

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
December 14, 2011 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on December 14, 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 December 7, 2011."

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

Excused: No one

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 Rob Gilbert to close to the public was unanimously approved.

Review of Minutes

A motion by Gail Glashoff, seconded by Peter Kneski to approve the Board's minutes from 11/9/11 with no revisions noted was approved with Rob Gilbert and Joe Wolfgang abstaining.

New Business – Other

Completeness Determination: Preliminary Major Subdivision Approval – Steve Lang – B:8 L:10 (1127 Old York Road)

Planner Slagle commented that this subdivision application was previously submitted in 2005 and again in 2008 noting that after the Application Review Committee (ARC) meetings, the applicant never followed through. The most recent ARC meeting was held on 12/5/11. She indicated the proposal is to subdivide the land under the Open Lands Option and stated the applicant is requesting a design waiver from the required road frontage because they are proposing a common driveway configuration. Planner Slagle added that the applicant will also need a design waiver from the certified landscape plan submission since they don't intend to submit any landscaping plans.

Engineer O’Neal commented that the applicant is also requesting some submission waivers from various checklist items which he believes to be reasonable. It was noted that both he and Planner Slagle recommended the application be deemed complete.

A motion by Fred Gardner, seconded by Gail Glashoff to deem the application complete was unanimously approved by roll call vote.

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

Public Hearing Continuation: NVT Licenses, LLC. – B:5 L:1.06 & 2 (Stahl Property – 117 John Ringo Road) – Minor Subdivision and Preliminary & Final Major Site Plan Approval

It was noted that Rob Gilbert and Joe Wolfgang recused themselves and stepped down from the dais because they were not present at last month’s meeting.

Present for the application was Attorney Mark Peck on behalf of the applicant NVT Licenses, LLC., Engineer Jennifer Schwenker of Innovative Engineering, Project Manager Skip West of SunEdison and Emily Struck of SunEdison.

Engineer Schwenker came forward and commented that based on last month’s meeting they had made some minor revisions to the site plans. **Exhibit A-4:** Revised plans consisting of 22 pages was presented. Engineer Schwenker noted the following revisions:

1. The proposed access off of Rosemont Ringoes Road was moved 25’ to the west in an effort to minimize the impact on the existing berm.
2. The proposed access off of Rosemont Ringoes Road will be temporary and will be removed upon completion of the site with only the access to the pond remaining per the request of the Township Fire Official.
3. The proposed Boss Road access will be a permanent access to only be used after construction of the site.
4. Temporary fencing will be installed for the construction phase of the site with wind shield fencing to minimize dust.
5. The existing access easement off of John Ringo Road will be blocked during construction and the barrier will be removed after construction.
6. The landscaping shows deciduous trees planted in the third exterior row of the buffer. *(It was noted that the total number of trees to be planted on the site is approximately 2000 with 200 of them expected to be deciduous.)*
7. The landscaping along the proposed Boss Road access will parallel the existing power line easement.

Engineer Schwenker referenced Planner Slagle’s review report and noted that they agreed with her comment that as a condition of approval, an inspection of the landscape buffer will be made prior to the issuance of the CO.

Engineer Schwenker also noted that after consulting with their Geotechnical Engineer they have determined that they will use helical screws for the solar installation rather than driven piers or concrete pilings. However, she remarked that there may be a need for a few concrete pilings on the site. It was noted that the developer estimates 4320 posts 6” in diameter will likely be installed on the site which will result in approximately 848 square feet of land disturbance. After some discussion, the Board requested additional product information be provided on the driven piers and a limit of 5% or 216 concrete pilings

was established for the site. Mr. Feinberg suggested if concrete pilings are required to be used, an as-built plan should be submitted so the Board and professionals know exactly where they are on the site.

Engineer Schwenker referenced Engineer O’Neal’s review report and noted they agree to utilize grass pavers for the access to the pond as well as for the proposed Boss Road access.

Engineer O’Neal addressed the Board saying a determination needs to be made as to which permanent access is best—the existing John Ringo Road access or the proposed Boss Road access. Chairman Reilly noted that the traffic to the site after construction will be very limited, even less than the current daily traffic. Engineer Schwenker noted that the gravel will be removed from the temporary access area(s), topsoil will be replaced and the land will be tilled and seeded. Engineer O’Neal commented that soil compaction is a concern that will need to be monitored by him and Soil Conservation.

Stormwater runoff was discussed with Engineer Schwenker remarking that their proposal will reduce the runoff on the entire site. Engineer O’Neal agreed adding that because the parcel will no longer be farmed, the runoff will decrease. Engineer Schwenker commented that the County Stormwater Ordinance addresses traditional development and not new technology such as solar. She indicated the County’s Ordinance requires them to install a detention basin which is not applicable to their development so they are currently working with them on how to address this matter.

Engineer O’Neal referred to the site plan and indicated he would like to see additional details added regarding the construction sequencing as it relates to possible soil erosion on the site. Engineer Schwenker agreed to do so.

Exhibit A-5 was presented: 16 pages of photo simulations. Planner Slagle asked if planting some taller trees (*in excess of 10’*) in some locations of the site was an option. Ms. Struck indicated the matter could certainly be discussed. Mr. Kneski asked if taller trees could also be considered along the Boss Road homes. Ms. Struck indicated this could be discussed as well.

Ms. Harrington, the property owner at 110 Boss Road, explained photo (#6A) containing the ladder which was submitted by her to indicate how “low” the buffering will sit in relation to her property. Mr. Weis asked if the photo was taken from ground level. Ms. Harrington commented that she lives in a bi-level home where the living space is on the second level and that is where the photo was taken. Engineer Schwenker indicated the subsequent photo simulation depicts what will actually be seen from Ms. Harrington’s (second level) deck. It was noted that from the Harrington’s property line to the subject property’s current agricultural field is 40 feet and beyond that at 130 feet would be the proposed fencing for the project and the solar panels would be installed beyond that.

Mr. Sageser suggested trees be donated to the adjacent property owners for them to plant where they believe them to be more strategically beneficial. Attorney Peck was amenable to the suggestion.

Chairman Reilly noted that an issue brought up by the public at the Planning Board’s last meeting was the proposed removal of the structures on the site and the associated environmental concerns with the property having been an active farm. Engineer O’Neal commented that a demolition permit will need to be obtained from the building department. Engineer Schwenker indicated that Trident Environmental Consultants located in Toms River, NJ performed a Phase I environmental site assessment for the subject parcel and they found many above ground storage tanks, but there was no indication of any underground tanks. She noted that the report also indicated there was no evidence of any land contamination. Engineer

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Schwenker stated any demolition will be done in accordance with all local and state regulations and noted the applicant is willing to perform any remediation if necessary.

Mr. Feinberg commented that the pond on the property may be contaminated due to the abandoned vehicles and other debris in this area which he noticed while on the site walk for this application. Mr. Kneski added that he believes there needs to be additional soil testing performed on the site for contaminants. Attorney Peck indicated it is in the applicant's best interest to proceed cautiously because they are responsible for remediating any conditions. Mr. Weis asked if there is a jurisdictional issue here due to the fact that there is no Township Ordinance addressing this type of issue and remarked the matter is really State regulated. Attorney Peck commented that if there are any hazardous substances found on the property it will fall under NJDEP jurisdiction.

Chairman Reilly commented that based on the Board's agenda and the other business items that need to be addressed this evening, he would like to wrap up the public hearing on this application by 11:00 PM and asked all members of the public who wish to speak to be concise and noted that once everyone is heard additional comments can be made if need be. He noted the Township Historic Preservation Committee had requested time to make a Power Point presentation and the Board and the applicant's Attorney have been provided with hard copies of two presentations from them so the actual computer presentation will not be necessary. Chairman Reilly remarked that the Planning Board has no jurisdiction to halt the demolition of the structures on the Stahl property and he added there are also no zoning prohibitions on this issue either. He suggested the Historic Committee return to the Planning Board in January or February to address this matter in general since there is no means of protecting the structures under the Township's current zoning. Attorney Norman added that there was a public comment period on this application last month and reminded everyone that if they spoke then, their comments are already part of the record and they need not repeat themselves.

Ms. Glashoff asked for clarification on the truck traffic to the site during construction. Skip West came forward and indicated that they intend to travel down Route 202 to Toad Lane to the site. He stated he expects 4-6 tractor trailers making deliveries to the site each day. It was noted that the solar modules will be delivered by large tractor trailers (about 500 modules per truck). He stated it will take approximately 40,000 modules to develop the site and then smaller flatbed trucks will deliver the other components and materials to the site. He estimated the initial module delivery will take 6 weeks to deliver.

A motion by Gail Glashoff, seconded by Linda Lenox to open to the public was unanimously approved. Attorney Norman noted for the record that the public comment began at 8:57 PM.

Barbara Sageser of 15 Welisewitz Road came forward as Chair of the Historic Preservation Committee along with Frances Gavigan of 123 Wertsville Road who indicated she is also a member of the Historic Committee. Ms. Gavigan commented that they reviewed the application from the perspective of whether or not it complies with the Township's Ordinance and she indicated they believe it does not. She noted they took photographs of the subject site from various locations and remarked the site needs to be shielded from any "Historic District, houses and eligible properties" and stated that page 1 of her presentation hand out depicts the historic district coming right up to the subject property. She also noted the Black River and Western Railroad runs along this site and she referenced other historic properties in the surrounding area. Ms. Sageser referred to other pages in the presentation noting that the applicant's photo simulations are not accurate because of the actual contour of the land. She explained that if the proposed trees are 7' at planting, they will not provide adequate buffering. Ms. Gavigan also cited that the

Renewable Energy Ordinance requires that any resulting glare shall not be visible from adjoining residential uses or zones. She indicated the applicant did not provide any testimony on glare.

Planner Slagle clarified that Ms. Gavigan's copy of the Ordinance came from the Township's website which has not been updated with the most recent adopted version of the Ordinance. She stated section 92-100:B5 currently reads, "...major solar and photovoltaic energy facility applicants shall submit a landscaping plan conforming to the requirements of our section 92-46 'Buffers and Landscaping' and subject further to requirements set forth herein below subsection A: ...safety fencing or a barrier fence shall be installed behind the required landscaping at a height of 8' or as approved by the Township Engineer. Subsection B: ...to the greatest extent possible applicants shall use natural topography and existing vegetation to screen the facility and structures from public view and the view of adjoining uses. Subsection C: ...a visually impenetrable landscape buffer shall be installed outside the fence, around the facility to shield the facility and all related accessory structures and parking areas from public view and the view of adjoining uses. A vegetative buffer not less than 50' in width shall be provided which may consist of existing vegetation, new plantings or a combination thereof providing year round screening. The buffer shall include native evergreens and deciduous trees at least 8' – 10' in height at time of planting, planted 10' on center in staggered double rows."

Ms. Sageser argued that the language indicating solar sites must be shielded from any "Historic District, houses and eligible properties" is still contained in the Ordinance and she pointed out that the railroad bridge is a registered historic site. Ms. Sageser expressed appreciation for the Ordinance protecting the views and stated she didn't believe the Board ever took into consideration the possibility of structures being demolished for solar installation and asked them to consider the importance of the farming soils and the historic resources that should be left intact for future generations. Ms. Gavigan added that retaining agricultural uses is part of the Township's "core concepts" and she reminded the Board that this application is proposing to take the land out of agricultural use.

John Seramba of 111 John Ringo Road came forward. Attorney Norman noted he was still under oath because he provided testimony at last month's meeting. Mr. Seramba expressed concern over the existing driveway easement being used as an emergency access because there is a safety issue. He stated there have been two fatalities at that location over the past 10 years and suggested the access to the site be off of Boss Road where traffic is limited. He commented on people speeding on the County Roads. He added concerns regarding chemical runoff from the property and suggested the surrounding property owner's wells be tested prior to construction and then after construction to ensure there is no contamination from the metal posts that will be used to mount the solar panels. He asked about adequate insurance coverage by the applicant to cover any potential contamination issues. He asked if the property will be leased or purchased and what happens 20 years from now. He asked whether or not any chemical solvents will be used to clean the panels. He noted his main concern is with his well and septic. He stated, "The Stahl property as everyone knows many moons ago was looked at as a potential septic field for the Borough of *East Amwell Town* and I would really implore you to look at the environmental issues."

Diane Harrington of 110 Boss Road came forward. Attorney Norman noted she was still under oath because she provided testimony at last month's meeting. Ms. Harrington stated she attended a Township Committee meeting in August 2011 where Township Officials openly spoke about their fear of Mr. Stahl. She said, "They spoke nervously about who would deliver the summons regarding the illegal tree cutting...they described a sign that is located at his property stating 'trespassers will be shot survivors will be prosecuted.' They laughed about it but I find it to be pretty serious and it made me a little fearful since he is my neighbor and I am opposing what he is doing." Mr. Harrington indicated she believes it is

impossible to speak openly on an issue effecting Mr. Stahl with this concern and questioned whether or not the process of open public input has been compromised and whether or not the Board could vote objectively without fear of retaliation. Other issues expressed by Ms. Harrington included how many out of work residents will be employed by the proposed project, where are the solar panels manufactured and she remarked that the applicant's environmental impact statement was issued prior to the removal of 12 acres of trees so she believes it to be inaccurate. Ms. Harrington also commented on the negative impact to home values and stated that the applicant provided no testimony on this issue. She provided a printout from the home page of the NVT Licenses website depicting a large scale solar facility. Attorney Peck noted for the record that the photo is actually a 72 megawatt facility in Italy where the Ordinance requirements are likely quite different. Finally, Ms. Harrington stated that the language in the Ordinance is "uncompromising" and argued that "shall not be visible" means that one should not be able to see the solar panels and she stated this will not be the case from her property and then quoted from a NY Times article that referred to East Amwell as being a beautiful area.

Attorney Norman noted the following items will be marked as exhibits:

Exhibit O-1: Environmental presentation printouts from Frances Gavigan

Exhibit O-2: Historic presentation printouts from Frances Gavigan

Exhibit O-3: Ms. Harrington's NVT website printout of the solar facility in Italy

Ted Harrington of 110 Boss Road came forward. Attorney Norman swore him in and he expressed concern with the physical changes made to the Stahl property including the recently removed trees and asked how much disturbance is going to take place when the stumps are removed and he provided some statistics on the amount of cubic yards of soil that will need to be removed from the site to take care of the stumps and left over logs. Mr. Harrington remarked that all of the trenching needed to be done to install the solar will undoubtedly re-arrange prime farm soils. Attorney Peck commented that all of the stumps will be ground on site, not removed.

Charlie Sosino came forward and identified himself as Diane Harrington's brother. Attorney Norman noted he was still under oath because he provided testimony at last month's meeting. He commented on the NJ Energy Plan that was recently passed and stated that solar is overbuilt due to artificial subsidies. He gave statistics on the cost of power from the Governor's report saying, "Instead of selling power for \$50 a megawatt hour...we are going to pay an additional \$150 - \$600 for each SHREC (renewable energy credits) so you pay 10 times for the cost of solar power than you would for conventional power." He also quoted another section of the Governor's report saying, "Additionally the development of solar projects should not impact the preservation of open space and farmland." Mr. Sosino noted that SunEdison is an international company that has about 540 projects internationally and about 100 in NJ. He indicated he does not believe the application complies with the Township's Ordinance because of the amount of land that qualifies for farmland assessment and commented on other language in the Ordinance.

Eloise Carina of 100 Boss Road came forward. Attorney Norman swore her in and she expressed concern about the stormwater runoff being directed toward the railroad because her home is in that area and she noted the drainage is horrible. She asked if studies were conducted to determine whether or not the runoff will create further flooding issues. Ms. Carina questioned whether or not the proposed buffering will be adequate and she supported the previous suggestion to have neighboring wells tested for contamination by labs of the neighbors choosing and not by the applicant's people.

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Wayne Hunt of 5 Danbury Drive came forward. Attorney Norman swore him in and he expressed concern over what will be done with the unused acreage of farmland on the site. He commented that there has been no discussion on how this land will be maintained. He also remarked on the 2 principal use issue and said that all farms in this area have always had two uses: Farming and their homes. Mr. Hunt stated he would like to see the unused land continue to be farmed.

Tom Alfrey of 109 Boss Road came forward. Attorney Norman swore him in and he expressed concern over the proposed Boss Road access because the road is in need of maintenance now and will only get worse with additional traffic from the solar facility. He also expressed concern over the loss of value to his home due to all of the proposed solar in this area of the Township.

Bob O'Mara of 122 Boss Road came forward. Attorney Norman swore him in and he too expressed safety concerns over the use of Boss Road for the proposed solar facility. He commented on how impressed he has been with the way the community has been preserved with its rural character and now he is concerned with the direction the Township is going.

Frances Gavigan came forward again. She commented that the plans for this application have been revised several times and she is still concerned with flooding and runoff. She stated, "They have failed to demonstrate multiple times that they have done their homework." Ms. Gavigan remarked that the other solar developer presented a much better application. She commented that SunEdison has not addressed how their application is going to impact the Township's Master Plan. She commented that she doesn't believe this area to be suitable for solar because solar undermines the farmland. Ms. Gavigan noted there are unique burdens that the applicant should have to overcome to justify that the benefit of more SHREC's is more compelling than the negative impact on the area. She talked about soil piles and possible contamination and continued to stress the ongoing drainage problems in the area. Ms. Gavigan stated, "East Amwell is under attack to the greatest degree since the developers came over from Somerset County...the historic district, the potential for agri-tourism and the cluster of homes in this area are going to be ravaged." She noted the existing home and the dutch barn on the subject site could be carved out along with all of the steep sloped lands that aren't going to be used.

John Seramba came forward again. He commented on the possibility of the trees already removed from the Stahl property having factored into the 5% of project completion needed to qualify for the SHREC's.

Tom Alfrey came forward again. He remarked that grinding the stumps will be an issue because it will create unstable land.

Diane Harrington came forward again. She stated that Boss Road can't handle all of the potential dump truck traffic. She also noted that the Board should not vote on the application while she has a pending court date with the property owner regarding the tree removal. Attorney Norman indicated that unless there is an official court order "staying" matter, the Board has jurisdiction to move forward.

Noting no one else from the public wished to provide testimony a motion by Michael Weis, seconded by Gail Glashoff to close to the public was unanimously approved.

Chairman Reilly commented on the issue of utilizing Boss Road vs. John Ringo Road and he stated the testimony was clear that the existing easement/driveway will not be used during construction. The consensus of the Board was that the Boss Road access is safest to be used for maintenance issues after construction.

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After discussion by the Board the following items were noted as needing to be addressed by the applicant prior to the Board's 1/11/12 meeting:

1. Provide a designated truck route
2. Determine the amount of truck traffic that will be traveling to and from the site each day and at what times – establish a limit of daily truck deliveries (*4-6 was indicated at the meeting*) and establish an agreement for work to stop if traffic exceeds those limits
3. Investigate the impact of removing the large stand of trees on stormwater runoff
4. Establish Boss Road driveway as maintenance access, John Ringo Road as emergency access and Rosemont Ringoes Road as temporary construction access
5. Prohibit the use of toxic chemicals and fertilizers and/or other chemicals or compounds that could contaminate groundwater
6. Provide a detailed plan for handling the spoils from the concrete footings and fence posts with estimated quantities to be removed
7. Provide a plan for the removal of the existing tree stumps addressing the soil disturbance and the integrity of the area for solar installation and provide calculations of estimated quantities of material to be removed
8. Perform ground water/pond(s) and soil testing on Stahl site to determine whether or not contamination has occurred
9. Provide details of the helical post material
10. Establish an amount of concrete footings that can be installed (*5% or 216 footings was suggested at the meeting*)
11. Note installation of “Jersey Barrier” across the existing John Ringo Road driveway during construction
12. Prior to issuance of a C.O. a landscaping inspection will be conducted to ensure adequate landscape buffering, which may require additional landscape materials at strategic locations
13. Provide an as-built plan for any concrete footings installed on the site
14. Determine an amount of trees previously designated to be used for the landscape buffer along the Boss Road access that will be given to the property owners to plant on their individual properties for enhanced personal screening in this specific area
15. Provide a revised landscape plan showing 10' trees in the third (*inner*) row of the buffer along Boss Road
16. Produce video and photo documentation of roadways to be utilized for truck route to ensure any damages are addressed (*post developers guarantee?*)
17. Provide a maintenance plan for the remaining 70 acres of unused land which may include an annual winter mowing to inhibit invasive species growth and the planting of native grasses
18. Establish guidelines for the temporary wind shield fencing (*color and material*)
19. Provide a detailed construction sequencing plan
20. Address any outstanding items contained in the Professional's review memos

It was noted for the record that Mr. Wolfgang left the meeting at 10:39 PM.

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Chairman Reilly addressed Ms. Harrington's concern regarding the fear she has for the property owner. He stated that he is not intimidated by the property owner and indicated many people on the Board likely don't even know him. Chairman Reilly commented that fearing him is not a relevant issue or concern of the Planning Board. Mr. Gardner agreed with Chairman's Reilly sentiment.

There was some discussion on whether or not the Board should request the existing structures on the site be saved. Attorney Peck commented that subdividing the land is not feasible and allowing the structures to stay would throw the application back to the Board of Adjustment for the dual use issue. Planner Slagle agreed.

Attorney Peck granted the Board an extension of time to hear the public hearing and carry the meeting to the Planning Board's 1/11/12 agenda. A motion by Gail Glashoff, seconded by Linda Lenox to carry the NVT Licenses, LLC application to the 1/11/12 Planning Board agenda was unanimously approved.

It was noted for the record that Attorney Norman and Engineer O'Neal were excused from the meeting at 11:20 PM.

The Board took a brief recess from 11:20 PM – 11:25 PM.

It was noted for the record that Mr. Feinberg left the meeting at 11:26 PM.

Mr. Gilbert returned to the dais at this time.

Discussion: 2012 PB Budget Request

After review and discussion of the Planning Board's budget, it was noted that the 2012 requested budget will remain the same as what was requested for 2011: \$34,400.00

Oral Reports

It was noted for the record that no oral reports were provided.

Correspondence

It was noted for the record that no comments were made on any of the correspondence listed on the agenda.

Open to the Public

Chairman Reilly opened the floor to public comment. Seeing no one come forward, a motion by Fred Gardner, seconded by Rob Gilbert to close to the public was unanimously approved.

Presentation of Vouchers

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

Adjournment

Chairman Reilly adjourned the meeting at 11:36 PM.

Maria Andrews, Administrative Officer