

**WEST AMWELL TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
July 26, 2011**

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:31PM by Chairman Fulper.

The following statement of compliance with the Open Public Meetings Law as listed on the meeting agenda was summarized by Chairman Fulper: This meeting is called pursuant to the provisions of the Open Public meetings Law. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 10, 2011. Notice has been posted accordingly and a copy of this notice is available to the public and is on file in the Zoning Board of Adjustment Office.

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

Chairman Fulper led the Pledge of Allegiance to the American Flag.

**ATTENDANCE/ROLL CALL:**

Roll call on attendance: John Cronce-present, Brian Fitting -present, Ruth Hall-present, Dave Sanzalone-present, John Dale-present, John Ashton (ALT. #1)-present, John Hoff (ALT. #2) – present, Robert Fulper-present.

Absent: Joe Romano

Professionals Present: Stewart Palilonis, Board Attorney; Tom Decker, Board Engineer; Tony Mercantante, Board Planner

**PRESENTATION OF MINUTES:**

Regular Meeting Minutes – June 28, 2011 – Motion was made by Dale with a second by Sanzalone for approval of the minutes with corrections as discussed. Roll call, Cronce-aye, Fitting-abstain, Hall-aye, Sanzalone-aye, Dale-aye, Ashton (ALT. #1) aye, Fulper-aye.

**RESOLUTION(S) OF APPROVAL:**

**Messick – Block 21 Lot 7 –Route 31** – Appeal of Zoning Officers Denial.- Resolution as prepared by Attorney Palilonis was distributed. A copy was provided to the applicant's attorney prior to the meeting.

Attorney Palilonis requested the resolution be held for discussion.

*(Chairman Fulper related that there would be a change in the agenda order of business)*

**APPLICATION(S):**

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**Public Hearing: East Coast Colorants, LLC d/b/a Breen Color Concentrates –Block 8 Lot 23.03 - Kari Dr.** – Amended Site Plan Application /Use and Bulk Variance Application - Completeness Determination/Public Hearing (7:38PM)

Application, and plan titled “Preliminary and Final Major Site Plan, East Coast Colorants, LLC d/b/a Breen Color Concentrates” comprised of eleven sheets and prepared by Goldenbaum Baill Associates, Inc. dated October 4, 2010, revised May 31, 2011, Plans titled “New Warehouse Buildings for Breen Color Concentrates” comprised of four sheets prepared by William Charleroy Architects dated April 1, 2011, West Amwell Twp Zoning Board Resolution No ZBA2011-07 were received and distributed

*Chairman Fulper related that due to conflict Board Member Sanzalone recused himself from the Breen Color Concentrates hearing.*

Chairman Fulper stated that the engineer has a more recent plan design that the board has no knowledge of.

Proofs of publication and service were reviewed by Attorney Palilonis and found to be in order.

Don Scholl, attorney for the applicant offered an overview of the project stating the applicant was before this board in January seeking c and d variances for approval. Review was done at the parent corporation level and they have scaled back the project. At the rear of the site was a 12,000sq.ft. and 9,600sq.ft. addition. Scaling the project back and requesting by way of relief is the elimination of the FAR variance that was previously approved. Currently dealing with one building improvement to the rear, a 6,000sq.ft. building. Once the plans were submitted Mr. Decker suggested shifting the building out of the rear setback area eliminating the variance and aligning with the existing building #3, same roof line, same sq. footage, improves the circulation pattern. Revisions to the plan were prepared to show the proposed modifications.

Mr. Scholl provided a brief overview stating the existing site has been used for light industrial for 30 years, adding that the area was rezoned highway commercial. The use continues to be the same as in January 2011. The amendment is talking about a 6000sq.ft. building addition shifted to align with existing building improvement.

Chairman Fulper questioned whether the notice was written in a way to pertain to the revision, Attorney Palilonis stated they are now asking for less relief, stating that technically the plans are suppose to be on file 10 days prior to the hearing.

Eric Rupnarain, P.E, for the applicant, stated the new building was supposed to be constructed along the rear of building #3. Considering the comments in Mr. Decker’s letter they decided to move the addition to the end of building #3. It is the same 60x100sq.ft. building, instead of being a separate free standing building it will be connected, same square footage, same roof line. Remaining relief would be expansion of a non-conforming use, major site plan approval.

Attorney Palilonis stated that it’s not really fair to the public to handle it through the engineers, also, understanding that there could be additional revisions to the circulation plan.

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Mr. Scholl stated that all variances were noticed, including the d2 variance. To ensure if the public had any issues or questions, in terms of what was being presented, more than enough information was provided.

Planner Mercantante offered that the issue is with the plans not having been on file for 10 days, someone could have come to review the plans and preferred the building where it was proposed and may not be in favor of the new location and without the revision being on file for 10 days, didn't have ample time for review.

Chairman Fulper opened the Breen application to the public, stating the building that was proposed to the back is being moved in line with the building to the west, are these concerns to you, do you need time to digest and look through, or if you listen to testimony tonight and have a plat to see what they are doing, talk about what they are doing, and allow to ask questions of their experts, is that enough for you or do you feel you need more time to review the change.

Frank Carbone – 1444 Route 179 – expressed concern with the drainage stating that his lane washes out four times on average per year.

Chairman Fulper offered that Breen already has approval to construct buildings much larger than what they are proposing; they have downsized their application substantially. Making clear that if the board proceeds and testimony is presented, the public will see everything that we will see and can ask questions. The other option is for the neighbors to have the opportunity to review this plan in advance of this meeting. They will be here, whether it is tonight or next month, they are going to down grade what they already have approval for.

Mark Hannon – 1448 Route 179 - expressed concern with the drainage stating it structural damage has been caused to the lane.

Attorney Palilonis recommended the application be continued to the next meeting of the Board.

Summary was offered as the application will be presented either this month or next month, the plans with the most recent changes were not filed with 10 days for public review, asking the public that were present if they would feel disadvantaged by not having them available for review. The public responded with concerns regarding drainage.

Chairman Fulper asked the applicant if they would like to move forward with the application or continue to the August meeting. Attorney Scholl stated that considering the circumstances, it would be better to move the application to the August meeting of the Board.

The applicant and members of the public were advised that the public hearing would be continued to the August 23, 2011 meeting of the Board at 7:30 PM. No additional notices will be given. (8:02 PM)

**Continued Public Hearing: Garden Solar LLC – Block 18 Lot 1– 624 Brunswick Pike –**  
Completeness Determination/Public Hearing – Variance Request –Conditional Use/Second  
Principal Use/Non-Conforming Use Variances. (8:02PM)

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Plan titled "Preliminary and Final Site Plan, Clean Generation Solar Energy Farm W2-076"; comprised of fourteen sheets and prepared by Engineering & Land Planning Associates, Inc. dated April 7, 2011, revised May 9, 2011 and Existing Conditions Plan dated May 9, 2011. Report from HCPB; Conditional Approval Not to Construct dated May 5, 2011, D&R Canal; Drainage Report dated June 8, 2011 were previously distributed.

*Chairman Fulper related that Board Member Sanzalone is back with the Board after being recused from the previous hearing.*

Jacqueline Klapp, Certified Court Reporter, Flemington, NJ - present on behalf of the applicant Garden Solar.

Walter Wilson, attorney for the applicant, appeared on behalf of the applicant Garden Solar LLC, (property owner, West Amwell Properties, LLC) stating a copy of the June 28, 2011 meeting transcript was provided.

Attorney Palilonis stated two members of the Board were absent from the June 28, 2011 meeting. John Hoff has listened to the verbatim recording and Brian Fitting has read the transcript, both members will sign the certifications.

*Chairman Fulper opened the floor to the public for comments/questions of the applicant's engineer:*

Jennifer Andreoli, 16 Hunter Road - questioned who is filing for the variances, Mr. Wilson stated the applicant is Garden Solar, LLC. They have a lease-hold interest in the property. In response, Mr. Wilson agreed that Garden Solar, LLC would be tasked with operating in accordance with the maintenance agreement, adding the operator of the system would be responsible for the maintenance agreement if Garden Solar decided to sell the facility. Stating, yes, it is normal procedure for the owner or the applicant with the owner's consent to file the application. Total acreage of the lot is 17.9 acres, approx. 3 acres being used for West Amwell Mason Supply. Mr. Nusser responded stating the total buildable area within the fence is 9.7 acres; the area used by West Amwell Mason Supply does include required setbacks and buffers. Mr. Nusser agreed the setbacks and buffers for each use are distinctly different, a major solar facility has one set of requirements to meet and West Amwell Supply has another set to meet.

Ms. Andreoli addressed the current use of West Amwell Supply and the proposed solar facility, questioning what percentage of the total property will be covered or in use. Mr. Nusser stated that currently the property is in use by mason supply and agriculture use. Agriculture use is currently more than 9 acres. In response Mr. Nusser stated an approx. 13 acres out of the approx. 18 acres will be used for the solar facility and West Amwell Supply, the other areas are landscaping and regulated areas.

Ms. Andreoli questioned the dimensions of the solar panels, Mr. Nusser stated approx. 77x40 inches based upon standard sizes, the manufacturer has not been decided. In response, Mr. Nusser stated approx. 6600 panels are being proposed, the nearest residence on Rock Road is lot 14 at approx. 120ft. to the nearest panel, lot 12 is approx. 150ft, and a 50ft. setback is required from the property line.

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Ms. Andreoli referred to the ambient sound level as defined in ordinance 3-2011, questioning whether the sound level has been tested, Mr. Nusser stated that the ordinance requires either "a", the sound level does not exceed 40 dBA, or "b", that the ambient sound level would be measured. Mr. Nusser referred to ordinance 3-2011, 13.a, stating the way in which the system has been designed and the way the report included in appendix j considers the acoustical impacts is based on "a" the 40dBA limit. In response, Mr. Nusser stated that sound testing was done, one mid-afternoon reading was taken for a half hour period, stating the inverters will not exceed the 40 dBA. Ms. Andreoli asked how the measurement of 40 dBA was determined; Mr. Nusser stated, based upon testing of an equivalent unit and applied to this site. Mr. Wilson offered that all of the data is included in appendix j.

Ms. Andreoli referenced ordinance 3-2011, questioning whether the 75% screening after five year growth was accurate as testified to. Mr. Nusser stated that he felt the proposed screening provided 75% after five years as required per ordinance, adding none of the existing vegetation would be removed.

The following witness(s) present on behalf of the applicant were sworn in by Attorney Palilonis: James Chmielak, Engineer and Planner- 54 Old Hwy 22, Clinton, NJ

**Witness #2** - James Chmielak P.P. P.E - Mr. Chmielak offered his credentials and testimony experience and was accepted as an expert witness.

Mr. Chmielak provided a brief history of the property, stating that the current use has been in existence since approx. 1972, a date that precedes the MLUL. There are two uses on the property, the first is West Amwell Mason Supply, is quantified as a retail trade establishment, the second primary use is an agricultural use that's been under cultivation consisting of about 14 acres, noting there are some wooded areas located within the 14 acres.

Mr. Chmielak stated variance relief is being requested per N.J.S.A. 40:55D-70d3 specifically section 109 of the solar ordinance that specifies the solar use as a conditional use. A d3 deviation from a conditional use standard is requested because the ordinance specifies a minimum of 20 acres is required and the property is 17.9 acres. Additionally, variance relief is required for two primary uses on the property; also a d2 variance is required to address the intensification of the non-conforming use in the NC zone.

Positive criteria – conditional use, d3 variance – solar array use is permitted by zoning ordinance, is an inherently beneficial use pursuant to the state statute and the update of the MLUL, it does support two major purposes of zoning; purpose "I" to promote the conservation of energy resources and purpose "N" to promote the utilization of energy resources. The solar array will inherently promote the establishment and the utilization of energy resources. As supported in the Master Plan in objective 5, states to encourage and promote where feasible energy efficient subdivisions, site plans, designs and provisions for renewable energy resources including solar, wind, and recycled heat. Mr. Chmielak stated they feel they have satisfied the positive criteria. Mr. Chmielak referenced Coventry Square case law, stating the case found that just because an applicant may not meet one of the conditions does not mean that the site is not suitable for the use. In response to Mr. Wilson, Mr. Chmielak agreed that all of the setback

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requirements, noise limitations, landscaping requirements, all of the other requirements can be met despite the deviation from the 20 acre condition.

Negative criteria- Feel that it can be granted without a substantial detriment to the public good. lot area reduction amounts to approx. 10% reduction, extent of deviation is minimal. Mr. Wilson questioned if there was any appreciable benefit to the functionality of the site if it were to be increased to 20 acres, Mr. Chmielak responded, no, it would function similarly; there would just be a larger expanse of solar array on the property, agreeing the setbacks and landscape would be the same.

Mr. Chmielak stated the 20 acre minimum is a benchmark standard that has been used and applied to various municipal ordinances as a municipal lot area, having come from the permitted solar use per the State legislation on properties that are zoned industrial that is greater than 20 acres. That basically yields an approved use in the absence of any further conditions, setbacks, landscaping, which is not the case with this application. Mr. Wilson questioned if those mitigating measures that are in place in accordance with the ordinance compensate for any perceived impacts of approx. 10% reduction, in response Mr. Chmielak stated the landscaping and setbacks that are provided would mitigate any perceived impacts and we don't see any substantial impacts, just as it would if it was a 20 acre site.

Expansion of a non-conforming use – d2 variance. Mr. Chmielak referenced the *Burbridge v. Mine Hill* case stating that case opined the fact that a non-conforming use exists, that basic fact leads to the fact that it already has an impact on the area. It is a little different than a brand new use that is not approved and is omitted from the zoning ordinance that you would be proposing on a vacant piece of land. Mr. Chmielak stated the non-conforming use exists on the property and fits the way it is today, the proposed project is not being expanded, the West Amwell Mason Supply, the non-conforming use is not being expanded in any way. It is being left entirely intact. The proposal for the solar array use on the remaining agriculture land will further inhibit any future expansion. It would result in a condition where that non-conforming use is rather contained geographically on the property. Even though the non-conforming use is not being expanded, wanted to clarify that this variance is because the intensification is relating to the other area on the site that is being used for the solar development. Two principal uses currently on the property, the current non-conforming use and the separate agriculture use that has been ongoing for many years. The second use will be replaced from agriculture to solar facility. The solar facilities are low impact from a water supply, wastewater, and sewage standpoint.

Relative to other approved uses within the zone, restaurants, professional/medical offices, childcare facilities, etc., this is a rather low impact use that would include the necessary screening and buffering along the frontages of the property as well as the perimeter of the property. The positive criteria and special reasons to support the d2 variance for the expansion of a non-conforming use are supported by several reasons; this use would be less intensive from a noise and traffic perspective than many other uses within the zone. It would tend to minimize the non-conformity of the existing use, make it more acceptable in this setting and actually harmonize the property given the proposed landscape buffering that will be installed along the perimeter, where in the existing condition in approaching the project from the south there is a view across the farm field of the mason supply in the distance. The proposed

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landscaping will be an additional measure that will serve to add and harmonize the non-conforming use with this environment.

In response to Mr. Wilson's questioning, Mr. Chmielak responded, stating the grading details do not require any top soil removal. Under the panel arrays will be a meadow grass that is shade tolerant, a wide blade grass maintained at a meadow condition, to be mowed several times during the growing season based on weather conditions. At the conclusion of the life of the solar system, a decommissioning plan that requires the removal of everything above and below ground.

In summary, this is a permitted use. Identify that there is no substantial impairment to the zone plan. Actual deviation is administrative in terms of 20 acre limit, no substantial impact because of extensive landscaping proposed around perimeter. With the proposed perimeter landscaping the aesthetics will be improved over what it is today, noting that there is a non-conforming use that will benefit from that proposed landscaping. Additionally, structures will be limited to a height of 10ft., whereas the ordinance permits structures and more substantial development on the property of two and one half stories and 35ft., this would be a low profile development less than 10ft. within the limit of the fence, the buffering and the plant material would grow up from that.

In conclusion, acknowledging that there is relief because of the conditional use, the impact of the deviation, the two primary uses, and perpetuating two primary uses on the site. Mr. Chmielak opined given the fact that the existing non-conforming use will not be further expanded and it will have supplemental buffering from a view scape perspective along the frontage, stating there is no substantial detriment to the public good or to the zone plan.

*(Chairman Fulper related that there would be a brief recess at this time – Meeting recessed (9:00 PM – 9:08 PM))*

*Chairman Fulper announced that the meeting would end at 10:00 PM to allow time for other agenda business.*

*Chairman Fulper opened questioning to the Board professionals/members:*

Planner Mercantante stated that the actual number of acres being used for the solar facility is approx. 14 acres. Mr. Chmielak responded, with the proposed buffer they had done an excellent job with the proposed landscaping and looking at the treatment of the 5ft. architectural fence, and the buffering from the perimeter, stated in his opinion, whether it is 17 acres or 14 acres, functionally they are on par with how the site will work. Adding, a big part of this development does include the area outside of the fence to the property line.

Mr. Mercantante stated that prior testimony was given regarding this use being an intended use that is permitted in the zone, stating that a lot of conditional uses are generally permitted in the zone subject to certain conditions, this use is permitted on 20 acres, it is not permitted on less than 20 acres; therefore it is not a permitted use.

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Mr. Mercantante questioned the administrative intensification of the use as previously testified to; Mr. Chmielak stated that they are not expanding the use of the mason supply. Mr. Mercantante stated the vehicles that are going to access and service the facility are going to utilize the driveway and parking lot that aren't utilizing it now, stating that it is clearly an intensification of that use. Mr. Chmielak agreed, adding that in terms of that intensification, vehicles now for accessing solar facility and using the parking lot, the access would be along the western boundary, asking what is the real effect, how do we quantify the intensification. Mr. Mercantante stated from his point, it clearly is intensification.

Mr. Mercantante questioned whether the purpose of the NC zone was looked at, asking Mr. Chmielak to read the purpose. Stating, recognizing that the time that it was written and the MP was written, solar plants weren't considered, asking is it your opinion that the use of the property in this way is consistent with the purpose of the NC zone, Mr. Chmielak stated this particular use does not necessarily provide neighborhood oriented personal services or retail opportunities. Adding the West Amwell Supply does have retail opportunities associated with it. This particular use is an inherently beneficial use as well as acknowledged by the ordinance.

Engineer Decker questioned whether the applicant was aware of the permitted accessory use provision in the solar ordinance, stating if this was an accessory use to the mason supply (supplied electricity to the mason supply) would the variances that you need for the generator still be required, in response Mr. Chmielak stated that he would have to look into it. Engineer Decker stated that because it is a permitted accessory use there is no lot area restrictions, the 20 acre aspect would go away. It would be a permitted accessory use, there would not be two principal uses on the site; that variance would go away. It would still be promoting clean energy, recognizing the inherently beneficial use. The size restraint that it has is that it cannot generate more than 110% of what the existing onsite facility demands. Engineer Decker questioned whether it would reduce their variances if it was an accessory use, in response Mr. Chmielak stated from that perspective it would seem that it would be permitted. Mr. Chmielak responded that the current mason supply use would be less than 2mega watts of use.

In response to Attorney Palilonis, Mr. Chmielak stated that the use is an acknowledged permitted conditional use within the zone, which is different than a use that is omitted from the ordinance or left out of the ordinance. Mr. Chmielak stated in his opinion the fact that it is an acknowledged permitted use lends itself to the fact that as long as the negative criteria and impact of the deviation is addressed; they conclude they don't see a substantial impairment to the zone plan. Attorney Palilonis questioned if they are saying it would impair the zone plan but they don't believe it is substantial. In response, Mr. Chmielak stated in his opinion, he doesn't see a substantial impairment to the zone plan.

Planner Mercantante referenced the ordinance and various zoning categories throughout the township, stating that with conditional uses you have to determine whether what is being proposed is suitable for the particular site. It is a permitted use in the zone subject to certain conditions, but the conditions are intended to insure the particular site that's being used won't have any detrimental impacts on zoning or the neighborhood. The test of the conditional use, is the site that is being proposed suitable for the intended use.

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Discussion ensued regarding the 20 acre minimum lot size as required in the ordinance, Mr. Wilson offered that they participated actively with the Planning Board in the preparation of the ordinance and the 20 acres issue was discussed.

Mr. Chmielak clarified, the use is not permitted because it is a conditional use and it is not meeting the requirement, and also identified that the site is particularly suited for this use. In his opinion from the Coventry case, Coventry Square vs. Westwood Board of Adjustment the standard for sites suitability is not required for this proof, it is focused on the impact of that deviation and whether you have substantial impacts after all of the mitigating buffering element's as part of the project. Because of the d3 variance context, it is a permitted use. Referencing Cox, Mr. Chmielak read *the court stated that conditional use applicants' inability to comply with some of the ordinance conditions need not materially affect the appropriateness of the site for the use.* Mr. Chmielak stated by definition it does not necessarily mean that the site is not appropriate for this use, stating focus should be on, what is the impact on the 17.9 acres.

*Chairman Fulper opened the floor to the public for comments/questions of the applicant's planner:*

Justin Holohan -120 Rock Road West- expressed concern with what countries the panels are manufactured in, Mr. Chmielak responded Us, Germany, the final panel manufacturer will be selected at a future date. In response, Mr. Chmielak restated the question as "how can we be sure the panels are safe and will they have a negative impact on the environment", stating #1 the panels are solid state technology, predominance of polycrystalline, encapsulated fully enclosed, #2 the materials that would be installed on this site need to meet specific requirements, typically the requirements are ul listed for the equipment to meet grant requirements. There are certain safeguards and inspection protocol that would address a fear of something being imported from another country and being put on this property that would be of concern. Mr. Holohan questioned if the applicant was aware of any very toxic chemicals within the panels, Mr. Chmielak stated this proposal includes some other technologies such as cadmium telluride panels that will not be installed on this site. The applicant made a commitment to exclude that. Mr. Chmielak stated based on experience they don't see any environmental hazards. In response, Mr. Chmielak stated from his professional experience he doesn't see a substantial hazard from the solid state solar panels to the ground water supply.

Jennifer Andreoli -16 Hunter Road - questioned whether the panels could catch on fire, what they are made of, Mr. Chmielak responded, stating the main concern for hazard would be the grass for a potential brush fire. The panels have a melting point of approx. 1300°, standard testing is performed to identify hazards.

Mr. Chmielak, in response, stated if a faulty panel occurred, the system would shut off, the inverters would shut down. If a panel required replacement, it is very easy to replace. It is a very safe technology, no toxic substances, no hazardous substances, there are no toxic substances inside the panel if it became smashed, and there are no hazards if it melts.

Ms. Andreoli questioned whether we need to determine what the exact use West Amwell supply is; Planner Mercantante stated the use predates the zoning law. The zone requires a minimum of one acre; the use is not a permitted use. If someone tried to put that use there today they

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would meet the minimum acreage and probably all of the setbacks but they would still be before this board because it's not an allowed use in the zone.

Ms. Andreoli questioned the impact to the surrounding area, Mr. Chmielak stated it is his position they provided testimony relative to potential impacts, adding they don't see any impacts to the surrounding area and have all of the necessary permit's, DEP permits, and environmental impact statements. Regarding visual impact, in response Mr. Chmielak stated they take a look at fields of view, make sure they meet the landscape material that is required and percent of coverage. Ms. Andreoli asked how the coverage was measured, Mr. Chmielak stated it was based upon their experience and the analysis included conservative growth heights per year to get to the five year period.

Engineer Decker referenced exhibit GS-4 questioning the percent of coverage at 5year growth, adding in his opinion 50% coverage at 5years, not 75%. Planner Mercantante added if this is approved, this would be addressed as continuing conditions of approval, it would be monitored. If in two or three years it wasn't growing, additional landscaping would be added.

Ernie Andreoli – 4 Hunter Road – questioned the use of the word harmonize in a prior statement, asking did you mean the solar power plant harmonizes with the R6 zone across the street, the sourlands buffer zone or are you saying that somehow the solar power plant harmonizes with something in NC zoning, Mr. Chmielak stated the use of the word was used in the context of the existing non-conforming use, West Amwell Supply. The fact that the proposed landscaping and buffering that is proposed serves a function of providing additional viewscape buffering when the plant material does grow in. Mr. Andreoli added, the landscaping harmonizes but not the solar power plant, Mr. Chmielak responded in agreement.

*The floor was closed to the public (10:03 PM).*

Attorney Wilson requested a special meeting date, it was decided due to summer schedules it would be best to stay with the regularly scheduled meeting.

Chairman Fulper advised the public that due to the late hour, the hearing will be continued to the next meeting on August 23, 2011 at 7:30PM

**CORRESPONDENCE:**

The following items were distributed as correspondence:

Email from Zoning Officer Baldino re: WA I-map review/communication from NJEDEP for **Blk 7 Lot 21 Messick**

Acknowledgement of **Hand Delivery by West Amwell Police Dept.** 7/7/11 from Zoning Officer Baldino. Original violation, dated 5/10/11 for **Block 28 Lot 22.01**, 247 Goat Hill Rd., was included in May correspondence as violation. Violation returned to sender three times.

**Resolution #87-2011** Pledge of Municipal Support for NJ's Wildlife Action Plan

**Resolution #88-2011** Sustainable Land Use Pledge Resolution

**Celebrate West Amwell Agriculture Dinner** - Sept 9, 2011

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**NJ Planner** July 2011

**Mayors Advisory** June 7, 2011, State Master Plan

**DEP News:** Renewable Energy Development

**Approval of Bill List 7/26/11:**

A motion by Fitting, seconded by Dale to approve the Bill List for payment was unanimously approved by voice vote

**DISCUSSION:**

Attorney Palilonis agreed with the applicant's attorney to carry the Messick resolution to the August meeting. Secretary Hall will review the Messick meeting recordings for resolution accuracy.

Attorney Palilonis will be meeting with the Messick's, Attorney Peterson, and Zoning Officer Baldino.

**Executive Session**

The meeting was closed to the public for the purpose of retiring into executive session (10:21PM)

Motion made by Fulper, second by Hall to retire to executive session for the following purpose: Potential Litigation. Motion approved by voice vote – all ayes

The meeting was reopened to the public (10:31 PM)

**DISCUSSION: cont'**

Email from Attorney Walheim **re: Messick escrow** – Discussion ensued among members regarding attorney compensation from the escrow account.

Email from Planning Board Chairman Pfeiffer **re: Wireless Telecommunication ordinance**. Chairman Fulper advised members to submit comments to Secretary Hall via email.

Secretary Hall reported she **completed the secretary training** receiving a passing grade and certificate in each; Introduction to Planning and Zoning, Financial & Records Management, and Understanding Plans, Additionally, she was successful in fulfilling all of the course requirements for the **Certification of Zoning/Planning Board Secretary** and receiving a certificate for the designation. Adding, to maintain the designation it is necessary to take 15 ceu's over the next 5 years.

**OPEN TO PUBLIC:**

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The floor was opened to the public. Hearing no comments/questions, the floor was closed.

**ADJOURNMENT:**

A motion by Fitting, seconded by Sanzalone to adjourn was unanimously approved by voice vote (10:36PM)

Respectfully submitted,

Ruth J. Hall