

**WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
MARCH 17, 2009**

The West Amwell Township Planning Board meeting was called to order at 7:32 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 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 29, 2009. Notice has been posted on the bulletin board at Town Hall on March 12, 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
Tom Davis
Alex Greenwood – *(arrived at 7:35)*
Tom Molnar
Sean Pfeiffer – Chairman
Ron Shapella
Chester Urbanski
Joan Van der Veen
Joan Smith – Alt. #2
Attorney Shurts
Engineer Clerico
Planner Hintz

Absent: John Haug

Chairman Pfeiffer informed the Board that Alison Sommers-Sayre has resigned from the Planning Board due to her expected new baby. Ms. Sommers-Sayre will continue to serve on the Open Space Committee and as a parting gift to the Planning Board she created a Power Point presentation to be utilized during the Master Plan reexamination public hearing(s).

Approval of Minutes

Special Meeting 2/9/09: Mr. Urbanski noted that the Farmland Preservation Plan attached to the minutes has an error on the page listing the 2009 Agricultural Advisory Committee members. He stated that his term as well as Mr. Sappington's term should expire 12/31/11 which was accurate in the draft plan reviewed at the special meeting, but is inaccurate in the revised version attached to the minutes. Chairman Pfeiffer indicated Special Planner Linda Weber had already forwarded the plan to the State, but he would notify her of the inconsistency.

A motion by Smith, seconded by Van der Veen to approve the special meeting minutes from 2/9/09 was unanimously approved by roll call vote.

Regular Meeting 2/17/09: Ms. Smith noted a correction on page 10, paragraph 2 - *...not allowing mobile homes or tractor trailers which would be an issue in the event of a natural disaster.* The word tractor should be travel.

It was noted that all suggested revisions to the 2/17/09 minutes received by Ms. Andrews prior to the meeting from Chairman Pfeiffer and Mr. Urbanski will be incorporated into the final version of the minutes. Chairman Pfeiffer thanked Mr. Urbanski for getting his corrections and suggested changes to Ms. Andrews prior to the meeting.

A motion by Urbanski, seconded by Van der Veen to approve the 2/17/09 minutes as corrected was unanimously approved by roll call vote.

Approval of Bill List – 3/17/09

Mr. Urbanski questioned why the Board had received bills from Planner Bolan for services to the Board in 2009 when he wasn't under contract with the Planning Board in 2009. Chairman Pfeiffer explained that Mr. Bolan had done work in 2009 in preparation for the Board's January meeting. There was some discussion on the overall time Mr. Bolan spent on a few matters related to the expenses billed to the Planning Board as well as whether or not some of the work produced is of value to the Board and/or Township.

Mr. Urbanski specifically questioned Mr. Bolan's November 2008 bill in the amount of \$629.20 for services regarding attendance at the Board's 11/11/08 meeting. Ms. Andrews explained that Mr. Bolan's bill for that meeting is broken down as follows: Attendance at 11/11/08 meeting = 2 hours (\$260.00), additional time at meeting = 2.6 hours @ \$142.00 per hour. Mr. Urbanski stated that according to the November 2008 Planning Board minutes, Mr. Bolan was at the meeting for 3 hours and 24 minutes (3.4 hours) which should have resulted in a charge of \$482.80 not \$629.20

Attorney Shurts commented that if the Board is satisfied that the work was done, regardless of the quality of the work product, then the Board is obliged to pay for it. Ms. Andrews commented that she contacted Mr. Bolan regarding his January 2009 bill, specifically the time he spent on reviewing the municipal land use law and reviewing the ordinance pertaining to the Natural Resource Inventory and she said that Mr. Bolan maintains his billing is accurate and he has

emails corresponding with the work that was done. Ms. Andrews explained that at this time Mr. Bolan is not willing to revise this particular bill. Chairman Pfeiffer indicated that the Board did receive the memo Mr. Bolan prepared but commented that he was not pleased that it took 3 hours to prepare it.

Ms. Van der Veen commented that the Board is being asked to pay for things that are not useful at this point. Attorney Shurts suggested that the Board may want to go into Executive Session to discuss any controverted items in the billing. The consensus of the Board was to table Planner Bolan's portion of the bill list for Executive Session. A motion by Smith, seconded by Urbanski to pay the vouchers as listed on the bill list with the exception of Planner Bolan's bills was unanimously approved by roll call vote.

Resolutions of Approval

Resolution PB#2009-08: Hydrogeologic Consultant Matt Mulhall and Related Contract

It was noted that the contract references the Township Committee and not the Planning Board and will need to be revised. A motion by Urbanski, seconded by Van der Veen to approve Resolution PB#2009-08 and related contract with revisions was unanimously approved by roll call vote.

Resolution PB#2009-07: Substitute Consulting Engineer R. Lorentz and Related Contract

It was noted that the contract reflects a rate of \$160.00 per hour with a few Board members commenting this was an increase over last year's rate which was thought to be \$152.00 per hour. Mr. Corboy suggested Mr. Lorentz be contacted and asked to keep his rate the same as last year. Ms. Van der Veen suggested the resolution and contract be approved conditionally upon last year's rates being maintained. A motion by Van der Veen, seconded by Smith was made to approve Resolution PB#2009-07 and related contract with the condition that last year's rates be maintained was unanimously approved by roll call vote.

Applications

There were no applications listed on the agenda.

Unfinished Business

Discussion – Mostofizadeh Minor Subdivision: Block 21 Lot 12

This matter was brought informally to the Planning Board per Engineer Clerico's suggestion that the applicant get clarification on the jurisdiction of the application before formally proceeding. Present on behalf of the applicant was Attorney Richard Jefferson, Surveyor Pat Fatton and Engineer Leo Santowasso.

The property is 33 acres and the proposed application is to subdivide the property into two lots with lands remaining. Engineer Clerico identified that the tract is to be divided between two separate zoning districts which is why he believes the jurisdiction ultimately lies with the Board of Adjustment to determine exactly where the zone line is on the property.

Attorney Jefferson explained that one of the lots is a non-conforming residential lot, the second lot (12.01) would be a 2.5 acre lot in the Highway/Office zone and the third lot (*second subdivided lot, 12.02*) is proposed to be a building lot for a single family dwelling. Attorney Jefferson noted that the current subdivision layout will create a remaining lot, lot 12, that does not conform to the minimum buildable area criteria under the ordinance. Mr. Santowasso referred to a large mounted map of the property that was submitted to Engineer Clerico with the application with one noted change. Mr. Santowasso stated they added the zone line in red that bisects the property into thirds. He explained the line was scaled according to the zoning map and determined that at the southerly side of the property, the line is approximately 610' back from the Route 31 right-of-way. On the northerly side the line is approximately 725' into the property off of the highway right-of-way. This creates the situation where proposed lot 12.01 would be conforming in the Limited Highway Commercial Zone (LHC), however, the remaining land that contains the existing house, well and septic system is split by the zone line and the proposed lot 12.02 would also be split by the zone line. The remaining lands do not have the required 2 acre minimum in the LHC Zone. The land would have the required 8 acres in the Sourlands Regional Planning District (SRPD) and lot 12.02 would qualify for acreage in both zones. The question is whether or not this is a zoning issue for the Board of Adjustment to determine. Engineer Clerico clarified that the remaining lands of 1.6 acres do not meet the required 4 acre minimum buildable area.

There was discussion on exactly where the zone line is on the subject property. Planner Hintz commented that the Board should consider re-doing the zoning map in this area. He stated zoning lines usually follow property lines or natural boundaries or are done by specific measurements. Ms. Van der Veen believed the existing zone line was extrapolated from the lots along the highway. Engineer Clerico commented that it is clear the property falls within two different zones and if the existing house is on the residential side the use is conforming, but if

the house falls on the highway side the use is non-conforming. He suggested procedurally, the Board first clarify if any portion of any new lot created has to meet the minimum standards for the zone it is contained in.

Attorney Shurts clarified that the Board of Adjustment has the exclusive power to determine and interpret the zoning map or ordinance and he referenced N.J.S.A:40:55D-70(b). With regard to proposed lot 12.02 a variance for buildable area would be required to construct a residential dwelling on the lot. Engineer Clerico commented that it may be appropriate for the applicant to go to the Board of Adjustment to establish where the rear property line is and seek any necessary variances for the lot to be used for residential purposes. Ms. Van der Veen commented that regardless of where the zone line begins and ends the subdivision line could be established appropriately for what the applicant intends to do with the land. Mr. Santowasso noted that simply changing the lot lines doesn't achieve what they want without changing the zone line.

It was the consensus of the Board that this matter is a jurisdictional issue that should be heard by the Board of Adjustment. Attorney Shurts noted that he will inform the applicant accordingly.

Mr. Shapella commented that the applicant references a 75' stream corridor buffer on the property and the ordinance states a 150' buffer is required. Mr. Santowasso and Attorney Jefferson questioned the ordinance interpretation but agreed to clarify the matter and redo the map/site plan accordingly. Engineer Clerico suggested the applicant clarify the testing site for the reserve septic site and establish proof that the existing septic system is functioning, prior to approaching the Board of Adjustment with an application.

Discussion – Possible Amendment to Conditional Uses Section of Zoning Ordinance

Chairman Pfeiffer indicated he still had not received an electronic copy of the work previous Planner Mercantante did last year. He noted he will follow up on this matter and that current Planner Hintz has been instructed not to conduct any work on this possible amendment until the Board receives Mr. Mercantante's files.

Final Site Plan Application/Checklist Procedures – Draft Ordinance Update

Engineer Clerico explained he and Planner Hintz have been discussing this matter. The Board currently has four checklists which do not include anything for final site plan approval or minor site plan approval. Engineer Clerico stated he reviewed West Amwell's checklists with other Townships and he recommends that the existing checklists be combined into one form that lists all of the criteria in a table format for applicants to quickly review and simply check off all items that are applicable to their project. He explained having one checklist would simplify the process for both the Board and potential applicants. It was the consensus of the Board to have Engineer Clerico work something up for review at the Board's April 20, 2009 meeting.

Discussion – Subdivision Applications – LOI Criteria

Planner Hintz confirmed that an NJDEP Letter of Interpretation (LOI) can now be required on subdivision applications. Engineer Clerico recommended that an LOI be required for all subdivisions with a footnote on minor subdivision approvals that the applicant can request a waiver from having to obtain an LOI. Engineer Clerico will include the LOI on the amended checklist he will be drafting for the next meeting.

Master Plan Amendment Update – Municipal Farmland Preservation Plan

Chairman Pfeiffer indicated the Farmland Preservation Plan was forwarded to the Office of Smart Growth (OSG) and the State for review. Tim Brill will review the plan and forward his comments to Board. Chairman Pfeiffer noted that Mr. Brill indicated his review would take approximately 10 days. Planner Hintz commented that he spoke to Barry Abelman at OSG who stated review of the Farmland Preservation Plan would more likely take a month to complete.

Engineer Clerico left the meeting at this time, 9:19 PM.

Discussion – Master Plan Reexamination: Status of Review by Board Members

Chairman Pfeiffer explained that subcommittee number 1 consisting of John Haug, Ron Shapella and Sean Pfeiffer met and reviewed the following sections of the Master Plan: Objectives, Land Use Element and the Conservation Plan Element. The subcommittee noted that several items needed to be updated but wanted to get Planning Board input on whether or not the existing zoning districts with their respective zoning standards are sufficient or should be reviewed. Mr. Urbanski commented that review of zoning districts along Route 179 may need to be reviewed regarding residential and commercial uses. Mr. Shapella commented that it may make sense to obtain an aerial map of the Township and zoom in on different areas with an overlay depicting the zoning districts for consistency review. Planner Hintz suggested a power point presentation be prepared with the 2008 aerials that are available. Board members also commented on review of permitted uses in each zone and simplifying the process for people who live in the Village and Industrial/Commercial zones who wish to make improvements to their homes but get caught up with zoning issues because of the district the property falls in.

Chairman Pfeiffer commented that from an open space perspective, as of February 2009 there are no more look back provisions in Green Acres appraisals. He suggested the Board consider that the current zoning will impact the value land owners receive for preserving their land.

Ms. Van der Veen stated she wanted to go on record requesting the Planning Board revisit the current zoning acreages based on previous hydrogeologic studies indicating much larger acreage requirements should have been established. Planner Hintz commented that he will contact Engineer Clerico for a copy of the prior build-out analysis that was done.

Mr. Corboy commented that there are a number of lots in the Township that are assessed as unbuildable based on bad perc and soil tests. He suggested that property owners be asked to show every few years that nothing has changed and that the land is still unbuildable in the interest of protecting the Township tax base. Attorney Shurts stated that this issue is a matter for the Tax Assessor to review.

It was noted that no other subcommittees had the opportunity to get together and review the Master Plan. Chairman Pfeiffer suggested that depending on when tonight's meeting concluded, the subcommittees may want to stay a little longer to discuss their respective sections of the Master Plan.

There was discussion on holding a public meeting regarding the Master Plan Reexamination. Chairman Pfeiffer requested Ms. Andrews look into holding a public meeting at the High School. Planner Hintz indicated he will only be available for a possible special meeting on 4/29/09 or 4/30/09.

Discussion – Natural Resource Inventory

Planner Hintz indicated natural resource inventories are typically used as a reference for preparing subdivisions. He suggested making the inventory part of the checklist and noted that he will speak to Engineer Clerico since he will be drafting a new checklist.

Plan Endorsement Update

Planner Hintz indicated he spoke to Barry Abelman from OSG last week regarding Plan Endorsement. Mr. Abelman insisted that the Township prove its cluster ordinance works. Planner Hintz commented that there haven't been any major subdivisions in years to establish proof the ordinance works. Regarding the Transfer

Development Rights (TDR), Mr. Abelman requested there be a provision for it even though the Township has no new areas they wish to designate as receiving areas. Mr. Abelman also indicated he wished to review the new Farmland Preservation Plan prepared by Linda Weber and suggested there were still some missing components to the plan.

Planner Hintz stated he believes the Board is spinning its wheels with the State and he sees no major benefit to continuing with Plan Endorsement. Chairman Pfeiffer commented that the reasons West Amwell applied for Plan Endorsement in 2005 was because then Mayor Palladino was told by OSG representatives that if the Township went through Plan Endorsement it would expedite the removal of the sewer service area which has subsequently been accomplished separately through the NJDEP process and also because of the Council on Affordable Housing (COAH) hook which has also been addressed.

Mr. Shapella commented that he is somewhat suspicious of OSG because they seem to be a little too anxious for the Township to drop out of obtaining Plan Endorsement. He expressed concern with not pursuing endorsement and then running into problems with future TDR requirements.

Chairman Pfeiffer expressed concern with not knowing what the Township is signing on to. He said at some point the Township will be asked to adopt an ordinance or sign a contract. Mr. Shapella commented that the Board can decide at that point to drop out, but stated for now he believes it's important to continue to pursue Plan Endorsement. He commented it will likely take OSG several months to get back with the previously requested action plan and he believes the Board should just wait. Chairman Pfeiffer commented this was Mayor Palladino's initiative 4 years ago, and ultimately it was a Township Committee decision to proceed with Plan Endorsement and it is still ultimately a Township Committee decision as to whether or not to continue. Chairman Pfeiffer also noted that with respect to the special resource area boundaries, he has heard that Mr. Abelman is proposing that virtually none of West Amwell will actually be in that area. The area is based on the Stony Brook Watershed and because most of West Amwell is in the Delaware Watershed, it may mean the Township will be the receiving area for the rest of the Sourlands.

It was the consensus of the Board to continue pursuing Plan Endorsement. Planner Hintz will draft a letter to Clerk Olsen for consideration at tomorrow night's Township Committee meeting. He will also call Mr. Abelman and advise him of the Board's intentions.

Recreation and Open Space Inventory (ROSI) Update

A motion by Shapella, seconded by Van der Veen to approve the ROSI and authorize Chairman Pfeiffer to sign off on it was unanimously approved by roll call vote. It was noted that on page 5 of the inventory, the Stiefel property needed to be added.

Discussion – Reschedule April meeting to Monday, April 20, 2009

Ms. Andrews indicated that a poll of the Board members indicated that the best date to reschedule the Board's April meeting due to the conflict with the school board election is Monday, April 20, 2009. A motion by Shapella, seconded by Smith to reschedule the Board's April meeting to Monday, April 20, 2009 was unanimously approved by roll call vote. Ms. Andrews noted she will notice the meeting accordingly.

Correspondence

The Board commented on the letter dated 2/10/09 from Robert Lorentz regarding Heritage Building Group's outstanding escrow and his unpaid bills. Ms. Andrews noted that both she and previous Board Secretary Griffiths have sent letters to Heritage requesting the account be replenished. Additionally, Ms. Andrews commented that she has left several phone messages with Heritage Building Group but to date, has not received a call back.

It was noted that the applicant has received subdivision approval from the Planning Board but has not perfected the subdivision yet. Land Use Law indicates that final approval expires 95 days from the signing of the plan unless recorded, but when no plans have been signed Attorney Shurts stated the applicant hasn't met any of their conditions of approval and there will come a point when the approval will expire. He also suggested the applicant may be protected for some time under the Permit Extension Act recently signed by the Governor. Attorney Shurts believes that 2 years from the date of approval, the approval would expire unless the Board granted the applicant an extension of time to perfect the subdivision. It was the consensus of the Board to include a time frame in all future Resolutions of approval by which the applicant must perfect their subdivision.

Chairman Pfeiffer suggested the governing body will ultimately have to pursue the escrow matter.

Chairman Pfeiffer indicated he received a letter from Ken Bogen at the County Planning Board regarding a model septic management ordinance. He read it for the record:

Hunterdon County is currently working on the development of a model septic management ordinance for use by our municipalities. A septic management ordinance is a mandatory component of the new NJDEP water quality management plan rules for municipalities with existing lots served by subsurface sewage disposal systems. The County has formed a septic management committee comprised of members and staff from the County Planning Board and the County Health Department. The goal of the Committee is to create a practical and cost effective septic management ordinance that will utilize a common inventory database of septic units that each municipality can access to track periodic septic pumping and inspections.

For Highlands municipalities that have submitted a notice of intent to conform, the Committee will be working together with the Highlands Council and our Highlands municipalities to develop a septic management ordinance that will be consistent with the requirements of the Highlands Regional Master Plan and the NJDEP WQMP rules.

We will be scheduling a meeting shortly with stake holders from all of our municipalities to discuss development of this model ordinance which is currently in the informational gathering stage. Your comments and recommendations at the meeting will be used to help guide the Committee as it begins the process of drafting a model septic ordinance that all of our municipalities will be able to use.

Chairman Pfeiffer designated Mr. Shapella to look into this matter.

Planner Hintz left the meeting at this time, 10:30 PM.

Executive Session

A motion by Shapella, seconded by Smith to go into Executive Session to discuss personnel was unanimously approved by roll call vote.

The Board went into Executive Session from 10:31 PM to 10:52 PM.

Upon returning to open session, a motion was made by Shapella, seconded by Davis to approve payment of all of Planner Bolan's bills as listed on the 3/17/09 bill list except for #2: Attendance at November 2008 meeting. The motion was unanimously approved by roll call vote. Ms. Andrews was asked to contact Mr. Bolan regarding a discrepancy in billable time spent at the November meeting.

Adjournment

A motion by Shapella, seconded by Van der Veen to adjourn was unanimously approved.

The meeting adjourned at 10:53 PM.

Maria Andrews, Planning Board Secretary