

Mr. Urbanski – All applications

Mr. Haug – All applications

Mr. Davis – All applications with waiver language being noted

It was noted that checklists are approved by ordinance and the Board's Planner will have to work on the revisions. This matter will be placed on the Board's 2/17/09 agenda for follow up.

Chairman Pfeiffer asked for any public comments at this time. Seeing no one come forward, he noted the Board would be going into Executive Session.

Executive Session Resolution PB2009-11 – Personnel

The following resolution was read into the record by Ms. Andrews:

WHEREAS, Section 98 of the Open Public Meetings Act, Chapter 231:PL1975 permits the exclusion of public from a meeting in certain circumstances and;

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW THEREFORE BE IT RESOLVED, by the Planning Board of West Amwell Township, County of Hunterdon, State of NJ as follows:

1. The public shall be excluded from discussion of and action upon the hear in after specified subject matter
2. The general nature of the subject matter to be discussed is as follows – Personnel
3. It is anticipated at this time that the above stated subject matter will be made public when the matter has been resolved
4. This Resolution shall take effect immediately.

A motion by Urbanski, seconded by Shapella to approve Resolution PB2009-11 was unanimously approved by roll call vote.

Attorney Shurts and Engineer Clerico left the meeting at this time, 10:37 PM.

The Board went into Executive Session from 10:36 PM – 11:04 PM.

Results of Executive Session

A motion by Smith, seconded by Urbanski to authorize Chairman Pfeiffer to contact the firm of Clark, Cayton and Hintz to be the Board’s Planner was unanimously approved by roll call vote.

New Business

Correspondence: Ms. Andrews noted she had received a copy of the Hunterdon County Farmland Preservation Plan and anyone interested in reviewing it should contact her. Mr. Urbanski took Ms. Andrews’ copy of the plan for review on behalf of the Agricultural Advisory Committee.

Ms. Andrews also noted she received a copy of the Hunterdon County Planning Board’s 1/8/09 agenda.

Other: Chairman Pfeiffer asked Ms. Andrews to advise any Board members who still needed to complete the mandatory training. Additionally, he asked if Board members could send any grammatical or typographical errors in the minutes to Ms. Andrews prior to the meeting in an effort to cut down on the length of time being spent on approving the Board’s minutes.

Ms. Smith noted for the record that she requested to be an alternate on the Board due to the time she spends with the Red Cross. She stated she didn’t believe she could fulfill all of the time obligations a regular Board member takes on.

Adjournment

A motion by Shapella, seconded by Urbanski to adjourn the meeting was unanimously approved.

The meeting adjourned at 11:15 PM.

Maria Andrews, Planning Board Secretary