

MINUTES

PRESENT: J. Burke
R. Dodds
D. Haywood
W. Kastning
T. Kratzer
T. Siano
J. Strasser
S. McNicol, Alt. #1
L. Senus, Alt. #2
T. Decker, Engineer
D. Pierce, Attorney

ABSENT: J. Mathieu
E. Niemann

CALL TO ORDER

The meeting was called to order at 8:00 PM by W. Kastning.

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 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 J. Strasser and carried to approve the minutes of March 13, 2007 with the following correction:

“Roll Call Vote for February 13, 2007 minutes – All members present voted AYE on ROLL CALL VOTE, except S. McNicol, who abstained”

All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and L. Senus, who abstained.

It was requested the title of ordinances should be included in the context of the minutes.

It was moved by R. Dodds, seconded by D. Haywood and carried to approve the minutes of March 27, 2007 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Burke, who abstained.

Resolutions

It was moved by D. Haywood, seconded by T. Siano and carried to adopt Resolution No. 2007-13, Schick, Block 14, Lot 39, Proposed Lots 39.03 & 39.04, Extension of Time to File. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and L. Senus, who abstained.

It was moved by D. Haywood, seconded by T. Siano and carried to adopt Resolution No. 2007-14, DeSapio, Block 6, Lot 9, Proposed Lots 9.01 & 9.02, Extension of Time to File. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds, W. Kastning, T. Kratzer, S. McNicol and L. Senus, who abstained.

It was moved by D. Haywood, seconded by T. Siano and carried to adopt Resolution No. 2007-15, DeSapio, Block 5, Lot 6, Proposed Lot 6.02, Extension of Time to File. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds, W. Kastning, T. Kratzer, S. McNicol and L. Senus, who abstained.

Applications***Rosemont Hills - L.K.R. Major Subdivision - Kingwood Road - Block 38, Lots 20 & 36***

The matter was called but the applicants stated they were awaiting their attorney.

Tumble Partnership, Tumble Idell Road, Block 32, Lot 10

R. Zederbaum, engineer, was present for the matter this evening. He has received a report from the Township engineer requesting minor items. The application is seeking several waivers.

D. Pierce stated there are no notice requirements for a completeness determination. The application involves land, to be merged with this lot, which is part of a major subdivision approved in 2006. The major subdivision received preliminary approval but not final. The major subdivision has not been perfected. The board does not have jurisdiction to hear the application if it were deemed complete and it is not appropriate for the board to consider completeness because the lot they are proposing to subdivide does not exist at this time.

R. Zederbaum was sworn in by D. Pierce.

R. Zederbaum testified he was not aware of the problem. The reason the major has not been perfected is the satisfaction of one condition of approval, the hydrogeological test.

D. Pierce stated the lands that are being added to this lot are being added by a boundary line adjustment. The ordinance does not have any provision or time period after a boundary line adjustment before they can proceed with an application on the lot. The applicant can amend its preliminarily approved major subdivision and have it as one application.

R. Zederbaum stated the applications are based on two different sets of design parameters. The major is under the old ordinance and this application is under the new ordinance. When the original application was submitted all the parcels had been in the application. There was a wetlands delineation and an LOI

for the portion of the property previously subdivided. One was never ordered for this side of the application. The applicant had two choices, wait until we get the LOI or separate the parcels and get the major approved while they were waiting for the LOI on the second half.

D. Pierce stated the applicant presented to the board an application for Lots 11 and 11.02 in the spring of 2006. The board had no ability or authority to proceed with its plans for Lot 10. At the time of the application for Lot 11.02, the zoning ordinance was changed. The Township and applicant reached a settlement to treat the major under the old ordinance.

It was moved by R. Dodds, seconded by T. Siano and carried to determine the board lacks jurisdiction to consider this application prior to the perfection of the lot line adjustment. All members voted **AYE** on **ROLL CALL VOTE**.

D. Pierce stated the plat would have to be recorded for the major subdivision to be perfected. He suggested the applicant, when he comes in for final, might ask the Board for a phased final requesting the boundary line adjustment be perfected prior to the perfection of the major subdivision.

Rosemont Hills L.K.R. Major Subdivision, Kingwood Road, Block 38, Lots 20 & 36

K. Coakley, attorney, was present for the matter this evening. The application involves 16 new building lots and lands remaining. There are several open space lots. The application was filed in December of 2006. The Board considered completeness issues in February. The applicant requested to be heard on the completeness issues and their reasoning for the requested waivers.

D. Pierce swore in W. Lane.

W. Lane is a licensed engineer in the State of New Jersey. He has testified before Planning and Zoning boards. His firm designed the application before the Board this evening. The property contains 187 acres in Kingwood and 143 acres in Delaware. The lot yield plan yields 18 lots. The applicant went with the cluster option. They tried to keep the maximum open space. The lot is predominantly wooded. The premium lots are along the rear. The waiver of the tax assessor's lot number determination is requested to be a condition of preliminary approval. The applicant would like to apply for the numbers after the board has approved the lot and road configurations. The waiver of indicating the cross sections and profiles is being requested because if the lot layout changes the design will have to be redone. There are approximately 120 cross sections. They are requesting the requirement of a Community Impact Statement be deferred to a condition of preliminary or final approval. The waiver of the septic requirement is being requested due to a development of this magnitude requiring an extensive amount of work and tests. There have been favorable tests in the rear. They are requesting that submission of that proof be deferred until the lot layout has been resolved. The waiver requesting the wells is because it will require an extensive amount of tests. They are not requesting they do not perform the testing but are requesting the testing be done as a condition.

K. Coakley stated the applicant will abide by the rules legally adopted by the State in regard to Affordable Housing.

D. Pierce swore in J. Griffin.

J. Griffin is an engineer in the State of New Jersey. He is employed with the Harms Co. Harms Co. is affiliated with the applicant. They have prepared the application before the Board. The costs involved in a septic study would be approximately \$50,000 and the well study would be approximately \$100,000. If the Board approves the lot layout, they could locate the fields in those approved lots. In 2004, they did a soil study. They dug 101 test pits. They did find areas of the property that did not perc well. In the rear of the property, the majority of the areas where the lots are located have perced satisfactorily. The applicant is not asking for a waiver of the wells or sanitary septic testing but for them to be deferred until an actual layout is approved. The roadway network is in conjunction with the development in Delaware Township. The application being presented to Delaware Township is not as advanced as this application. If this Board requires some modification, it might affect the Delaware Township application.

K. Coakley identified P-1 as Rosemont Hills Overall Concept Plan, dated January 9, 2007 and P-2 as Rosemont Hills Estates, dated April 10, 2007.

T. Decker stated the Township is being asked to review a project based on a concept. The reason why the checklist has engineering items is to give the board a comfort level that the lots they are approving can be supported by septic and water. He mentioned in his review letter it is premature to review the layout without that information.

K. Coakley stated the application is more than a concept plan. It is a fully engineered application except for the items requesting waivers. The request on the waivers would be to either defer them to final or have them as a condition of preliminary approval. If the Board approves the layout and the lots become fixed, the applicant will come in with evidence of septic and well suitability.

The consensus of the Board members was they were willing to have an informal discussion but not enough information has been provided for an approval. K. Coakley stated any discussion of lot layout would be non-binding. The applicant is seeking approval.

T. Decker stated before an application is deemed complete his office does not do technical review. T. Decker reviewed his memo to the Board.

K. Coakley stated the application contains 300+ acres and when you combine both properties there are different issues. Testing is expensive and it would be highly deleterious to an applicant to repeat the tests. There is substantial evidence that the Board should grant the waivers. It would be punitive to the applicant if the Board does not grant the waivers.

It was moved by J. Strasser, seconded by D. Haywood and carried to require the applicant to meet the checklist as proposed and deny the waivers for #12, 24, 25, 26 and 43. All members present voted **AYE** on **ROLL CALL VOTE**.

V. Uhl, Hydrogeologist of Uhl, Baron, Rana & Associates

It was moved by D. Haywood, seconded by T. Siano and carried to hire V. Uhl of Uhl, Baron, Rana & Associates as the hydrogeologist for the Board. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Ordinance No. 14-10-2007 - **AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND THE DEVELOPMENT**

REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY "CHAPTER 132 - ZONING" OF THE GENERAL ORDINANCES OF THE TOWNSHIP.

It was moved by R. Dodds, seconded by J. Strasser and carried to recommend adoption of proposed Ordinance No. 14-10-2007 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

Master Plan Statement of Goals and Objectives

A. Clerico reviewed the changes discussed at last month's meeting:

- **Introduction, par. 2** – added “agricultural and historic” to last sentence.
- **Introduction, par. 5** – Changed last sentence to read “The optional elements of the Master Plan will be prepared in a multiyear, phased approach, commencing with the Conservation Plan Element, Utility Services Plan Element, and Circulation Plan Element, and the Land Use Plan Element, one of the required elements under the Municipal Land Use Law.”
- **Land Use and Management, bullet 1** – added “agricultural and historic”
- **Land Use and Management, bullet 5** – changed to read “To develop low-density design options for development to maintain rural character, minimize new road construction and maintenance, maximize ground water recharge, and minimize the threat to septic contamination of the ground water.”
- **Natural Resources, added bullet 1** - “To protect sensitive environmental resources from destruction or degradation, including but not limited to steep slopes, ridgelines, trout streams, wetlands, stream corridors, potable water supplies, watersheds, aquifers, rivers, viewsheds, forests and other vegetation, soils, habitats of threatened and endangered species and unique natural systems.”
- **Natural Resources, bullet 4** – changed to read “To identify steep slopes and establish steep slope criteria in order to protect severe topographic areas, such as areas along Route 29 where larger lots are expected to be maintained as a result of rock conditions and steep slopes.”
- **Agriculture, bullet 3** – deleted “on the plateau and in the more rugged terrain”.
- **Agriculture, bullet 5** – changed to read “To develop a relationship between the agricultural and non-agricultural community by encouraging designated areas for horseback riding, passive recreational trails, and other trails prohibiting motorized vehicle use.”
- **Agriculture, added bullet 7** – “To encourage clustered housing so as to protect healthy farmland soils.”
- **Economic Development, bullet 2** – changed to read “To encourage any new commercial activity to serve the rural, agricultural nature of the community.”

A comment was made to change Land Use and Management, bullet 5 to read “minimize the threat of septic contamination to ground water.”

D. Pierce stated, since the Goals and Objectives are part of the Master Plan, a public hearing must be advertised and held before being adopted.

Steep Slope Ordinance

The Ordinance will be introduced at the May 1, 2007 Township Committee meeting. The Board reviewed briefly and suggested no changes.

CORRESPONDENCE

W. Kastning reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

T. Hauck commented on the larger lots and fewer homes in Delaware Township in the LKR development.

Van Holten, Block 28, Lot 11 – Fairview Road

D. Pierce stated the applicant had originally proposed to satisfy its affordable housing obligation by building an apartment over one of the garages. The applicant has agreed to proceed with their original plan of construction of the affordable housing unit. J. Abel has indicated the DCA stated the apartment would be in compliance with the requirement. J. Abel is waiting for confirmation that DCA will consider satisfaction of the growth share obligation for the units in the development. In the course of working on the matter, D. Pierce has spoken with one of the new partners in his firm and discovered the partner had previously represented the owner of Van Holten Group. D. Pierce can no longer participate in the matter before the Board. The conflict on affordable housing has been resolved. The Board will have to retain alternative counsel for the final subdivision approval and the homeowner's association documents.

T. Decker suggested the requirement of getting an LOI be added to the checklist.

Well Ordinance

T. Kratzer had prepared the draft before the Board this evening. The items that need to be added are the fees, number of copies of the application, permits for electric lines and data required on the applications

Environmental Commission

S. McNicol stated the Environmental Commission has designed a form to review an application. T. Decker inquired if the application should be provided prior to a completeness determination to the appropriate boards and individuals listed in the ordinance or should their review wait until the application has been deemed complete.

D. Pierce stated a developer could take the risk and notice for a public hearing for the same night as a determination of completeness. The Board has discouraged that in the past because it is not fair to the residents to proceed from completeness determination to hearing without sufficient time to review the plans. Board of Adjustment applicants are advised to not advertise until a determination of completeness has been made.

Worksession

J. Burke questioned, since the regular workload is diminishing, the need of two meetings a month? Also, if the Board decides to have a second workshop, is the attendance of the professionals necessary?

The April 24, 2007, worksession meeting has been cancelled.

ADJOURNMENT

It was moved by J. Burke, seconded by D. Haywood and carried to adjourn the meeting at 10:17 PM. All members present voted **AYE**.