

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
October 13, 2010 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on October 13, 2010 at 7:30 PM. The following notice was read, "In compliance with the Open Public Meetings Act, this is a regularly scheduled meeting pursuant to the annual meeting notice as published in the January 21, 2010 issue of the Hunterdon County Democrat, a copy of the agenda for this meeting was forwarded to the Hunterdon County Democrat, filed in the Township Clerk's Office and posted on the bulletin board on October 6, 2010."

Present: Fred Gardner
Rob Gilbert
Gail Glashoff
Bela Kamensky – *(arrived at 7:46 PM)*
Peter Kneski
Linda Lenox
Don Reilly, Chairman
Dart Sageser – *(arrived at 7:37 PM)*
Michael Weis
Joe Wolfgang
Planner Banisch
Planner Slagle

Excused: Roger DeLay

Citizens' Privilege to Speak on Items Not on the Agenda

It was noted that there was no public present at the meeting at this time.

Review of Minutes

A motion by Gail Glashoff, seconded by Rob Gilbert to approve the Board's minutes from 9/8/10 was approved with no revisions noted and Fred Gardner abstaining.

Since Mr. Gardner was not at the Board's 9/8/10 meeting he asked for clarification on why Chairman Reilly and Mr. DeLay had recused themselves from the public hearing on the Dr. J. Dilts House application. Chairman Reilly explained that the Kirkpatrick Church was noticed as a property owner within 200 feet of the subject Lot and since he serves on the Board of the Church and Mr. DeLay is the Treasurer for the Church they believed it was appropriate to recuse themselves from the application.

New Business – Other

Approval: Resolution PB#2010-06: Barbara Hay – Block 21 Lot 16.01 – Site Plan Approval

A motion by Linda Lenox, seconded by Peter Kneski to approve Resolution PB#2010-06 was approved by roll call vote.

Roll Call Vote: Linda Lenox: Yes, Peter Kneski: Yes, Rob Gilbert: Yes, Gail Glashoff: Yes, Don Reilly: Yes, Dart Sageser: Yes, Michael Weis: Yes, Joe Wolfgang: Yes.

Approval: Resolution PB#2010-07: Recommendation of Change in Enforcement of Tree Harvesting Ordinance

Chairman Reilly explained that this Resolution is the result of a discussion he, Mr. Weis and Mr. Tatsch (of the Township Committee) had with Zoning Officer McManus. He noted that Mr. McManus had expressed great concern over being named the Enforcement Agent of the Tree Harvesting Ordinance because he didn't believe he was qualified to do so and didn't think he was the appropriate person to enforce the Tree Harvesting Ordinance. Chairman Reilly noted they have gone back to the existing language—giving enforcement power and authority to the *Tree Harvesting Committee* rather than the Township Zoning Officer, and the Resolution before the Board is consistent with the Master Plan and the LMO.

Chairman Reilly indicated the Planning Board's intent is to change two principal things: (1) Reconciling the LMO with the Tree Harvesting Ordinance. Where in the LMO it restricts a new development to 30,000 sq. ft. of clearing in the Sourland Mountain Zone and the current Tree Harvesting Ordinance allows for 2 acres of clearing. He noted that this new Tree Harvesting Ordinance addresses that inconsistency. (2) The new Tree Harvesting Ordinance is more liberal/accommodating to homeowners who can now remove up to 6 trees in a 6 month period without seeking a permit to do so.

Chairman Reilly acknowledged that work still needs to be done with the Tree Harvesting Ordinance but the Board would like to address the inconsistency at this point and review the Ordinance again sometime in the future.

Mr. Weis requested that Planner Slagle review the Ordinance again to make sure the Tree Harvesting Ordinance the Planning Board commented on is completely consistent with Ordinance 10-14 which the Township Committee introduced. Planner Slagle remarked that she had reviewed both documents and noticed that there were some formatting changes but nothing substantive and noted that the *whereas* clauses are consistent with what the Township Committee was reviewing.

Mr. Kneski commented that he believes the Township Committee will have to re-introduce the Ordinance because the enforcement change is substantive enough to require re-introduction and he doesn't believe the Ordinance will be acted on at tomorrow night's Township Committee meeting.

Mr. Gardner commented that an issue that is of continuing concern to him is that there are Lots in the Sourland Mountain where the acreage limitation remains liberally exercised and remarked that he doesn't understand why people who like lawns want to move there. Mr. Kneski commented that he suspects the way the existing Ordinances are set, the enforcement would remain the same. The provisions of the Sourland Mountain would still be enforced by the Zoning Officer and when the revised Tree Harvesting Ordinance is adopted there will have to be some type of coordination between the Zoning Officer and the Tree Harvesting Committee.

A motion by Michael Weis, seconded by Gail Glashoff to approve Resolution PB#2010-07 was unanimously approved by roll call vote.

Roll Call Vote: Michael Weis: Yes, Gail Glashoff: Yes, Fred Gardner: Yes, Rob Gilbert: Yes, Bela Kamesky: Yes, Peter Kneski: Yes, Linda Lenox: Yes, Don Reilly: Yes, Dart Sageser: Yes.

Discussion: Request for Rezoning

Chairman Reilly explained that the Planning Board requested a legal opinion from Attorney Norman based on a letter the Board received from Attorney Doug Orr who is representing the owner of a Lot on Route 31. He commented that the property is a 1 acre residential Lot and they are requesting to have it rezoned Highway/Office. Chairman Reilly noted that Attorney Norman’s opinion indicates that to rezone this parcel would be considered “spot zoning” and Attorney Norman suggested the Board’s Planner and Engineer may wish to review the matter. Chairman Reilly noted the Board had reviewed all Township properties along the highway corridors approximately 2 years ago and determined no changes should be made. He remarked that he will follow up with Planner Banisch’s Office and Engineer O’Neal.

Discussion: Status of Amwell Valley Design Standards Review

Planner Banisch commented there is a need to review the design standards for the Amwell Valley for the following reasons: (1) The time of application ruling that will take effect next summer and means that the zoning regulations in effect on the date of submission of an application for development are the regulations that will govern that particular application. Unlike current law, where the applicable regulations are those in effect at the time the approving authority makes a decision on a land development application. It was noted that the only exception to the time of application rule will be regulation changes related to health and public safety. Planner Banisch recommended the Board review the smaller lot residential zones and the non-residential zones with regard to this matter.

(2) Renewable energy on agricultural lands was signed into law in January 2010 and affects the ability of farmers and other landowners to install solar, wind and biomass energy generation systems on their farms. The law identifies allowable limits and criteria for those activities on preserved farms, and for qualifying for farmland assessment and right-to-farm protection on both preserved and non-preserved farms. Specifically, the law states that renewable energy facilities and structures are permitted provided that the equipment:

- Does not interfere significantly with the use of the land for agricultural purposes
- Is owned by the landowner
- Provides power or heat to the farm
- Is limited to 110% of the annual energy consumption of the farm

Planner Banisch noted that the State has implemented this law and now the Township has to live with the fact that its zoning has had a monkey wrench thrown into it because the State says renewable energy is an inherently beneficial use and therefore becomes a “permitted” use. He explained there are two types of permitted use—outright, and conditional. He noted that it would be in the Planning Board’s best interest to establish conditions/terms under which they believe renewable energy could exist within the Township.

Ms. Glashoff commented on a controversial solar farm being proposed in Stewartsville that is proposed to consist of over 300,000 solar panels. Planner Banisch remarked that there are lots of implications regarding solar and commented that if the Board works from the goals established in the Master Plan for the Amwell Valley District as the core values and then discuss incorporating solar, he believes something can be worked out.

Mr. Kneski asked how solar farms apply to land that is under farmland preservation. Planner Slagle remarked that the SADC has already made amendments to preservation that permits renewable energy facilities. She noted that it applies to farmland assessed property as well and it allows for property owners to produce 100% of their own energy and sell back 10% (a total of 110% annual energy consumption).

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The following criteria were discussed regarding the consideration of establishing regulations for solar farms:

1. Disturbance of prime soils and statewide significant soils
2. Disturbance of land designated by the NJDEP as critical habitat
3. Limitations on the total combined maximum coverage limits for principal and accessory uses for the zone in which the facilities and structures are located.
4. Establish buffering requirements so structures are not visible from the public right of ways and adjoining residential zones
5. Establish the use of materials that blend in with the natural setting and existing environment
6. Establish permitted height for solar structures
7. Establish guidelines for abandonment and removal of solar energy facilities

It was the consensus of the Board to have Planner Banisch's office create a draft ordinance regarding renewable energy facilities and structures for review at the Board's next meeting.

A motion by Michael Weis, seconded by Gail Glashoff to open to the public was unanimously approved.

John Seramba of 111 John Ringo Road came forward and commented that the Board needs to act quickly noting a local property owner appears to be actively engineering and surveying his land for solar use. He also noted that he is on the Farm Bureau Board and stated that while the SADC wants to approve solar on preserved land, the Farm Bureau does not.

Frances Gavigan of 123 Wertsville Road came forward and suggested the Board consider establishing scenic by-ways and crossroads of the revolution designations within the Amwell Valley. She also suggested height restrictions be considered for solar structures.

A motion by Peter Kneski, seconded by Linda Lenox to close to the public was unanimously approved.

Planner Banisch and Planner Slagle were excused from the meeting at this time, 8:54 PM.

Oral Reports

FOSPC – Mr. Gardner reported that the SADC has a program that provides 100% funding for the purchase of development rights. He said FOSPC has assembled a short list of properties for consideration in 2011. He also noted that progress is being made on finalizing of the issues concerning the Scibilia and Helen Rynearson properties.

Agricultural Advisory Committee – No report given.

Environmental Commission – No report given.

SM Smart Growth – No report given.

HART – No report given.

COAH – Chairman Reilly noted new information has been received from COAH and commented the matter is a mess and has been a waste of time and energy.

Wastewater Management – No report given.

AVAD Design Standards – No report given.

PB Secretary – No report given.

Chairman – Mr. Reilly commented that the Planning Board will begin posting their draft minutes on the website. He noted the Township Committee currently posts their minutes and the BOA is considering it. He remarked, "The more transparency, the better!"

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Open to the Public

It was noted that there was no public present at the meeting at this time.

Presentation of Vouchers

A motion by Fred Gardner, seconded by Gail Glashoff to pay the vouchers as listed on the agenda was unanimously approved.

Adjournment

Chairman Reilly adjourned the meeting at this time, 8:59 PM.

Maria Andrews, Administrative Officer