

EAST AMWELL PLANNING BOARD MINUTES
7:30 PM East Amwell Municipal Building
May 11, 2016 - Meeting

Call to Order, Attendance and Pledge of Allegiance

This meeting of the East Amwell Planning Board was opened on May 11, 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 May 5, 2016."

Present: Roger DeLay
Fred Gardner
Gail Glashoff
Linda Lenox
Don Reilly, *Chairman*
Dart Sageser
David Wang-Iverson
Peter Kneski
Dante DiPirro – *Alt. #2*
Attorney Norman
Planner Slagle
Engineer O'Neal

Excused: Rob Gilbert
John Buckwalter – *Alt. #1*

Citizens' Privilege to Speak on Items not on the Agenda

Chairman Reilly opened the floor to the public. Seeing no one come forward, a motion by Gail Glashoff, seconded by Peter Kneski to close to the public was unanimously approved.

Review of Minutes

A motion by Roger DeLay, seconded by Peter Kneski to approve the Board's 4/13/16 minutes as revised was approved with Mr. Gardner and Mr. Sageser abstaining.

New Business – Other

Public Hearing: Steve Lang – Block 8 Lot 10 – Amended Final Subdivision Condition of Approval

Present for the Application was Engineer Eric Rupnarain on behalf of the property owner Steve Lang.

Engineer O'Neal commented on his completeness review memo and explained that the amendment request is to eliminate the requirement for installation of an underground water storage tank and install residential sprinkler systems in each new home. Additionally, there is a request to change the stormwater pipe from Reinforced Concrete Pipe (RCP) to High Density Polyethylene Pipe (HDPE). Engineer O'Neal noted there is no official checklist for this type of Planning Board application and suggested the application could be found to be complete.

A motion by Fred Gardner, seconded by Roger DeLay to deem the application complete was unanimously approved by voice vote.

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Engineer Rupnarain came forward and was sworn in. The Board accepted him as an expert to provide testimony on the application. He reiterated the details of the application Engineer O’Neal had just explained and noted the installation of an underground water tank is approximately \$80,000 which is cost prohibitive. Engineer Rupnarain commented that since the ordinance allows residential sprinklers, the applicant would like to seek an amendment from the prior condition of approval to allow for sprinklers in each of the 4 new proposed homes. He also clarified that the Amwell Valley Fire Chief had no issue with the request. It was noted for the record that the Board had received a letter from Fire Chief Peter Babinski supporting the proposed change.

Engineer Rupnarain explained that the application was approved 8 years ago when concrete pipe was utilized but noted now HDPE pipe is more popular because it lasts just as long as RCP pipe and works better.

Chairman Reilly referred to Engineer O’Neal’s 4/25/16 review memo and asked Engineer Rupnarain if he had any issues with any of the comments or recommendations. Engineer Rupnarain said no. It was also noted that the letter from the Fire Chief requests that the pull off area is maintained for emergency vehicle access and maneuvering. Mr. Sageser asked if there needs to be some sort of compression study to determine whether or not the pull off area satisfies the capacity requirement for a fire truck. Engineer Rupnarain commented that the pull off area and driveway will be stabilized. He noted all of the construction details for this were provided with the original approved subdivision plans.

Mr. Gardner questioned the discrepancy in acreage on the plans this evening showing 40.64 acres and the prior resolution indicating 40.9 acres. Mr. Kneski remarked that he believes the difference is due to the road right-of-way dedication.

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

Engineer O’Neal commented that a Certificate of Occupancy should not be issued until the sprinkler system(s) are inspected and meet all of the codes. He also stated that the grading plan in the preliminary approved subdivision must be changed to reflect the amendments discussed this evening. A motion by Roger DeLay, seconded by Gail Glashoff to approve the requested changes with the conditions noted was unanimously approved by roll call vote.

Roll Call Vote: Roger DeLay: Yes, Gail Glashoff: Yes, Fred Gardner: Yes, Linda Lenox: Yes, Don Reilly: Yes, Dart Sageser: Yes, David Wang-Iverson: Yes, Pete Kneski: Yes, Dante DiPirro: Yes

Resolution PB#2016-08: The Ridge at Back Brook, LLC – Block 25 Lot 10 – Approval of Amendment to Condition #33 of Resolution PB#2001-10 (Part I of II)

Mr. DiPirro asked if it is understood in the “therefore” clause that the applicant must “seek *and obtain*” any special events permit. Attorney Norman said yes. Mr. DiPirro then asked why there were so many “whereas” clauses in the resolution because they suggest a more substantive review rather than a simple recommendation to the Township Committee. Attorney Norman explained that his intent with the whereas clauses was to make certain there was a clear bifurcation of the water quality monitoring portion of the application and he noted the language also provides factual background for the requested changes to the conditions of prior approval. He said the law requires an applicant to show a change in circumstances in order to seek an amendment from prior conditions of approval so there are no issues with “res judicata.”

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A motion by Roger DeLay, seconded by Linda Lenox to approve Resolution PB#2016-08 was approved by roll call vote by those members who were eligible to vote.

Roll Call Vote: Roger DeLay: Yes, Linda Lenox: Yes, Don Reilly: Yes, David Wang-Iverson: Yes, Peter Kneski: Yes, Dante DiPirro: Yes.

Public Hearing Continuation: The Ridge at Back Brook – Water Monitoring – Discussion Carried from 4/13/16 Meeting

Present for the public hearing was Attorney David Gordon on behalf of The Ridge and Township Hydrogeologist Dr. Stephen Souza. Chairman Reilly explained that this evening's discussion will address the second half of The Ridge's original application which is the water monitoring issue. He clarified that Mr. Gardner and Mr. Sageser cannot vote on this matter because they were not in attendance at the Board's last meeting. Attorney Norman stated that Mr. Gardner and Mr. Sageser can both participate in the discussion this evening but they cannot vote on the matter.

Chairman Reilly stated that testimony on the water monitoring has been provided by The Ridge's expert as well as the Board's expert and tonight the Board of Health will provide their input on the matter. Board of Health Chair Tracy Carluccio was present. Chairman Reilly also noted that Dr. Souza had provided a summary document to the Board this evening that does not contain any additional information, but rather a summary of his testimony for the file.

Attorney Norman noted for the record that the Board of Health (BOH) is an advisory board that can provide the Planning Board with recommendations but stated the Board is not bound to follow them.

Ms. Carluccio came forward and stated she resides at 81 North Hill Road and is the Chair of the BOH. She was sworn in and commented that although the BOH is an advisory board, they are bound by statutory requirements to protect the Township's ground and surface water. She noted that the BOH participated in the development of the original water quality monitoring plan and remarked that they feel invested in the process. Ms. Carluccio expressed that upon reviewing the water monitoring data it is clear that there have not been any adverse impacts on the environment because of the careful management at The Ridge.

Ms. Carluccio referred to the BOH's 4/27/16 memo and explained that two motions were passed at their last meeting: (1) Opposing the sunset of the water monitoring because the BOH feels that the program should never be terminated due to the fact that conditions may change for various reasons including the management or ownership of the golf course which could result in new protocols and the BOH believes the water should consistently be monitored. Additionally, the BOH recommended that the Planning Board reserve the right to request extra testing if they believe there is a risk to resident's water supply. (2) A copy of the annual treatment report that The Ridge files with the State should be provided to the Planning Board and BOH. Ms. Carluccio recommended that Total Suspended Solids (TSS) continue to be monitored based on the protocol implemented by The Ridge. Ms. Carluccio commented that this is essentially an "insurance policy" because the testing data will show exactly what's going on at the site.

Chairman Reilly asked Dr. Souza for input on what Ms. Carluccio stated because some of her comments didn't seem to be in agreement with the plan that was previously worked out with The Ridge.

Mr. DiPirro asked for clarification on the recommended frequency for water testing. Ms. Carluccio indicated she believes testing should be done annually and specified every December.

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Mr. Gardner commented that he too shares a deep concern for water quality in the township and asked if there were any other sites within East Amwell where the property owner was responsible for testing. Ms. Carluccio commented there is only one golf course in town. Mr. Gardner remarked that the residents could theoretically be encountering pollution from anyone who pours chemicals on their lawns to make them beautiful and no one would know. Chairman Reilly commented that monitoring is currently being done for what is being used on the golf course and what comes onto the course from outside sources. Mr. Gardner stated he worries about making one property responsible for the entire 28 square miles within the township.

Dr. Souza came forward and was sworn in. He commented that he is not advocating for The Ridge and is here on behalf of the Township. He asked that the Board Members look at the data that has been collected over the past 15 years, review the requested water testing modifications and then make a determination on whether or not a change is warranted. He remarked that based on his years of experience there is validity in The Ridge's request to modify the water monitoring to every 3 years and then to cease testing in 2025 if no pesticides are detected. He noted that in 15 years there was one incident where an herbicide was detected and he stated it was at a test site where the stream entered the golf course.

Dr. Souza stated that his recommendation to allow the testing to cease was based on 15 years of non-detectable pesticide concentrations at The Ridge. He said as a scientist he can look at the data and comfortably say that the activities at The Ridge are not having any detrimental environmental impacts but noted it is ultimately the Township's decision to make any modifications to the water monitoring.

Chairman Reilly asked Dr. Souza for his comments on the Planning Board reserving the right to ask The Ridge for additional testing which would obviously be based on a recommendation from the Township's professionals who have reviewed the data. Dr. Souza indicated this was one of the agreements made with The Ridge that if they change any of the pesticides used on the golf course the Township will be notified and the sampling protocol would change to include the new pesticides. Any changes would also be noted on the report The Ridge is required to file with the State of New Jersey regarding their pesticide and herbicide usage.

Chairman Reilly asked Dr. Souza for his comments on the Total Suspended Solids (TSS). Dr. Souza stated that the concentrations at The Ridge are below the detection limits. He clarified that The Ridge is using 10 milligrams per liter and the State standard allows for 25 milligrams per liter. He stated as a scientist he doesn't believe the Township will get any added value in requesting TSS be added to the test requirements but commented that The Ridge may not mind incurring the expense and stated he believes it's only about \$75 for the test.

Chairman Reilly asked Dr. Souza to comment on the BOH's recommendation to insure that the sentinel pesticides change based on the protocol used at the golf course. Dr. Souza indicated this matter was already agreed upon.

Mr. DeLay asked what, besides a heavy rainfall, would increase TSS levels. Dr. Souza commented that originally this was one of the parameters requested because during construction of The Ridge when there was a lot of bare land there was an opportunity for more soil erosion to occur and stream health is important. He explained that fine clay particles can settle in the stream and can do damage to aquatic life. He noted this is why water monitoring was requested on a more frequent basis during construction. Dr. Souza stated fallow fields offsite can impact TSS levels at The Ridge as well.

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Mr. Sageser expressed he isn't clear on what the Township hopes to accomplish by requiring the testing noting he doesn't believe it's peace of mind. Dr. Souza stated it is peace of mind because the whole point is to ensure The Ridge isn't doing anything that would be detrimental to the environment or the Township's water resources. Mr. Sageser remarked they have demonstrated that for 15 years and noted they are still required to report all pesticide usage to the State. Dr. Souza agreed and noted that the majority of the pesticides being used are fungicides because the golf course greens are at the most risk. He explained the irrigation of the greens and other stress factors of the greens make fungi outbreaks typical in August or September. He stated that over the years The Ridge has refrained from using products with high toxicity and products that move offsite quickly because the theory is to keep them on site to eliminate any fungi outbreaks. He noted this is why the test sampling usually occurs later in the year. He commented that there may not be an opportunity for some products to mobilize if testing is done in September which is why it's best to test at the end of the year. Mr. Sageser asked why the Township would want to discontinue this "insurance policy" which Ms. Carluccio referred to. Dr. Souza stated statistics. He explained if The Ridge continues to operate in the manner in which they have been, there is 15 years worth of data indicating there is no problem. He remarked he believes it is a reasonable request to sunset the water monitoring based on the data. He also noted that if any protocol is changed The Ridge is required to report that to the Planning Board and they must continue to report all pesticide usage to the State.

Attorney Gordon commented that The Ridge personnel are licensed in order to be able to apply the pesticides used on the golf course. He also explained that it is counter-productive for them to use more products than what is needed because it costs money.

Ms. Carluccio commented that The Ridge can't pollute because of the environmental laws they must abide by and we as a Township have a responsibility to protect our water supply. She stated there is a purpose to this and if pollutants are detected the source of pollution can be acted upon. Mr. Sageser remarked pollution can occur despite The Ridge's efforts to comply with all protocols. Ms. Carluccio stressed the importance of being aware that the property is different from the typical homeowner's lot in that they store chemicals on site and are a major applicator and handler of such that requires licensing. She stated any potential problems can be detected and resolved before they pollute the groundwater and that's why she believes the continued water monitoring is so important. Ms. Carluccio stated respectively that the decision over whether or not to allow the testing to sunset is not a scientific one, but rather a policy decision. She noted that while you can review 15 years of data you cannot predict what may happen in the future.

Dr. Souza stated one thing the township can rest easy about is knowing The Ridge has a very sophisticated containment system at their maintenance facility. He explained wash water is collected from the tractors and the mowers and is treated and recycled.

A motion by Pete Kneski, seconded by Gail Glashoff to open to the public was unanimously approved by voice vote.

Frances Gavigan of 123 Wertsville Road came forward and commented that she applauds everyone's efforts this evening. She expressed concern over the impact activities at The Ridge may have on honey bees and bats. She asked that the annual water monitoring continue and that the reports be made available to the public on the township website.

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Candice Wiggum of 1116 Old York Road came forward and expressed support for the BOH's recommendations. She noted that the testing is beneficial to The Ridge as well because it lets them know what may be impacting their property from somewhere offsite.

Marsha Sepesi of 133 Back Brook Road came forward and commented that The Ridge has been a good neighbor and stated she is not opposed to large events there but stated she encourages the Board to continue the water monitoring because the Board has a responsibility to the residents to ensure that the water supply remains safe.

Noreen Bailey of 129 Back Brook Road came forward and commended the BOH on their recommendations. She stated The Ridge has done a great job in the past but remarked no one knows what may happen in the future and asked the Board to continue the water monitoring.

Chris Vogel of 5 Manners Road came forward and expressed that continued water monitoring is appropriate because it benefits everyone. He remarked the residents are protected against inadvertent pollution and The Ridge has the data to prove they are not the source. Mr. Vogel stated, "Past performance is not predictive of the future." He expressed that continued water monitoring is good public relations. He remarked that while it may be appropriate to modify the testing he wouldn't want to see it cease. Mr. Vogel noted he has worked in the pharmaceutical industry and stated there are drugs that have been marketed for 30 years. He said every batch is still tested before it's released and commented he doesn't believe there is anyone who would want to see the pharmaceutical companies stop testing their drugs just because they have done so well in the past.

Seeing no other members of the public come forward, a motion was made by Gail Glashoff and seconded by Roger DeLay to close to the public. The motion carried unanimously by voice vote.

Chairman Reilly asked for clarification on how much of the activity happening in the Back Brook is impacting the Township's aquifer. Dr. Souza stated the Sourland Watershed Protection Plan collected a considerable amount of data and there are a lot of agricultural activities that are responsible for some of the impacts seen within the streams.

Mr. Gardner commented that the Planning Board established stringent guidelines for the golf course because it was a new concept to the Township and many people were worried about 300 acres being dedicated to a new use so it was prudent at the time to establish strict monitoring to determine whether or not The Ridge was a threat to the Township. He noted that in 15 years there has been no threat. Mr. Gardner stated he worries about the groundwater and lives off of a well like everyone else but doesn't see the point of singling out one 300 acre parcel in 28 square miles for its specific impact on the Township. He commented that he worries much more over what people put on their lawns and that the township has no control over that. He remarked that while he is in favor of having farms, he worries that they don't have the same expert control as The Ridge. Mr. Gardner suggested that monitoring on a wider basis would be a wonderful thing within the Township but doesn't see the benefit of singling out this property.

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Mr. DeLay commented that he agrees with Mr. Gardner and stated that he believes the sunset recommendation of Dr. Souza is appropriate with the condition that the water monitoring can be re-implemented if there is a change in protocol or ownership of the golf course.

Mr. DiPirro expressed that comments from the BOH and the members of the public were persuasive. He remarked on the issue of sunset, he believes that since the township relies on groundwater testing should not cease. He noted that it's the township's policy to protect water resources. Mr. DiPirro commented that testing is not overly expensive and is not a particular burden. He questioned why the Board would want to be less protective. Mr. DiPirro further commented that Dr. Souza and Mr. Mulhall both indicated that certain substances are only detected between 6 and 9 months so testing every three years won't show what may really be in the ground. While the State is provided with records, he commented that he didn't believe the township should be waiting around to find out what's been done after the fact while people are drinking the well water. He agreed that The Ridge has been a good neighbor, but stressed the importance of not relying solely on past performance. Finally, he indicated he has no issue with protocols changing if the township is notified immediately and believes that could work but stated again that he doesn't see why the Board would choose to be less protected for no great gain.

Ms. Glashoff commented that she agrees with Mr. Dipirro's comments.

Mr. Sageser commented even though he can't vote on the matter, he wanted to express his point of view that continued testing is a minor imposition for The Ridge and he said the township needs to protect its resources.

Chairman Reilly commented that he does have a concern that if the annual water monitoring continues the township is giving the public a false impression that somehow they are being provided with protection. He stated he believes there is probably a large amount of pesticides being used throughout the valley and what The Ridge uses probably pales in comparison so regardless of what the Board decides there is no guarantee of public protection. He expressed that the Board's decision should be based on what is rational and reasonable.

Mr. Kneski commented this is a difficult decision because strong arguments have been made on both sides. He stated he believes protection goes beyond just the residents. He remarked that continued testing provides protection to The Ridge as well because if something happens downstream they can demonstrate that they weren't the cause of it.

Chairman Reilly commented that this doesn't protect the public it only shows that a pollutant wasn't caused by The Ridge. He remarked that he believes the Board needs to be realistic about what protections are really being offered. Chairman Reilly remarked that reviewing the 15 years of data isn't an indication that The Ridge is great. He said it demonstrates that the protocol and the pesticides they are using are not polluting the environment.

Attorney Gordon commented that he believes there may have been some oversight of previous testimony and expressed that the water testing is expensive and stated that is why The Ridge is seeking a change in the frequency of the monitoring. He noted that the concept of sunset and the concept of testing frequency are separate issues. He stated the golf course is not the only commercial business in town but that it is the only business subjected to this kind of testing. Attorney Gordon remarked that Dr. Souza has testified to the scientific data which doesn't support the need for monitoring to be done annually. He added that while he agrees the environment and groundwater resources are important in East Amwell, the data indicates that people offsite are doing damage and they are not being monitored.

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Mr. DiPirro commented that he believes applications must be reviewed individually and remarked that the issue before the Board is not whether other properties should be reviewed, it is whether or not there should be a change to the water monitoring on this property.

Mr. Sageser commented that there is a component of this application where The Ridge is simultaneously seeking permission to increase activities with a swimming pool, tennis courts, guest houses and potential large scale events. He expressed that these accessory uses will have impacts and stated he doesn't see any good argument for curtailing the water monitoring under the present circumstances.

Mr. Wang-Iverson commented that from his point of view he believes it is a reasonable compromise to change the frequency of the water monitoring to every three years because the data supports this. He indicated he is not in favor of sunseting and would like to see some mechanism for the testing to be reinstated if there is a change in protocol.

Dr. Souza commented that the new proposed monitoring program calls for termination of the water testing if no adverse impacts are shown in the data collected in 2018, 2021 and 2024. He clarified that if anything is detected in the data there is an opportunity for the Planning Board to require additional testing.

Chairman Reilly suggested that The Ridge provide the Board with the information they provide to the State and if there are any changes in protocol they can be reviewed by the Board's professionals. Mr. Wang-Iverson indicated he would support a motion to this effect. Mr. DiPirro commented that if the Board backs off of the annual monitoring and only tests 3 times between now and 2024 with the 5 sentinels largely gone within 9 months after application, the data is useless. Mr. Wang-Iverson stated The Ridge applies the sentinels every year so the testing will be worthwhile. Chairman Reilly added that if the protocol changes the Board can request additional testing. Mr. DiPirro clarified that the change in protocol is only a change to a different fungicide so if they continue using the same ones, the 3 year testing won't trigger anything.

Chairman Reilly noted that any change in protocol, chemically or in the amount applied, will create an opportunity for the Board to request additional testing. Dr. Souza added that The Ridge must also report their activities to the State. Mr. DiPirro asked when The Ridge reports to the State. Dr. Souza indicated around March of each year. Mr. DiPirro clarified that if fungicides are applied in August testing should be done in every December so the opportunity for any detection isn't missed.

Chairman Reilly asked if the chemical dosage is part of the notification. Dr. Souza clarified that he believes what is applied, the amount, where it's applied and when all must be reported.

Mr. DeLay asked how many times the fungicides are applied annually. Dr. Souza stated multiple times and clarified that it is the cumulative applications that are of concern. He explained that applications are primarily limited to the greens and fairways and NJDEP limits the maximum allowable concentrations. He noted that 15 years of data was reviewed and the change in monitoring to every 3 years is reasonable. Mr. DiPirro asked why looking back at the past helps at all. He stated monitoring is determining whether something has changed from those 15 years so any analysis of looking backwards simply indicates what happened in the past. He asked if there is a reason, scientifically, why the Board would not want to have real time data. Mr. Gardner commented why not monitor every month and stated that 15 years of data shows The Ridge is a responsible business. He added that they are also financially responsible and know

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exactly how much product should be used which he stated is unlike other users of pesticides in the township.

Chairman Reilly remarked that this matter has been well debated and stated the question is whether or not the Board is agreeable to changing the monitoring from every year to every three years, whether to sunset after 2024 or not and determining what would trigger the reinstatement of testing.

A motion to deny the application was made by Dante DiPirro and seconded by Pete Kneski. The motion passed by roll call vote.

Roll Call Vote: Dante DiPirro: Yes, Pete Kneski: Yes, Roger DeLay: No, Gail Glashoff: Yes, Linda Lenox: Yes, Don Reilly: No, David Wang- Iverson: No

Discussion: COAH – Status Update: The Board May Enter Into Executive Session – *Approval of Resolution PB#2016-09*

It was noted for the record that the Board did not enter into executive session to discuss this matter and no update was provided.

Oral Reports

FOSPC – Mr. Gardner commented that NJ Conservation is still pursuing the preservation of 152 acres off of North Hill Road and making progress. He indicated they hope to close on the property in the Fall.

Environmental Commission – No report was given.

PB Secretary – No report was given.

Chairman – Chairman Reilly commented that he appreciated the Board’s discussion this evening and remarked that he believes it was a healthy discussion and that the Board doesn’t always have to agree.

Correspondence

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

Open to the Public

Chairman Reilly opened the floor to public comment. Frances Gavigan of 123 Wertsville Road came forward and thanked Mr. DiPirro for his passionate reasoning and proactive approach. She stated as a farmer and horse owner who uses no chemicals on her property she is surrounded by chemical usage and is concerned with the honey bee population and fractured bedrock. Ms. Gavigan volunteered to have her property tested for pollutants from offsite parcels if the township is interested in doing so.

Seeing no other members of the public come forward, a motion was made by Roger DeLay and seconded by Peter Kneski to close to the public.

Presentation of Vouchers

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

Adjournment

Chairman Reilly adjourned the meeting at 9:43 PM.

Maria Andrews, Administrative Officer