

**EAST AMWELL PLANNING BOARD MINUTES**  
**7:30 PM East Amwell Municipal Building**  
**April 13, 2011 - Meeting**

**Call to Order, Attendance and Pledge of Allegiance**

This meeting of the East Amwell Planning Board was opened on April 13, 2011 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 20, 2011 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 April 6, 2011."

**Present:** Fred Gardner  
Rob Gilbert  
Gail Glashoff  
Peter Kneski  
Linda Lenox  
Don Reilly, Chairman  
Dart Sageser  
Michael Weis  
Roger DeLay – Alt. #1  
Edward Feinberg – Alt. #2  
Attorney Norman  
Planner Slagle

**Excused:** Joe Wolfgang

Chairman Reilly welcomed Edward Feinberg to the Board as Alternate #2.

**Citizens' Privilege to Speak on Items not on the Agenda**

Chairman Reilly opened the floor to public comment. Seeing no members of the public come forward, a motion by Fred Gardner, seconded by Pete Kneski to close to the public was unanimously approved.

**Review of Minutes**

A motion by Rob Gilbert, seconded by Gail Glashoff to approve the Board's minutes from 3/9/11 as revised was approved with Dart Sageser, Michael Weis and Roger DeLay abstaining.

**New Business – Other**

**Discussion: Dr. J. Dilts House – B:16 L:1 – 1084 Old York Road – Site Plan Approval – Extension**

Present for the discussion was Tim Johnson, one of the partners of Dr. J. Dilts House, LLC. He explained they were seeking an extension from the Board because their application cannot move forward at the moment due to the pending road/sidewalk improvements along Wertsville Road and County Route 579. Mr. Johnson noted that the County indicated they expect them to fund the portion of the improvements that affect their property and he stated that they are not financially able to do so.

Attorney Norman noted that the Board can grant an extension with the understanding that when the applicants return to the Planning Board they will have to re-notice the public hearing.

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A motion by Gail Glashoff, seconded by Rob Gilbert to grant the Dr. J. Dilts House, LLC application a 90 day extension (*through 7/12/11*) with the condition that the applicants will have to re-notice their public hearing when they return to the Board was unanimously approved by roll call vote.

**Roll Call Vote:** Gail Glashoff: Yes, Rob Gilbert: Yes, Fred Gardner: Yes, Pete Kneski: Yes, Linda Lenox: Yes, Don Reilly: Yes, Dart Sageser: Yes, Michael Weis: Yes, Roger DeLay: Yes

It was noted for the record that Mr. Johnson consented to any required extensions under the MLUL that the Planning Board may need regarding the time in which they have to hear the application since it was deemed complete.

**Discussion: Current NJ Solar Program Trends – Presented by Howard Fleischer, NJSREC**

Chairman Reilly commented that Mr. Fleischer is an East Amwell Township resident involved in the solar industry and has volunteered to come before the Planning Board to provide some background information on solar trends.

Mr. Fleischer came forward and commented that he has resided at 18 Welisewitz Road for over 30 years. He stated that he works with Advanced Solar Products which is one of the leading installers of solar energy in the State of NJ and he stated that he is one of the top 3 or 4 leading aggregator brokers in NJ that handle the solar renewable energy credits which are one of the driving forces that make solar work. Mr. Fleischer remarked that because of both of his occupations he has an intimate knowledge of what makes solar get developed in the State on both the residential and commercial levels. He noted that he has sold quite a few solar projects in East Amwell Township and Hunterdon County and said he wants to provide his services to the Board in order to answer any questions that may come up going forward.

Mr. Fleischer commented that Advanced Solar has no interest in any commercial solar projects currently being proposed in the Township except for the East Amwell Township School project which they intend to bid on.

Mr. Fleischer remarked that the greatest pressure for solar development is now through 2013 because there is a Federal Tax Grant this year. He said, “That continues to be a federal income tax credit until 2016 but there is a 100% depreciation...for solar this year and 50% next year which makes it very appetizing for developers to come into any area—Hunterdon County, believe it or not is a minor area compared to down south in the Atlantic City area...it’s very appealing—very economical. So you have two tax factors: The depreciation and the Federal Grant that are very appealing. The other components are these things called SRECS which are solar renewable energy certificates...these SRECS right now are trading for in the neighborhood of \$650 each and one gets one every time a solar system produces 100 kilowatt hours of power.” Mr. Fleischer continued to explain that a typical 10 kilowatt system makes approximately 12 SRECS annually. He noted that if someone installs a 10 megawatt solar facility it would make approximately 12,000 SRECS annually.

Mr. Fleischer commented that figures were recently released on the amount of solar required by the RPS over the next 25 years and he noted that as the requirement levels are reached, the price of solar credits will go down. He explained that the credits are currently 40% of the payback. He remarked that when the Board reviews the Solar Ordinance and how they envision solar within the Township, the greatest impact is right now. He stated that as time goes on and the tax incentives go away and the credits go down, solar projects won’t be as appealing.

On a final note, Mr. Fleischer commented that residential solar projects and small commercial projects are quite different than large scale commercial facilities and he suggested the Board encourage residential and small commercial solar installations and he suggested the Board allow solar projects to be installed throughout the Township.

Ms. Glashoff asked how the Board can encourage solar to be spread out within the Township. Mr. Fleischer commented that currently the Township has a 20 acre minimum lot size for solar facilities and he remarked that 1 megawatt of solar can be installed on 3.5 acres so a 10 acre lot could be an effective minimum lot size requirement and would not have as much impact on the Township as one huge solar facility.

Mr. Sageser asked Mr. Fleischer if he had a sense of what the efficiency of solar is expected to be 10 years from now. Mr. Fleischer remarked that the basic ground mounted solar systems have gone up in efficiency approximately 1% - 2% per year for the past 5-6 years and the industry expects this to continue. He noted that 5 years from now a system may be about 7% - 10% more efficient which means it would take up 7% - 10% less land for the same system. Mr. Fleischer commented that the cost has dropped dramatically over the past 3 years. He stated that a typical residential system 5 years ago was approximately \$7.50 to \$8.00 per watt so a 10,000 watt system cost a homeowner about \$75,000 to \$80,000 and now that same system would cost about \$45,000.

Mr. Feinberg asked Mr. Fleischer to comment on the efficiency of the power conversion when power is generated to the grid. Mr. Fleischer remarked that as long as a property is near a strong connection it will be efficient regardless of whether or not it is a 3 megawatt system or a 50 megawatt system. Mr. Fleischer explained that the invertors used in solar facilities are typically 500 kilowatts and noted that a 5 megawatt facility would have about 9 invertors.

Attorney Norman asked Mr. Fleischer if there is any type of tax abatement/credit when properties convert to solar. Mr. Fleischer said no but noted that if a property gives up its farm assessment, the new assessed value would be determined by the Township Tax Assessor.

**Discussion: Ordinance 11-07: Revised Renewable Energy Ordinance**

Chairman Reilly explained that the Township recently passed a model Renewable Energy Ordinance because it was important to have something on the books in order to provide guidance in the event applications came forth but it was understood that the concept of renewable energy was emerging and certain aspects of the ordinance may need to be refined specific to East Amwell. Chairman Reilly commented that the Board's Professionals have pointed out some reasonable adjustments that should be considered relative to the Renewable Energy Ordinance.

Planner Slagle reviewed the revised ordinance noting the following changes:

1. One unified set of bulk requirements applicable to all zones; increasing the allowed height of solar panels to 12 feet
2. No structure or other portion of a renewable energy facility except for fencing, access roads and non-energy generating equipment shall be situated less than 300' from any residence or less than 150' from any accessory structure whether located on the subject site or on an adjacent property
3. 20 acre minimum lot size for major system installations
4. No portion of any renewable energy facility can be located in a designated wetland area
5. Specific landscaping/buffering guidelines with a vegetative buffer not less than 50' in width

6. Sourland Mountain District facilities have to be sited in existing cleared areas consistent with the Sourland Mountain District regulations

Chairman Reilly clarified that the suggested revisions were given to the Township Committee for their review and it was noted that the Committee intends to introduce the Ordinance at their meeting tomorrow night. The two additional minor suggestions made by the Planning Board were on page 4 under 5C – the fourth sentence will have language including that renewable energy facilities will be shielded from public view and *adjoining uses*. Page 7 under Section II -14B will be eliminated and the first “C” will become “B.”

A motion by Michael Weis, seconded by Rob Gilbert to open to the public was unanimously approved.

Frances Gavigan of 123 Wertsville Road came forward and expressed support for the suggested revisions to the Renewable Energy Ordinance. She did not agree with allowing a maximum solar panel height of 12 feet and suggested the Board consider recommending that solar panels be installed in a *staggered* fashion along the various contours of a subject site. Ms. Gavigan also asked the Board to consider establishing a maximum slope upon which nothing can be built or a clustering option to mitigate the impact to neighbors.

Larry Swanzer of 9 Rosemont Ringoes Road came forward and expressed concerns over the appearance of security chain link fencing surrounding solar facilities and expressed support for Ms. Gavigan’s comments regarding land slopes. Mr. Swanzer remarked that any facilities that may go in proximity to his home will have a great impact on his property value and he asked if the Board has considered this. Mr. Gardner commented that he did not know how the Board could effectively legislate for the characteristics of the different properties. Attorney Norman agreed. Mr. Swanzer continued to comment saying he disagrees and questioned the inherently beneficial principles asking why destroying prime farm land in the Amwell Valley District should be considered inherently beneficial.

Planner Slagle explained that the State deemed renewable energy facilities as inherently beneficial, not the Planning Board. Mr. Swanzer commented that it is assumed that an inherently beneficial use does not go against the zone plan and if the argument was made that cutting trees in the Sourland Mountain goes against the zone plan, then he believes allowing a solar facility to be installed on prime farm land would also go against the zone plan. Attorney Norman remarked that if solar panels are installed on a slope and can be seen from a quarter of a mile away the Board cannot prohibit them because of the State legislation.

Mr. Swanzer commented on the millions of dollars in property values that will be lost and the views that will be taken away from the people/bicyclists/joggers/motorcyclists that travel the roadways. Planner Slagle noted that from a planning perspective, in the Township’s ordinance, clearing in the Sourland Mountain for residential development is limited based on the natural topography and geology of the land. In the Amwell Valley, development is predicated on prime and state wide important agricultural soils. She commented that the Planning Board has made many attempts to maintain viable agriculture and protect the soils. She noted that in the Renewable Energy Ordinance, while the Board understands the change of use, the Board has retained the ability to protect the soils for long term agricultural purposes so that if and when the renewable energy facilities are decommissioned the soil is still usable. Planner Slagle remarked this is the basis for the zoning.

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Planner Slagle and Attorney Norman both cautioned the Board and the public to be careful not to discuss any details of any pending or potential applications.

Chairman Reilly asked Attorney Norman to clarify whether or not it is proper for the Board(s) to make economic assessments when reviewing applications. Attorney Norman explained the only time economics can come into consideration is if the Board wants an applicant to add an improvement as a condition of approval and the cost is so prohibitive relative to the scale of what is proposed, that the request then becomes unreasonable.

Mr. Swanzer continued to disagree with the Board Members. Attorney Norman clarified that the zone plans typically apply to properties in the immediate area/neighborhood of a subject site and do not typically apply to the impacts of the site view of something that can be seen over a quarter of a mile away depending upon the slope or contour of the land. Mr. Swanzer stated he is referring to people that use the roads who may be impacted by the view of a potential solar facility. Mr. Gardner indicated the Ordinance protects the public view. Mr. Weis commented on the concept of views stating that the surrounding property owners don't own the land which may be the subject of an application or the view and the view is not protected by any of the Township's ordinances—he noted, however, that *view sheds* are protected and remarked that a view shed is something different.

Mr. Swanzer asked when the Board of Adjustment rules on any applications, will they refer to the Ordinance or the inherently beneficial criteria. Planner Slagle commented that the State statute declaring renewable energy an inherently beneficial use has already been adopted and in place for about a year. Attorney Norman stated he believes the Ordinance standards could be considered relevant evidence. He also noted that there is case law supporting that inherently beneficial use applications cannot be denied outright, the Boards must seek to approve them with conditions whenever possible. He added that the land use law does not encompass criteria with respect to property values, but rather the zoning impact. Mr. Gardner remarked that all the Planning Board can do is write the best possible ordinances for the Zoning Board to then apply.

Frances Gavigan of 123 Wertsville Road came forward again and commented on taking a regional approach for designating the two ridges in the Amwell Valley District for the purpose of defining agricultural and historic areas. She suggested this be added to the Board's "to-do list."

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

Mr. Gardner commented that there are a number of jurisdictions that can get involved with any given application and suggested more public awareness on the matter somehow be provided.

A motion by Gail Glashoff, seconded by Dart Sageser to recommend a Section 26 review of the amended Renewable Energy Ordinance and recommend adoption by the Township Committee was unanimously approved by roll call vote.

**Roll Call Vote:** Gail Glashoff: Yes, Dart Sageser: Yes, Fred Gardner: Yes, Rob Gilbert: Yes, Pete Kneski: Yes, Linda Lenox: Yes, Don Reilly: Yes, Michael Weis: Yes, Roger DeLay: Yes

**Discussion: East Amwell Township Elementary School Solar Project**

Chairman Reilly commented that the school is looking to install a solar system on their property which will encompass about 1.5 acres of land. The panels will be situated to the east of the school, between the soccer fields and Wertsville Road. He noted that the School Board will need to provide the Planning Board with a site plan which is an MLUL requirement, for what is called a capital project review. Chairman Reilly explained the Board does not have jurisdiction over the school's project but can make recommendations and suggestions when they come forward with their plan. It was noted that the solar power will only be used for the school.

**Oral Reports**

FOSPC – No report given.

Agricultural Advisory Committee – Ms. Glashoff commented that the Committee is considering doing a wind turbine forum possibly in September 2011.

Environmental Commission – Mr. Sageser commented there was a presentation on the Neshanic River Restoration Project. He also noted that the Township Clean-up Day is scheduled for 4/16/11.

COAH – No report given.

Wastewater Management – No report given.

AVAD Design Standards – No report given.

PB Secretary – No report given.

Chairman – Chairman Reilly commented that he and Tracy Carluccio will be providing a presentation to the Planning Board in one of the upcoming months to discuss the Sourland Alliance plan. He indicated the goal is to obtain the Board's recommendation that the Township Committee approve the plan.

**Open to the Public**

A motion by Pete Kneski, seconded by Roger DeLay to open to the public was unanimously approved.

Frances Gavigan of 123 Wertsville Road came forward again. She asked Attorney Norman if properties containing easements owned by an entity other than the property owner are required to provide public notice to the easement holders. Attorney Norman said no and clarified that when the deed restriction is filed, that is essentially the notice to the public. Planner Slagle agreed that there is no legal requirement that easement owners be served public notice.

Gerald Brenner of 12 Rocktown Hill Road came forward and expressed frustration over the zoning of his property. He noted his property is zoned residential with a commercial building on the parcel that has been rented over the years to various businesses. He explained that every time his tenant changes, he is forced to get a use variance from the Board of Adjustment which has become expensive and quite annoying. It was noted for the record that Mr. Brenner's property runs along Route 31 where the commercial building is located. He asked that the Board review the matter.

Chairman Reilly remarked that the Planning Board did conduct a review of the State Highway corridors and commented that the parcel is not located in a zone that the Board felt should be deemed commercial and to change Mr. Brenner's designation would be spot zoning which is illegal. He expressed empathy for the situation but indicated there was nothing the Board could do. Mr. Brenner asked if his parcel could be grandfathered.

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Attorney Norman suggested Mr. Brenner come in with a list of the types of tenants for which he might seek a use variance for. He stated, “If a use variance was granted for something 10 years ago and then it changed use and now it’s going to go back to the old use, the old use variance is still good.”

Ms. Glashoff asked how long Mr. Brenner has owned the property. He stated since 1966 and commented that the zoning was changed in the 1990’s and he has had problems ever since and guessed he had been before the Board of Adjustment at least 4 times. Chairman Reilly commented that 4 uses have been approved and should still apply. Chairman Reilly remarked that he will speak to Zoning Officer McManus to get a better understanding of his perspective and then he may suggest that he speak to Attorney Norman. He noted he will get back to Mr. Brenner sometime next week.

A motion by Fred Gardner, seconded by Roger DeLay to close to the public was unanimously approved.

It was noted for the record that Attorney Norman and Planner Slagle were excused from the meeting at this time, 9:40 PM.

**Presentation of Vouchers**

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

**Adjournment**

Chairman Reilly adjourned the meeting at this time, 9:41 PM.

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Maria Andrews, Administrative Officer