

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
Reorganization Meeting - January 11, 2012

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on January 11, 2012 at 7:30 PM. The following notice was read, "In compliance with the Open Public Meetings Act, this is a regularly scheduled meeting and reorganization 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 January 5, 2012."

Present: Fred Gardner
Rob Gilbert
Gail Glashoff
Don Reilly
Dart Sageser
Joe Wolfgang
Roger DeLay
Attorney Norman
Engineer O'Neal
Planner Slagle

Excused: Linda Lenox
Michael Weis
Edward Feinberg

New Business – Reorganization

Ms. Andrews asked for nominations for the Board's Chair. A motion by Gail Glashoff, seconded by Rob Gilbert to nominate Don Reilly as the Board Chair was made. Hearing no other nominations, a motion by Roger DeLay, seconded by Dart Sageser to close the nominations was unanimously approved. The Board unanimously approved Mr. Reilly's nomination and congratulated him. Chairman Reilly took over the meeting.

Chairman Reilly asked for nominations for the Board's Vice Chair. A motion by Fred Gardner, seconded by Dart Sageser to nominate Rob Gilbert as the Board's Vice Chair was made. Hearing no other nominations, a motion by Dart Sageser, seconded by Gail Glashoff to close the nominations was unanimously approved. The Board congratulated Mr. Gilbert.

The Application Review Committee (ARC) will be chaired by Michael Weis. Fred Gardner will be Vice Chair with Gail Glashoff and Dart Sageser also serving on the Committee.

A motion by Fred Gardner, seconded by Gail Glashoff to appoint Maria Andrews as the Board's Administrative Officer was unanimously approved.

A motion by Gail Glashoff, seconded by Rob Gilbert to appoint Chris Norman as the Board's Attorney and to approve his contract and the related resolution was unanimously approved. Attorney Norman noted that his contract was the same as last year.

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A motion by Dart Sageser, seconded by Fred Gardner to appoint Frank Banisch as the Board's Planner and to approve his contract and the related resolution was unanimously approved.

A motion by Fred Gardner, seconded by Rob Gilbert to appoint Dennis O'Neal as the Board's Engineer and to approve his contract and the related resolution was unanimously approved.

A motion by Rob Gilbert, seconded by Gail Glashoff to adopt the Robert's Rules of Order was unanimously approved. It was noted that the Board reserves the right to recognize members of the public during public discussion when the Board believes there is a need to do so.

A motion by Dart Sageser, seconded by Rob Gilbert to approve the Board's 2012 meeting schedule was unanimously approved. It was noted the Planning Board will meet the second Wednesday of each month at 7:30 PM.

Agenda Review

Chairman Reilly noted that the NVT Licenses solar application will not be heard this evening due to a conflict with the Board's Engineer regarding survey work that was performed by his firm. Chairman Reilly commented that the Board will be contracting with a different Engineer to perform the review work which must be re-done. Attorney Norman added that the decisional law regarding conflicts of interest is quite clear and if one is found it voids the entire proceedings therefore NVT will need to essentially start over and provide new application materials and provide new notice to the public and the newspaper. Chairman Reilly remarked that NVT has requested to be back on the Board's 2/8/12 agenda to present a new public hearing.

Citizens Privilege to Speak on Items Not on the Agenda

Chairman Reilly opened the floor to public comment. Frances Gavigan of 123 Wertsville Road came forward and questioned Engineer O'Neal's involvement in the other solar application that was approved by the Board and then provided anecdotes on her own personal experience with conflicts of interest.

Toni Robbi of 144 Lambertville-Rocktown Road came forward and asked if Engineer O'Neal was on the site walk for the NVT application and asked if the new Engineer will perform a site walk. Chairman Reilly commented that the Board will be addressing the matter of contracting with a new Engineer for this application.

Engineer O'Neal clarified that the 2 surveys that were prepared for the Everitt property and the Stahl property were done by his employer Ferriero Engineering in Chester, NJ prior to him becoming an employee there. He indicated that the conflict arose when the applicant for the Stahl solar project asked Ferriero Engineering to update the survey to show the recently cleared trees. He noted that it was that revision that triggered the conflict and stated that there were no revisions made to the Everitt property survey so there is no conflict with that application.

Joanne Chesar of 4 Garboski Road came forward and asked if she could film the Planning Board meetings. Chairman Reilly said yes and Attorney Norman agreed explaining filming is allowed as long as it doesn't interfere with the applicant's presentation of testimony.

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Frances Gavigan of 123 Wertsville Road came forward again. She questioned whether or not she will be allowed to present the Power Point presentation she had prepared for the Planning Board's last meeting. Chairman Reilly and Attorney Norman noted that new testimony will have to be presented since this matter will be considered a new application. Chairman Reilly encouraged the presentation of concise testimony. Attorney Norman commented that the Board has an interest in running an efficient hearing and accepting a printed version of the Power Point presentation is more beneficial since the document can be marked as an official exhibit. Chairman Reilly suggested that Ms. Gavigan provide the presentation at her Historic Preservation meeting if the public is interested in viewing it.

Mr. Sageser commented that he supported the Historic Preservation Committee and the Environmental Commission and any other advisory Board/Committee/Commission being allowed the courtesy of showing their information in the format in which they prepare it. Chairman Reilly remarked that the Planning Board has never viewed a Power Point presentation during a public hearing. Mr. DeLay asked if the Historic Committee could show their presentation prior to the Planning Board's meeting or at another time. Attorney Norman noted that the Historic Preservation Committee can certainly conduct their own meeting and do their own Power Point presentation and then provide a report or minutes to be entered into the Planning Board record.

Tom Alfrey of 109 Boss Road came forward and asked Attorney Norman to define jurisdiction. Attorney Norman explained that the word jurisdiction is a legal term that has many meanings. He stated that the general context is that if the Board does not have jurisdiction, it means that the Board does not have power or authority to act on a matter. Chairman Reilly noted that he believes the confusion lies in the fact that while the Planning Board is involved in the creation of Ordinances, the Board cannot enforce them because the Planning Board is not an enforcing authority. Attorney Norman further explained that the other definition of jurisdiction is not having authority under the Municipal Land Use Law (MLUL) in the context of a conflict of interest and once a conflict is found the Board no longer has jurisdiction over the matter.

Diane Harrington of 110 Boss Road came forward and expressed support for Ms. Gavigan being allowed to show her Power Point presentation alluding to her belief that the public comment was cut short at last month's Planning Board meeting. Attorney Norman commented that this issue is not a matter of the Board suppressing information and explained that one of the jobs of the Chairman is to run an efficient meeting allowing the applicant, the public and the Board members sufficient time to present their testimony and deliberate on the application. Chairman Reilly further clarified that the Power Point printout was provided to the Board and marked as an Exhibit and a thorough summation of it was presented by Ms. Gavigan.

There was some discussion between Chairman Reilly and Ms. Harrington regarding her claim that the public was told they were only allowed 3 minutes to speak at last month's Planning Board meeting. Chairman Reilly noted that the Board gave everyone an opportunity to speak multiple times and no one was actually limited to 3 minutes. He also clarified that the open to the public portion of the meeting was not closed to the public until no else came forward indicating they had anything else to say and he complimented the public on the tremendous job they did presenting information to the Board in a concise and effective fashion.

Joanne Chesar of 4 Garboski Road came forward again and also expressed support for Ms. Gavigan being allowed to present her Power Point presentation.

Seeing no other members of the public come forward, a motion by Fred Gardner, seconded by Roger DeLay to close to the public was unanimously approved.

Approval of Minutes

A motion by Gail Glashoff, seconded by Rob Gilbert to approve the Board's 12/14/11 minutes with no revisions noted was unanimously approved.

New Business – Other

Adopt Goals/Priorities for 2012

Planner Slagle provided an overview of the Board's 2011 Goals/Priorities and then suggested some for 2012. The following list of Goals/Priorities was noted for 2012:

- Review of the draft State Strategic Plan
- Master Plan Re-examination Report
- Minor Ordinance revisions including a definition for corner lots
- Continued review on the Tree Harvesting Ordinance
- Continued review on the Renewable Energy Ordinance
- AVAD design standards
- Review of a Historic Preservation Ordinance
- Creating separate checklists for both preliminary and final subdivision approval

Selection/Appointment of Ad Hoc Committees/Representatives

- Gail Glashoff will be the representative for the Agricultural Advisory Committee
- Dart Sageser will be the representative for the Environmental Commission
- Fred Gardner will be the representative for the Farmland and Open Space Preservation Committee
- Roger DeLay will be the representative for the Wastewater Management Committee

Motion: Deny without Prejudice – Dr. J. Dilts House – B:16 L:1 – Site Plan Approval – 1084 Old York Road

Chairman Reilly commented that he believes the applicant's have resolved the prior issues with the County and stated that he is not sure why they are not moving forward with the application. It was noted that the application has been carried/extended for a year and it is not practical to continue to do so.

A motion by Fred Gardner, seconded by Gail Glashoff to deny the Dr. J. Dilts House site plan application without prejudice was unanimously approved by roll call vote.

Roll Call Vote: Fred Gardner: Yes, Gail Glashoff: Yes, Rob Gilbert: Yes, Don Reilly: Yes, Dart Sageser: Yes, Joe Wolfgang: Yes, Roger DeLay: Yes.

Completeness Determination: Final Major Subdivision Approval – Thompson Realty of Princeton, Inc. B:17 L:32 (Back Brook Road)

Planner Slagle explained that this applicant received preliminary subdivision approval in 2006 for a 6 lot subdivision off of back Brook Road under the lot averaging provision in the Ordinance and was subject to a list of conditions. She referred to the joint review memo done by her and Engineer O'Neal which listed some waiver requests for various checklist items and she indicated that they find the waivers to be consistent with the nature of the application and the information submitted with the application is sufficient to recommend the Planning Board deem the application complete.

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A motion by Fred Gardner, seconded by Roger DeLay to deem the Thompson application complete for Final Major Subdivision approval was unanimously approved by roll call vote.

Roll Call Vote: Fred Gardner: Yes, Roger DeLay: Yes, Rob Gilbert: Yes, Gail Glashoff: Yes, Don Reilly: Yes, Dart Sageser: 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

Chairman Reilly noted that the public hearing on this matter will not be taking place as he previously stated and added that the Board needs to hire another Engineer to conduct a review of the application. Planner Slagle suggested Tom Decker of Van Cleef Engineering be considered as the Board's Conflict Engineer. She noted he has extensive experience with solar applications in Kingwood Township and would be a good fit. Planner Slagle noted she had reached out to him this afternoon to make sure he was available for our meeting nights and also to see if there were any conflicts with the applicant and she indicated there are no issues with appointing him. Ms. Andrews commented that his rates are comparable to Engineer O'Neal's.

A motion by Gail Glashoff, seconded by Dart Sageser to recommend Tom Decker of Van Cleef Engineering be hired as the Conflict Engineer for the NVT Solar application was unanimously approved by roll call vote.

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

It was noted that a Resolution to approve Mr. Decker's contract will be listed on next month's agenda for approval and Chairman Reilly had the support of the Board to sign the contract before hand provided that Mr. Decker's rates are comparable to Engineer O'Neal's.

Open to the Public

A motion by Rob Gilbert, seconded by Roger DeLay to open to the public was unanimously approved. Frances Gavigan of 123 Wertsville Road came forward again and asked if entirely new application materials will be submitted by NVT. Attorney Norman explained that they will likely submit the last revised plans as if they were new plans. Ms. Gavigan also commented that it would be a public service to provide digital copies of the NVT site plans on the Township website.

Seeing no other members of the public come forward, a motion by Gail Glashoff, seconded by Dart Sageser to close to the public was unanimously approved.

Oral Reports

FOSPC: – Mr. Gardner reported that a small number of projects are in process and he noted two larger major preservation projects were recently completed at no cost to the Township with a third one on the way.

Agricultural Advisory Committee: No report was given.

Environmental Commission: No report was given.

Wastewater Management: No report was given.

PB Secretary: No report was given.

Chairman: No report was given.

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Open to the Public

Chairman Reilly opened the floor to public comment. Frances Gavigan of 123 Wertsville Road came forward again and commented that she attended the FOSPC meeting last Monday. She indicated one of the issues that came up was how allocated money for preserving land often gets caught up in red tape by banks and mortgage paperwork. She encouraged the Board to talk to the Department of Agricultural on their unwillingness to accept alternative language in the deeds which would allow the Township to receive their funding on properties like Scibilia's. Mr. Gardner added that FOSPC is hopeful they will find a way to get financing for preservation in cases where old mortgages cannot be tracked.

Seeing no other members of the Board come forward, a motion by Roger DeLay, seconded by Dart Sageser to close to the public was unanimously approved.

Adjournment

Chairman Reilly adjourned the meeting at 9:00 AM.

Maria Andrews, Administrative Officer