

MINUTES

PRESENT: J. Abel
M. Augustine
R. DeCroce
D. Haywood
J. Lutz
J. Mathieu
T. Siano
J. Strasser
S. Zdepski
J. Harabedian, Alt #1
L. Herrighty, Alt. #2
R. Lorentz, Engineer
D. Pierce, Attorney

CALL TO ORDER

The meeting was called to order by J. Lutz at 8:02 PM.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Delaware Valley News and Express Times and sent to the Hunterdon County Democrat, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Approval of Minutes

It was moved by D. Haywood, seconded by M. Augustine and carried to approve the minutes of March 14, 2006 – Joint Meeting with Board of Health and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by J. Mathieu, seconded by T. Siano and carried to approve the minutes of March 14, 2006 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolutions

It was moved by D. Haywood, seconded by S. Zdepski and carried to adopt **Resolution No. 2006-11 – Casuscelli – Block 1.02, Lot 4 – Minor Subdivision**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by T. Siano and carried to adopt **Resolution No. 2006-12 – Van Holten Group, LLC – Block 19, Lot 19 – Minor Subdivision**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by J. Mathieu, seconded by M. Augustine and carried to adopt **Resolution No. 2006-13 – Schick – Block 14, Lot 39 – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by M. Augustine and carried to adopt **Resolution No. 2006-14 – Perrotti – Block 7, Lot 14.01 – Minor Subdivision** with the following change:

Title should read: *Granting Extension of Minor Subdivision*.

All members present voted **AYE** on **ROLL CALL VOTE**.

Applications

Baumlin – Block 28, Lot 3.07 - Minor Subdivision – Determination of Completeness

J. Lutz informed the Board the applicants are not ready to proceed this evening.

Hidden Orchards – Block 22, Lot 16 – Determination of Completeness

D. Nenna, one of the applicants, was present for the application this evening. The reason the applicants are requesting an amendment to preliminary approval is because the DEP required the applicants to attempt to obtain another access to Lot 16 rather than through Lot 17. The subdivision has lost two lots in the reconfiguration.

R. Lorentz stated the proposal to gain access from Hammer Road will require a subdivision of Lot 15.01 to create the access. It is not contained in the current application. On the Bedrosian property there currently exists a metal garage which will be located in the side line set back. D. Nenna indicated the garage will be moved.

D. Pierce stated the road is at the boundary of the property and would require an application for a boundary line adjustment. The application would have to be signed by Mr. Bedrosian indicating his consent. For Lot 15.02, the house is located within the front yard set back of the road. The applicants would need to file for a bulk variance for the set back on that house. D. Nenna indicated there is a little flexibility in the alignment of the road. He stated the road can be shifted to the south to eliminate the need for a variance for Lot 15.02.

D. Pierce indicated the applicant has requested a waiver of the well test requirement as a completeness item for preliminary approval. The application received preliminary approval before the well test ordinance was in affect. The applicants have no problem providing the testing. He stated the well test requirements are a checklist item for preliminary approval not for final approval. The board could deem the application conditionally complete. The applicant would have to submit revised plats 20 days prior to next month's meeting, a formal application for a boundary line adjustment signed by Mr. Bedrosian, and the reconfiguration of Lots 16.01, 16.02, 16.03 and 16.04, if appropriate.

It was moved by T. Siano, seconded by M. Augustine and carried to deem the application conditionally complete. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, who voted **NAY**.

Equestrian Village – Block 14, Lots 28.02 and Lot 30 – Determination of Completeness

F. Wisniewski, attorney, was present for the applicant. The applicant submitted an application on March 2, 2006. The applicant is requesting a variance for the waiver of the well testing ordinance. He stated the applicant has been unable to perform the testing due to several issues. The Township did not respond to the applicant's request for protocol, accurate procedures to follow or the required certified property owners' list. They have been trying since early last fall to obtain some determination on how to proceed on the ordinance. They are requesting the requirement to be waived. He is requesting the board proceed with the application. It is the opinion of their hydrologist there is sufficient water for the project. The new zoning ordinance provides for a grandfathering provision and had they been able to perform the well testing and deemed complete at the time the application had been submitted, the application would conform to the old zoning ordinance, as grandfathered.

J. Lutz stated in his review of the application several lots do not meet the current requirements of the zoning ordinance.

D. Pierce stated he had received a communication from A. Hauck in regard to the applicant's hydrologist questioning P. Althoff's interpretation of the ordinance. M. Zdepski interpreted the ordinance differently than P. Althoff's. M. Zdepski interpreted the ordinance required one interference test before subdivision.

P. Althoff stated the interference test and the 3 part pump test are two different tests. The ordinance requires one out of every four lots be tested. She had received a proposal dated in October and the proposal did not match the site plan she had received. M. Zdepski stated the project had changed and he would be providing her with another proposal. She has not received the new proposal.

F. Wisniewski stated the ordinance refers to testing for an application for a subdivision. The 3 part pump test is prior to the issuance of a building permit. There is nothing in the ordinance requiring a 3 part pump test for an application for subdivision.

P. Althoff reviewed the ordinance requirements. Each of the test wells were required to conduct the 3 part pump test with the observation of the other wells. She proposed one of the test wells should be an aquifer test to demonstrate the water supply needed for the entire subdivision along with observation wells and offsite monitoring.

D. Pierce stated there is no ambiguity on the amount of wells to be in the 3 part pump test. The recent zoning ordinance was enacted with a grandfather provision. Under the laws of the state of New Jersey and the guiding principal, the time of decision rule is whatever zoning ordinance is in effect at the time of approval is the zoning law that governs the application. An application could have been deemed complete without a grandfather clause, could have been to the last hearing date and if the zoning was changed prior to the hearing, they would have to start over again. An additional item making this application incomplete is it appears the applicant is reconfiguring Lot 28.02 by taking an easement over the access way of 28.02, owned by R. Oakes. There is neither an application for a boundary line adjustment nor the consent for Mr. Oakes for an application affecting his land.

F. Wisniewski indicated the easement, when the original subdivision was granted, allowed a right to cross with any other development on the property. No consent from Mr. Oakes on this plan is required.

R. Lorentz commented Lot 28.02 is being merged into some of the new lots. There is an area to be added to Lot 28.01 and requires a boundary line adjustment.

D. Pierce stated the plan calls for an alteration to Mr. Oakes' lot. Mr. Oakes is not currently a participant to the application. It is his opinion that the application would be subject to the new zoning ordinance.

It was moved by J. Mathieu, seconded by S. Zdepski and carried to deem the application incomplete. All members present voted **AYE** on **ROLL CALL VOTE**.

Tumble Partnership – Block 32, Lot 10 - Determination of Completeness

D. Pierce stated the application is very similar to the last application. The application has been pending before the board for a substantial time. It was previously deemed incomplete. The applicant has submitted additional or revised plats. The new zoning ordinance had been enacted and the current plan does not conform to the new requirements.

It was moved by S. Zdepski, seconded by D. Haywood and carried to deem the application incomplete. All members present voted **AYE** on **ROLL CALL VOTE**.

Helmer – Block 2, Lot 5 – Determination of Completeness

D. Pierce stated the board needs to consider and make a determination of completeness or incompleteness within 45 days.

R. Lorentz stated the drawings submitted do not comply with the current ordinance. There are no calculations of the constrained areas, which would need to be determined and it is a lot averaging plan. There was additional key issue information missing from the plan to determine what was being proposed.

D. Pierce stated the escrow agreement was not signed, which is a completeness issue. The applicant has requested a waiver of the hydrologic testing requirements, which is not appropriate.

It was moved by J. Mathieu, seconded by D. Haywood and carried to deem the application incomplete. All members present voted **AYE** on **ROLL CALL VOTE**.

Van Holten – Block 28, Lot 11 – Preliminary Major Subdivision

D. Pierce noted for the record he has reviewed the applicant's notice of publication and service. The Board may exercise jurisdiction and open the hearing in the matter.

P. Wolfson, attorney for the applicant, was present for the matter. The purpose of the hearing this evening is to obtain preliminary major subdivision. There is some minor relief requested to the remainder lot. The requested points of relief retain the rustic structures on the property and the historic nature of those lots, respective of the existing houses in the Township.

F. Ardman, licensed professional engineer, was sworn in by D. Pierce.

The Board accepted his credentials.

F. Ardman provided an overview of the site. He presented Exhibit A-1 which is overall site plan SB-1 with a revision date of March 17, 2006. The property is located on the right side of Route 519 and Fairview Road. It is Block 28, Lot 11. The property consists of 37.24 acres with an existing farm field and hedge row on the westerly side. The property contains an existing farm house. There is an existing pond. Associated with the pond are some wetlands. The applicant has submitted an application to the DEP for an LOI and has received confirmation of the wetlands line. They have been set and approved by the DEP. There is a small wetlands area offsite of the property to the west and the buffers come on to the property. The site is generally flat and rolling with a split ridge line that runs from corner to corner. The property slopes to the north and then the south. The north drains onto Fairview Road. The run off and slope from the south go to the pond and drain on either side of the pond. The application has been designed with the lot size averaging provision of the ordinance. The lots are sized as four acre lots. The proposed road is 950' in length with six lots having direct frontage on the road way and one with a flag lot access off the proposed roadway. The lots range in size from 2.9 acres to 6.2 acres. All the home sites have the appropriate set back of 75' of the proposed roadway. The proposed roadway is a public roadway with a 40' ROW and an 18' cartway. The retention of the currently existing buildings would aid in the aesthetics of the remaining house. The back coops would be removed. The Stormwater Management plan proposes two basins on the north side and one on the south side. Each basin has been designed to comply with the current ordinance requirements, county standards and RSIS standards in the best management practices categories. The applicant has submitted a Soil Erosion and Sediment Control Plan and they have received approval. The depth of the retention basins will be 4' to 4.5' at the outlet structure and then decline to 3.5 feet and then 2 feet. The ponds will be fenced having overland flow on the swales on the side of the road, inside the basin. There will be a sand filter in the bottom of the basin and some additional landscaping visible to the traveling public. The county has granted conditional approval for Route 519. The applicant will improve Fairview Road by saw cutting either edge of the road, clean 20' from their frontage and will provide the associated road improvements that are needed. Originally the application was a nine lot subdivision and is now seven lots. The lot size average comes to 4.72 acres, which is above the minimum standard. The house on Lot 11.01 will be facing back into the project with berms along Fairview Road to shield the back yard area.

J. Babey, Jr., the applicant, was sworn in by D. Pierce.

J. Babey stated the price range for the homes would be in the low \$600,000. He would be agreeable to a payment in lieu of the improvements along Fairview Road. He plans to construct the first house either on Lot 11.07 or 11.02. The name of the road has not been determined. He will be applying to the Historical Society for their suggestion.

F. Ardman referred to Exhibit A-2 which is SP -1, with a revision date of April 11, 2006. The revised plan shows some technical changes of how the proposed roadway and Fairview Road meet by adjusting the intersection of those two roads to the standards of the Township.

J. Lutz opened the hearing to the public.

S. McNichol inquired as to how the proposed roadway was being finished. F. Ardman responded the proposed roadway will drain naturally. It contains 18' wide of pavement with swales on both sides and no curb.

W. Pandey commented on bicycle traffic on the Township roads. He requested developers provide some accommodations for the bicyclists.

J. MacConnell commented on the proposed roadway of the development and its close proximity to J. Search's driveway. F. Ardman requested J. MacConnell come and view the plat. The revised plat addressed J. MacConnell's concerns.

J. Abel stated the project is going to generate 7/8ths of a COAH obligation.

P. Wolfson stated the applicant will make a payment in lieu of construction.

P. DeMicco, hydrologist for the applicant, was sworn in by D. Pierce.

The Board accepted his credentials.

P. DeMicco stated he had prepared a report dated December 2005 with a revision date of March 1, 2006. The reason for the revision was because the lots changed. A three part pump test for the three wells was conducted. P. Althoff suggested they perform a constant rate test of peak demand for the entire subdivision. Correspondence is contained in the report that discusses the applicant performing the long term test on old Lot 4, now Lot 3. It also discusses performing a test on old Lots 9 & 7. The applicant agreed to perform interference testing for a short duration for the lots in the subdivision. They provided notification to the property owners within 2500'. The distance drawdown graph is Figure #13 which, in most geological environments, is suitable to project interference at any distance away from the test well. The graph demonstrates uniform geological characteristics to the area. The test well recovery to 90% was quick. Well interference testing was less than one foot offsite. The wells yielded between 15 to 18 gallons per minute (gpm). There was no impact on the aquifer. The well on the farmhouse had a static water level of five feet. The well contains 20' of casing. Stormwater will be retained on the site but will not make it to the aquifer. It will support the shallow hydrology. The septic water will recharge the aquifer but will not reach the drinking water. The well on Lot 11.09 showed coliform contamination. Prior to the issuance of a Certificate of Occupancy, the well will need to be chlorinated. The coliform contamination was probably introduced during the drilling. The current well and septic will be reviewed to assure

conformation to current regulations. P. Althoff stated the wells on Lot 11.06 and 11.07 were tested. There was a drawdown of 66' on Lot 11.06 and 26" on Lot 11.07. The drawdown on the observation well was 1.8'. The applicant started pumping the wells on Lot 11.06 and 11.07 at 8:00 or 9:00 AM and pumped for four or five hours at 12 gpm and then took water samples at 1:00 PM.

P. DeMicco stated the offsite well impact was .81'. Their offsite well is approximately 700' from Lot 11.03. In theory and according to Figure #13, it would be difficult to measure any impact on a well after 1100'. The normal household well pumps 5 gpm with a normal usage of 100 gallons per day with occupancy of 3 or 4 people utilizing a total daily usage of 350 to 400 gallons. Pyrite is attributed to the mineral that gives off arsenic. Arsenic tends to bind up with the iron oxide minerals. If there is rust present in your aquifer coating the sides of your fissures, it will bind up with the iron oxide minerals. The current contamination in the wells will stay in the ground unless some other circumstance brings it out. If the arsenic level is high when the well is tested for occupancy, he stated he would recommend a water softener. The water supply in the development is adequate.

J. MacConnell commented on the application of chemical and fertilizers on lawns. P. DeMicco stated if Lawn Doctor is applying the chemicals and fertilizer properly, there should be no effect on the hydrology.

P. Hinrichsen inquired about the run off water with the streams. F. Ardman responded the applicant will utilize the best management practices. The water is running over grass swales and the retention basins will have a sand filtering. There will no effect downstream. All the runoff from the paved roadway areas and houses will all go to the detention basins. The septic will be treated according to the state standards. The septic systems will be mound systems.

J. Lutz closed the hearing and opened up the deliberation for the Board.

After some discussion, it was moved by J. Abel, seconded by T. Siano and carried to grant preliminary major subdivision approval with the following conditions:

- Submission of a plat;
- Receipt of approval from DEP for the transition area;
- Calculation of the contribution in lieu for Fairview Road and off tract improvements;
- Retention agreement;
- Inclusion of a note on the plat of a conservation easement;
- Chlorination of the contaminated well prior to the issuance of a C.O.;
- Demonstration of a properly functioning septic system on Lot 11;
- Documentation of compliance of the well on Lot 11 (conformity to the casing requirements at a minimum);
- Water softeners to be included in the project.

All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment to Well Water Advisory Committee

J. Lutz appointed D. Haywood, J. Abel and J. Harabedian to serve on the Well Water Advisory Committee.

A. Hauck stated the Advisory Committee will consist of him, as chairman, T. Kratzer and the members indicated this evening. The Committee will be working with P. Althoff to design a new water well ordinance. After the Committee has developed a final draft, it will be presented to the Board of Health for approval. They will be looking at issues such as nitrate dilution and long term water resources.

P. Althoff suggested she write a new ordinance and then offer it to the advisory committee for their suggestions and comments.

Township of Kingwood – Proposed Ordinance 13-25-2006

R. Lorentz stated the Township has introduced an ordinance dealing with stormwater management. It will be up for adoption at the May 2, 2006 Township Committee meeting. It is the final step in the Stormwater Management Plan. With this ordinance, the Township has a local ordinance in compliance with the state requirements. It is applicable to non-residential development in the township.

It was moved by J. Abel, seconded by J. Mathieu and carried to recommend the adoption of proposed Ordinance No. 13-25-2006 to the Township Committee for adoption. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolution No. 2006-15 – Executive Session

RESOLUTION NO. 2006 - 15

WHEREAS, Section 7 of the Open Public Meetings Act, Chapter 231 P.L. 1975 (R.S. 10:4-13) permits the exclusion of the public from a meeting or a portion of a meeting of this public body in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Kingwood, County of Hunterdon and State of New Jersey as follows:

1. The public shall be excluded from the meeting or a portion of a meeting at which this public body discusses the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:

Litigation

3. The time when the circumstances under which the discussions conducted in closed session of this public body can be disclosed to the public is as follows:

The minutes of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements or personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and -13.

4. This resolution shall take effect immediately.
5. The Planning Board may take additional action upon returning to regular session.

It was moved by D. Haywood, seconded by M. Augustine and carried to adopt the foregoing resolution. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by S. Zdepski, seconded by T. Siano and carried to enter into regular session. All members present voted **AYE** on **ROLL CALL VOTE**.

Tumble Partnership – Block 32, Lot 10

It was moved by D. Haywood, seconded by J. Strasser and carried to approve the settlement as per the discussion in Executive Session. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Draft Ordinance

D. Pierce has prepared a draft ordinance for consideration by the Board this evening. The ordinance adds items to the checklist to alleviate any of the problems encountered in the past with the plats.

It was moved by S. Zdepski, seconded by D. Haywood and carried to recommend adoption of the proposed ordinance to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

CORRESPONDENCE

J. Lutz reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by S. Zdepski, seconded by T. Siano and carried to adjourn the meeting at 10:54 PM. All members present voted **AYE**.