

**MINUTES**

**PRESENT:** J. Burke  
R. Dodds  
D. Haywood  
W. Kastning  
T. Kratzer  
E. Niemann  
T. Siano (left 9:15 PM)  
J. Strasser  
L. Senus, Alt. #2  
J. Matticola, Engineer  
D. Pierce, Attorney  
D. Banisch, Planner  
A. Clerico, Planner

**ABSENT:** J. Mathieu  
S. McNicol, Alt. #1

**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 R. Dodds, seconded by J. Strasser and carried to approve the minutes of July 10, 2007 with the following correction:

Page 3 – third paragraph correct “*retails*” to “*retail*”.

Van Holten – Block 28, Lot 11 – Route 519/Fairview Road – Affordable Housing Plan

R. Traynor was present on behalf of the applicant. The application received approval in May of 2006 with conditions. He is appearing before the Board for approval of the affordable housing plan on the development. He has been in discussion with Mr. Abel on the best way to provide the unit. The application requires 7/8s of a unit and it was suggested a unit be provided within the development. There will be one unit above a garage of one of the houses. They have received approval of the Hunterdon County Planning Board and Health Department.

D. Pierce swore in James Babey, principal of the Van Holten Group.

J. Babey testified, in response to a question from a board member regarding well yields, they have completed an extensive hydrogeological test for drawdowns. One well had a yield of 10 gpm and the other ones were 15 gpm. After speaking with his hydrogeologist, they have determined there is an adequate water supply. He can provide a letter from his hydrogeologist confirming the facts. The affordable unit will have a living room, kitchen, bedroom and dinette area. It is one of their high rate market houses. In regard to the septic systems being upgradient of the wells, he can provide a letter from his engineer deeming their acceptability.

D. Pierce stated any approval of the affordable housing plan will be subject to the execution of the standard COAH deed restriction for the unit. There is a debate if it will be 20 or 30 years.

It was moved by J. Burke, seconded by D. Haywood and carried to approve the Affordable Housing Plan for the above referenced application. All members present voted **AYE** on **ROLL CALL VOTE**.

Silverson – Block 7, Lot 14 – Oak Grove Road – Request for Extension of Time to File

B. Blumberg was present on behalf of the applicant. Outstanding issues still remaining deal with the size of the driveway and drainage. He is requesting an extension of the time to file the deeds until the outstanding issues can be resolved.

It was moved by D. Haywood, seconded by T. Siano and carried to grant a 90 day extension of time to file. All members present voted **AYE** on **ROLL CALL VOTE**.

Route 12 Business Park – Block 15, Lot 8.04 – Route 12 - Fastenal & Warnco – Conditional Use

A. VanVeldhuisen, owner of Block 15, Lot 8.04 was present as well as W. Warneski of Warnco, for the conditional use application.

D. Pierce swore in Walter Warneski.

W. Warneski testified that 99% of his business is to larger commercial contractors. Most of the items are warehouse items and are delivered. Walk in business is about 10%. The majority of his business is wholesale. Less than 1% of his sales are from retail. He also has rentals on the commercial end. The majority of his business is by phone. During the day some items may be stored outside but are inside in the evening. The largest truck a customer would be driving would be a pick up truck. Deliveries are made by larger vehicles.

In regard to Fastenal, the Board expressed their concern over the article in the Delaware Valley News indicating a new hardware store was open in Kingwood Township. A. VanVeldhuisen responded, when he is present at

the site, the majority of the people coming into the Fastenal store are wholesalers and contractors. It is not the ideal location for drive-by business.

A. VanVeldhuisen stated the parking was computed on the overall business park. There are 250 spaces. It was computed as 1 parking space per 750 sq. ft. There are available 5 to 7 spaces for a 2700 sq. ft. unit. Warnco would be allotted 10 to 11 spaces for his unit.

It was moved by R. Dodds, seconded by J. Strasser and carried to grant conditional use to Warnco for the Route 12 Business Park, Block 15, Lot 8.04. All members present voted **AYE** on **ROLL CALL VOTE**.

Galleria Construction – Block 39, Lot 7 – Barbertown Idell Road – Determination of Completeness

S. Norkevich, surveyor, and B. Casuscelli, applicant, were present for the matter this evening.

D. Pierce swore in S. Norkevich.

S. Norevich testified he is a licensed land surveyor employed by Galleria Construction to prepare the above referenced minor subdivision. The property is located on the corner of Tumble Idell Road and Barbertown Idell Road. They have presented to the Board an amended plan with the additions requested by the Board's prior review. The revision date is June 8th. The review by the engineer indicates one item lacking from the application, the electronic copy of the plan. The review by Banisch Associates deals more with the technical review of the application for the public hearing. The owner of the property has applied for an LOI. It appears as if the lot does not affect a C-1 stream and the lots will be residential. Item #19 in the Banisch review deals with the stone row located on the property. He did not locate the physical location of the stone row. The stone row will not be disturbed in the construction of the dwelling.

D. Banisch stated the board should consider a policy to see if a feature should be protected. The board might want to consider delineating a conservation easement over the stone row so it would be protected in perpetuity.

It was moved by D. Haywood, seconded by R. Dodds and carried to deem the application complete with conditions and schedule the public hearing for September 11, 2007 beginning at 8:00 PM. All members present voted **AYE** on **ROLL CALL VOTE**.

*D. Haywood recused herself from her position on the Board.*

Our Lady of Victories Church – Block 12, Lot 58 – Route 519 – Determination of Completeness

R. Drake of Archer and Greiner was present for the application as well as the engineer on the project, R. Lorentz.

T. Decker's review is as follows:

**Item #1 – Copy of Plan in Electronic Format**

Planning Board secretary should confirm if an electronic copy of the plans has been submitted. *Applicant is seeking a waiver for submission at this time. R. Lorentz stated it would be provided for the public hearing.*

**Item #13 – Names of Property Owners within 200 feet**

A list of property owners within 200 feet is provided on the plans, however a certified list from the Tax Assessor was not provided to our office. Planning Board Secretary should confirm if a certified list has been provided. *R. Drake stated it has been provided.*

**Item #31 - Provisions for Refuse and Garbage Disposal**

Site plans do not indicate the location of an existing or proposed dumpster. Applicant should be prepared to address at the completeness hearing. *R. Lorentz stated the item was overlooked. The dumpster is located at the rear of the building, totally hidden from view.*

**Item #47 – Proof of Submission to County Planning Board**

Planning Board Secretary should confirm if proof has been provided in submission package. *Applicant has received County Approval.*

**Item #53 – Executed Escrow Agreement**

Planning Board Secretary should confirm if agreement is in place. *R. Lorentz stated it has been provided.*

**Item #59 –Submission to NJDEP for Freshwater Wetland LOI**

Applicant has indicated that this information has been submitted to NJDEP. Planning Board Secretary should confirm if proof has been provided in submission package. *R. Lorentz stated they have filed an application with the DEP and it is on file with the Municipal Clerk.*

**Item #62 –Disclosures for 10% Financial Interest**

Planning Board Secretary should confirm if disclosure has been provided in submission package. *R. Drake responded the land is owned by the corporation “Our Lady of Victories”. The corporation is non-profit.*

R. Drake inquired if the notice of the hearing should include notification that there will be two uses on the property, a church and a rectory. It was recommended he should include both uses.

It was moved by J. Burke, seconded by J. Strasser and carried to deem the application complete with the following conditions:

- Submission of the plan in an electronic format;
- Provision for refuse and garbage disposal.

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

*D. Haywood resumed her seat on the Board.*

Laurelton/Belmont – Block 22, Lot 16 – Major Subdivision – Public Hearing

D. Pierce reviewed the notice and publication and has determined the applicant has satisfied the notice requirements.

W. Wilson, attorney, was present for the applicant this evening. He stated the application began in 2005 with 16 lots. The number of lots were reduced to 13, per DEP requirements and now to 11. The applicant has obtained the necessary DEP permits. Letter from NJDEP, date stamped August 8, 2007, addressed to Edward

A. Cook, containing the Authorization for Freshwater Wetlands Statewide General Permit No. 10A, Water Quality Certification and Waiver of Transition Area for Access, was marked as Exhibit A-1.

J. Symonds was sworn in by D. Pierce.

J. Symonds testified he is a licensed professional engineer in New Jersey. The permitted plan proposes the elimination of the cul-de-sac and the use of a private shared driveway. The cul-de-sac enters from Hammar Road. The application is proposing three lots off a common driveway. The plan indicates the detention basin and bio swales. The three main topics are if an overall conformation would support 11 lots. D. Nenna's letter indicated, erroneously, 10 lots. There are two plans present this evening. One is a conventional layout with the lots containing 4 acres conforming to the zoning ordinance. The roadway for this configuration, a conventional roadway of 2300', would comply in a general standpoint. The crossing is allowed. The plan was marked as Exhibit A-2. Under the 4 acre zoning, the application is fully conforming and complies with the DEP regulations. The second is a concept plan, which has the same layout but adds the cul-de-sac roadway. If the applicant wanted to add 1000' of roadway, the three lots on the cul-de-sac would have adequate frontage and not require a variance. The plan not providing for the 1,000' roadway was marked as Exhibit A-3. The plan has been designed to handle 11 lots under a lot size averaging plan with 1000' of public roadway but the applicant has developed a concept plan with less impervious surface and less public roadway. The 1000' of roadway has been replaced with the shared driveway. Lots 16, 16.09 and 16.10 will be served by the cul-de-sac. Lot 16 is served through a right of way agreement. Lot 16 has frontage on the cul-de-sac. The lots which front on the common driveway will have shared maintenance. The maintenance will be covered by private funds rather than public funds. The common driveway meets Kingwood's standards for common driveways and provides access for emergency and fire equipment. Under his analysis, as per the ordinance existing at the time these lots were subdivided, if the lot lines are diverging, the width is measured as a parallel line with the frontage at the set back line and it must be a minimum of 50'. The ordinance provides for lot width on the bulb of a cul-de-sac to allow for a minimum of 50' on the bulb and 100' at the set back line. DEP required the applicant to minimize the impervious coverage and width of the crossing. The crossings vary from 38' to 42' on the public roadway and 20' to 22' on the private roadway. Any common drive is a burden on the property owner. The 300' buffer is shown in orange on the plat. The applicant has obtained septic design approvals for eight of the lots. The other three have been submitted for re-approval. The plat shows conceptual locations of the septic systems. The dwellings can accommodate a deck of 12' in the rear of the dwellings. Some of the lots cannot have a detached garage. There is 3210 sq. ft. foot print allowed for each lot. The conventional layout shows the wetlands and buffers and the cul-de-sac plan shows the buffers. The plan before the Board this evening does not show the buffers. The grading sheet indicates the buffers with hatching. DEP required a 15' distance to be indicated from the buffers. The difference between the two plats are one shows the applicant can obtain 11 lots conventionally with the three lots on the public road. There are no changes in the lots. He stated he would submit, to the Board, a copy of the plans submitted to the DEP. The road width of the development road is 18' with 16' on Hammar Road.

*T. Siano left the meeting at 9:15 PM.*

J. Matticola stated a variance is required for the 200' frontage on Lot 16.01. W. Wilson stated the applicant feels they have indicated the benefit outweighs any detriment.

D. Banisch stated where different lot sizes are permitted the ordinance can be broadly interpreted. It may be permitted in a zone where a minimum requirement is less than 200'. The definition in the ordinance refers to that but not the specific frontage in the AR-2 zone. He feels a variance is needed.

W. Kastning responded since both the planner and engineer feel the need for a variance, the Board will require one.

Gilmore and Associates review letter of July 27, 2007:

### **Zoning**

1. Layout revisions eliminated previously approved Lots 16.11 and 16.12 and modified the geometry of remaining Lot 16 and proposed Lots 16.01, 16.07, 16.08, 16.09 and 16.10. All other remaining lots are consistent with the previously approved layout.
2. Revisions to Lot 16.01 increased the lot area, however reduced the lot frontage on Road "B" to 174.83 feet and therefore does not comply with the minimum required frontage of 200 feet. A variance is required.
3. Revisions to Lot 16.08 were minimal and remain in compliance with the ordinance requirements in existence at the time of original approval.
4. Lots 16.09 and 16.10 are each proposed as flag lots each having 25.08 feet of frontage on Road "B" where 50 feet of frontage is required. Variances from Section 132-30F(3) are required. *W. Wilson responded the applicant concurs and requests this relief.*
5. Remaining Lot 16 has 123.06 feet of frontage on Road "B" and therefore does not comply with the minimum required frontage of 200 feet. A variance is required. *W. Wilson requested the variance.*
6. The entire frontage of Lot 16 is contained within a Detention Basin Easement and environmental restrictions eliminating any direct access from the lot to Road "B". Physical access to the lot is limited through a common driveway within Lots 16.09 and 16.10. *W. Wilson responded Lot 16 has safe and adequate access with an alternate means. The applicant requests a variance.*
7. Lots 16, 16.09 and 16.10 have been designed essentially similar to the Township's requirements for a Class III Minor Subdivision as permitted on existing roads. In this case the applicant is proposing to apply the requirements to a proposed subdivision road. If considered as a Class III, the proposed layout is deficient in the following:
  - a. At 4.33 acres, Lot 16.09 does not satisfy the minimum required area of 7 acres. *The applicant can adjust the lot line for Lot 16 to provide 7 acres for Lot 16.09, but it would be useless land. The application complies with the old requirements of 4 acres.*

*D. Banisch stated 132-30.F.3 requires a minimum length of 200' of the flag stem and at least 4 acres at the rear of the access strip. W. Wilson responded those requirements were not in place at the time of the granting of preliminary approval. The current application has been determined by the board to be an amendment to the previously approved preliminary approval.*

*D. Pierce stated at no time are or have flag lots or a flag lot subdivision been permitted in a subdivision with a major or a new road created by a major subdivision. The arguments are symantic as to the relief that is being required. Variance relief is required. The issue is whether the relief the applicant is seeking can be granted under the standards that apply. The applicant will have to prove the benefits and/or detriments to the Township. At no time was this type of development with a major permitted by right. If Lot 16.09 is a flag lot and allowed to be 4 acres*

*at the time it was originally granted and is still allowed, a variance is not necessary but it might be prudent to protect the applicant.*

- b. The common driveway of a Class III subdivision must be within a 50 foot wide staff of a single lot.
8. As previously indicated by our office, the construction of a private common driveway to serve three residential lots maybe more beneficial for long term municipal maintenance costs than a future 800 foot public road as previously approved. However, given the variances required, the applicant should demonstrate that the proposed 11 lot yield could still be achieved under a conventional design. *W. Wilson supports the first sentence and the engineer can confirm the 11 lot yield can be achieved.*
9. The Subdivision Plat should include a note indicating that all lots in excess of four acres are deed restricted against future subdivision.

### **General Plan Comments**

1. All environmentally restricted areas should be included with in conservation easements and labeled as such on the Subdivision Plat. Mete & Bounds should be provided and tie distances on individual lots. *W. Wilson agrees.*
2. Easement language needs to be added to the Subdivision Plat regarding the ownership and maintenance of the proposed common driveway serving Lots 16, 16.09 and 16.10. *W. Wilson will have language on the plat.*
3. Easement language needs to be added to the Subdivision Plan regarding the deed restrictions for each lot having an individual stormwater infiltrator regarding maintenance. *W. Wilson agrees.*
4. Per Resolution 2006-21, Lot 15.01 is to be deed restricted from obtaining direct access to Hammar Road and limit access through proposed Road "B". *W. Wilson agrees.*
5. Origin and date of existing topography should be noted on the plans. *W. Wilson agrees.*
6. Plan set as a whole is very difficult to read with various overwrites and inconsistent scaling of symbols. *W. Wilson agrees.*
7. For clarity purposes, we suggest hatching of the freshwater wetlands on the plans to better illustrate their extents throughout the subdivision. *W. Wilson agrees.*
8. Elevations need to be added to the proposed contours as shown on the Grading Plans.
9. Proposed grading of Lot 16.07 does not appear to be correct.
10. A note should be added to the plan requiring the contact of the New Jersey One Call prior to any ground disturbance. Phone number to be provided on plans.
11. The following standard construction notes should be added to the plans:
  - a. Storm sewer pipe must be installed before all other utilities
  - b. Township Engineer must be given 48 hours notice prior to start of construction. A pre-construction meeting is required prior to construction.
  - c. All signage must abide by the "Manual on Uniform Traffic Control Devices"
  - d. Construction of the project will abide by the NJDOT Specifications for Road and Bridge Construction, latest edition.

- e. Grading of sight easement areas shall permit adequate sight distance in each direction. *D. Nenna responded he is perfecting the agreement with the homeowner and requested it be a condition of final approval.*
  - f. All reinforced concrete pipe shall be Class III unless noted otherwise.
  - g. No slopes proposed are greater than 3:1. Any grade dressed to a greater slope will require site specific erosion control protection approved by Hunterdon County Soil Conservation District.
  - h. No slopes may be greater than 2:1.
  - i. Snow fence is to be provided adjacent to existing treelines for wooded areas that are not to be disturbed by grading.
  - j. Limits of all conservation easements and environmentally sensitive areas shall be surveyed and delineated in the field prior to construction.
  - k. Individual lot grading plans shall be consistent with the drainage patterns as shown.
- 12. Appears that the proposed septic locations on Lots 16.09 and 16.10 violate the minimum requirement of 25 feet from a basement.
  - 13. Plans should demonstrate that wells can be located on each lot such that they are a minimum of 100 feet from any septic disposal fields.
  - 14. Septic soil log data should be added to the plan set. *W. Wilson stated it can be provided with the general plan comments.*
  - 15. As the subdivision is not served by public water, an underground storage tank should be provided for fire fighting purposes. Applicant should consult the fire official regarding tank size and location.
  - 16. Contours labeling provided on the Detention Basin Plan are incorrect.
  - 17. A proposed landscape plan must be provided.
  - 18. There is an unidentified square figured shown on Lot 15.01. This figure should be identified.
  - 19. As the layout revisions are driven by the NJDEP review and approval, our office defers to the NJDEP's review of the Stormwater Management and Best Management Practices design.
  - 20. A Stormwater Management Maintenance Manual must be submitted to the Township.
  - 21. Supporting storm sewer piping calculations are required.
  - 22. Supporting calculations for the 2' x 4' concrete culvert under Road "B" are required.
  - 23. Emergency Spillway calculations are required for the stormwater management basin.
  - 24. Supporting data should be included in the stormwater management report for the detention basin volumes and controls used in preparing routings.

**Administrative**

- 1. Subject to unconditional approvals of the following agencies:
  - a. New Jersey Department of Environmental Protection
  - b. Hunterdon County Planning Board
  - c. Delaware & Raritan Canal Commission
  - d. Hunterdon County Soil Conservation District
  - e. Any other agency having regulatory jurisdiction.

2. Applicant's engineer shall submit a signed and sealed Bond Estimate for the purposes of calculating performance and maintenance guarantees.
3. Application is subject to off-tract improvement contributions to be agreed upon with the Township Committee.
4. Developers Agreement to be approved prior to signing of Final Plats.
5. Proposed street name to be approved by the Township Committee.

D. Banisch reviewed his memo:

1. This is an application for amended preliminary major subdivision of approval. Block 22, Lot 16 is a 74.02 acre lot that the applicant proposes to be subdivided into 11 lots.
2. The subject tract is predominantly characterized by areas under the regulatory authority of the NJDEP including wetlands, their transition areas and an NJDEP C-1 Stream Corridor Buffer.
3. This subdivision has been the subject of a series of revisions related to environmental constraints, and the applicant's pursuit of NJDEP regulatory approvals. The environment constraints include a 300' wide Category One stream buffer along the northerly tract boundary and extensive wetlands and their transition areas throughout the tract. These constraints have resulted in a number of irregularly shaped proposed lots in the proposed subdivision.
4. The 300' Category One Stream Buffer along the northerly tract boundary extends into the tract almost the entire distance of the required 300' buffer, which impacts proposed lots 16, 16.01 and 16.10. Lot 16 and 16.01 are most severely impacted by the 300' C-1 Stream Buffer.
5. From the southwest, wetlands and their required transition areas predominate on the tract and severely constrain proposed lots 16, 16.09 and 16.10.
6. Eight of the 11 proposed lots are arranged along a proposed cul-de-sac road that extends into the site from the southwest. Access to three lots (16, 16.09 & 16.10) is a proposed common driveway to be located within flag stems on two of the lots (Lot 16.09 and 16.10). The shared driveway extends from the cul-de-sac bulb along the southerly edge of the 300' Category One Stream Buffer. Each flag stem is approximately 25' wide. The most distant lot (16) on the three lot common driveway configuration has frontage on the proposed road cul-de-sac, but driveway access from the proposed public road is constrained not possible due to the location of a proposed 1.04 acre detention basin easement adjacent to the cul-de-sac on proposed Lot 16.
7. A wetland that extends from the southeast toward the northwest of the tract bisects the proposed cul-de-sac road. A 50' required transition along the length of this wetland encroaches into proposed lots 16.01, 16.02, 16.03, 16.04, 16.06 16.07.
8. The predominance of wetlands, their transition areas and the Category One Stream Buffer severely constrain development opportunities on the tract.
  - Proposed Lots 16.03, 16.04, 16.05, & 16.06 are encircled by wetlands and their transition areas.

- Proposed Lots 16.01, 16.02, 16.07 and 16.08 are encircled by wetlands, their transition areas and the 300' Category One stream buffer.
  - Proposed Lots 16, 16.09 & 16.10 are encircled by wetlands, their transition areas and the required 300' Category One stream buffer.
9. The environmental constraints described above serve to effectively isolate three development areas on the tract, within which the new lots are proposed.
10. It appears that there are three wetland crossings for access in the subdivision including one in the southwest of the tract where the proposed road enters the tract, one midway along the proposed road; and a third crossing along the proposed shared driveway.
11. A number of lots have somewhat small building envelopes, due to the location of wetlands and their transition areas. The following table compares proposed building envelopes to the required 2-acre (87, 120 sq. ft.) minimum lot size for four proposed lots. This includes a column that identifies the distance between the rear of the proposed conceptual dwellings shown on the plans and the rearward limit of the lot constrained by wetlands and their transition area, which cannot be used by the homeowner because these areas will be placed in conservation easements, within which no disturbance is permitted.

Proposed Lot	Approx. Area of Bldg. Envelope	Percent Minimum Lot Area	Distance to rear of envelope with conceptual dwelling shown
16.03	9,600 sq. ft. (approx.)	12%	20'
16.04	9,350 sq. ft. (approx.)	11%	20'
16.09	12,500 sq. ft. (approx.)	14%	<20'
Lot 16.10	22,100 sq. ft. (approx.)	25%	<35'

12. The environmental constraints on these lots severely limit their utility and call into the question the viability of these lots, due to a number of factors, including homeowner's requirements for new residential lots, such as the size of dwellings most commonly constructed; accessory uses such as swimming pools, decks, patios, walkways; basic requirements such as usable rear yards for recreation, and a modest amount of room on the lot for a shed or a detached garage, which are common accessory uses even though many new homes are built with tree-bay garages. Proposed stormwater management facilities further reduce the usable area of the lot for accessory uses. Testimony should be provided by the applicant addressing this comment.
13. The Engineer's report identifies the need for variance relief for the proposed configuration of the three proposed lots that are to share a common driveway. The Engineer's report calls for a fully conforming qualifying plan to demonstrate that the applicant is entitled to the 11 lots shown on the plan. We agree that the proposed configuration may provide certain benefits to a fully conforming plan (i.e less road and impervious coverage and associated stormwater runoff), however the Board should nevertheless require the applicant to submit qualifying plan as part of its consideration of the requested variances.
14. The predominance of wetlands, their transition areas and the 300' C-1 Stream Corridor Buffer will require that these areas be placed in conservation easements.
- The conservation easement will be an area that cannot be disturbed and should be labeled on the plans accordingly.

- Each individual lot conveyed should include a conservation easement deed notification to alert prospective property owners as to the restrictions on each lot. All NJDEP restrictions should be enumerated in each deed restriction. Each deed notification should include a survey showing the location of the conservation easement area on each lot.
  - Conservation easement markers should be placed along the conservation easement line to clearly demarcate the location of the conservation easement.
  - A conservation easement marker plan should be submitted to the Board for review. In addition to the location of markers proposed, the plan should differentiate between the following areas: (1) wetlands and their transition areas; and (2) 300' C-1 Stream Corridor Buffer Area; and (3) areas of each lot that is not encumbered by conservation easement deed restriction.
  - We recommend discussion of the type of marker to be used. We suggest that markers be fiberglass poles rising above the surface of the ground at least 3' in height. The location of each marker should be accompanied by a pin in the ground so that the location may be found if the above ground fiberglass marker is damaged or removed. The location of the markers and pins should be shown on the survey that is part of the conservation easement deed notification.
  - Maintenance of the conservation easement markers should be assigned to the Homeowner's association. The Board should discuss whether the homeowners association prepare and submit an annual conservation easement monitoring report to the Township Engineer to document compliance with the conditions of the conservation easement.
15. The type of variance relief required may be granted in accordance with N.J.S.A. 40:55D-70c, which states that the applicant must demonstrate that there is an extraordinary or exceptional situation relating to a specific piece of property which, if the zoning regulations were strictly applied, would result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the applicant; or, the applicant must demonstrate that the purposes of the Municipal Land Use Law would be advanced by a deviation from the ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
16. In addition to the above, the applicant must demonstrate that the negative criteria are satisfied, which state that no variance can be granted unless the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.
17. The applicant should review all conditions from prior approvals and identify the status of each for the Board. Documentation demonstrating compliance with prior conditions of approval should be submitted to the Board.

J. Burke stated he would like to see the constrained areas indicated. D. Banisch stated the homeowner's association would be responsible for the maintenance of the markers. W. Wilson stated they could provide a contractual notice to prospective buyers.

W. Kastning stated a baseline report should be prepared indicating the present condition of the lot being sold. When the site is finished, pictures should be taken that show the markers in relation to the house so the homeowner's association and township are aware of what exists at the time when the project was completed. In regard to the conservation easement, the pro-forma the DEP requires goes beyond the definition of development. It allows the clearing of fallen trees, in some instances, and the performance of healthy maintenance. When a house is resold, the homeowner's association should provide a report that all the markers,

as per the plan, are in the ground. J. Symonds stated the lines will be done by metes and bounds. From the monuments, any point on the map can be located.

D. Banisch suggested the placement on every lot line and midway across the building envelope for the placement of signage. He suggested the Board hold off on making a decision on the variances until they can determine the qualifying plan.

W. Wilson stated the applicant will have to resubmit to the Hunterdon County Soil Conservation District. J. Symonds stated the applicant has conditional approval with the D & R Canal Commission and with the County on drainage. D. Banisch stated those conditions should be brought forward because they have not been satisfied.

D. Pierce stated D. Banisch has suggested the Board defer action on the application this evening. The planner and engineer can verify the qualifying and cul-de-sac plans. The applicant needs to provide some additional information. The Board can adjourn the hearing to September 11th. There will be no further need for notice. The applicant consented to the adjournment of the hearing until September 11<sup>th</sup>.

In response to a question regarding the construction of the cul-de-sac, J. Symonds stated it will be a lighter pavement than a normal roadway.

D. Banisch stated the Board should require the applicant to get approval from the fire company that there is adequate access to the proposed lots.

J. Matticola stated the location of the fire tank should also be indicated.

L. Voronin, Environmental Commission member, reviewed the Environmental Commission's comments. The Environmental Commission is in agreement with D. Banisch. It is an environmentally sensitive area and the soils are very limited. The soils are classified as Chalfont Silt Loam. The Commission has a concern that if a septic fails, there is not enough area to replace it in the building envelope. The wetlands are considered of high value to humans.

In response to a question regarding the applicability of the well ordinance, D. Pierce responded the well ordinance is applicable to each individual lot for each home.

The Environmental Commission's report indicates state threatened species. J. Symonds testified he was not aware it was an endangered habitat. The National Heritage Data has not cited any threatened or endangered species.

The public comment section for this matter was closed. D. Pierce stated the public will be able to comment at the continued meeting on September 11<sup>th</sup>.

It was moved by R. Dodds, seconded by J. Burke and carried to determine the application complete with conditions. All members present voted **AYE** on **ROLL CALL VOTE**, except **T. Siano** who was **ABSENT**.

Master Plan – Conservation Element (Draft)

A. Clerico stated the project team and herself have scheduled a meeting with ANJEC on August 30<sup>th</sup> at 1:00 PM.

The Board members offered the following comments to the draft:

- ❖ Address flooding in Bryam;
- ❖ Invasive species;
- ❖ Map showing different planning areas in township;
- ❖ Page 6 – definition of “large”
- ❖ Numbering of the 11 local objectives;
- ❖ Definition of open space;
- ❖ Definitive requirements rather than optional;
- ❖ 6<sup>th</sup> bullet – page 7 – change to “Limit disturbance”;
- ❖ Distinction between ground water and aquifer;
- ❖ Adding etc to the list on page 11;
- ❖ Steep slope section – last bullet – how it applies;
- ❖ Stream Corridors – lists three but mentions four;
- ❖ Scenic Views – protecting historic roads – sentence needs to be reviewed;
- ❖ Potential issues with farming and what is proposed in the element.

## **CORRESPONDENCE**

W. Kastning reviewed as per the agenda.

## **PRIVILEGE OF THE FLOOR**

Environmental Commission Report

E. Niemann stated the Commission will be doing a review at the conceptual stage and then again towards the end of the project. Currently the Commission meets, usually, the night before the Planning Board. In 2008, the schedule for the Commission’s meeting might be changing.

Route 12 Business Park

R. Dodds inquired if each business would have to appear before the Board. D. Pierce stated the reason for their appearance is because retail use is a conditional use in the zone. If it was a warehouse or fabrication, the applicant would obtain a zoning permit from M. DeSapio and go forward. Board of Adjustment review is required if they do not meet one of the conditional uses. The reason is to protect the business park from retail traffic.

In response to a question from a Board member regarding the need to have a required rear yard, modifying the definition of a rear yard or the alternate location of a septic system, D. Pierce responded it can be done by amending the checklist.

**ADJOURNMENT**

It was moved by J. Burke, seconded by R. Dodds and carried to adjourn the meeting at 10:42 PM. All members present voted **AYE**.

**Respectfully submitted,**

*Diane Laudenschach*

**Diane Laudenschach, Secretary**