

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
November 10, 2010 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on November 10, 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 November 3, 2010."

Present: Fred Gardner
Rob Gilbert
Gail Glashoff
Peter Kneski
Don Reilly, Chairman
Dart Sageser
Michael Weis
Joe Wolfgang
Roger DeLay
Planner Slagle

Excused: Bela Kamensky
Linda Lenox

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 10/13/10 was approved with no revisions noted and Mr. DeLay abstaining.

New Business – Other

Discussion: FOSPC – Review/Approval of Addition to project Area for Green Acres – Approval of Resolution PB#2010-08

It was noted that Rob Gilbert and Pete Kneski recused themselves from the discussion of this matter because they are neighboring/adjoining property owners of the subject parcel.

Dick Ginman came forward and identified himself as Vice Chair of FOSPC. He explained the Resolution to be approved is to extend the project area for Green Acres. He noted the area is quite extensive, covering most of the Sourland Mountain area within the Township. Mr. Ginman commented that FOSPC will be recommending to the Township Committee, at their meeting on 11/11/10, that they participate in the expanded project area using the Township's Green Acres Grant which is approximately \$400,000.00. He said in order to use the Grant the project area must be expanded.

Mr. Gardner commented that the original plan for the subject parcel was Farmland Preservation. He noted that if the land was preserved, the Township would have had to put up 20% of the money which is approximately the \$400,000.00 that will now be paid by the Grant. He explained the Township can make use of Green Acres funds, which he said is more advantageous to the tax payers than using Township funds. Mr. Gardner commented, "...Green Acres has in the past, tended to be more responsive in the future, to Municipalities which make good use of their funds in the present. We have the \$400,000.00 that is sitting there and I think that from the point of view of future preservation, it makes very good sense for us to be using it rather than letting it sit there. In addition to which this property, instead of being presumably a farm which might have a residence on it, will be—I believe, taken care of totally by D&R without a residence on the property and will be open to public access as a rather unique nature preserve."

Mr. Ginman noted the property is 88.6 acres located at the "S" curve on Cider Mill Road and it will include a small portion of land that he believes was cut off at some point when the road was eased. He clarified this is why the expansion area includes parcels in both Block 20 and Block 21.

Mr. Weis asked why these parcels were not in the original project area. Mr. Ginman explained that he presumes the project area was believed to be Green Acres up on the Sourlands and Farmland Preservation in the Valley.

A motion by Dart Sageser, seconded by Fred Gardner to approve Resolution PB#2010-08 was approved by roll call vote with Rob Gilbert and Pete Kneski abstaining.

Roll Call Vote: Dart Sageser: Yes, Fred Gardner: Yes, Gail Glashoff: Yes, Don Reilly: Yes, Michael Weis: Yes, Joe Wolfgang: Yes, Roger DeLay: Yes

A motion by Gail Glashoff, seconded by Michael Weis requesting the Planning Board draft a letter to County Open Space Administrator Kevin Richardson indicating the Board endorses expanding the project area was unanimously approved with Rob Gilbert and Pete Kneski abstaining.

It was noted that Ms. Andrews will send a letter to Mr. Richardson.

Discussion: Amwell Valley Design Standards/Draft Renewable Energy Ordinance

Chairman Reilly commented that the discussion this evening will focus on a draft renewable energy ordinance provided by Planner Banisch's Office. He said the concern of solar panels being installed on large parcels of land has been brought up at several Planning Board meetings and at the Board's October meeting, the Planner was asked to draft an ordinance for review this evening. Chairman Reilly noted that since it is already November, this matter will be a 2011 action item.

Planner Slagle commented that the proposed ordinance is two-fold: (1) It goes through the existing ordinance and corrects some items as well as looks at every zoning district for the provisions of renewable energy and (2) Adds a new section to the ordinance that would establish conditional use standards for solar renewable energy.

Planner Slagle noted that the definitions on the first page of the proposed ordinance are the most common definitions for solar/photovoltaic energy facilities or structures as identified by the recent amendment to the MLUL.

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Mr. Weis commented that the definition of major (solar facilities) is simply “anything other than a minor (solar facility)” and he asked if that is the way the State defined it. Planner Slagle said yes and noted that the definitions are consistent with the way the Township currently defines major and minor subdivisions. She said what is important to capture is that the Township doesn’t want to overly burden land owners who are really seeking to just capture enough solar energy to take care of their own needs plus a little more energy that may go back to the grid.

Mr. Gilbert asked if he understood correctly that the SADC has deemed solar facilities a permitted use for energy production up to 110%. Planner Slagle clarified that on preserved farms and farmland assessed parcels, the 110% cap has been established to prevent the solar facilities from becoming commercial uses.

Mr. Gardner remarked that the proposed ordinance references windmills and similar devices but they don’t seem to be governed in any way by the ordinance. Planner Slagle commented that in the Township’s existing ordinance there is a definition for solar and wind energy that doesn’t address the recent renewable energy trends. She noted that she has attempted to clean up the language/definitions in the newly proposed ordinance with a specific focus on solar energy. Chairman Reilly agreed that from a practical standpoint, the Board should focus on solar energy. He reminded the Board that they have been told that East Amwell Township is not a likely place for effective windmill/turbines. Planner Slagle indicated the proposed ordinance is not changing what is in the existing ordinance pertaining to wind, at this time.

Planner Slagle remarked that the first few pages of the proposed solar ordinance is adding minor solar facilities/structures as a permitted use and adding language to the conditional uses for major solar energy facilities/structures for each zoning district. She explained the reasoning for adding minor solar facilities as a permitted accessory use is because the facility would be ancillary to an existing use on the site and it is providing energy to the existing use. She explained that a conditional use would be considered a major solar facility/structure because it would be a new commercial use. Planner Slagle indicated that making a major facility/structure a conditional use requires that a solar farm would need to meet the zoning requirements of the particular zone it is being proposed in as well as meeting all other standards and guidelines in the newly proposed ordinance.

Planner Slagle commented on the balance of the proposed ordinance as it relates to the Township’s existing ordinances. She remarked that solar facilities cannot be erected in regulated wetlands, floodplains or riparian corridors. Planner Slagle noted that existing ordinance guidelines for public viewsheds and landscape buffering requirements are incorporated into this proposed solar ordinance. It was noted that a new clause was incorporated regarding (7 foot high) safety fencing around solar facilities. Mr. Sageser expressed concern over the aesthetics of safety fencing around acres of solar panels that may be erected on a hillside. He said, “...on a hill, a little bit of perimeter landscaping isn’t going to do much to shield it from public view. So I’m not sure we are really addressing the scope of the problem...similarly fencing could make it worse.” Chairman Reilly commented that the intent of the Planning Board is to get an applicant before the Board. He indicated there are certain requirements that the Board can waive if they are believed to be site specific. He remarked that the proposed ordinance provides the Board with an opportunity to have a dialog with an applicant over many things related to a potential solar application.

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Planner Slagle commented that section 92-46 of the Township's existing ordinance is quite extensive and Chairman Reilly suggested that the Board Members individually go back and review this section to become familiar with what is currently required by the Township. Chairman Reilly noted that the Board does not want to impose anything more than reasonable limitations on residential solar usage, but rather manage potential large solar installations.

Mr. DeLay asked if there was a way to limit the size of potential solar farms, noting the Township has established 10 acre minimum zoning for building single family dwellings. Ms. Glashoff agreed commenting that she wouldn't want to see, "100 acres totally engulfed in solar panels." Mr. Gardner remarked that the State has declared solar as being a public good. Chairman Reilly noted the Board had a clear rationale for establishing 10 acre minimum zoning in the Amwell Valley and 15 acre minimum zoning in the Sourland Mountain. He commented that the Board would have to have a clear rationale for limiting solar farms to a certain percentage of any given parcel of land.

Mr. Sageser commented on stormwater management as it relates to solar. He remarked that large panel arrays will clearly disrupt the natural pattern of rainfall and water absorption. Planner Slagle noted there is a provision for stormwater management in the proposed ordinance. Mr. Weis commented on the viewshed aspect saying that he noticed on the buffering and landscaping, adjacent properties are referenced and in some cases he said he could easily envision where an adjacent property wouldn't be impacted but a property that isn't adjacent—and not too far away may be extremely impacted by viewshed and glare. He noted that the viewshed and stormwater go hand-in-hand because the flatter the parcel the less it will be seen, however the more sloped the parcel the more runoff there is and he said the more coverage the parcel has the bigger the water problem becomes. Mr. Sageser suggested limiting the maximum solar area without internal buffering. He said, "We're not limiting the overall area but we're saying any expanse of 100 feet...more buffering would be required." Planner Slagle noted that the Township does not have a viewshed definition in its ordinances—or a viewshed ordinance and she remarked she didn't want to hold up the process on the proposed solar ordinance. Chairman Reilly added that the Board needs to keep in mind that if they don't act on the proposed ordinance the applicants will not come before the Planning Board. He noted applicants may come before the Zoning Board of Adjustment who will be left to deal with the application as best as they can without the structure the Planning Board is trying to implement. Chairman Reilly again noted that he believes it is imperative to get applicants to the table for discussion.

Mr. Wolfgang commented on the size of potential solar installations remarking that limitations might be established based on the level of noise produced by the site. Chairman Reilly noted that with the Township's right to farm philosophy the noise generated from potential solar arrays is de minimis.

Mr. DeLay commented on establishing slope limitations for land which can be utilized for solar arrays. Mr. Gardner noted that the ordinance requires a drainage plan. Planner Slagle remarked that she had spoken to Engineer O'Neal regarding this matter and he assisted with some of the language in the proposed ordinance to ensure that potential applicants would have a soil erosion, soil stabilization and a soil grading plan that would require the Engineer's review and approval prior to any C.O. and/or permits being issued. Planner Slagle also indicated an As-Built plan would be required as well. Mr. DeLay commented that the Township restricts building on slopes greater than 25% and thought something could be implemented restricting solar arrays from being built on steep slopes. Planner Slagle reminded the Board that solar is a conditional use and applicants would need to meet all of the bulk standard requirements of the zone.

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Mr. Sageser commented on limiting the height of solar panels to something lower than 12 feet. Planner Slagle noted that solar panels typically stand 10' – 12' tall once they are installed. Mr. Sageser asked if the Board can request bonding on the decommissioning of the panels. Planner Slagle said yes and also indicated there can be a tax lien on the parcel if the solar facility is not removed in accordance with any outlined provisions. Mr. Weis remarked that bonding is safer than a tax lien in the event the property owner goes out of business. Mr. Kneski noted that bonding offers options where property owners can seek letters of credit from banks instead of posting an actual monetary bond.

A motion by Rob Gilbert, seconded by Gail Glashoff to open to the public was unanimously approved.

Frances Gavigan of 123 Wertsville Road came forward and thanked the Board for moving forward so quickly with a potential solar ordinance. She endorsed the Board's efforts and made a few suggestions regarding the impact to land when solar panels need cleaning, possibly establishing greater setback requirements for land with solar arrays to protect the value of adjoining parcels and she commented on including language about Historic Villages and Hamlets as a way of protecting public viewsheds.

Toni Robbi of 144 Lambertville Hopewell Road came forward and identified himself as a member of the Environmental Commission and a liaison of FOSPC. He clarified that the SADC will allow minor solar facilities on preserved land, not major facilities. He also commented that the SADC is developing a rule for commercial farms which qualify for right-to-farm protection where the amount of solar allowed to be installed is 10 acres or 20% of the total acreage. Mr. Robbi expressed concern over the possibility of residents who live in the Sourland Mountain clear cutting their land in order to establish a solar farm. He said, "This scenario is not addressed."

A motion by Rob Gilbert, seconded by Pete Kneski to close to the public was unanimously approved.

Chairman Reilly summarized the following key issues for Planner Slagle to clarify in the second draft of the solar ordinance:

1. Can the solar panels be installed at a height less than 12 feet
2. Is there some rationale to limit the amount of land that can be used to install solar panels
3. Requiring bonding/letter of credit
4. Establishing ways to protect the public viewshed
5. Establishing stricter slope guidelines for erecting solar panels
6. Environmental impact regarding the cleaning of the solar panels

It was noted that Planner Slagle will provide a revised draft solar ordinance to be discussed at the Board's December meeting.

Planner Slagle was excused from the meeting at this time, 9:01 PM.

Oral Reports

FOSPC – Mr. Gardner reported that FOSPC discussed the expansion of the Green Acres project area which was the subject of discussion at this evening's Planning Board meeting. He also noted that FOSPC is still assembled a list of properties for consideration in 2011.

Agricultural Advisory Committee – No report given.

Environmental Commission – No report given.

SM Smart Growth – No report given.

HART – No report given.

COAH – No report given.

Wastewater Management – No report given.

AVAD Design Standards – No report given.

PB Secretary – No report given.

Chairman – No report given.

Correspondence

Mr. Gilbert asked about the correspondence received from SunEdison, LLC regarding their request for a Letter of Interpretation from the NJDEP. It was noted that no one from the Board had any additional information to provide on this matter.

Open to the Public

Frances Gavigan of 123 Wertsville Road came forward and addressed Mr. Gilbert saying the correspondence from SunEdison, LLC is related to the Stahl property.

Toni Robbi of 144 Lambertville Hopewell Road came forward and provided an update on the SM Smart Growth category listed under Oral Reports. He explained, “The current situation is that the Smart Growth Grant has been completed...we don’t even call it that anymore. There is something that has formed called the Sourland Alliance...the Township Committee appointed Tracy Carluccio and myself as delegates to that Alliance...the other 4 towns in the Alliance each also appointed 2 people, so there are 10 people that comprise the Alliance...the other towns are Montgomery, Hopewell Township, West Amwell and Hillsborough...the current situation is...we have reached a stage in this process...we have a...comprehensive management plan which is the second phase of the Smart Growth...the Alliance, just last night, approved the Plan...the next step for the process is that the representatives...are supposed to somehow get the Township to accept this Plan...my thought was...to address the Planning Board—other towns may do it differently...this Plan is a couple of 100 pages...the idea is that the 5 towns agree on this common set of goals for the Sourlands and then go about over the years slowly adjusting their ordinances relevant to the territory in the Sourlands so that they work together to try to achieve the goals of the Sourlands which would be hard for any one Township to do.”

Mr. Robbi noted that the Plan has been approved and will be printed and made available on CD with hard copies also available for review. It was noted that this matter could likely be reviewed by the Planning Board early next year once the information is provided to the Board.

Frances Gavigan of 123 Wertsville Road came forward again and suggested the Planning Board consider meeting twice a month in light of all of the pending matters that are slated for review next year.

A motion by Roger DeLay, seconded by Gail Glashoff to close to the public was unanimously approved.

Presentation of Vouchers

A motion by Fred Gardner, seconded by Rob Gilbert to approve the vouchers for payment as listed on the agenda was unanimously approved.

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Adjournment

Chairman Reilly adjourned the meeting at 9:26 PM.

Maria Andrews, Administrative Officer