EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
December 12, 2012 – Regular Meeting

Call to Order, Attendance and Pledge of Allegiance
This meeting of the East Amwell Planning Board was opened on December 12, 2012 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 19, 2012 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 5, 2012."

Present: Roger DeLay
Fred Gardner
Rob Gilbert
Gail Glashoff
Linda Lenox
Don Reilly, Chairman
Dart Sageser
Joe Wolfgang
Gail Skupien – Alt. #2
Attorney Norman
Engineer O'Neal
Planner Banisch

Excused: Edward Feinberg – Alt. #1

Citizens' Privilege to Speak on Items not on the Agenda
It was noted for the record that no members of the public came forward to speak.

Review of Minutes
A motion was made by Mr. Gardner and seconded by Mr. Glashoff to approve the Board's minutes from 11/14/12 with Mr. DeLay and Mr. Gilbert abstaining.

New Business – Other
Public Hearing – Steve Lang: Preliminary Major Subdivision Approval – Block 8 Lot 10: 1127 Old York Road, Ringoes, NJ 08551
As the Planner had not yet arrived Chairman Reilly asked if the Board could move to the next agenda item if the applicant did not object. Mr. Steven Gruenberg, attorney for the applicant, had no objection.

Planning Board 2013 Budget
Chairman Reilly referred to the note from the Planning Board Administrator that the same budget as 2012 was submitted for 2013. He has a memo from Planner Joanna Slagle detailing issues for next year which he will forward to the Board. Chairman Reilly said the Master Plan reexamination is required to be done next year. The AVAD design standards need to be completed; Planner Slagle suggested this could be completed with the reexamination. There will be miscellaneous ordinance revisions but nothing major.

Public Hearing – Steve Lang: Preliminary Major Subdivision Approval – Block 8 Lot 10: 1127 Old York Road, Ringoes, NJ 08551

Chairman Reilly explained the procedure for the members of the public present including verifying proper notice has been made, Township engineer review of application, applicant presentation, public comment and the Board discussion of the application after public comments.

Mr. Steven Gruenberg, attorney with Scholl, Whittlesey & Gruenberg, introduced himself. He represents the applicant, Steve Lang. He provided proof of notice; Attorney Norman confirmed that he reviewed the notices and all were provided per the ordinance. Attorney Gruenberg explained that the property has frontage and is located in the Amwell Valley Agricultural District. They are seeking preliminary major subdivision approval as well as two planning variances under NJSA40:55D-35 & 36 because two of the lots do not front onto a public road; relief is also needed from East Amwell Ordinance 92-58B for the same reason. A common driveway is proposed rather than a public road as requested by the ARC Committee. A conforming plan with a public road was submitted; both that plan and the common driveway plan will be presented this evening.

There are two existing single family dwellings and an accessory structure on the property. The proposal is to put each of the single family dwellings on their own lot, making it more conforming, and, in addition, to create four new residential lots. Thirty acres will remain deed restricted for agricultural purposes.

Planner Banisch inquired about the labeling of one of the drawings as a conventional plan; he believed that would have been a large lot plan. Engineer O'Neal referred to sheet 14 labeled "conventional lot layout" which showed the cul-de-sac and was the conforming plan. Attorney Gruenberg clarified that the plan was mislabeled as it is not a "conventional layout plan" and should be instead called a "fully conforming open space plan". It was confirmed that that ordinance does not require a conventional layout plan be provided; it only suggests it be provided.

Chairman Reilly confirmed with Attorney Gruenberg that the property could successfully be subdivided into four lots.

Attorney Norman swore in Engineer Eric Rupnarain, PE. Attorney Gruenberg qualified Mr. Rupnarain as an expert and noted that he has appeared before this Board in the past.

Engineer Rupnarain went over sheet #3 of the plans. The property has frontage on Boss and Old York Road. There is an existing stream on the property which flows in a northeasterly direction; the property drains towards the stream then northeast offsite. Sheet #4 of the plans depicts the cul-de-sac; it utilizes the open land ratio. There would be a new public road which would intersect with Boss Rd. The four new lots and open lands lot would have access and frontage on the new road. This development was fully conforming.

The second drawing depicts the common driveway option. This option was recommended by the ARC because the cul-de-sac would have to be dedicated and maintained by the Township. Attorney Gruenberg noted that it would also create a new road rather than maintain the rural character of Boss Rd. Engineer Rupnarain said the driveway would be mostly gravel with a portion paved. It was noted a common driveway is more beneficial to that type of neighborhood.

The third map is on sheet #5; this is the actual development proposal. The two existing dwellings will remain where they are. The cul-de-sac is eliminated and there will be a common driveway with an intersection on Boss Rd. that will have access to the new lots and open space. A variance is not required;

a waiver will be required. Relief will be needed for the three lots that do not have frontage on a public road as the State statue and Township ordinance require this frontage.

Engineer Rupnarain explained that residential site improvement standards have been utilized for the common driveway. These standards govern all residential developments in New Jersey. Slope requirements are being met; the common driveway will not be too steep or too flat to allow runoff; the first fifty feet of the driveway will be paved and the remainder will be gravel. If the entire driveway was paved it would conform. There will be a water storage tank installed along the common driveway with a pull off area adjacent to the tank. Emergency vehicles will be able to turn around in the individual driveways. The driveway will be fourteen feet wide.

Attorney Gruenberg asked Engineer Rupnarain if there were any concerns for emergency vehicles. Engineer Rupnarain replied at this point no; if the driveway was paved it would not be an issue in providing access to any of the properties. The driveway will be an enhanced gravel driveway.

Engineer Rupnarain explained the layout of the property. There are four new lots that are being proposed for residential construction. Three of the lots (10.06, 10.10 and 10.11) are smaller conventional lots that per the East Amwell ordinance are at least 1.5 acres, a minimum lot width of 150 feet and a minimum lot depth of 200 feet. The three new lots are all fully conforming to the ordinance requirements. Setback requirements will be met. The final lot for construction will be the open lands lot which contains wetlands, small areas of floodplains, and existing steep slopes. As required by the ordinance storm water management for this site and the proposed detention basin will be constructed on this open lands parcel. There will be an easement area for the storm water discharge pipe. The ordinance for the open lands ratio does not require these areas to be included in the calculations as far as the unconstrained area is concerned. Sheet #5 includes calculations to show how they arrived at the 75% open land; 65% is the minimum unconstrained lands allowed.

Attorney Gruenberg asked if all of the lots proposed, including the remainder lot, fully conform to East Amwell Township bulk standards. Engineer Rupnarain replied that this is correct. The open lands lot will maintain the two access points that currently exist on Boss Rd. The only deviation is for Lots 10.06, 10.10 and 10.11 as they will not have frontage to a public road.

Attorney Gruenberg said there was a comment from a Township professional that the open lands lot was a flag lot; that has been resolved as the open lands lot has frontage on both portions of Boss Rd. and is not a flag lot. Attorney Gruenberg inquired if a planning purpose is being served by the two existing homes being put on their own lots. Engineer Rupnarain replied that there are two separate residences with their own accessory structures and both residences are occupied. The application will create two new lots with each lot having one residence. He indicated this was a good plan to separate the lots.

Attorney Gruenberg said the ordinance allows a new dwelling on the open lands area which would have a two acre exception area. Engineer Rupnarain confirmed that this was correct. He explained that the location of the new dwellings on lots 10.06, 10.10 and 10.11 are pretty much set due to the size of the property and location of the septic systems; there is some flexibility where the dwelling can be placed but not much movement is available. On the open space lands there is over thirty acres so there are many locations where the dwelling can go. Once there is a determination where the dwelling will go the two acre exception will be shown on future drawings.

Attorney Gruenberg addressed the Board experts' reports highlighting items that need discussion.

The first item addressed was the memo from Engineer O'Neal dated December 5, 1012 (which is attached), #3 on page 2 regarding the exception area. Engineer Rupnarain explained that the two acre

exception area for the house, septic system, and reserve area of the open lands area was not shown on the plan. Attorney Gruenberg explained that he had discussed relocating the proposed dwelling in the open space lands with Planner Banisch to make it more conducive to agricultural uses. The report indicated the recommendation that the dwelling be moved closer to where the other residences are located to maintain the openness of the field. The primary septic and reserve septic areas have already been tested for this proposed dwelling. Another area was proposed by Planner Banisch which would allow the original well and septic area to be used but it moves the house close to the cemetery and two existing residences. The applicant would prefer to relocate the home closer to the proposed new residences as it minimizes any impact upon existing neighbors and makes the project more attractive as the new house will be further from the cemetery. Attorney Gruenberg asked Engineer Rupnarain if, subject to the additional testing, that was an appropriate location for the new dwelling and if a two acre exception area could be located there. Engineer Rupnarain replied that the two acre exception area could be adjacent to the new proposed lots; the exception area is essentially the same size as the other lots being proposed and same configuration. Passing tests for primary and reserve septic areas would be required.

There was a discussion with the Board on this item. Attorney Gruenberg said he would prefer to provide the Board with a plan that is subject to the testing; if the testing is not successful then he would come back before the Board as that condition would not be satisfied.

Mr. Gardner addressed that an additional benefit of the location of this home would be a less cumbersome driveway extension.

This location was further discussed including possible steep slopes which could be worked around. It was noted there was a trench cut through the field in a northeast to southeast direction for around 100 feet; this could be resolved.

Attorney Gruenberg referred back to the December 5, 2012 memo as follows:

The notations for #4, 5, 6 and 7 can be made.
8. *An easement should be executed for the common driveway.* The easement for the common driveway can be a condition of approval.
9. The bulk requirements for Lot 10.09 will be added; it was noted that it is not a flag lot.
10. All information will be provided.
11. *The available and required sight distance on Boss Road should be shown in the plan.* The full requirement for sight distance is provided.
12. This will be done.
13. *The applicant should provide documentation that the township tax assessor approved the proposed lot numbers.* Engineer Rupnarain believes this was done; he will submit it if it has not been done.
14. *We recommend that the applicant meet with the Amwell Valley Fire Company and discuss the access to the site with them. A written record of the results of the meeting should be presented to the Planning Board.* Engineer Rupnarain will meet with the fire company on this submission; contact was made a while ago.
15, 16, 17, 18, 19 & 20 will all be provided.
21. The deed restriction will be done by Attorney Gruenberg as a condition of approval.
22. Information will be provided.
23, 24, 25, 26 will be done.
27. *The applicant should provide written confirmation from DRCC that the project is outside their Review Zone B.* Engineer Rupnarain explained that the project is outside of the 1000ft. zone but it is within the one mile B zone. Chairman Reilly noted that this is significant and a letter from DRCC is needed. Attorney Gruenberg said if the letter is not available now it will be a condition of approval. Chairman Reilly said from the website it appears it is in the zone but it is not clear.

28. *The applicant should provide a valid NJDEP LOI for the site.* Attorney Gruenberg believes that this is covered under the permit extension act.
29. *Any approval should be conditioned upon the applicant executing a Developer's Agreement, posting an inspection escrow, and posting a performance bond for the site improvements required by the board.* This will be done.

This concludes the comments outlined in the December 5, 2012 letter.

Engineer O'Neal addressed the December 28, 2011 report which specifically addresses the mathematics of the subdivision and storm water. Attorney Gruenberg said all the items will be done.

Ms. Glashoff inquired if #14 on the December 5, 2012 letter regarding the Amwell Valley Fire Company was going to be a condition of approval. Chairman Reilly said that typically applicants have met with the fire company before coming before the Board. Attorney Gruenberg said he will come back to the Board with all the comments addressed; he was unsure if there would be time to meet with the fire company before the January meeting. Chairman Reilly strongly recommends that they try to meet with the fire company prior to coming back to the Planning Board but recognizes there may be conditions of approval for items that won't be completed.

Attorney Gruenberg referred to the comments in the Memo from Planner Joanna Slagle dated December 6, 2012, (a copy of which is attached).

6. This item confirms the testimony already covered on how the open space is calculated.
7. and 8 are the same as 6.
9. Does not apply.
10. This will be provided through Mr. Lang's testimony.
11. This item regarding relocating the house was discussed earlier.
12. This item will be provided in Mr. Lang's testimony.
13. This is a recommendation about the fire company; it will be done.
14. *The applicant should provide a maintenance agreement for the common driveway.* This item will be addressed through the recommendation for a homeowner's association.
15. The applicant agreed to provide a landscaping plan to the satisfaction of the Board Planner. Attorney Gruenberg believes enough detailed information has been provided for the proposed landscaping; he noted there are good suggestions in the letter.
16, 17 and 18 These will all be provided in testimony from Mr. Lang.

Chairman Reilly asked the Board if they had any questions.

Mr. Sageser noted Lot 10 has the ownership of the common driveway. He is looking for confidence that the common driveway is a responsibility for everyone and how that will be enforced. Attorney Gruenberg replied that because of the detention basin they are required to have a homeowner's association. Since that needs to be done anyway it becomes an easy resolution of a common driveway. There will be easement documents that will provide the right of ingress and egress over the common driveway on all of the properties. Attorney Gruenberg said the homeowner's maintenance document will provide for maintenance of the detention basin and the common driveway area. Mr. Sageser would like to make sure of the practical implications of the driveway and referenced the Environmental Commission's study on easements in the Township. Attorney Gruenberg said that a cul-de-sac would solve the issue of homeowners and a common driveway but it's very expensive. Chairman Reilly noted that the common driveways in the township do not have delineated and clearly spelled out agreements. Mr. Sageser agreed; he did not want a cul-de-sac and believes the shared driveway is a much better plan. He explained that the

other lots could have easily “split” the driveway; he said he is not criticizing the plan. Attorney Gruenberg referred to the plans; the land being referred to near the cemetery was designed for farm vehicles.

A discussion of what the open space lands will be used for took place. Attorney Gruenberg said the hope is that it would be farmed. He was asked what the motivation would be and replied farmland assessment. The ideal situation would be to have an onsite manager of farming activities. He believes this will be best addressed by the property owner. Chairman Reilly spoke of trying to determine what the likely impacts will be; he thinks the open space benefits are proving themselves but there may be some other aspects. Attorney Gruenberg noted that the association documents will be recorded in the County Clerk’s office for future home buyers to be made aware of them. Ms. Glashoff inquired about the Right to Farm; that will also be included for the open space portion.

Chairman Reilly asked if there were any other questions; hearing none he asked if there would be other testimony.

The property owner; Mr. Lang, was sworn in. Attorney Gruenberg asked Mr. Lang if he was the purchaser under contract for these properties; Mr. Lang replied that he was. Attorney Gruenberg asked Mr. Lang’s intention. Mr. Lang hopes to maintain the agricultural use of the thirty acre parcel. The smaller lots would be for homeowners. Attorney Gruenberg said that we have heard the Board’s concerns regarding the viability of agriculture and the proposed dwelling in the center and that it would be better served if the dwelling was moved closer to a side lot. He asked Mr. Lang if he understands that it is to promote agriculture. Mr. Lang replied of course, it currently has an agricultural use; he is not the person maintaining it. Attorney Gruenberg said the property is farmland assessed, it would serve the potential new owner of the property to maintain it in farmland assessment; Mr. Lang agreed.

Attorney Norman asked if the open space lot will be sold or leased once acquired and who will control it and maintain it for farming. Mr. Lang does not know but will assume that the buyer of the large parcel would be in control of it. Attorney Gruenberg said until it is sold Mr. Lang will do what he can to maintain the property in farmland assessment.

Mr. Gardner asked about enforcement of the maintenance; seventy-five percent of the land will remain an agricultural use per the ordinance but asked what would happen if it comes off agricultural use. Attorney Gruenberg replied that the property will be deed restricted preventing any other use other than a single family home and agriculture. It is restricted from further subdivision. The deed restriction is a major incentive to continue in agriculture; if the land is allowed to go fallow there is probably a financial penalty of roll back taxes being due and a higher tax assessment. Attorney Gruenberg is not aware if the owners can be compelled to stay in agriculture but there is a penalty if farmland assessment is lost.

Ms. Glashoff made a motion to open the meeting to the public. Ms. Lenox seconded the motion. All were in favor; the meeting was open to the public.

Dan Gartling, 15 Boss Rd., commented favorably on the views the new properties will have. Mr. Gartling was sworn in by Attorney Norman. He shared his concern regarding septic systems for the new home and the results of perc tests. He asked if the soil had passing perc tests and was advised that it did and it was pointed out on the map where the tests were done. Mr. Gartling commented that he is surprised; he was there when they dug the holes for the perc test and it is pretty wet there. He showed on the map where there are areas that get “really wet” during the wet season. He said you can hear the water running. He is concerned about the detention pond and was shown where it will be located. Mr. Gartling asked about perc tests; it was confirmed that perc tests were conducted in that area. Mr. Gartling shared that he gets a stream of water on his property; he is concerned about additional runoff. He inquired about the drainage pipe on the drawings and where it leads to on the drawings. He further discussed hearing water and went

over features of the property with the engineer. He reiterated that is it very, very wet in one location and that he can visually see water. He is concerned with the detention basin being full all the time and the soil percs. Attorney Gruenberg said that the houses will hopefully not be located there and they will be percolating to the left. Engineer Rupnarain said most of the time the basin will be dry.

Seeing no one coming forward Mr. DeLay made a motion to close to the public; Ms. Lenox seconded it. All were in favor; the meeting was closed to the public.

Attorney Gruenberg suggested the applicant come back at the January meeting. Alternate plans will be presented and he will do his best to meet with the fire company to address any of their concerns. Chairman Reilly thanked Attorney Gruenberg. It was noted this was a continuation of the hearing so notice of the next meeting will not be required; the next meeting is on January 9, 2013. Attorney Gruenberg will notify the Planning Board Administrator if they are not ready for January 9th; in that case the hearing will be continued to the Planning Board's February 13, 2013 meeting.

The applicant and his professionals left at this time (8:44PM).

Mr. Gardner said he understands the incentive for maintaining a lot of this sort and there are others in the Township. He explained that with preserved land under SADC there are requirements for mowing parts of the land not in active agriculture. He asked if there is a situation where there are not SADC regulations is there a way to insure the property is mowed at least once a year. Ms. Glashoff inquired about enforcement. Mr. Gardner mentioned how the Agricultural Advisory Committee was concerned about this at a recent meeting. Chairman Reilly appreciates it as an issue and thinks the Board should put this on the agenda at some point.

Oral Reports

Chairman -Chairman Reilly asked Attorney Norman to address a court ruling from today. Attorney Norman reported that there was an unpublished appellate court decision today regarding a helipad approval. A permit was granted from the State from an aeronautical prospective but the Town of Colt's Neck rejected the permit as the Zoning Board denied a variance for the use. There was a Supreme Court decision a few years ago that said that while the aeronautical statute does not preempt local zoning there is language referencing the State Supreme Court which says that when the State grants the licenses it looks at local concerns and at their hearings they are to take into consideration local zoning concerns. There is a footnote in the case that states the Zoning Board denial is on appeal and hasn't been decided yet. Chairman Reilly believes this is still development but wanted the Board to be aware. The Board briefly discussed this item and conditions that could be applied.

Attorney Norman, Engineer O'Neal and Planner Banisch left at this time (8:51PM).

FOSPC - Mr. Gardner reported that FOSPC met jointly with the Agricultural Advisory Committee this month to discuss the possibility of a combined forum in the spring.
Agricultural Advisory Committee – Ms. Glashoff reported on the joint meeting with FOSPC. The AAC will suggest possible speakers to FOSPC and they may meet with FOSPC in February.
Environmental Commission – Mr. Sageser reported that the Environmental Commission reviewed the zoning application for the Amwell Valley Rescue Squad expansion for any environmental impact; none could be observed. There was some concern about drainage; the commission recommended any parking lot work be done with porous paving. It was noted that the Zoning Board approved the application with conditions at their meeting last night.
Wastewater Management – No report.
PB Secretary – No report.

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

Open to the Public
It was noted for the record that there were no members of the public present at the meeting at this time.

Presentation of Vouchers
A motion by Gail Glashoff, 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 8:57 PM.

Respectfully submitted,

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Christine Rosikiewicz
Covering for Planning Board Administrator