

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
October 14, 2015 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on October 14, 2015 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 22, 2015 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 October 8, 2015."

Present: Roger DeLay
Fred Gardner
Rob Gilbert – *(arrived at 8:17 PM)*
Linda Lenox
Don Reilly, Chairman
Dart Sageser
David Wang-Iverson
Peter Kneski
John Buckwalter – *Alt. #1*
Dante DiPirro – *Alt. #2*
Attorney Chris Norman – *via speaker/cell phone*
Planner Joanna Slagle

Excused: Gail Glashoff

Citizens' Privilege to Speak on Items not on the Agenda

A motion by Peter Kneski, seconded by Linda Lenox to open to the public was unanimously approved. Seeing no members of the public come forward, a motion by Peter Kneski, seconded by Fred Gardner to close to the public was unanimously approved.

Review of Minutes

A motion by Dart Sageser, seconded by Linda Lenox to approve the Board's 9/9/15 minutes as revised was approved with Mr. DeLay abstaining.

New Business – Other

Discussion: Review of Amended Land Use Ordinance to Permit Golf Courses Certain Ancillary Uses

Planner Slagle explained that The Ridge at Back Brook asked the Planning Board to consider expanding the range of accessory uses allowed by golf courses to include tennis court facilities, swimming facilities and overnight accommodations. It was noted that the amended ordinance language will read as follows: "Golf Course/Club – A tract of land improved with 18 holes for playing the game of golf, and improved with tees, greens, fairways and hazards, practice facilities, and a clubhouse (which may include a dining room, a bar with club license if qualified, a pro shop, kitchen, locker rooms and administrative offices), as well as (i) structures for overnight accommodations for members and their guests, and (ii) swimming and tennis facilities as customary for use by members and their guests and customary accessory buildings and structures for the maintenance and operation of the facility."

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Section 92-91 B(9) subsection (c) will be amended to read as follows: “(c). The golf course/club shall be the sole principal use on the tract. In particular (and without limiting the foregoing provision), there shall be no residential uses on the tract, whether in conjunction with the golf course/club or otherwise, except for the ancillary use provided for in subsection (h) of this Section 92-91 B(9).”

Additionally, a new subsection (h) will be added to Section 92-91 B(9) to read as follows: “(h). ancillary uses may include a swimming pool and related facilities, tennis courts and related facilities and not more than (2) buildings to provide overnight accommodations for members and their guests, each such building not to exceed 6250 square feet of floor area and not to exceed four bedrooms and four bathrooms (sleeping accommodations for 8 persons per building). All such ancillary uses shall be located in reasonable proximity to the clubhouse and main parking lot and shall not require additional parking.”

Chairman Reilly explained the process will be for the Planning Board to adopt a resolution at next month’s meeting and forward it along to the Township Committee who will hold a public hearing to introduce the amended ordinance. It will then be sent back to the Planning Board for Master Plan consistency review and the Board will send it back to the Township Committee for adoption.

Mr. DiPirro expressed concern with the language in 92-91 B(9)(h), specifically the words, “ancillary uses may include...” he asked if “may include” is a subset of what is allowed and suggested the language should read, “ancillary uses are...” Planner Slagle clarified that the ancillary uses have been identified to include swimming pools and tennis courts specifically with the understanding that pool facilities usually have additional infrastructure that goes along with them like changing rooms which is why the language is left open.

Mr. Wang-Iverson indicated his interpretation of “may” is that it could include specific ancillary uses but may not necessarily include them.

Mr. Gardner suggested saying, “ancillary uses which are customarily related to a golf course facility may include...”

Mr. DiPirro suggested the Township Attorney review the language. Mr. Sageser remarked that there has already been application where the argument was presented that a helipad was a customary facility for golf courses. Chairman Reilly commented that no matter how the ordinance is written, if an applicant believes there is a customary use which has not been delineated, they have the right to come before the board and put forth the argument.

Mr. Sageser stated he doesn’t believe he has ever seen a specific square footage referenced in a zoning ordinance and questioned the value of noting one for the buildings for overnight accommodations. Mr. Kneski agreed and stated that 6250 sq. ft. is a big structure. Chairman Reilly indicated that the Township has regulated the maximum square footage of homes depending on various variables, specifically in the Sourland Mountain zone. Mr. Kneski commented that the ordinance regulates impervious coverage for the footprint of the house. Mr. Sageser stated that in this case he doesn’t know that there is much risk but he expressed if it were a broader zone he would be uncomfortable with encouraging anyone to build a 6250 sq. ft. structure. Planner Slagle remarked that a lot of time was spent discussing the square footage of the potential overnight accommodations at the last Planning Board meeting and that’s what The Ridge requested.

Chairman Reilly clarified that he believes the 6250 sq. ft. is really the limit of what they want to build and the Township doesn't have to be concerned about anything larger. Mr. Sageser commented that he would like to see smaller structures and believes that if the property owner builds 4 bedrooms and 4 bathrooms it will likely be smaller but questioned whether or not other amenities such as a meeting room will be included if they are allowed to build up to 6250 sq. ft. Mr. Kneski agreed and remarked that there was no testimony as to how they came up with that number and asked how the Planning Board can develop an ordinance based solely on information they presented. He suggested any issues with the language should be addressed at the Planning Board level before it gets sent to the Township Committee.

Chairman Reilly commented that he seems to be hearing something different than what was discussed at the Board's previous meeting. Mr. Kneski and Mr. Sageser questioned why there is a need to specify any square footage and said the size of the structure can be dealt with at a Planning Board meeting during site plan review. Chairman Reilly asked what the limiting factor is if nothing is specified. Mr. Sageser stated, "function" and clarified 8 bedrooms and 8 bathrooms. Mr. Gardner commented that Mr. Moore is very frugal and would not build anything vastly larger than what he needs.

Mr. DiPirro remarked that variances run with the land.

Mr. Delay asked where the 6250 sq. ft. came from. Planner Slagle indicated The Ridge's Attorney had sent a letter to the Planning Board which was discussed at last month's meeting and outlined what they were requesting.

Chairman Reilly stated he will speak with Attorney Norman and ask him to draft a resolution for the Planning Board to review at next month's meeting.

Discussion: Review of Amended Housing Plan Prepared by Planner Banisch

Chairman Reilly commented that Attorney Norman is able to participate in the Planning Board meeting via cell phone. He called him from his phone and put him on speaker for everyone to hear. It was noted for the record that Attorney Norman joined the meeting at 7:56 PM.

Planner Slagle explained that the Township is still moving forward on trying to develop the best plan to address the Township's COAH requirements. She said that the 12/8/15 deadline has not changed as of yet. Attorney Norman agreed that the Township needs to keep moving forward at this point and not count on any extension beyond December 8th.

Planner Slagle stated that Planner Banisch was at the meeting in August and presented a memo that identified the COAH requirements. She explained that the best approach is to use the 5:99 numbers which provides for a total of 84 units. The break down is 55 units from COAH's prior round obligation and 29 units for the Fair Share Housing obligation.

Planner Slagle remarked that at this stage they reviewed the certified Housing Plan which was done in 2008 under the original 5:97 and she noted there were a variety of mechanisms available to address the COAH requirements. She stated 44 units were established through Regional Contribution Agreements (RCA) and market-to-affordable housing, supported and special needs housing and bonus credits that the Township was eligible to take at the time. She remarked that the current problem is with the 10 unit credit. Planner Slagle clarified there was a total of 34 actual units and 10 bonus credits but no one knows what regulations are going to apply to those bonus credits.

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Mr. Gardner hypothesized that the worst case would be to take the 34 actual units from the 55 unit prior round obligation which leaves 21 units that still have to be addressed. Those 21 units then get added to the 29 new unit requirement for a new target of 50 total units. Mr. Gardner suggested that number (50) be used as the basis for determining how the Township is going to address its COAH requirements. Planner Slagle agreed saying this is a fair and reasonable number that the Township should work with.

Mr. Gardner commented that if the Township reviews the League of Municipalities research which indicates the most COAH units NJ can address is 10% of the total number and we take 10% of the Kinsey number, theoretically East Amwell would have already satisfied its obligation by having 34 actual established units.

Planner Slagle stated the Township's certified plan called for 51 units that were established through accessory apartments, supportive and special needs housing, a 100% affordable project and through a small 4 unit apartment building. She noted what the Planning Board needs to do is to determine the best way to address the gap either through inclusionary zoning or 100% affordable projects. Chairman Reilly summarized that there were 4 programs that comprised the certified plan, one of which was the municipally sponsored program which the Township indicates will provide 26 affordable units over the course of 10 years. He read from the certified plan saying, "... a municipally sponsored program will be established when and if needed to satisfy the Township COAH obligation to provide the construction of 26 affordable housing units on a site to be determined in the Township of East Amwell." He remarked the language is vague and the certified plan was adopted in 2010. He noted that in the interim not much has happened with COAH in the way of providing guidance for any municipality to move forward so there was no need for East Amwell to do anything. He asked Attorney Norman if the Township was to do something now would they be able to write the language in the same way.

Attorney Norman indicated the Supreme Court has said that municipalities must go back to the Round 1 and 2 methodologies. He said while you can do a 100% municipally sponsored project, you can't leave it open ended. The Township must provide a specific site, show that it is developable and demonstrate how the development will be funded. Chairman Reilly clarified that the Township has to either own the site or be under contract for the land. Attorney Norman and Planner Slagle agreed that if the plan does not provide specific, detailed information the Township may be open for a challenge by a developer.

Chairman Reilly recapped the discussion saying the Planning Board must determine how to satisfy the gap between a number of programs that have been used in the past and the remaining obligation. He noted there appears to be 2 options:

1. The Township takes the responsibility of constructing the COAH units
2. The Township zones an area for a developer to come in and construct a significant development of which a percentage of COAH units are established to satisfy the Township's requirements

Chairman Reilly remarked that he believes the Planning Board is focusing on the municipally sponsored program primarily because that is the one which is least objectionable because it will result in the fewest number of units.

Mr. DiPirro suggested there are other options associated with the municipal approach. He referred to Planner Banisch stating he had spoken to a specific landowner who had some obligations to the Township pursuant to previous court decisions. He stated if those folks are willing to develop, then the Township doesn't necessarily have to own the property. Chairman Reilly clarified that he wouldn't characterize, in this case, that the landowner has an obligation to the municipality, but rather a settlement was made after

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they sued the Township which ultimately expands their development ability beyond what the current zoning is. He stated that there have been some initial conversations and he remarked that the landowner is amenable to discuss options beyond what was agreed upon in the settlement. Chairman Reilly noted the details are vague and the owner wishes to enhance the property over and above what has already been agreed to so negotiations must be on going.

Attorney Norman commented that if the developer of the land being discussed constructs some COAH units, it may help the developer obtain other state agency approvals because COAH adds a constitutional element to their development project.

Mr. Wang-Iverson remarked that there is a property for sale within the Township that consists of 5 rental units and asked if that could be worked into the COAH plan and what the mechanism is to get the property owner to agree to the COAH guidelines. Attorney Norman indicated there is a market-to-affordable option which means the Township writes a check out of the affordable housing trust fund to pay the property owner to make the units affordable. In turn, the owner agrees to accept and establish a deed restriction that puts controls over the property and the rental units which would take them out of the free market rental arena. It was noted that if the units are currently occupied, the tenants must meet the income qualifications in order to remain as tenants. It was noted that in this scenario, the length of the deed restriction would be for 30 years and would be attached to the mortgage. Planner Slagle clarified that there are itemized subsidies that the Township would have to provide to the property owner for converting existing accessory apartments into COAH units. She believed the subsidy would be \$20,000.

Chairman Reilly indicated he would like the Planning Board to have a draft plan from Planner Banisch's office by 10/30/15 for the Board to review.

There was some discussion on the Planning Board holding a special meeting 12/1/15 for a public hearing on the housing plan with the Township Committee holding a special meeting on 12/3/15 to approve the plan.

Oral Reports

FOSPC – Mr. Gardner reported that NJ Conservation is having discussions with Mr. Higgins regarding the possible preservation of 3 parcels in East Amwell comprising 151 acres adjacent to his lands which have already been preserved in Somerset County. He read a note into the record from Glorianne Robbi in which she requested, "The Planning Board support the NJ Conservation Foundation's (NJCF) and Raritan Headwaters Association's (RHA) application to the Hunterdon County Parks and Open Space Advisory Committee for non-profit grants to fund the purchase for open space preservation of 151 acres. The undeveloped parcels owned by John Higgins are located in the Sourlands off North Hill Road. NJCF and RHA will submit their county open space applications on 10/26/15 in advance of the County's meeting of 11/16/15. Support letters may accompany the applications or be sent separately. At the next FOSPC meeting Lisa McCullen of NJCF will attend and provide updated information." Mr. Gardner indicated FOSPC needs the Planning Board to send a letter of support for the preservation application.

A motion by Fred Gardner, seconded by Dart Sageser recommending the Planning Board send a letter of support to the County regarding the preservation of the Higgins property was unanimously approved.

Environmental Commission – No report was given

PB Secretary – No report was given

Chairman – No report was given

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Correspondence

Chairman Reilly commented that Mr. Wang-Iverson is continuing his efforts with the library to get them to consider moving back to Ringoes.

Open to the Public

Chairman Reilly opened the floor to public comment. Frances Gavigan of 123 Wertsville Road came forward and expressed concerns that tournaments at The Ridge would be considered ancillary uses. She cautioned the Board that golf courses stay viable by “morphing” into such things as large meeting/conference facilities.

Ms. Gavigan referred to the special meeting of the Township Committee on 10/29/15 with the Planning Board and asked if all of the Planning Board Members will be there. Mr. Wang-Iverson indicated the meeting on 10/29/15 is going to be cancelled.

Seeing no other members of the public come forward, a motion was made by Fred Gardner and seconded by Linda Lenox to close the floor to public comment.

Adjournment

A motion by Peter Kneski, seconded by Dante DiPirro to adjourn the meeting was unanimously approved.

The meeting adjourned at 9:21 PM.

Maria Andrews, Administrative Officer