

**EAST WINDSOR TOWNSHIP PLANNING BOARD  
MINUTES OF August 1, 2016**

The meeting of the East Windsor Township Planning Board was held on Monday, August 1, 2016, in the East Windsor Township Municipal Building, 16 Lanning Boulevard, East Windsor, New Jersey, 08520. Planning Board Chairperson Edward Kelley called the meeting to order at 7:37 p.m.

**STATEMENT OF ADEQUATE NOTICE**

Pursuant to the Sunshine Law, a notice of this meeting's date, time, place, and agenda was mailed to the news media, posted on the Township bulletin board, and filed with the Municipal Clerk.

**ROLL CALL**

Members Present: Mr. Berman, Mr. Brady, Mr. Clark, Mayor Mironov, Ms. Patel, Mr. Schmidlin, Mr. Shapiro, Mr. Theokas, Mr. Kelley

Members Absent: Mr. Catana

Professionals and Staff Present: Allison Quigley, Planning Board Secretary  
Michael W. Herbert, Board Attorney  
Richard Preiss, Township Planner  
Richard Moralle, Township Engineer  
Daniel Dobromilsky, Township Landscape Architect

**REPORTS/CORRESPONDENCE/ANNOUNCEMENTS**

Chairperson Kelley announced that East Windsor Township National Night Out will be taking place on Tuesday, August 2 from 6 PM to 9 PM at the PAL fields on Airport Road.

**PUBLIC FORUM**

Chairperson Kelley opened the meeting to the public. There being no public comment, the public forum was closed.

**MINUTES**

**June 20, 2016**

MOTION TO APPROVE JUNE 20, 2016 MINUTES MADE BY: Mr. Theokas

MOTION SECONDED BY: Mr. Schmidlin

ROLL CALL

AYES: Mr. Berman, Mr. Brady, Ms. Patel, Mr. Schmidlin, Mr. Shapiro, Mr. Theokas, Mr. Kelley

NAYES: None  
ABSTAINS: Mr. Clark, Mayor Mironov

**July 11, 2016**

MOTION TO APPROVE JULY 11, 2016 MINUTES MADE BY: Mr. Clark

MOTION SECONDED BY: Ms. Patel

ROLL CALL

AYES: Mr. Berman, Mr. Brady, Mr. Clark, Mayor Mironov, Ms. Patel, Mr. Schmidlin, Mr. Shapiro, Mr. Theokas, Mr. Kelley

NAYES: None  
ABSTAINS: None

**RESOLUTIONS**

**RESOLUTION 2016-17     Regency Woods**  
Wyckoff Mills Road and Probasco Road  
Block 1, Lot 13  
Request for Extension of Approval

Mr. Herbert stated that there were several changes to be made to the resolution. He stated that the format had been corrected to the typical resolution format. On page 1, after the second whereas, on the third line, *as* was changed to *which was*. He stated that the word *resolution* would be added in front of each resolution number throughout the resolution for clarity. On page 3, paragraph 4, the third line would be revised to read *June 30* instead of *the end of June* as the end date for the Permit Extension Act. Also on page 3, last paragraph, the word *conducted* would be changed to *conducive*. He stated that on page 4 the last paragraph had been eliminated entirely.

MOTION TO APPROVE RESOLUTION 2016-17 WITH CHANGES MADE BY: Mr. Theokas

MOTION SECONDED BY: Mr. Berman

ROLL CALL

AYES: Mr. Berman, Mr. Brady, Mayor Mironov, Ms. Patel, Mr. Schmidlin, Mr. Shapiro, Mr. Theokas, Mr. Kelley

NAYES: None  
ABSTAINS: Mr. Clark

**DISCUSSION ITEMS**

- 1. Planning Board File #PB11-020**  
East Windsor Police Station Solar Array  
Block 63, Lots 10, 10.01, 48 and 49

Chairperson Kelley asked Michael Herbert, Board Attorney, to swear in the Board's professionals: Richard Preiss, Township Planner; Richard Moralle, Township Engineer; and Daniel Dobromilsky, Township Landscape Architect. Mr. Herbert swore the professionals in.

Evan Hill of Dewberry Engineering is present tonight on behalf of the solar developer team Altus Power that was contracted by East Windsor Township for a solar project connected to the police and court building. Mr. Hill stated that he is a licensed professional engineer in the state of New Jersey. Mr. Hill stated that also present tonight is Stan Tolstunov of Dobtcol Construction to provide testimony on behalf of Dobtcol Construction.

Mayor Mironov stated that this is a municipal project for a proposed solar array for the existing police and court building on One Mile Road. She stated that this process was initiated by the governing body and that they went out on a process to obtain a consultant, which in this case was T&M Associates, and developed specifications and received bids from companies on this solar array proposal. She stated that the project had been awarded to Dobtcol Construction and Altus Power. She added that they have a set of specifications that they are guided by and a requirement of the specifications was that they make a concept presentation to the Planning Board to that the project is fully reviewed. While this is not a formal hearing, she stated that it was important to for the Township and they welcomed any questions or comments from the Board.

Mr. Hill stated that the subject property is located behind Dutch Neck Road and is adjacent to the west side of the police court building. He stated that the property was originally subdivided from a larger parcel and the town had acquired the rights to the property. Mayor Mironov stated that the property had been owned by McGraw Hill and that it was the subject of a subdivision application that had gone before the Board about two to three years ago.

Mr. Hill presented sheet C-102 of the previously submitted engineering plans. He stated that the overall plan shows the location of the solar arrays. He stated that the site is encumbered by some environmental constraints but those have been fully vetted by the consultant during the concept design process and several permits had been obtained prior to their involvement. Mr. Hill stated that they are abiding by all those permits. He stated that they are proposing 2.5 acres of solar arrays with 1,422 315 watt solar panels mounted on a galvanized steel racking system. He stated that the front of the panels are located anywhere from 18 to 30 inches about grade, and the backs of the panels vary from 6.5 to 8 feet in height. Mr. Hill stated that the varying nature of the bottom of the arrays is not typical, but that due to the constraints on storm water management set forth by the Mercer County Planning Board the panels were raised to 18 inches above grade. He stated that this project would not increase storm water runoff, and added that the property is currently cultivated farmland with a high runoff coefficient, so the runoff would decrease after the improvements are installed. He stated that the water quality would also be improved as the need for pesticides and fertilizers would no longer be necessary as they are proposing low maintenance meadow grass throughout the site. He stated that the proposal is similar to the Shiseido solar array project that he worked on in the Township about eight years ago.

Mr. Hill stated that the requirements of the Mercer County Planning Board are unique because they dictate the runoff coefficients that are required. He stated that an 18 inch berm would be

installed on the north side of the property as they are required to berm any storm water runoff that does occur to manage the discharge rate into the surrounding wetlands on site. He stated that they had to elevate the panels above the storm water level that would occur for a model 100 year rain storm event, but added that in his opinion, storm water levels of that nature would not occur on site. He stated that the first three rows of panels were elevated 30 inches above grade, while the others would be elevated 18 inches above grade. He said that this was done to satisfy the requirements of the Mercer County Planning Board. Mayor Mironov asked why the county planning board was involved when the site did not border any county roads. Mr. Hill stated that because the runoff enters what the county considers their drainage system, they are involved with the application.

Mr. Hill stated that the back of the solar panels would measure anywhere from 6.5 to 8 feet tall. He stated that the wiring would be on the back of the panels and would be concealed from view. He stated that there will be a six foot tall black vinyl coated chain link fence around the entire array. Mr. Hill stated that there would be a 100 foot landscape buffer between the residences along Dutch Neck Road. The buffer would include approximately 77 evergreen trees with an installation height of 9 feet. Other species would include the Norway spruce and the Colorado spruce. He stated that they provided maximum landscape buffering immediately north of the residences along Dutch Neck Road. Mr. Berman stated that Norway spruces grow very high and that they will cast a very long shadow, particularly in December. He asked if the shadows would cut into the productivity of the array at all. Mr. Hill stated that the common rule of thumb is that on December 21 an object will cast a shadow that is as twice as long as the object's height. He stated that the buffer is 100 feet between the landscaping and the solar panels so in the worst case scenario the productivity of the array may be affected slightly that week.

Mayor Mironov stated that the height of the panels strikes her as problematic under any circumstances and that she would like to see alternatives on what could be done. Mr. Hill stated that the height of the panels as proposed was typical for these types of arrays. He stated that they also have photo simulations of the project to illustrate what they will look like at installation. Mayor Mironov stated that she wanted to see what the arrays would look like, especially from the neighboring residences and the police court building, but added that she would like to see more background on the height in relation other arrays in the area and if there are any other options to be considered. Mr. Hill stated that the Shiseido solar array has panels approximately 6.5 to 7 feet tall but the site does not have as much storm water runoff to accommodate either. Mr. Theokas asked if the tallest panels would be the first few rows and Mr. Hill confirmed that they would be. He added that the site does see a drop in elevation from 106 at the residences along Dutch Neck Road to 102 at the opposite property line. Mr. Berman asked if the panels would appear level due to the drop in elevation and Mr. Hill stated that they would appear level.

Mr. Dobromilsky stated that the site presents some landscaping concerns as there are a lot of deer in the area so deer resistant plantings had to be utilized. He added that the choice to use trees would aid in offering immediate buffering impact to the site. He stated that the buffer will probably need to be evaluated at full growth in about 30 years to see if there is any impact on the productivity of the system like Mr. Berman suggested but added that it would provide a good buffer upon installation. He stated that this seemed like a sensible way to deal with those issues. Ms. Patel asked who would maintain the buffer as it grows. Mr. Hill stated that there is a power purchase

agreement in place for 15 years and that part of that agreement stated that the developer is responsible for maintain the system and the landscaping. Mr. Berman asked who would own the array. Mr. Tolstunov stated that Altus Power would down the array. Mayor Mironov clarified and stated that there is a 15 year power purchase agreement in place with two five year renewal options at the discretion of the Township. She stated that at the end of the agreement the Township will have options to purchase the system or to require its removal.

Mayor Mironov asked Mr. Hill to further address the height of the solar panels and why they were selected. Mr. Tolstunov stated that they chose Trina solar panels as they are one of the few Tier 1 solar manufacturing companies. He stated that from an investment standpoint, the bankability of the project is what drove the developer to choose to use Trina panels. He stated that the panels are plus sorted and guaranteed to produce 215 watts or higher and are covered by a 25 year warranty. Mr. Hill stated these are crystalline panels that are impact resistant. He stated that the background of the panels are dark blue and non-reflective while the frame is a matte finish aluminum. He stated that they also chose to utilize string inverters to convert the power from the arrays to power usable by the police court building. Each string inverter would be installed on a pole behind the panels and would be approximately 3.5 feet off the ground. Mr. Tolstunov stated that string inverters are much more efficient and are now more common than the previously standard centralized inverters. Mr. Hill stated that the string inverters also produce less noise than a larger centralized inverter, and stated the noise would be comparable to a dishwasher unit. He stated that the inverters would not be audible from five feet away. Mayor Mironov asked Mr. Hill if he was stating that no noise or light would be produced by the system. Mr. Hill stated that was correct.

Mr. Hill stated that he had photo simulations of the project to present to the Board. Mr. Hill presented a photograph taken from Dutch Neck Road facing the neighboring residences. He stated that there is currently no landscaping to the rear of the residences so the subject property is visible from Dutch Neck Road. Mr. Hill presented a simulation photo from the same vantage point along Dutch Neck Road that showed the proposed landscaping buffer at installation. He stated that the solar array would not be visible from Dutch Neck Road as they would be buffered from view by the landscaping. Mr. Hill presented another simulation photo to the Board of the proposed solar array. Mr. Hill stated that this photo is a panoramic view of the entire subject property taken from the south east corner of the property along the neighboring residences on Dutch Neck Road. Mayor Mironov asked Mr. Hill how many homes are along Dutch Neck Road in this area. Mr. Hill stated five. Mr. Dobromilsky stated that the photo simulation shows the landscaping buffer turning the corner but the submitted plans do not show that. He stated that could be due to the fact that there is existing vegetation in that area. He stated that some trees might need to be added to that area to further buffer the arrays from view. Mr. Hill stated that there is a note on the plan stating that they will work with the Township in the field during installation of the landscaping to ensure any gaps are minimized. Mayor Mironov asked if the buffer would be installed prior to the installation of the solar array system. Mr. Hill stated that he believed so. Mayor Mironov stated that prior to any construction the site would have to be buffered. Mayor Mironov asked how long construction would take. Mr. Tolstunov stated around six to eight weeks. He stated that the plans are ready to file with the construction department, so once construction permits have been obtained they will be able to start. He did add that it would approximately six to eight weeks to get the solar panels and racking system ready for installation. Mayor Mironov asked how long it would take to install the landscape buffer. Mr. Tolstunov stated about two weeks. Mr. Berman asked if the photo

simulations show the trees at full growth or at installation height. Mr. Hill stated they were illustrative of the installation height.

Mr. Hill presented another photo simulation to the Board of the subject property as seen from the police court building parking lot. Mr. Hill stated that no additional landscaping was required in the area by the specifications, so they did not propose any additional landscaping in this area. He stated that access to the array would be through a 25 foot gravel driveway located right off the existing parking lot. He stated that the fence would be about 25 feet away from the parking lot. Mayor Mironov asked if any trees were to be added in that area if they would cause any technical issues. Mr. Hill stated that they would not. Mayor Mironov asked Mr. Dobromilsky how many trees could fit into that area and Mr. Dobromilsky replied about 20 trees to achieve the same density as the other buffers for the project but that could be minimized and still have a buffering impact. Chairperson Kelley opened the meeting to the public. There being no public comment, the public forum was closed.

Mayor Mironov stated that there were two open issues regarding the height of the panels and the possibility of additional landscaping near the police court building parking lot. She asked T&M to look into those two issues and stated that because this is a municipal project those issues would not have to come back before the Board. Chairperson Kelley stated that the project looked good and he asked if there were any other questions or comments from the Board. Mayor Mironov stated that this was a courtesy review to get any comments or suggestions from the Board, so all comments were welcome and encouraged. Mr. Berman asked if the solar array would service the police court building only. Mr. Tolstunov stated that was correct. Mr. Dobromilsky stated that makes sense as the police court building is open 24 hours a day. Mayor Mironov stated that was the thought process behind it and added that the savings were pretty significant based on the figures that were received.

Mr. Hill thanked the Board for their time this evening and concluded his presentation.

## **2. Planning Board File #PB03-024**

Nijjar Realty

Block 58, Lot 14.02

Waiver of Site Plan Request

Henry Kent-Smith of Fox Rothschild LP is representing the developer Nijjar Realty this evening as they present a waiver of site plan request relating to the approved shopping center currently being constructed on Route 130 South in East Windsor. The request is for a modification to the freestanding pylon sign that was approved as part of the site plan application in 2008. Mr. Kent-Smith stated that the approved freestanding sign was below the maximum ordinance standards and at the time it was thought the sign would have sufficient visibility to those traveling along Route 130. Mr. Kent-Smith stated that as construction has progressed they have heard feedback from tenants that they would like a larger sign.

Chairperson Kelley asked Michael Herbert, Board Attorney, to swear in the Board's professionals: Richard Preiss, Township Planner; Richard Moralle, Township Engineer; and Daniel Dobromilsky, Township Landscape Architect. Mr. Herbert swore the professionals in.

Mr. Kent-Smith stated that John Parmar of Nijjar Realty, the developer, and Nanak Construction, the construction company developing the site, is present to offer testimony. Mr. Herbert swore in Mr. Parmar.

Mr. Kent-Smith entered into evidence the previously approved plans for the freestanding pylon sign as Exhibit A-1, titled "Page 2 of Approved Sign Package," dated June 13, 2008. Mr. Kent-Smith entered into evidence Exhibit A-2, titled "Sheet SG-2," dated July 11, 2016. Mr. Kent-Smith entered into evidence a colorized rendering of the proposed sign as Exhibit A-3, titled "SG-1, Prospective Views," dated June 13, 2008.

Mr. Parmar stated that Exhibit A-1 was the approved freestanding sign from the original application in 2008. Mr. Parmar stated that he looked at it during construction and realized that each tenant placard is only four feet wide. He stated that other shopping centers they have built of similar size typically have much larger placards for the freestanding sign. He added that the Windsor Crossing Shopping Center next to the Home Depot in East Windsor has a freestanding sign with placards measuring 8 feet wide. After that realization, he decided to look into increasing the size of the freestanding sign. Mr. Kent-Smith stated that the new sign would not exceed the maximum size permitted of 150 square feet. He also added that the original sign was set back from Route 130 by 24 feet, and they planned on maintain that setback. Overall, this would be a conforming sign. Mr. Parmar presented Exhibit A-3 to the Board and stated that the material for the sign would be the exact material used for the building so it would match the center.

Mr. Dobromilsky asked what the height of the original approved sign was. Mr. Kent-Smith stated that the original sign measured 21'3". Mr. Theokas asked if the increased size had any impact on visuals for traffic entering or exiting the site. Mr. Kent-Smith stated that it would not have any impact as they would maintain the same 24 foot buffer between Route 130 and the sign.

Chairperson Kelley opened the meeting to the public. There being no public comment, the public forum was closed.

Chairperson Kelley announced that alternate member Mr. Theokas would be eligible to vote tonight as regular member Mr. Catana was absent this evening.

MOTION TO APPROVE WAIVER OF SITE PLAN REQUEST MADE BY: Mr. Clark

MOTION SECONDED BY: Mr. Berman

ROLL CALL

AYES: Mr. Berman, Mr. Brady, Mr. Clark, Mayor Mironov, Ms. Patel, Mr. Schmidlin, Mr. Shapiro, Mr. Theokas, Mr. Kelley

NAYES: None

ABSTAINS: None

**3. Planning Board File #PB05-018**

Twin Rivers Plaza, LLC

Block 20.02, Lot 563

Waiver of Site Plan Request

Seth Kurs of Massar and Kurs is representing the principal of the property Arie Behar of Twin Rivers Plaza LLC. Mr. Kurs stated that the subject property is located at 59 Abbington Drive, Block 563, Lot 20.02 and is the site of a strip mall off of Abbington Drive featuring establishment such as Scotto's, Brooklyn Bagels, Tom Bryan's Karate and Chen Cheng restaurant. Mr. Kurs stated that the center is unique as the back of the front building is facing Route 33. He stated that the applicant had appeared before the Board for a sign variance request that was approved August 21, 2006 and memorialized by Resolution 2006-20 on October 23, 2006. Seven façade signs were approved to be mounted on the façade facing Route 33 but only four had been installed before the approval expired. He stated that the applicant is seeking to place the three remaining signs but that the square footage of the signs had been reduced from 325 square feet to 267 square feet.

Mr. Kurs introduced his witness Arie Behar of Twin Rivers Plaza LLC, the principal of the property. Mr. Herbert swore in Mr. Behar.

Mr. Behar stated that he had a colorized version of the photograph submitted to the Board with him. He stated that the Scotto's sign would be placed on the west facing façade over the restaurant. Mayor Mironov stated that the black and white photo was not very clear and it was hard to identify what the sign said and where it was going to go on the building. Mr. Kurs stated that the signs would be in accordance with the existing façade signage and be the same size and use the same materials. He stated that the Scotto's sign and the Chen Cheng sign were existing on the building.

Mayor Mironov asked how the Chen Cheng sign had been approved, as it was not part of the original signage approval. Mr. Kurs stated that the original approval was for a sign for the Galaxy of Dance, but they are no longer a tenant of the center. Mayor Mironov asked to start with the Scotto's signage. She asked if the smaller sign shown on the photograph was still existing. Mr. Behar stated that sign had been removed. He stated that the larger Scotto's sign was mounted on the west facing façade and the Chen Cheng and Allstate signs are mounted in the courtyard above the loading docks. Mr. Shapiro asked Mr. Behar if Wayne's Wash World and Allstate were in this building. Mr. Behar stated that Allstate was in this building by Wayne's Wash World was in the second building on the other side of the center.

Mayor Mironov asked Mr. Kurs to walk through all of the changes that were made to the sign proposal from what was approved. Mr. Kurs stated that the approved Twin Rivers Shopping Center sign and the Kids Cottage sign were both existing as they were approved in 2006. He stated that the approved Galaxy of Dance sign was replaced with the existing Chen Cheng sign, as Galaxy of Dance is no longer a tenant of the center. He stated that the applicant would like to change the approved Betty Brite Cleaners sign to Wayne's Wash World. He stated that sign was not existing currently. Mr. Kurs stated that the Scotto's sign was existing on the building as it was approved. He stated they would like to replace the Fitness and Karate sign with a sign for Allstate. He stated that they would like to add the David's Pub sign in place of the approved Nails and Glamour sign.

Mr. Shapiro asked if the Board had ever approved façade signage to be placed on a separate building from the business. Mr. Behar stated that was the nature of the original request in 2006 that received approval and that some of the approved signs were for tenants in the second building. He stated that the second building is completely blocked from view by the first building, so the additional façade signage is meant to increase exposure for the tenants. Mayor Mironov stated



that if the Board were to come to a favorable decision on this request that she would like to make sure that a precedent is not set to allow façade signage on the rear of other buildings. She stated that she understood this is a challenging property and is open to listening to the issue.

Mr. Preiss stated that it appears that some of the signs that are already up are different in size than those that were originally approved. Mr. Preiss stated that they would need some clarity on what was approved, what currently exists on the building, and what signs are being proposed now. Mayor Mironov asked Mr. Behar how these changes took place. Mr. Behar stated they thought that since the overall square footage of the façade signs had been reduced, the changes would be permitted. Mayor Mironov clarified that the signs were approved individually, not as a package, so that was irrelevant.

Mr. Kurs stated that this center is unique and that most shopping centers being constructed presently follow this layout so this issue probably wouldn't come up for future developments. He stated that with new developments in the area and increased competition, the need for additional signage is even greater than it was at the time of the original application. Mr. Clark agreed with Mr. Kurs sentiment that the center is unique and faces different challenges.

Mr. Berman stated that when he does visit that center he often finds it confusing. Mayor Mironov stated that the additional façade signage might not help with that issue as they do not align with the stores and that was the intention of the approved directory sign. She stated that two issues were still outstanding. She stated that the signs were somehow changed unilaterally from what was approved previously and she reiterated that the signs must be installed as they are approved and that no recalculations can be made. She stated that they also must make sure no precedence is set for other applications to allow for façade signage on other buildings for tenants. Chairperson Kelley agreed with Mayor Mironov. Mr. Preiss stated that it might be useful for the Board to see a plan that shows which signs are for the tenants in the other building and where those tenants are located. He added that the location for the signs should be made clearer and the applicant should offer their rationale as to why those locations were chosen. Mr. Herbert added that every application must rise and fall on their own merits so that by approving this request a precedent would not be set for any future developments.

Mr. Theokas asked if each of the signs complied with the ordinance requirements. Mr. Preiss stated that after reviewing the materials he believed the signs complied with the ordinance requirements. Chairperson Kelley stated that the applicant should provide the additional details as requested before a decision could be made. He stated that the application would be carried to September 12th without any further notice required. Mr. Kurs agreed to provide the information prior to the meeting.

Chairperson Kelley opened the meeting to the public. There being no public comment, the public forum was closed.

- 4. Planning Board File #PB03-023**  
Galleria at Twin Rivers  
Block 20.08, Lots 280 & 282  
Waiver of Site Plan Request

Chairperson Kelley asked Michael Herbert, Board Attorney, to swear in the Board's professionals: Richard Preiss, Township Planner; Richard Moralle, Township Engineer; and Daniel Dobromilsky, Township Landscape Architect. Mr. Herbert swore the professionals in.

Chairperson Kelley asked Tobias Daniello, the owner of the subject property, if he had an attorney present this evening. Mr. Daniello stated that he did not. Mr. Herbert stated that because this was an application made by a corporation, it was required that they be represented by an attorney. Mr. Daniello apologized for the absence of his attorney. Mr. Herbert advised that the applicant return to another meeting with his attorney. Chairperson Kelley announced the application would be carried to August 15th with not further notice required.

### **ADJOURNMENT OF MEETING**

There being no further business, the meeting was adjourned.

### **CERTIFICATION OF SECRETARY**

I, undersigned, do hereby certify;

That I am the Planning Board Secretary of the Township of East Windsor Planning Board and that the foregoing minutes of the Planning Board, held on August 1, 2016, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Planning Board this 26<sup>th</sup> day of September, 2016.

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Allison Quigley, Board Administrative Secretary  
East Windsor Township