WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
December 15, 2009

The West Amwell Township Planning Board meeting was called to order at 7:30 PM by Chairman Pfeiffer 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 Pfeiffer: 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 29, 2009. Notice has been posted on the bulletin board at Town Hall on December 11, 2009, 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 Pfeiffer: 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 a copy of the CD is on file in the Office of the Planning Board.

Attendance – Roll Call
Present: Bill Corboy
Lonnie Baldino
Alex Greenwood
John Haug
Tom Molnar
Sean Pfeiffer – Chairman
Ron Shapella
Chester Urbanski
Joan Van der Veen
David English – Alt. #1
Rich Storcella – Alt. #2
Attorney Shurts
Engineer Clerico
Planner Hintz

Absent: No one

Approval of Bill List
A motion by Urbanski, seconded by Van der Veen to approve the vouchers for payment as listed on the 12/15/09 bill list was unanimously approved by roll call vote. It was noted that the voucher carried from last month regarding Heritage Consulting should be paid because the work done for Heritage Builders took place prior to the stop work notification sent out by the prior Board Secretary.

Public Hearings
Master Plan – Amend the Objectives, Principles, Assumptions, Policies and Standards
Chairman Pfeiffer explained this amendment is consistent with what the Board discussed at last month's public hearing. This document was drafted by Planner Hintz to formally adopt the changes as an amendment to the Master Plan.

Attorney Shurts verified that the required noticing requirements under the Municipal Land Use Law (MLUL) have been met and the Planning Board had jurisdiction to continue with the public hearing. The certified mail receipts were marked as **Exhibit PB-1**.

Chairman Pfeiffer opened the meeting to public comment. No one came forward. A motion by Shapella, seconded by Urbanski to close the public hearing was unanimously approved.

A motion by Urbanski, seconded by Shapella to adopt the Master Plan amendment amending the Objectives, Principles, Assumptions, Policies and Standards section was unanimously approved by roll call vote.

Public Hearing
Kaluzny – Block 19 Lot 11 – Minor Subdivision
Attorney Shurts explained that he reviewed the certified list of property owners the applicant sent notice to and commented that the Carnavale family is listed as owners of multiple properties. Attorney Shurts noted that Nicholas Carnavale, Sr. and Nicholas Carnavale, Jr. were both noticed. He indicated one party not noticed was Brian and Catherine Mudhenk. Mr. Mudhenk was in attendance at the meeting and was identified as the Son-in-law of the applicant. Mr. Mudhenk waived his right, for the record, to be formally noticed via certified mail. Attorney Shurts stated he was satisfied the noticing requirements had been met and commented that the Board had jurisdiction to proceed with the public hearing.

Attorney Shurts noted that the application for the Kaluzny subdivision will be marked as **Exhibit A-1** and all of the noticing documentation was marked as **Exhibit A-2.**

Eric Rupnarain of Goldenbaum Baill Associates was present along with property owner Eileen Kaluzny. Both parties were sworn in and Mr. Rupnarain explained the application is for a minor subdivision of Block 19 Lot 11 located on the Northeast side of Route 518. The parcel is 35 acres with an existing dwelling. The majority of the land is actively farmed.

The applicant is proposing to subdivide the lot into two lots with the remaining lands put into farmland preservation. It was noted that the remaining lands lot 11 will have a 3.0 acre floating exception area for a possible future single family dwelling with access to Route 518.

Mr. Rupnarain explained the proposed application requires several variances: Lot area, lot width, buildable area, front yard setback and lot coverage. He noted the following reasons: Lot area – 6 acres is required, 2.5 acres is proposed. Lot width – 300 feet is required, 259 feet is proposed. Buildable area – 3 acres is required, 2.5 is proposed. Front yard setback – 150 feet is required, 129 feet is provided to the existing dwelling. Lot coverage – 12% is allowed, 13% is proposed.

It was noted that the front yard setback variance is a pre-existing condition that is not impacted by the proposed subdivision. Mr. Rupnarain explained that the variances are being requested in order to devote the maximum amount of land into preservation. Chairman Pfeiffer commented that the Farmland Preservation easement is being donated by the Kaluznys with no public funding involved. The applicant agreed to offer the easement as a condition of approval.

Engineer Clerico commented that the Board needs to deal with the variance aspect of the application first noting that if they aren't approved, there is no need to proceed with the subdivision. Engineer Clerico noted that the Board of Health has waived the reserve septic testing requirement until such time that a future home is built. He also suggested the Board may want to require the applicant to return to the Planning Board for a review of any future home site, prior to permits being issued. It was noted that the Board of Health and the County have implemented similar requirements for issues specific to their Boards/Departments. Engineer Clerico indicated that he recommends any conditions be expressly noted in the Resolution of approval and the deed with a special notation to the Construction and Zoning Officials that these conditions are associated with this specific property.

Mr. Rupnarain provided an updated letter, dated 9/10/09, from the County indicating driveway access can be created off of Route 518 at the time of any future home site construction. It was noted that the letter mistakenly references Route 579. Engineer Clerico commented that it is safe to assume the County knows where the property is, but suggested Mr. Rupnarain contact the County to correct the error.

Planner Hintz commented that since it is difficult to track a floating exception area, the Board may want to request that the applicant's Engineer put a notation on the actual subdivision plan indicating the floating exception area for a future home site to be accessed from County Route 518 subject to the conditions previously noted by Engineer Clerico as well as those expressed by the Board of Health and the County.

It was noted that Engineer Clerico had received an updated site plan dated 3/13/09 which was when Goldenbaum Baill Associates took over the project from Christopher Melick. The only changes made were the notated exception area and a revised certification block. Mr. Rupnarain indicated he will provide the Board with additional copies of the map/plan.

Mr. Greenwood asked if a size limit should be established for any future dwelling since this application deals with Farmland Preservation. Chairman Pfeiffer explained there can be restrictions on size depending on where the septic system is located.

Mr. Urbanski commented on the numerous variances being sought by the applicant and remarked that if the Board grants 5 variances he believes something should be given back to the community. He also expressed uneasiness with the floating exception area. Chairman Pfeiffer noted that floating exception areas are not allowed under the State Agriculture Development Committee (SADC) rules but noted that no public funding will be involved with preserving this particular parcel. Ms. Van der Veen asked if this preservation was to go through the Open Space Preservation program what the estimated cost might be. Chairman Pfeiffer remarked that based on what has been spent for other farmland it could be several hundred thousands of dollars. Mr. Shapella commented that he believes a deed restriction on 30 acres of land qualifies as a benefit to the Township. Chairman Pfeiffer asked if it was fair to say that the applicant proposed this application along with the donation of the preserved land so they did not have to go through the expense of doing the soil testing now since they don't know whether or not the land will ever be developed. Mr. Rupnarain remarked affirmatively, saying it was a trade off for the applicant.

Chairman Pfeiffer asked for suggestions on clarifying the easement language regarding farm labor housing and potential additional structures on the lot. Mr. Rupnarain noted that any construction will be confined to the 3.0 acre exception area. Engineer Clerico clarified that there is an existing shed on the parcel. It was noted that the shed is a 30' x 50' structure used to store farm equipment. Ms. Kalunzy also noted there is a 10' x 10' brick pump house structure on the lot as well.

Mr. Greenwood commented that it is not unusual to have farm related structures on farmland and suggested that instead of restricting the use of the land, the applicant should be allowed to erect sheds. Ms. Van der Veen commented that she would like to see a limit put on the number of structures that can be built on the parcel. Ms. Kaluzny commented that she agreed to one dwelling, but would not like to limit the ability to construct sheds or horse barns. Chairman Pfeiffer added that it is worth pointing out that if the County was buying a farmland preservation easement on this parcel there would be no restrictions on the amount of agricultural structures that can be built as long as there is compliance with local zoning.

Chairman Pfeiffer opened the floor to public comment. No one came forward but the floor was not closed in the event someone had future comments after hearing continued Board discussion.

Chairman Pfeiffer suggested the easement form used for farmland preservation acquisitions done through the Planning Incentive Grant (PIG) program be used for the Kalunzy preservation which would allow for agricultural structures and farm labor housing to be constructed. He noted the only difference is there is not a fixed exception area, but rather a floating exception area.

Mr. Urbanski questioned again, whether or not getting 30 acres of preserved land was enough justification to grant the 5 requested variances. Mr. Corboy commented that variances are not mortal

sins. He noted they are necessary for enabling people to utilize their land in a reasonable fashion. Chairman Pfeiffer suggested polling the Board for their individual comments:

Mr. Corboy – No further comments.

Ms. Van der Veen – No further comments.

Mr. Greenwood – "I'm good with it."

Mr. Haug – "I'm good with the proposal…and I think the applicant should come up with their own easement language."

Mr. Molnar – "…I'm perfectly good with no restrictions."

Mr. Baldino – "I'm good with everything."

Mr. Storcella – "I'm good with it."

Mr. Shapella – "It's clear that there is a public benefit. There are too many weird shaped lots in this Township and there is really no reason to create another one."

Mr. Urbanski – "I'm all set."

Mr. English – "I'm on board."

Mr. Pfeiffer – "…there is a precedent for floating exception areas even with Township purchases. There's the Fulper/Heffer 3 parcel which does have a floating exception area—that was a conservation easement with no State funding involved…"

Attorney Shurts commented that the Board should establish some guidelines for the easement language since he has to write the Resolution. The following guidelines were noted:

1. An Agricultural Development Rights Easement be created using the County model with the restrictive rights covenant that typically accompanies it incorporated as well, subject to the applicant's attorneys review
2. A corrected letter must be obtained from the County referencing Route 518
3. The floating exception area must be noted on all documents
4. The map/plans should notate all of the conditions of the Board's approval

Attorney Shurts suggested the public hearing be continued to the Board's 1/19/10 meeting with no additional public noticing being required. He noted in the meantime he will draft a Resolution for the applicant to review. He also added that it should be noted that all of the variances will be subject to subdivision approval.

It was noted that it was the consensus of the Board to not have the applicant return to the Planning Board for review of any future home site. This matter will be reviewed administratively by the Township's Construction and Zoning Officials.

Chairman Pfeiffer asked if there was any public comment. No one came forward.

A motion by Shapella, seconded by Haug to approve the "c 2" variances for lot area, lot width, buildable area, front yard setback and lot coverage as previously outlined was made subject to subdivision approval noting a public benefit exists and the benefits from deviating from the ordinance standards outweigh the detriments. The motion was unanimously approved by roll call vote.

A motion by Van der Veen, seconded by Urbanski to approve the minor subdivision noting the Agricultural Development Rights Easement, the corrected letter from the County, the documented floating exception area, the notated conditions of approval on the map/plan and the administrative review of any future home construction was made and unanimously approved by roll call vote.

It was noted that the public hearing on this application will be continued to the Board's 1/19/10 agenda for any additional comment and the Resolution in this matter will be listed on the same agenda for approval.

Chairman Pfeiffer thanked Ms. Kaluzny for her generosity.

Resolutions of Approval
Resolution PB#2009-17: Adoption of Master Plan Reexamination Report
A motion by Shapella, seconded by Van der Veen to adopt the Master Plan Reexamination report was unanimously approved by roll call vote. Attorney Shurts commented that the Board is required to forward a copy of the Resolution and the Reexamination Report to the County Planning Board. It was noted that Ms. Andrews will send the information to the County.

Resolution PB#2009-18: Adoption of Master Plan Amendment Modifying Statement of Objectives, Principles, Assumptions, Policies & Standards
A motion by Urbanski, seconded by Haug to adopt the amendment to the Master Plan was unanimously approved by roll call vote. Attorney Shurts commented that the Board is required to forward a copy of the Resolution and the Master Plan Amendment to the County Planning Board. It was noted that Ms. Andrews will send the information to the County and Planner Hintz will send copies to the Office of Smart Growth (OSG).

Applications
Discussion – Lucarini: Block 32 Lot 4 – Minor Subdivision
Attorney Shurts noted this application is not listed on tonight's agenda for public hearing because the applicant was not available. Attorney Shurts indicated Mr. Lucarini will renotice the public hearing for the Board's January meeting. He also commented that there is a discrepancy between the Township's tax map and the subdivision map regarding adjoining property owners. It appears there are 5 neighboring properties not included on the Tax Assessor's certified list of property owners. Attorney Shurts noted that the applicant has the right to rely on the certified list. He stated he will reach out to Mr. Lucarini and ask if he is willing to notice the 5 additional property owners. After some discussion, it was noted that the Board agreed to have Attorney Shurts notice them, at the Board's expense, in an effort to avoid any potential legal issues.

Herb and Cathy Gross of 7 Wilson Road spoke up from the public. Mr. Gross said he had reviewed the Township's file on the Lucarini property and stated there is an old certified list of property owners from 2005 which he is listed on. Mr. Gross questioned why he is not part of the current certified list. Chairman Pfeiffer commented that this is not a public hearing this evening and noted this matter will likely be heard at the Board's 1/19/10 meeting.

Ms. Gross commented they will not have adequate time to prepare for that hearing. Attorney Shurts clarified that the applicant is only required to provide 10 days notice. Mr. Gross continued to question why they weren't noticed and commented that the property also contains wetlands. He asked if the discussions so far on the Lucarini subdivision have affected their standing on the matter. Attorney Shurts stated that the questions are valid but the Board can't answer them. He commented that Mr. Lucarini did not do anything wrong in this case, he sent notices as he was required to and is not responsible for any error on the certified list. Chairman Pfeiffer noted that there has been no public hearing on the application to date.

It was noted that the tax map has been incorrect in other cases. Chairman Pfeiffer suggested the Township Committee review the matter.

Gerald Lieggi spoke up from the public and stated that when the County improved the corner of Route 518 and Wilson Road a problem was created with water runoff. He said there is a common drainage ditch on Mr. Lucarini's property and with his proposal to build up his land, it will create more water runoff resulting in flooding to his septic system and foundation. Mr. Lieggi requested Mr. Lucarini provide a plan showing how these issues will be contained/remedied. Chairman Pfeiffer noted the Board can only listen to Mr. Lieggi's concerns during the public hearing.

Discussion – Boan/Gross: Block 13 Lots 4 & 5 – Minor Subdivision Extension
Engineer Clerico explained the applicant is struggling with his Engineer's sudden decline in health and subsequent inability to help finalize the subdivision conditions of approval. He noted that revised deed descriptions were submitted but the maps have yet to be reproduced. The time limit to complete the subdivision requirements expires on 12/24/09 and it was suggested the Board grant a 90 day extension to file the approved subdivision to 3/24/10.

A motion by Shapella, seconded by Urbanski to grant a 90 day extension to file the approved subdivision to 3/24/10 was unanimously approved by roll call vote.

Unfinished Business
Status of Plan Endorsement
Planner Hintz noted no additional information has been received from OSG to date.

Discussion – Master Plan Reexamination: Status of Review by Board Members
It was the consensus of the Board to carry this matter to the Board's 1/19/10 meeting.

Discussion – Master Plan Amendment Update: Farmland Preservation Plan
Chairman Pfeiffer noted no final approval has been received to date.

New Business
Discussion – 2010 Planning Board Budget

It was noted that Planner Hintz will provide a breakdown of the expenses for the requested $17,500 planner budget line for 2010. All other line items will remain the same as the 2009 budget.

Discussion/Approval – Ordinance #30-2009: An Ordinance Amending Chapter 109 of the Code of the Township of West Amwell, Hunterdon County, NJ – Stream Corridor Protection
A motion by Urbanski, seconded by Van der Veen to find Ordinance #30-2009 consistent with the Master Plan and recommend its adoption by the Township Committee was unanimously approved by roll call vote.

Discussion/Approval – Ordinance #31-2009: An Ordinance Deleting Article XXVIII, Stormwater Management, from Chapter 109 of the Code of the Township of West Amwell, Hunterdon County, NJ
A motion by Shapella, seconded by Haug to find Ordinance #31-2009 consistent with the Master Plan and recommend its adoption by the Township Committee was unanimously approved by roll call vote.

Discussion/Approval – Ordinance #32-2009: An Ordinance Amending #27-2009 That Amended Chapter 109 Article IV Section 109-13 Fee Schedule of the Code of the Township of West Amwell, Hunterdon County, NJ
A motion by Shapella, seconded by Van der Veen to find Ordinance #32-2009 consistent with the Master Plan and recommend its adoption by the Township Committee was unanimously approved by roll call vote.

Discussion/Approval – Ordinance #33-2009: An Ordinance to Amend Chapter 109 of the Code of the Township of West Amwell, Hunterdon County, NJ
A motion by Shapella, seconded by Van der Veen to find Ordinance #33-2009 consistent with the Master Plan and recommend its adoption by the Township Committee was approved by roll call vote.

Correspondence
Mr. Urbanski requested a copy of the leadership form referenced in the Mayors Fax Advisory dated 11/13/09 listed on the agenda. Ms. Andrews indicated she will provide this.

West Amwell Township Planning Board Minutes – 12/15/09

Chairman Pfeiffer noted the Mayors Fax Advisory dated 12/2/09 listed on the agenda regarding the time of decision legislation. Attorney Shurts commented that once an application is deemed complete it won't matter what ordinance changes take place after the fact because the application will be governed by the ordinance in effect at the time the application was deemed complete.

Chairman Pfeiffer commented that prior to moving on to review of the minutes, he wanted to thank the Board Members for their service, Ron Shapella for serving as Vice Chair, the Professionals for agreeing to the 10% pay cut and working with the Township during this financial crisis, the subcommittees—especially those who worked on the Master Plan Reexamination Report which saved the Board $4300.00 and Bill Corboy for the political service for the support he has shown to him as Chair for the last couple of years from the Township Committee when political support was needed with OSG and others.

Mr. Corboy thanked everyone for their work on the Planning Board.

Mr. Urbanski added a thank you to Board Secretary Andrews for doing an excellent job her first year with the Planning Board. He also noted a special thank you to Sean Pfeiffer for being an excellent Chairman.

Ms. Van der Veen commented that Chairman Pfeiffer has guided the Board through a lot of tough situations and always kept a clear understanding of the needs of the public as well as the needs of the Board.

Engineer Clerico and Planner Hintz were excused from the meeting at this time.

Approval of Minutes
The Board reviewed the minutes from their 11/17/09 meeting. The following revisions were noted:
Page 3, Paragraph 3: *…TDR comments made by Joe **Donnell** of OSG.*
Donnell will be changed to Donald.
Page 4, Paragraph 1: *…Board of **health**…*
The word Health will be capitalized.
Page 5, Paragraph 6: *Chairman Pfeiffer commented that the ROSI **is** already **in the process of being** updated but indicated they will require assistance with the **GIS** mapping.*
The word is will be changed to has.
The words in the process of being will be changed to been.
GIS will be spelled out: Geographic Information System.

A motion by Shapella, seconded by Urbanski to approve the Board's 11/17/09 minutes with the above noted revisions was unanimously approved by roll call vote.

Chairman Pfeiffer wished everyone Happy Holidays and thanked everyone again for the opportunity to serve the Board over the past couple of years.

Mr. Urbanski praised Attorney Shurts saying the letters and Resolutions he drafts are always on point and excellent.

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

The meeting adjourned at 10:00 PM.

_____
Maria Andrews, Planning Board Secretary