

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
July 14, 2010 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on July 14, 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 July 7, 2010."

Present: Fred Gardner
Rob Gilbert – *(arrived at 7:36 PM)*
Gail Glashoff
Bela Kamensky
Peter Kneski
Linda Lenox
Don Reilly, Chairman
Dart Sageser
Michael Weis
Roger DeLay
Planner Slagle

Excused: Joe Wolfgang

Citizens' Privilege to Speak on Items Not on the Agenda

It was noted that no members of the public were present at the meeting.

Review of Minutes

A motion by Fred Gardner, seconded by Linda Lenox to approve the Board's minutes from 6/9/10 was approved with Peter Kneski, Dart Sageser and Bela Kamensky abstaining.

New Business – Other

Approval: Resolution PB#2010-06: Barbara Hay – B:21 L:16 & 16.01 – Waiver of Site Plan Review

Chairman Reilly commented that he believes this matter is worthy of the Board's consideration this evening in an effort to try and facilitate a remedy in a simple and easy way for Ms. Hay. Chairman Reilly noted that the Resolution lays out all of the details, and there are other ways Ms. Hay can obtain the same outcome, but they would involve a lot of time and additional expense. He asked Mr. Gardner to provide a brief summary as to why this matter was brought before the Planning Board.

Mr. Gardner remarked that he believes the Resolution is superbly written and expresses both the needs of Ms. Hay and the policies of East Amwell. He explained that Ms. Hay preserved approximately 10 acres of her own land and then inherited approximately 50 acres of adjoining land from her Father. Both lots were preserved as one parcel which the SADC recognizes as being a single entity with the exception of the 2 acre existing home site. Mr. Gardner noted that Ms. Hay wants to erect an indoor riding arena to accompany her horse breeding/training business. The indoor riding arena is proposed to be located on her 10 acre lot nearby her existing home and barns. This location poses a problem because it is too close to the boundary line between Ms. Hay's land and the land she inherited from her Father. Although the lots were preserved as a single parcel, the boundary line is still shown on the Township tax map which is why the Zoning Officer denied her request for zoning permit approval.

East Amwell Township Planning Board Minutes – 7/14/10

Chairman Reilly noted that Ms. Hay could apply for a lot line merger but in discussing this matter with Board Attorney Norman, he said this Resolution is the simplest, most cost effective way to handle this situation. Chairman Reilly indicated it is a function of the Board to try and accommodate a resident and land owner who operates a farm continue to facilitate that enterprise. Chairman Reilly noted that he elected to contact the Board Attorney and by doing so has incurred expense for the Township through the Planning Board's budget which he would like to discuss later in the meeting. Chairman Reilly remarked that the Resolution clearly delineates what the Planning Board's intention is and while there may be concern over precedent, he was not personally concerned with it.

A motion by Fred Gardner, seconded by Linda Lenox to open to the public was unanimously approved. There being no public present, a motion by Rob Gilbert, seconded by Fred Gardner to close to the public was unanimously approved.

Ms. Glashoff asked what the size of the riding arena will be. No one knew the size. Chairman Reilly commented that the Resolution is not waiving any construction criteria, only the location of where the riding arena can be built. Ms. Glashoff asked why Ms. Hay wasn't present this evening noting if this matter is of importance to her she ought to be attending the meeting. Mr. Gardner commented that Ms. Hay runs a business and is likely conducting evening feedings. He added that Ms. Hay had run into Mr. Reilly last night at the Township Building and he reassured her that the Board would be reviewing the matter this evening. Mr. Gardner indicated that he didn't know what more Ms. Hay could add to the conversation. He noted that she has been to the Zoning Officer several times and has spent a considerable amount of time trying to rectify the situation.

Mr. Sageser remarked that it should be recognized that Ms. Hay has worked with the Township to preserve a significant property at her own time and expense. He said there has been a cooperative effort to facilitate this riding arena issue. He noted that having spoken with Ms. Hay there is a certain irritation that after going through all of the preservation efforts this minor lot line discrepancy is further penalizing her. Mr. Sageser commented that he believes the Board would be setting a good precedent.

Mr. Gardner commented that when his property was preserved it was originally two lots and the boundary lines were eliminated. He said he doesn't know how it was done or who was responsible for doing it. Mr. Gardner noted that one of Ms. Hay's remedies would be to go to the CADB who has indicated to her that they would override the Township's ordinances. He said given that we are a community whose zoning in the Amwell Valley District depends upon our friendliness toward agriculture, it bothers him every time he sees a resident going to the CADB to get remedy from the Township's ordinances. He remarked that he is particularly delighted that the Resolution references the fact that under Right-to-Farm, Ms. Hay would likely have that remedy anyway.

Ms. Lenox remarked that Ms. Hay worked on preserving her land for years and noted that she has been to the property which she referred to as "hilly." She commented that she couldn't foresee a large riding arena on the site because of the topography of the land. Ms. Lenox also noted that Ms. Hay breeds horses and provides riding lessons. She said the indoor riding arena supports her livelihood because it is hard to train horses or give lessons in the winter without an indoor arena. Ms. Lenox expressed her support for Ms. Hay and the Resolution.

East Amwell Township Planning Board Minutes – 7/14/10

Chairman Reilly clarified that the Resolution will essentially remove the lot line, but that Ms. Hay will still need to comply with all other zoning requirements. Mr. DeLay questioned why the Resolution was for a waiver of site plan review. Chairman Reilly indicated that the Board would be waiving site plan review because the riding arena violates the setback and a variance would be needed in order to construct the arena in the proposed location.

Mr. Kneski pointed out that the problem is there are two components associated with Ms. Hay's proposal: (1) She needs a variance because she is too close to the lot/boundary line and (2) under the Township's Ordinance, if the riding arena exceeds 10,000 square feet it requires site plan approval which is independent of the variance. Mr. Kneski added that not only would the structure require site plan approval, but he believes it would also need conditional use approval which the Resolution does not address at all. With regard to the precedent, Mr. Kneski asked where does the Board draw the line? He commented is it only for lots that are in Farmland Preservation or does this apply to farms not in preservation. He then noted a concern with the language on page 2 of the Resolution saying, "...the Board also fines that if the two lots were consolidated by deed, no site plan or bulk variance would be required..." Mr. Kneski indicated this statement is not accurate because although if the lots were consolidated it would negate the variance requirement, that would not negate the site plan requirement which is directly related to the size of the proposed structure/riding arena.

Mr. Kneski remarked that the Board really needs to review this matter carefully. He commented that he understands and appreciates the concerns, but the Board needs to be careful when looking at granting waivers from the Ordinance. Mr. Gardner stated that it seems to him this boundary line issue would not arise if the lot(s) weren't in Farmland Preservation and the Board would not eliminate lot lines given this reasoning, unless the land was encompassed by an agreement that made it one parcel—such as that of Farmland Preservation. Mr. Kneski explained his concern is not with the lot line, it is with the precedent being set by waiving the site plan requirement. He noted that the Board does not know the square footage of the proposed riding arena and if it's over 10,000 square feet, a site plan is required.

Mr. Weis commented that he supports the Board wanting to remedy Ms. Hay's situation but is concerned with the way the Resolution is written. He noted that the Board may be inadvertently waiving a site plan requirement triggered by the Ordinance—which is a literal interpretation and he said he is always concerned with the possibility of literal interpretations on future applications/proposals.

Chairman Reilly clarified that if the Resolution was written making it applicable only for an indoor riding arena of 10,000 square feet or less, that would eliminate one concern. The Board agreed. He then commented that he was not concerned with the precedent because the way the Resolution is written provides a clear rationale that this site plan is being waived because the land is preserved. He said under the same circumstances he would be happy to do the same thing again.

Mr. Weis remarked that he would like to know from Attorney Norman if there is some wording that can be used in the Resolution that says each and every item in the list of reasons is critical to granting the decision so that it is not inadvertently creating support for a precedent where only half of the conditions exist and someone could hire an Attorney who could argue a good case for an approval. Chairman Reilly suggested the Board specify that the riding arena cannot exceed 10,000 square feet and Mr. Gilbert added that the Resolution should also note that the lot line is being eliminated.

East Amwell Township Planning Board Minutes – 7/14/10

There was some discussion on how the Resolution might be changed and Chairman Reilly suggested he get Attorney Norman on his cell phone. Prior to calling Attorney Norman, Mr. Gilbert asked if Ms. Hay had gone before the Board of Adjustment and if there was a reason why she came to the Planning Board instead. Mr. Gardner commented that both expense and time would have been associated with going to the Board of Adjustment. Mr. Gilbert asked if the Planning Board needed to concern itself with possibly interfering with what may be the Board of Adjustment's domain. Mr. Kneski noted that the lot line merger would be a Planning Board issue. Mr. Sageser referred to language in the Resolution and asked what "...divest the Board of its jurisdiction in this matter..." meant. Mr. Gilbert suggested it would apply if Ms. Hay went to the CADB. Chairman Reilly clarified that Ms. Hay has other options/avenues available to pursue and that if the Planning Board's position was not in support of the riding arena, the CADB would be another way she could obtain approval. Mr. Sageser commented that if Right-to-Farm trumps local variances than why is the Board concerned with the size of the structure or the variances that may be needed. Chairman Reilly noted the application would still come back to the Municipality for Planning Board input.

Chairman Reilly called Attorney Norman from his cell phone. Attorney Norman advised the Board that based on the Board's discussion and concerns it seems that they do not have enough information to make an informed decision and suggested tabling the matter until next month's meeting. Mr. Gardner commented that he would prefer to handle the lot line issue this evening by waiving the site plan as it relates to the boundary line and not address the size of the building. Attorney Norman informed the Board that Ms. Hay could file a deed of consolidation to consolidate the two lots into one, on her own. Mr. Gardner agreed but indicated that would be an expense to her.

Mr. Gardner called Ms. Gardner from a cell phone and she informed him that the riding arena is proposed to be 70' x 200' which would be 14,000 square feet. Based on this information, Attorney Norman advised the Board that they cannot approve the Resolution because a site plan application is required under the Ordinance. Mr. Kneski asked if Ms. Hay would also need conditional use approval. Attorney Norman explained that if under conditional use in the ordinance, one of the conditions is that the structure cannot exceed 10,000 square feet then Ms. Hay would need to seek relief from that condition of conditional use approval. He noted he would have to review the ordinance.

Mr. Weis commented that the Board is sympathetic regarding the problem Ms. Hay has regarding the lot line and wants to do everything they can to assist in eliminating the lot line as an issue but cannot overlook the other requirements under the Ordinance.

A motion by Gail Glashoff, seconded by Michael Weis to deny Resolution PB#2010-06 on the grounds that while the Board would approve the siting of the riding arena regardless of an old lot line, the Board cannot approve a structure that may exceed 10,000 square feet and trigger other requirements/approvals under the Ordinance. The motion was unanimously approved by roll call vote.

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

Mr. Gardner apologized to the Board for not having considered all of the aspects of the application prior to bringing it to Chairman Reilly and the Board's attention. He said he was focused strictly on the lot line issue which he believes should have been a non-issue.

Discussion: Amwell Valley Design Standards – Update by Banisch Associates

Planner Slagle explained that she provided a memo this evening that outlines the process for establishing and developing design standards for the Amwell Valley District.

She noted the following purposes of the Amwell Valley Agricultural District (AVAD):

1. To retain farmland and protect and preserve agricultural activity
2. To protect and promote the continuation of farming
3. To protect prime soils and soils of statewide importance for their long term value as an essential natural resource in any agricultural or horticultural pursuit
4. To permit limited non-farm related residential development in a location and manner that will be consistent with the continuation of farming
5. To support the preservation of existing farm operations
6. To protect agricultural lands and promote agriculture as a valuable component of the local economy

Planner Slagle commented that further support of the purpose statements noted above is through development flexibility regulations such as lot size averaging and opens lands ratio zoning. She noted that both of these options contain in their purpose, the retention of large contiguous farmland area, preservation of prime soils and continuing agricultural production.

Planner Slagle remarked that when looking at the objectives of the existing land development regulations in the AVAD, it is clear that the retention of farmland, the industry of agriculture and rural character are most important. Based on the AVAD purposes and goals, she noted the following key issues as the basis for establishing design standards in the Amwell Valley:

1. Preserving agriculturally productive farm soils for agricultural use to ensure long term agricultural viability
2. Maintaining contiguous agricultural lands to provide for a variety of agricultural uses
3. Preserving the rural character of the Amwell Valley
4. Preserving and protecting sensitive natural resources (wetlands, stream corridors, steep slopes, floodplains and water resources)
5. Protecting and preserving cultural and historic features

Planner Slagle indicated that she believes the items listed above go beyond just rural character and are at the heart of why the Board wishes to consider design standards for the Amwell Valley District.

Mr. Gilbert commented that he believes protecting the scenic view shed in the Amwell Valley is just as important as protecting the farming/agriculture aspect and noted that he isn't sure if this is represented strongly enough in the memo. Chairman Reilly agreed. Planner Slagle commented that the memo does contain information on proposed design standards including guidelines for the setbacks and placement of dwellings/structures, buffers and landscaping and the creation of historic and scenic roadways. She remarked that Upper Freehold is one of the largest agricultural communities in the State and has been working on establishing a historic farmland by-way that is a trail system which takes people through their agricultural lands and historic sites. Planner Slagle said in East Amwell, this would address the agricultural sightings and viability as well as the scenic, historic and cultural aspects into one package which could also be taken to the County when reviewing right-of ways and the State for possible designation status.

East Amwell Township Planning Board Minutes – 7/14/10

Chairman Reilly commented that he likes Planner Slagle’s approach to establishing design standards because it clearly delineates what the Board wants to focus on and the rationale for why. He remarked the idea of setbacks and appropriate placement of structures/dwellings has been discussed previously, the buffering makes perfect sense and the whole issue of historic and scenic roadways is an item that has come up several times and the Board has always been receptive to it.

Mr. Sageser suggested the Board may want to develop a buffer/sighting description of how sightings should be done that tries to take into account topography, existing landscape, adjacent properties etc. Mr. Weis suggested it may valuable to create a list of considerations with purposes associated with them so there is a balance between what can be done vs. what has no legal basis. Planner Slagle remarked this has been done in the Sourland Mountain Zone regarding clearing.

It was the consensus of the Board that Planner Slagle was working in the right direction on this matter and she will continue working with the subcommittee.

Planner Slagle was excused from the meeting at this time, 9:00 PM.

Oral Reports

FOSPC – No report given.

Agricultural Advisory Committee – No report given.

Environmental Commission – No report given.

SM Smart Growth Grant – Mr. Kamensky reported that the annual Hart meeting will be 7/29/10 at the Holiday Inn in Clinton, NJ.

HART Representative – No report given.

COAH – No report given.

Wastewater Management – No report given.

AVAD Design Standards - No additional report was given.

PB Secretary – No report given.

Chairman – Chairman Reilly asked that the Board have a brief policy discussion. He commented that the Resolution that was brought before the Board regarding the Hay matter was brought forward because he made the value judgment that it was something the Board should consider. It was the consensus of the Board to continue to let Chairman Reilly use his discretion on when making a value judgment is appropriate.

Open to the Public

It was noted that no members of the public were present at the meeting.

Presentation of Vouchers

A motion by Gail Glashoff, seconded by Linda Lenox to approve the vouchers for payment as listed on the agenda was unanimously approved.

Adjournment

Chairman Reilly adjourned the meeting at 9:07 PM.

Maria Andrews, Administrative Officer