

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
February 10, 2016 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on February 10, 2016 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 28, 2016 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 February 4, 2016."

Present: Roger DeLay
Rob Gilbert
Gail Glashoff
Linda Lenox
Don Reilly, *Chairman*
Dart Sageser
David Wang-Iverson
John Buckwalter – *Alt. #1*
Dante DiPirro – *Alt. #2*
Planner Joanna Slagle

Excused: Fred Gardner
Peter Kneski

Citizens' Privilege to Speak on Items not on the Agenda

Chairman Reilly opened the floor to the public. Andrea Bonette of 17 Ridge Road came forward and expressed concern that she believes some people got "snookered" by certain applicants. She stated her late husband was in the advertising business and she learned quite a bit about how information can be manipulated. She referred to a book titled, "Don't Think of an Elephant." Ms. Bonette explained that the book is about framing. She said, "I feel as if we have an applicant here, The Ridge Golf Course...and they talk a lot about cottages. How they want to build these two 4000 sq. ft. cottages."

Chairman Reilly interrupted Ms. Bonette saying The Ridge is a pending application that is scheduled to continue at the Planning Board's April meeting. He informed Ms. Bonette that she will have an opportunity during the public hearing to address her concerns then. Ms. Bonette commented that she understands and continued saying, "I'm not asking you to do anything this evening. I just want you to be aware of what's going on here. Webster's Dictionary..." Planner Slagle interrupted Ms. Bonette and stated the Board is not allowed to discuss pending applications without the applicant in attendance. Ms. Bonette commented that she didn't expect the Board to talk about the application at all and asked if it was okay if she talked about it. Chairman Reilly explained again that the hearing process could be tainted if there is any discussion on the matter and he encouraged Ms. Bonette to attend the Board's April meeting so she can express her concerns.

Bill Reiter of 12 Dutch Lane came forward and expressed concerns over the recent Council on Affordable Housing (COAH) discussions. He commented that there is a greenway along the highway (*Route 202*) and questioned the talk about developing the land. He stated property owners were down-zoned from 1.5 acres to 3 acres and then again to 10 acres. He asked what is going on. Chairman Reilly explained that when the Township changed the zoning requirements from 1.5 acres to the 3 acres, there was a lawsuit filed against the Township in 1999 or 2000. He stated that lawsuit was ultimately settled in Court with the

outcome resulting in the landowner being allowed to construct 4 office buildings totaling 60,000 sq. ft. and 10 single family homes. Chairman Reilly commented that the land is in the Amwell Valley Agricultural District but the Courts settlement overrides the zoning.

Mr. Reiter remarked that he doesn't mind office buildings because they are ratables and stated that the Courts decision did not give the Township just compensation. He commented on the approved Peacock application saying that the building is bigger with the same septic system and stated he wouldn't be allowed to do this on his farm. He questioned why the Board didn't try and get some COAH units out of this development. Chairman Reilly explained that the Planning Board had nothing to do with the Peacock application because it was an application before the Board of Adjustment.

Ms. Glashoff clarified that she was in attendance at the meeting when the Peacock application was approved. She noted the subject of COAH was brought up and the property owner was not interested. Mr. Reiter agreed that he wouldn't be interested either but noted now there may be 10 houses on the parcel along Route 202 which means more school children and possibly another addition on the school which means a tax increase to the residents. Mr. Reiter said, "It's time you do something about watching what the school does." He remarked that several of his neighbors were told there would never be any houses there when they bought their homes. He stated, "You are allowing slowly but surely Raritan Township Route 22 sprawl."

Chairman Reilly noted that everyone on the Board shares Mr. Reiter's concerns and remarked that COAH is being jammed down the Township's throat. He explained that the Board is looking at contingencies. He stated if the Township's COAH numbers are low, development will be done the way it's occurred for the past 20 years. If the numbers are huge, Chairman Reilly noted a decision will have to be made as to whether or not the Township will go ahead and pay to build the housing units, bonding for millions and millions of dollars or will the Township engage with a developer who will construct the COAH units along with some market rate units.

Frances Gavigan of 123 Wertsville Road came forward and referred to the special events ordinance that was discussed at the Planning Board's last meeting. She questioned whether or not it would apply to events such as the 2016 Big Barn Party or just golf events. She expressed frustration on the lack of communication to people outside of the 200 ft. required notification area. Ms. Gavigan expressed the importance of getting information out to as many residents as possible when there is a potential impact to a large portion of the community and not just the surrounding property owners. Chairman Reilly explained that no work has been done yet to address the special events ordinance. He clarified that it will be a Township Ordinance reviewed by the Township Committee, not a Land Use Ordinance created by the Planning Board.

Ms. Gavigan said, "The old saw is how do you eat an elephant—one bite at a time. A pattern that I see emerging...is give me this and I'm not going to be looking at a larger, wider full blown package and then they (*applicants*) come back and ask for something else and at the end of the day that elephant is down to a couple tusks and a wiggly tail. That holistic approach to planning and zoning and Master Plans is not being captured by the process or by the communication mechanisms engaged by the Township at large." Ms. Gavigan stated she believes it would be a good idea for the Board and the Committee to have a joint meeting in order to discuss some of these issues. She referred to the lawsuit settlement previously discussed and commented that she believes it would be beneficial for that information to be on the Township website or a link to it so people can access it noting she was unaware the settlement allowed 10 single family homes to be built.

Ms. Gavigan remarked she was in attendance at the Peacock property public hearings and confirmed that the COAH issue was raised. Ms. Gavigan commented that the Board and everyone else seemed to roll over because the property owner threatened to walk away from the land. She noted that someone else could have purchased it, perhaps a single family home could have been built there or if it became fallow land it would have made a nice mini-park. She cautioned the Board to stop repeating the same mistakes and requested a consistent transparency and outreach effort be implemented for the benefit of the Township residents. Ms. Gavigan suggested a mailing or an insert in the tax bills letting people know what is coming down the pike.

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

Review of Minutes

A motion by Dart Sageser, seconded by Rob Gilbert to approve the Board's 1/13/16 open session minutes with no revisions noted was approved with Ms. Glashoff and Mr. DiPirro abstaining.

A motion by Linda Lenox, seconded by Rob Gilbert to approve the Board's 1/13/16 executive session minutes with no revisions noted was approved with Ms. Glashoff and Mr. DiPirro abstaining.

New Business – Other

Discussion/Resolution of Approval: Resolution PB#2016-06: Amended Carrega Properties, LLC – Block 12 Lot 12 – 1059 Old York Road: Minor Site Plan Approval

Planner Slagle explained the heart of the matter is that during the testimony at the public hearing there was discussion and a request by the applicant to not have to return to the Board every time a new tenant of similar size and scale wanted to lease space on the property. Planner Slagle commented that this detail was not adequately reflected in the original resolution of approval. It was noted that the amended resolution simply clarifies this.

Mr. Sageser commented that he believes the amended resolution is consistent with the discussion that took place at the public hearing and that the Board understood what was being requested.

A motion by Dart Sageser, seconded by Linda Lenox to approve Resolution PB#2016-06 was approved by roll call vote.

Roll Call Vote: Dart Sageser: Yes, Linda Lenox: Yes, Roger DeLay: Yes, Rob Gilbert: Yes, Gail Glashoff: Yes, Don Reilly: Yes, David Wang-Iverson: Yes

Discussion: The Ridge – Board Member Conflict of Interest

Chairman Reilly explained that it came to his attention this week that one of the Board Members actually had a conflict of interest with respect to The Ridge application. He noted Mr. Buckwalter is a property owner within 200 ft. of the subject site and should have recused himself from the public hearings.

Chairman Reilly remarked that Mr. Buckwalter realized midway through the testimony that he may have a conflict and purposely did not comment on anything during the public hearing. Additionally, since the meeting was carried to April and no action was taken, there doesn't appear to be any issue. Chairman Reilly stated that Attorney Norman will be reaching out to The Ridge's Attorney and he said that Attorney Norman indicated he doesn't believe the process has been tainted because Mr. Buckwalter did not comment on anything. Chairman Reilly noted that when the public hearing resumes in April Mr. Buckwalter will recuse himself from the matter and step down from the dais.

Discussion: COAH – Status Update from Planner Slagle: The Board May Enter Into Executive Session - Approval of Resolution PB#2016-07

It was noted for the record that the Board did not go into executive session for the COAH discussion. Chairman Reilly explained the Courts have mandated that the Township submit a housing plan by July 31, 2016. He summarized for the benefit of the public that the COAH plan is a requirement the Supreme Court mandated every municipality in the State of NJ must submit. The plan must identify how many affordable housing units can be provided within the Township. He explained that how the number of units is calculated is being debated. Chairman Reilly stated that one consultant representing the builders at the Fair Share Housing Center indicated East Amwell would have to provide an additional 296 COAH units between now and 2025. Subsequently, the Township joined forces with several other municipalities to combine resources and hired a consultant who has taken the Supreme Court guidelines and re-calculated East Amwell's obligation to be only 26 affordable housing units.

Chairman Reilly clarified that the Township must now submit a plan by 7/31/16 without knowing exactly what our obligation is. He noted the plan will address 26 units but stated the number may change. Chairman Reilly commented that if the Court approves the plan, East Amwell has various programs and things that the Township can do to address affordable housing spread throughout the municipality using primarily existing stock in one way, shape or form.

Chairman Reilly explained that if the Courts say East Amwell has an obligation of 296 units or something even around 100, there is no other way to address that many units except to build them. He noted the Township can bond for several millions of dollars or it can seek a developer to build the units who will also build market rate units for every affordable unit that is constructed which will result in a large housing complex. Chairman Reilly stated the Planning Board is really stuck not knowing what the final number of units is to be addressed in the plan and not sure what action the Courts are going to take.

Planner Slagle confirmed that the Township has “temporary immunity” until 7/31/16 to submit a plan which will address the COAH requirements. She explained that case management meetings are occurring with the hopes of receiving a final affordable housing number soon. Once the number is determined, East Amwell will have 90 days to prepare, adopt and endorse the plan. Planner Slagle noted this timeline assumes that everything will proceed as planned without any additional motions or appeals.

A motion by Gail Glashoff, seconded by Dante DiPirro to open to the public was unanimously approved.

Trish Stabler of 37 Dutch Lane came forward and asked if Dutch Lane was the only option for the COAH development. Chairman Reilly explained that there are 2 parcels totaling about 50 acres along Route 202 owned by Thompson Real Estate which are being considered but he noted that it is not clear what can actually be built there. He stated it might turn out that the subject parcel cannot handle a large number of units and then the Township will be seeking another property owner. Chairman Reilly indicated the Township would like to see the development take place close to Route 202, close to major highways and close to the Village because putting a COAH development in the middle of the Amwell Valley Zone makes no sense from a planning perspective. Ms. Stabler asked if zoning matters. Chairman Reilly commented that the intention is to zone to accommodate whatever the Township gets stuck with.

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Mary Ann Reiter of 12 Dutch Lane came forward and asked if the Master Plan that was developed in the 80's and 90's is still in effect. Chairman Reilly acknowledged that it is. Ms. Reiter commented that she believed the intent of the Master Plan was to develop in the villages and hamlets throughout the Township and she asked if there was any thought being given to purchasing some of the homes in the Village that are currently up for sale and converting them into affordable housing options. Chairman Reilly stated similar development has been done in the past and noted this is an option but that it is difficult to do in large numbers. Ms. Reiter also requested that if the Route 202 property is developed, she would like the lighting ordinance to be enforced because she noted that the lighting at the school is not and stated it affects her quality of life. Ms. Reiter then asked what the flags on the Route 202 parcel were for. Chairman Reilly indicated he believed they were conducting testing.

Frances Gavigan of 123 Wertsville Road came forward and asked what the COAH number was from the Econsult report. Chairman Reilly stated 26. Ms. Gavigan asked who the Special Master living in Flemington is. Ms. Glashoff and Planner Slagle indicated that is Professional Planner Elizabeth McKenzie. Ms. Gavigan said she believes Ms. McKenzie would be conflicted out of any action in Hunterdon County but noted Ms. McKenzie has injected herself into the Moorestown litigation. She asked is the Special Masters are selected by the Courts. Planner Slagle explained the Judges pick the Special Masters for each municipality and no planner's office can take on a municipality if there is a conflict. Planner Slagle clarified that the Special Master acts as a mediator who reviews the housing plans put forth by the municipalities.

May Roessner of 36 Dutch Lane came forward and expressed concerned with wells and the availability of water. She stated she would like to see farmland protected. Mr. Sageser commented that Mr. Thompson is testing the land because he knows the difficulties of installing wells and septic for a large development. Ms. Roessner questioned whether or not "affordable" housing could really be built on the land and suggested that what would be built may not really be affordable for those who need housing. Chairman Reilly clarified that the development requirement would be to provide affordable units to people who qualify for that type of housing.

Frances Gavigan of 123 Wertsville Road came forward and asked for clarification on what the lawsuit settlement from 1990 permitted Mr. Thompson to build. Chairman Reilly indicated 4 office buildings and 10 single family homes. Ms. Gavigan asked what the proposed COAH number is. Chairman Reilly indicated the Fair Share Housing Center says 300 units and the Township consultants saying 26 units and noted no one is sure what can be built on the subject site because the property owner is still conducting testing. Chairman Reilly clarified that if the property is rezoned to accommodate the requirements imposed upon the Township, all of the details of developing the parcel will be thoroughly reviewed and planned for accordingly.

Mary Ann Reiter of 17 Dutch Lane came forward and commented that if the subject parcel is 50 acres, it is quite likely that it will get developed in some way. Chairman Reilly said yes and clarified that Mr. Thompson has an expressed an interest in working with the Township to develop the land with respect to affordable housing.

Pam McGovern of 36 Back Brook Road came forward and asked if the Township has an inventory of how many COAH units currently exist within East Amwell. Chairman Reilly said yes. Ms. McGovern then suggested establishing an ordinance or something that would require COAH units for a project like the recently approved apartment building on Lindbergh Road.

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May Roessner of 36 Dutch Lane came forward and asked what the definition of “affordable” is. Planner Slagle explained that affordability in NJ is based on where you live and the medium income for the region. She said there are usually 3 counties in each region and originally when this was implemented in the 1980’s in response to Fair Housing litigation, affordable housing on average is defined by a person earning 52% of the medium income for that housing region. Planner Slagle indicated the figure is based on the number of people in a household, where they live and what their income is. She noted that the people who qualify for affordable units cannot spend more than 30% of their income on housing. In this area she commented that often times the rent or sale price of an affordable housing unit will be close to the market rate units because this is a higher income housing region. She noted that when this type of housing is developed, it is built at regular/market price but it is deed restricted so that only income qualified people can live in it.

Chairman Reilly commented that if the Township has to work with a developer to establish affordable housing, they will be apartments and not single family homes.

Mary Ann Reiter of 17 Dutch Lane came forward and asked what the best way is to make developing in the Village of Ringoes desirable for affordable housing. Mr. Sageser explained that the biggest problem with the Village is the small lots and lack of well and septic access for multiple units. Planner Slagle commented that the other challenge is that the COAH regulations cap municipalities on how many units they can get credit for. She noted that by law East Amwell can only have 10 accessory apartments, 10 right-down-buy-downs and 10 group homes. The theory behind this is that a variety of housing stock will be created to address a variety of needs. Planner Slagle remarked it looks great on paper but is quite a challenge for municipalities that don’t have any infrastructure. Ms. Reiter referenced a property next to the train station that has been for sale for quite a number of years which she thought was about 25 acres and asked what could be done to make COAH development attractive to that homeowner. Planner Slagle remarked that a lot is based on landowner interest. Chairman Reilly commented that the preference is to have COAH on this side of Route 202 in order to provide people access to the Village and may help infuse some additional commerce in the Village but a land owner who happens to own property along Route 202 which has access to a major highway has come and expressed an interest.

Luke Kirby of 41 Dutch Lane came forward and asked if it wouldn’t be more prudent to submit a housing plan addressing the 30 units rather than waiting for the Court to provide a number. Chairman Reilly stated the Courts won’t look at it at this stage. Mr. Kirby asked if eminent domain can be claimed on a private landowner if it’s determined that the Route 202 property cannot accommodate the development needs. Chairman Reilly said no and explained what will happen is we will submit an economically viable housing plan and certain areas will be zoned to provide an opportunity to accommodate COAH. He remarked if the landowner is not interested we cannot force them. Mr. Sageser commented that as much as we like East Amwell, it’s probably not highly appealing for a developer because of the lack of infrastructure. Chairman Reilly indicated he did not necessarily agree with this sentiment.

Joanne Engelman of 6 Dutch Lane came forward and asked if COAH units can be used for the “55 and over” age group. Chairman Reilly commented that a certain number can be set aside for 55 and over. Planner Slagle stated she believed the cap is typically 25% of a housing development. She also noted that laws were passed allowing for age restricted housing to be re-marketed because the units weren’t selling.

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Frances Gavigan of 123 Wertsville Road came forward and remarked that she has spoken to some people about having COAH units but what they don't like is not having any control over who lives there. She asked who administers the Township's COAH stock and what is the criteria for living in an affordable unit. Planner Slagle explained that once a person is determined to be income qualified they can get on any housing waiting list throughout the State. She noted that every municipality that participates in COAH has to have an Administrative Agent who monitors the program and keeps track of what units are available and whether or not there are waiting lists. Planner Slagle stated Jim Robbins is East Amwell's Administrative Agent for COAH. She agreed that property owners do get concerned over who may be living in a COAH unit, but she commented that landlords can stipulate such things as no pets being allowed or non-smoking tenants.

It was noted that an accessory COAH unit apartment must be deed restricted for 10 years and can then be converted back to a free market unit after that time period but new construction is deed restricted for 30 years.

Luke Kirby of 41 Dutch Lane came forward and asked what the separation of responsibilities is between the Planning Board and the Township Committee. Chairman Reilly explained that the Planning Board is responsible for developing the housing plan and the Township Committee is responsible for adopting it.

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 by voice vote.

Mr. DeLay commented for the record that he is extremely pleased with the public turnout this evening and appreciates all of the input from the residents.

Oral Reports

FOSPC – No report was given

Environmental Commission – No report was given

PB Secretary – No

Chairman – Chairman Reilly commented that at the request of the Mayor he had written a response to Bill Reiter's letter in the VIP and also sent a letter to the Editor of the Hunterdon County Democrat. It was noted for the record that copies of both letters were provided in the Board Member's packets for their information. Chairman Reilly stated that another letter was received by a resident who also expressed concerns about COAH. He suggested that with the Board's permission he would like to reach out to the resident to discuss the matter. The Board was in support of this.

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

Frances Gavigan of 123 Wertsville Road came forward and commented that it is time to move beyond the paradigm of putting things out in just the VIP and on the website. She suggested that information also be posted on NJ.com or other networks so people googling "East Amwell" can actually obtain news and information. Ms. Gavigan also suggested working with the High School or the cable company to have a mechanism for various meetings to be broadcasted. Chairman Reilly suggested that the Mayor's letter he sends to the VIP can also be included on the Township website.

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Seeing no other members of the public come forward, a motion by Roger DeLay, seconded by Dante DiPirro to close to the public was unanimously approved by voice vote.

Presentation of Vouchers

Ms. Glashoff asked about the Planning Board budget for COAH expenses. Mr. Wang-Iverson indicated an extra \$5000 was put in this year's Planning Board budget for COAH.

Adjournment

Chairman Reilly adjourned the meeting at 9:20 PM.

Maria Andrews, Administrative Officer

Note: These minutes have not been formally approved and are subject to change at the Board's 3/9/16 meeting.