

**WEST AMWELL TOWNSHIP
PLANNING BOARD – REGULAR MEETING
September 19, 2023 Minutes – 7:00 PM**

The West Amwell Township Planning Board meeting was called to order at 7:00 PM by Chairman Tomenchok 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 Tomenchok: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was noticed as a regularly scheduled meeting transmitted to the Hunterdon County Democrat and the Times of Trenton on January 26, 2023. 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 Planning Board was read into the record by Chairman Tomenchok: 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 Chairman may permit a reasonable extension of those time limits.

Attendance – Roll Call

Present: Bob Balaam
Jim Cally
John Dale
John Haug
Carl Ippolito
Christopher Morgan
Joe Petrucci
Rob Tomenchok
John Flemming – Alt. #1
Connor Montferrat – Alt. #2
Attorney Tara St. Angelo
Engineer William Burr
Planner Joanna Slagle

Excused: Nella Hamtil

Unfinished Business

Status Update: Economic Plan Element of the Master Plan

Chairman Tomenchok noted the Economic Plan Element is almost complete. He stated the Board received last minute housing data and he thanked Mr. Montferrat for all of his research. Chairman Tomenchok asked the Board to review the plan for final comments and then begin looking over the Community Facilities Plan Element.

New Business – Other

Public Hearing: 1874 Barn, LLC – Block 26 Lot 29: Preliminary & Final Major Site Plan with Variances to Construct a 2-story Addition Including a Kitchen, Café, Restroom and Retail Space to the Existing Structure Located at 1874 River Road

Present for the application was Attorney Richard Wells and Engineer Ted Bayer along with property owners Michael Ehrenreich and Rebecca Gelman.

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Attorney St. Angelo noted the public notice was provided in accordance with the Municipal Land Use Law (MLUL) and noted the Board had jurisdiction to proceed with the public hearing.

Engineer Burr referenced his review memo from June 2023 and noted the requested waivers being sought by the applicant. Attorney Wells asked that all outside agency approvals be listed as conditions of approval if the Board were to approve the application.

With regard to the New Jersey Department of Environmental Protection (NJDEP) Letter of Interpretation (LOI), Attorney Wells noted there are no wetlands on the property because it is already developed which also justifies why there is no need for a formal stormwater management plan or environmental impact study.

Engineer Burr commented that with any application, if the Board grants waivers from any of the checklist items, the Board can always ask for additional information during the course of testimony being provided if they believe it is necessary to make a determination on the project.

Attorney Wells stated he is asking for the LOI to be waived completely. Engineer Burr remarked the Board is not obligated to grant any permanent waivers.

Mr. Balaam commented that he is not comfortable waiving the LOI at this point. Mr. Cally added that he believes it is also necessary to have a report on the stormwater management because of the updated State regulations.

Mr. Morgan asked if the existing utilities are sufficient to accommodate the scope of the proposed project. Engineer Burr explained that since there are existing utilities on the site any required upgrades would be obtainable.

Mr. Montferrat noted that the proposed utilities are drawn on the plans and clarified that the LOI is for the associated wetland areas. Engineer Burr said yes.

Chairman Tomenchok expressed that he is not comfortable granting any permanent waivers. Mr. Balaam stated he would like to see an LOI, an Environmental Impact Study and a Stormwater Management Report before the public hearing commences.

Mr. Haug made a motion to deem the application complete with the requested waivers but the motion failed because it was not seconded.

Attorney Wells commented that they are not taking the wetlands issue lightly, but remarked that wetlands are non-existent on the property and that is why they are asking for a waiver. He suggested they provide expert testimony or seek an “Absence Presence Letter” from NJDEP. He noted it could take up to a year for his client to actually obtain an LOI from NJDEP which he didn’t think was necessary when they are certain no wetlands exist.

With regard to stormwater management, Attorney Wells commented that the proposed project does not trigger the requirements for stormwater management. He stated they will address how runoff will be handled on the site when their professionals provide testimony during the public hearing.

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Lastly, Attorney Wells commented on the utilities explaining the Board's checklist requires the applicant to address the proposed utilities and he stated there are no new utilities being proposed.

Chairman Tomenchok asked the board members if they would entertain an absence/presence letter from NJDEP. Mr. Balaam said no and stated he wants to see an LOI. Engineer Burr clarified that if there are no wetlands on the site, the absence/presence letter would suffice, but if wetlands were determined to exist then a formal LOI could be sought. The Board made no additional comments on Engineer Burr's remarks.

Mr. Cally indicated that he believes a stormwater report is needed because of all the flooding on Route 29.

Mr. Ehrenreich asked if he could address the Board. Attorney St. Angelo swore him in and he explained the proposed addition to the Big Bear Gear building is going in the area of an existing patio and he is 100% certain that there are no wetlands under the patio. With regard to the septic, he commented that they applied to the Delaware River Canal Commission (DRCC) and they reviewed it and signed off on his project. He noted there will not be any stormwater issues because there is no significant increase in impervious coverage. As far as the electric service, Mr. Ehrenreich stated everything is there but he may need to upgrade slightly.

Mr. Haug made another motion to deem the application complete conditioned upon an absence/presence letter or an LOI being provided during the course of the public hearing. Mr. Haug then withdrew the motion.

Attorney Wells commented that the Board's request for outside agency approvals cannot prevent their application from being deemed complete. Engineer Burr disagreed because of the language in the checklist expressly stating "Valid LOI issued by NJDEP or FOD LOI issued by NJDEP."

The applicants Engineer Ted Bayer asked to speak. Attorney St. Angelo swore him in and suggested a professional review of the site for wetlands and their report can then be submitted to NJDEP for an absence/presence letter. Mr. Cally commented that stormwater is also a concern. Engineer Burr explained that since this project is seeking minor site plan approval, the applicant is not required to submit a stormwater management report, but as a possible conditional of approval, the Board can consider requesting a stormwater management "plan."

Attorney St. Angelo suggested the Board request a "will serve" letter from JCP&L to address the utilities for the proposed project.

Attorney Wells clarified the following items will be needed prior to the application being deemed complete and prior to any public hearing commencing:

1. LOI – The applicant will hire a professional engineer to confirm if wetlands exist on the site and simultaneously submit to NJDEP for a formal LOI.
2. Stormwater – A "narrative" will be provided to address runoff on the site because the project does not trigger the requirements for an actual management report.
3. Utilities – The applicant will obtain a "will serve" letter from JCP&L.

It was noted for the record that the Board took no other issues with any of the other requested waivers and indicated the application still remains incomplete at this time.

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Mr. Cally asked Engineer Burr to look into the proposed Rockfall Mitigation Project NJDOT is working on along Route 29 and determine whether or not it will have any impact on the proposed 1874 Barn, LLC application.

Mr. Montferrat inquired about the woodland management ordinance. Engineer Burr clarified that the ordinance protects against clearcutting trees.

Attorney St. Angelo stated she would like to have receipt of any supplemental submissions by 10/6/23.

Architect Rebecca Gelman came forward and was sworn in. She provided only the Board Engineer with updated architectural drawings and stated she would get additional copies to everyone else on the Board.

Open to the Public

Chairman Tomenchok opened the floor to public comment. Linda Meier of 224 Rock Road West came forward and commented on the woodland management ordinance. She asked the board members to read it and remarked that if the Board ignores the woodlands, they are essentially opening the property up for destruction. Engineer Burr stated that his interpretation is that the ordinance provides for certain trees to be removed if the Board approves the project and he noted the ordinance prevents the property from being clearcut. He explained if the applicant isn't proposing to disturb any woodlands, then the ordinance is not applicable. Ms. Meier disagreed, and Attorney St. Angelo stated she would review the ordinance again with Engineer Burr.

Joel Coyne of 3 Old River Road came forward and read the following statement into the record:

"We live in a township with very special, but also very vulnerable natural features. Due to our geology and geography, runoff and flash flooding can be extreme. This is due to the limited capacity of our soils and geological diabase formation to absorb and infiltrate water into our groundwater aquifer.

With changing climate conditions and more extreme weather events occurring more and more frequently, we need to plan and act wisely and responsibly.

We cannot continue to overburden our resources, threatening the quality of life and well-being of our residents. We need to conserve and protect our natural resources, especially our precious but limited water resources.

This means protecting our natural ecosystem and all the invaluable services it provides to help mitigate the impacts and effects of increasing concerns such as flooding, drought, and clean water supply.

Our natural vegetation helps both with mitigating the effects of storm events by slowing down and filtering out pollutants from runoff as well as providing critical recharge to our groundwater aquifer, our sole source of drinking water.

We need to fully ascertain that any neighborhood development will not negatively impact or in any way infringe upon our supply of clean drinking water or cause increased flooding potential from storm events.

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It is our responsibility as members and official representatives of this community to ensure we plan for a sustainable living environment for ourselves as well as future generations, in the best and most effective way we can.”

Seeing no other members of the public who wished to speak, a motion was made by Jim Cally and seconded by John Dale to close the floor to public comment. The motion was unanimously approved by voice vote.

Minutes

A motion by Connor Montferrat, seconded by Bob Balaam approving the Board’s 8/15/23 meeting minutes as revised was unanimously approved by voice vote.

Mr. Haug questioned the Board requiring an LOI on all development applications. Engineer Burr stated he can advise applicants accordingly and the Board can certainly make an amendment to the checklist if they wish to.

Adjournment

A motion by Chris Morgan, seconded by Bob Balaam to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 8:38 PM.

Maria Andrews, Planning Board Secretary