

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
July 21, 2009**

The West Amwell Township Planning Board meeting was called to order at 7:40 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 July 16, 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. It was noted that the first 8 minutes of the CD for this meeting is blank because it was discovered that the microphone plugs were disconnected. Chairman Pfeiffer corrected the problem at 7:48 PM.

**Attendance - Roll Call**

**Present:** Bill Corboy  
Alex Greenwood  
John Haug  
Tom Molnar  
Sean Pfeiffer – Chairman  
Ron Shapella  
Chester Urbanski  
David English – Alt. #2  
Attorney Shurts  
Engineer Clerico  
Planner Hintz

**Absent:** Tom Davis  
Joan Van der Veen

Chairman Pfeiffer read Tom Davis's letter of resignation for the record:

*Sean,  
Due to current press of business I find it necessary to resign from the West Amwell Township Planning Board. I apologize to my fellow Board members for leaving in the midst of plan review, but at this point I am just not able to give the Board the time it demands.  
Thank you all for the opportunity to serve with you. I wish you every success in the future.  
Regards,  
Tom Davis*

Chairman Pfeiffer commented on the Board's current budget situation saying the Board must be aware of how much of the professional's time is being used. He noted this matter will be discussed in more detail later in the meeting and noted the importance of finding money in the budget to complete the required Master Plan Reexamination this year.

### **Approval of Bill List**

A motion by Urbanski, seconded by Haug to pay the vouchers as listed on the 7/21/09 bill list was unanimously approved by roll call vote.

### **Resolutions of Approval**

There were no resolutions of approval listed on this evening's agenda.

### **Applications**

There were no applications listed on this evening's agenda.

### **Unfinished Business**

#### **Master Plan Amendment Update – Farmland Preservation Plan**

Present for the discussion was Special Planner Linda Weber. Ms. Weber explained that she had received comments from the State Agriculture Development Committee (SADC) on the Farmland Preservation Plan (FPP) she submitted on behalf of West Amwell Township. Ms. Weber said she was hired to revise the FPP to comply with the new guidelines and requirements of the SADC, which she did, and now it appears the SADC is requesting an extensive amount of additional information not within their jurisdiction and not critical to the general understanding of the Township's agricultural policies as they relate to the farmland preservation program.

Ms. Weber explained that the time, labor and cost to revise the FPP in accordance with the SADC's updated checklist will be significant and not included in her scope of work or original contract. She suggested the Township meet with the SADC to discuss the situation. It was noted that Chairman Pfeiffer will request a meeting with Tim Brill and notify Ms. Weber and Mr. Corboy of the date so they can attend as well.

#### **Request for 6 Month Extension on Approved Minor Subdivision with Variance Relief:**

##### **Machinga – Block 23 Lot 10**

Attorney Shurts commented that the Board received a letter from the applicant's attorney outlining each of the remaining outstanding issues. He noted that it is not unusual for an applicant who has received minor subdivision approval to not be able to satisfy all of the conditions of approval within the 190 day time period. Attorney Shurts added that this subdivision was complicated and he is not surprised the applicant has requested an extension.

A motion by Shapella, seconded by Haug to grant the requested extension was unanimously approved by roll call vote. It was noted by Attorney Shurts that the original 190 day time period expires on 7/29/09 and since the applicant has requested a 6 month extension, the new deadline to perfect the subdivision will expire on 1/29/10.

#### **Discussion – Kaluzny Request for Checklist Waivers, re: Minor Subdivision – Block 19 Lot 11**

Present for the discussion was Alex Mikos and Eric Rupnarain of Goldenbaum Bail Associates, Inc. It was noted that this application was originally submitted for completeness determination in February 2008 and at that time Engineer Clerico outlined several deficiencies and deemed the application incomplete. A new plan submitted to

address the prior deficiencies was received in June 2009 along with a letter from the applicant's Planner/Engineer Goldenbaum Baill requesting various waivers of the Township's checklist criteria.

The following requested waivers were identified:

7(i) – Reference bench mark identified and shown on the plan

17 – Existing topography shown on the plan

22 – Location of all man-made and natural features both on-site and within 200 ft. of the property

24 – Location of any flood hazard areas

30 – Location of all attempted percolation and soil log data

31 – Location of existing wells and septic systems on site and within 100 ft. of property

32 – Existing topography from USC&GS maps

Mr. Mikos explained that Mrs. Kaluzny is proposing to subdivide her land for the purpose of giving a portion of it to her daughter and son-in-law who are currently living with her. He stated the last time the applicants appeared before the Board, questions were raised regarding the location of the septic system and the reserve area. Mr. Mikos commented that they achieved acceptable percolation tests but there is a high water table. He noted that for repair/replacement purposes the test results for the septic are acceptable. This would not be the case for new construction. Mr. Mikos stated the Kaluzny's have their primary septic system and have provided for a reserve area but are requesting a waiver from the on-site topography since they are not proposing any construction at this time. The applicant is proposing to put 32 acres of land into Farmland Preservation with an approximate 2 acre floating exception area for future development of a single family residence. It was noted that the exact location of the proposed dwelling is unknown at this time and that the exception area would be subject to all applicable requirements at the time of construction.

Engineer Clerico commented that there are variances associated with the proposed application but the Board is only considering the requested waivers this evening. He stated he agrees with granting the requested waivers for 7(i) and 17 but not 32. He also noted there is some missing title information that needs to be provided.

Mr. Mikos indicated they had requested a letter of no interest from the County Soil Conservation District since they aren't proposing any construction. He noted that Soil Conservation has replied that they are interested and requested an application be presented to them. Engineer Clerico commented that he believes the issue with the Township is similar to that of Soil Conservation in that the applicant is seeking waivers because they are contemplating Farmland Preservation and not constructing anything at the moment. However, the applicant is creating a remaining land parcel that the ordinance requires a suitable soil test and reserve area for. Engineer Clerico noted that the Board has dealt with prior applications where extensive waivers were granted from the environmental constrained assessment on the premise that the land is going to be restricted from development by a conservation easement, and that is not the case here.

Mr. Mikos responded that preservation is certainly an option the Kaluzny's are thinking about, but right now they are trying to figure out exactly what they need to do in order to separate the existing house from the lands remaining. There was some discussion regarding the floating exception area and Engineer Clerico clarified that he believes the applicant is asking for a subdivision where the remaining lands cannot be built on, they can only be used for farmland, with the exception of an undefined 2 acre portion of the land subject to a subsequent determination of environmental constraints. The balance of the parcel would be in a conservation easement. Mr. Mikos agreed that the floating exception area will be outside the conservation easement and all environmental constraints on this specific area will have to be determined at the time of development if the

applicant decides to construct a dwelling. Chairman Pfeiffer asked for clarification that the remaining lands will not be further subdivided. The applicant agreed to deed restrict the land from further subdivision.

Engineer Clerico commented that in the prior subdivision that created lot 11.02 the Board had imposed a condition that if the applicant came in for any further subdivision they would have to define development area(s) on the remaining land. He explained that this current application has a dual aspect, and the Board would have to be willing to go back and void the prior condition of approval on lot 11.02 along with waiving the checklist criteria for developing the constraints and providing the soil testing on the remaining land. Engineer Clerico noted that the soil testing aspect of this application is also a Board of Health ordinance and he commented that even if the Planning Board granted a waiver for checklist purposes the applicant would still require Board of Health approval which is out of the Planning Board's jurisdiction. He also stated the reserve septic area has been tested, but the testing indicates that the system will require State approval because it does not meet the depth of regional groundwater. Engineer Clerico noted that the Board of Health will have to waive that aspect of the reserve septic testing ordinance.

Mr. Mikos disagreed with Engineer Clerico's assessment saying that there is an existing house on the Kaluzny property with a functioning septic system. He said the septic code is clear that when you replace a septic system you do not have to meet the State standards. Mr. Mikos claims this septic issue should be considered a replacement. Engineer Clerico disagreed and maintained that the matter is still a Board of Health issue and not up to the Planning Board to decide. He added that the ordinance pertains to development applications, which is what this proposed application is, not to individual home owners. Mr. Mikos expressed concern that the local Board of Health may not hear the application if there is no septic design to be reviewed. Engineer Clerico commented that the other aspect of this current application is not having testing on the remaining land which would also require Board of Health review.

Mr. Urbanski commented that he believed the applicant needed to go to the Board of Health before presenting their application to the Planning Board.

Mr. Mikos noted that if the applicant requests a 2 acre exception area, they intend to show all relevant information on the plan regarding the 2 acre exception area. He indicated it is not their intention to go back and revisit the entire 32 acre tract showing topography and visible features. Engineer Clerico commented that Mr. Mikos was getting ahead of himself because the proposed application is to impose a restriction on the 32 acres that it will not be further subdivided but that it will be limited to the construction of a single family house with the location and compliance perimeters of the home site to be defined at a later date. Engineer Clerico stated that it is his understanding that the Board is willing to waive some requirements for completeness but when the applicant returns to the Board to present the merits of the application, the Board may determine that they need additional information. Attorney Shurts and Chairman Pfeiffer agreed.

Engineer Clerico clarified his recommendations regarding the requested waivers. He stated the applicant has several waivers primarily related to the remaining lands portion of the property, some related to the approval of another authority—the Board of Health, some related to the removal of a prior restriction that was put on a prior application and a few things the applicant still has to provide. He indicated he recommends the Board deny the request for waiving #32 (*Existing topography from USC&GS maps*) and indicated the Board could grant #7(i) (*Reference bench mark identified and shown on the plan*) and #17 (*Existing topography shown on the plan*) outright. With regard to #24 (*Location of any flood hazard areas*), #30 and #31 (*Related to soil testing*) these will be subject to acceptance by the Township Board of Health. It was clarified that each of these waivers are subject to further review during the application process.

Mr. Greenwood commented that since the Board was recently approached by a concerned resident regarding changes made to an existing conservation easement on a different property in the Township, he questioned if there was a policy about dropping prior restrictions as was previously mentioned by Engineer Clerico regarding lot 11.02. Mr. Mikos stated he would prefer not to call any easements associated with this proposed new subdivision, conservation easements, because he indicated the New Jersey Department of Environmental Protection (NJDEP) is now stepping in and requiring that permission be obtained from the Commissioner in West Amwell Township Planning Board Minutes – 7/21/09

order to lift a conservation easement. Chairman Pfeiffer asked when this went into effect. Mr. Mikos stated according to NJDEP this has been in effect since 1977.

It was the consensus of the Board to request the applicant go to the Board of Health prior to presenting their application to the Planning Board.

A motion by Shapella, seconded by Urbanski to deny the request for a waiver from checklist item #32, to grant waivers for checklist items #7(i), #17 and #24, and to grant waivers from checklist items #30 and #31 subject to prior approval from the Board of Health was made. It was also noted that submission waivers may be revisited during the presentation of the public hearing and the merits of the application. The motion was unanimously approved by roll call vote.

Engineer Clerico left the meeting at this time, 8:43 PM.

#### **Discussion – Memo Regarding Accessory Apartments from Construction Office**

The Board had received a memo from Constructional Official Chris Rose suggesting that a Letter of Interpretation (LOI) may be required if new accessory apartments are being created and the applicant would have to apply to the NJDEP. Planner Hintz commented that an LOI is normally not requested for accessory apartments. Chairman Pfeiffer noted that given the history of the Township Ordinance and why it was revised, he commented that the Board must be careful not to make the process of establishing accessory apartments difficult.

It was the consensus of the Board to not take any action on this matter at this time. It was noted that Ms. Andrews will send a memo to Mr. Rose advising him of the Board's decision.

#### **Budget Situation**

Chairman Pfeiffer indicated now was a good time to discuss the budget since the remaining Unfinished Business items on the agenda will cost the Board money to complete. He stated there is not a lot of money left, in part because the requested budget was drastically reduced and also due to the unexpected bills the Board received from the former Planner in January.

Chairman Pfeiffer suggested the Board identify which of the remaining agenda items should be classified as priorities for this year and those that can be put off until next year. Mr. Corboy commented that he intends to ask if it is possible to tap into the Township's reserve money since this year's budget situation is unique.

Due to budget constraints, it was the consensus of the Board to remove the following items from the agenda at this time, with the goal of continued review in 2010:

- Discussion on Accessory Structure Size Limitations
- Discussion on Chapter 109 Review

Discussion on Amendment to Conditional Use Section of the Zoning Ordinance  
Final Site Plan Application/Checklist

Planner Hintz commented on his review of the Environmental Impact Statement (EIS) checklist item explaining that the Board must review the checklist for consistency with the Woodlands Management Ordinance or they must prepare the ordinance consistent with the (EIS). Chairman Pfeiffer noted he didn't believe this matter could be dealt with this year due to budget constraints.

Chairman Pfeiffer commented that the Board had received a proposal from Planner Hintz for the cost of preparing the Master Plan Reexamination report in the amount of \$4800.00. He suggested the Board not authorize the expense until Mr. Corboy has had the opportunity to speak with the Township Chief Financial Officer. He noted this project should be a priority for this year.

Chairman Pfeiffer indicated the Board had also received a memo from Planner Hintz's office regarding a Grant Element in the Master Plan. It was noted that the grant application deadline is the end of November. Mr. Shapella agreed to help compose the grant.

**Discussion – Comments from the Board on COAH: Substantive Certification**

Chairman Pfeiffer explained that the Fair Share Housing Center has challenged many of the municipalities approved Council on Affordable Housing (COAH) plans including West Amwell's. He commented that the Township Attorney is reviewing the complaint.

**Status of Plan Endorsement**

Chairman Pfeiffer indicated that the Township had received a letter back from the Office of Smart Growth (OSG) saying they were willing to meet with the Board/Township outlining each of the items they will be requiring and he stated he did not know where the money was going to come from to be able to comply with all of their requests. Planner Hintz commented that the history with OSG has been that they demand the same old requirements and then continue to add additional items that are impossible to comply with or simply not within their regulations. Chairman Pfeiffer explained that it's safe to say that even the one item they have consistently requested which is identifying parcels suitable for clustering would be a considerable expense to the Planning Board.

It was noted that Mr. Shapella had drafted a letter for Mayor Corboy to send to Commissioner Doria expressing the level of frustration experienced in dealing with OSG and the difficulties the Township is having with obtaining Plan Endorsement. Chairman Pfeiffer suggested that having someone from Senator Karrow's Office, Assemblyman Doherty's Office and Andrea Bonette from the Sourland Planning Council attend a meeting with OSG along with representatives of West Amwell Township may be more productive.

It was the consensus of the Board to have Ms. Andrews send a letter to Clerk Olsen indicating the Board wished to have the letter to Commissioner Doria mailed out. It was noted that both Township Committeemen Bill Corboy and Tom Molnar were in agreement.

Planner Hintz and Attorney Shurts both left the meeting at this time, 9:09 PM.

**Open to the Public**

Resident Rich Storcella came forward and requested the Board not remove the discussion regarding limitations on the size of accessory structures from its agenda this year. He suggested the Board implement some sort of limitation rather than none at all. Chairman Pfeiffer indicated the problem has been that no one has reached a

consensus on a reasonable size limit. Mr. Urbanski commented that the Agricultural Advisory Committee (Ag Advisory) seemed to think a 30,000 sq. ft. size limitation would be an appropriate size limitation on accessory structures. Mr. Urbanski indicated Ag Advisory had not specifically discussed Planner Hintz's memo suggesting a sliding scale limitation on accessory structures. He said he would bring it up at next month's Ag Advisory meeting for comment. Mr. Corboy expressed that 30,000 sq. ft. is huge and there are no buildings currently in the Township that size.

Mr. Greenwood suggested that a 5000 sq. ft. limit seemed reasonable. Mr. Urbanski and Mr. Shapella agreed. Chairman Pfeiffer asked Mr. Urbanski to obtain comments from Ag Advisory on a 5000 sq. ft. size limitation.

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

The following areas of the Master Plan were discussed with handouts provided showing suggested revisions:

- Environmental Characteristics
- Existing Land Use
- Conservation Plan Element
- Circulation Plan Element
- Recreation Plan Element
- Sustainability Plan Element

It was the consensus of the Board Members that each subcommittee was on the right track with their Master Plan Reexamination review and suggested revisions. Everyone will continue working on their respective section.

#### **Discussion – Maintenance of Entrance to Calton Homes/Music Mountain Development**

Mr. Haug had asked that this matter be placed on the agenda. He updated the Board saying that most of the issues were resolved at the last Township Committee meeting. He noted that the Town has taken over the maintenance of the part of the development that the Developer had been handling up until recently. He commented that the only remaining issue to be resolved is to determine who will maintain the landscaped center divider down the middle of Music Mountain Boulevard.

There was discussion on the Township's responsibility to maintain the roadways, but not to pick weeds out of the center divider. There were comments made on whether or not weed killer could be sprayed. Mr. Haug indicated he believes that since the divider has been there for 8 years it needs to be stripped down with new weed blocker replaced.

Chairman Pfeiffer commented that it is important to keep the maintenance of these landscape dividers in mind as future subdivision application come before the Board.

Mr. Shapella noted he would discuss the matter with the Environmental Committee for their input and get back to the Board with suggestions.

#### **Approval of Minutes**

The Board reviewed the minutes from their 6/16/09 meeting and the following revision was noted:  
Page 2, Paragraph 3: The only change is that the Board will now require a Letter of Interpretation (LOI) **from New Jersey Department of Environmental Protection (NJDEP)** for all applications with the provision...  
*The words **from New Jersey Department of Environmental Protection (NJDEP)** were added for clarification.*

A motion by Molnar, seconded by English to approve the minutes from 6/16/09 with the noted change was approved by roll call vote with Greenwood and Urbanski abstaining.

Mr. Molnar complimented Chairman Pfeiffer on getting the professionals out early in an effort to cut down on the Board's expenses.

**Adjournment**

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

The meeting adjourned at 10:19 PM.

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Maria Andrews, Planning Board Secretary