

MINUTES

PRESENT:

R. Dodds
D. Haywood
T. Kratzer (7:30 PM – 8:18 PM)
S. McNicol
E. Niemann
L. Senus (8:01 PM)
J. Strasser (7:50 PM)
M. Syrnick, Alt #1
A. Clerico, Planner

ABSENT:

M. Augustine
J. Mathieu
D. Posey, Alt. #2

CALL TO ORDER

The meeting was called to order at 7:34 PM by R. Dodds.

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.

DISCUSSION

Hunterdon County Planning Board – (WMP) Wastewater Management Plans

C. Barnes from the Hunterdon County Planning Board was present this evening. There are three topics the County would like the Planning Board to be aware of:

Water Quality Management Plan – informational session scheduled for October 27, 2008;
Hunterdon County Planning and Design Awards – deadline extended to December 1, 2008;
Transportation Plan – C. Barnes provided a checklist created by HART which looks at various ways to deal with circulation, residential and commercial development and how the current facilities can be used. She requested the Board review the strategies and action items and prioritize the three top issues with the Township. There is a breakfast meeting scheduled in February. The biggest issue is funding. The County will provide a list of the funding opportunities, which are mainly from the State. The grants and monies are very competitive. There is no guarantee you will be awarded a grant but the County is requesting the Township apply for it. There is a meeting on October 22, 2008 with the NJTPA. The top topics on the transportation plan should be submitted in a month's time.

T. Kratzer – The applicability of the Well Ordinance to each level of subdivision

E. Niemann stated the question came up regarding if well testing is necessary prior to subdivision approval? The Township ordinances do not provide for it specifically. Is there a need to clarify?

T. Kratzer stated the ordinance is being reviewed for slight adjustments by J. Kopen and V. Uhl. V. Uhl has provided summary sheets as assistance in obtaining a well permit. He suggested well testing should be done in the preliminary stages of the development so a reconfiguration of the plan is not necessary. The information of how much acreage is necessary for recharge of water to the ground water system to keep the nitrates from septic systems from the action level of 10 mg per liter should be provided at the onset of the development. The testing requirements are based on the daily demand. If you have two lots and 800 gpd then a pump test would be required. The typical daily use is stipulated in the New Jersey regulations. It is 200 gallons per bedroom. One of the issues recently raised was what if there was one residence on a lot and another one was constructed on the same lot. If there is an existing well on the property, it would fall under “change of use” defined in #2 of the chart. Another issue was the change in agricultural practices, such as consumption by different types of livestock or nursery usage. Farmers are exempt from the requirements as they are allowed to use as much water as they need. When the increase is significant, it becomes an issue. If a farmer has 400 acres, he could possibly install one well for every 50 acres and no approval would need to be granted by the Township. If a farmer wanted to create a lot through an agricultural subdivision, no testing would be required. If someone does several minor subdivisions and creates more than five lots, initially or in the aggregate over 10 years, a groundwater monitoring program is required. The issue of the timing of how long a well permit is valid was brought up at the Board of Health meeting. The Board of Health is looking possibly at two years. Accessory apartments are covered under section one of the table. In regard to an instruction sheet, he was advised to not provide a detailed instruction sheet but rather a summary sheet. The summary sheet can provide a reference to the particular section in the ordinance.

The Board discussed the different possible uses and change of uses of agricultural property and the fact that farms are getting smaller and development around them is getting closer. The Board discussed the summary sheet and suggested a disclaimer be added to the summary sheet that it a guide but check the ordinance for details.

T. Kratzer left the meeting at 8:18 PM.

Phil Lubitz & Banisch & Associates – (COAH) Council on Affordable Housing

P. Lubitz and A. Clerico were present for a presentation on COAH. The following was presented to the Board in a power point presentation:

COAH 101
A PRIMER ON AFFORDABLE HOUSING MANDATES IN NEW JERSEY
PRESENTATION TO THE KINGWOOD TOWNSHIP PLANNING BOARD
SEPTEMBER 23, 2008

Mt. Laurel and the Fair Housing Act

- A 1975 New Jersey Supreme Court decision (Southern Burlington County, NAACP v. Township of Mount Laurel) held that the zoning ordinance of Mount Laurel Township, NJ, operated to exclude low and moderate income persons from obtaining housing within the municipality.
- The Court further held that NJ municipalities have a constitutional obligation to use their zoning powers in an affirmative manner to provide a realistic opportunity for the production of affordable housing to low and moderate income households
- In 1985 the New Jersey Legislature responded by passing the "Fair Housing Act".
- This legislation created an administrative agency, the Council on Affordable Housing (COAH)
 - To establish regulations for the number of units for which each municipality is obligated
 - To establish guidance for how the obligation could be satisfied

THE COAH PROCESS

- New Jersey municipalities enter the COAH process by:
 - filing a Housing Plan Element (required by the Municipal Land Use Law as part of each municipality's master plan), and
 - a Fair Share Plan establishing a realistic opportunity for the provision of a predetermined number of units affordable to low and moderate income households.
- Within two years of filing, municipalities must petition COAH for substantive certification (approval) of such plans if the municipality is to remain under COAH's jurisdiction.
- Substantive Certification provides participating municipalities with protection from exclusionary zoning litigation (the builder's remedy).
- Certification is granted for a ten-year period and may be withdrawn if a municipality fails to assure the continuing realistic opportunity for its fair share housing obligation.
- A portion of the fair share obligation is the rehabilitation of existing units.

THE COAH PROCESS

1ST & 2ND Round Rules (1987-1999 and 2004-2014)

- Using estimates of statewide and regional obligations, COAH developed a formula that considered such factors as available land and real estate prices to generate each municipality's fair share. The formula determined a specific number of units that each municipality had to provide.

3RD Round Rules (January 1, 2004 and 2018)

A municipality's affordable housing obligation consists of:

- Growth Share, based on actual residential and nonresidential development in the municipality.
 - For new residential development, the municipality will have to provide one (1) unit of affordable housing for every four (4) new units of residential development.
 - For each nonresidential development project, the new square footage is multiplied by a factor to yield an assumed number of new jobs added by that project. Roughly 1000 sq. ft. = 1 job, 16 new jobs = 1 affordable unit
- Rehabilitation Share, the number of substandard units that the municipality must rehabilitate, as identified by COAH.

Kingwood's Obligation

HOUSING UNIT BY MUNICIPALITY: 2002, 2004, 2018					
Municipality	COAH Region	County	Units in 2004	Units Allocated 2018	Net Changes 2004 - 2018
KINGWOOD TOWNSHIP	3	HUNTERDON	1,550	1,834	284

EMPLOYMENT BY MUNICIPALITY: 2002, 2004, 2018					
Municipality	COAH Region	County	Employment in 2004	Employment Allocated 2018	Net Change 2004 - 2018
KINGWOOD TOWNSHIP	3	HUNTERDON	336	464	128

TOTAL PROJECTED GROWTH SHARE							
Municipality	COAH Region	County	Housing 2004 - 2018	Projected Residential Growth Share	Employment 2004 - 2018	Projected Nonresidential Growth Share	TOTAL Projected Growth Share
KINGWOOD TOWNSHIP	3	HUNTERDON	284	56.8	128	8.00	65

CONSTRUCTION OF NEW UNITS

General Requirements Include:

- Municipalities must create a realistic opportunity for the construction of affordable units in the community for affordable to income-eligible households/individuals.
- Developers agree to build a fixed percentage of affordable units (typically 20%) of the total market-rate units constructed on the site and to maintain affordability for 30 years.
- Housing must be affirmatively marketed
- Housing must meet the bedroom distribution requirements
- Limits are placed on the number of different types of units
 - 50% of the affordable units must be *family units*.
 - Up to 25% of the units can be *age-restricted*.
 - Must offer a *rental obligation* of at least 25%.
 - A minimum of 13% of units must be *deed-restricted* for households earning no more than 30% of median income.

Rehabilitation Program (N.J.A.C. 5:97-6.2)

- Program to renovate “deficient” housing units. These are units that are occupied by low- or moderate-income households, include a need for major system upgrade, and/or are below the housing code.
- Available to both owner-occupied and renter-occupied units
- Minimum average investment: \$10,000/unit with 10-year affordability controls.

Elder Housing Opportunity (ECHO) Units (N.J.A.C. 5:97-6.3)

- Modular, self-contained units erected on sites containing an existing dwelling – owned or leased by municipality for minimum 10 years.
- Available to low- or moderate-income individuals over age 55 and/or disabled.
- Credit toward rehabilitation obligation – exempt from affirmative marketing requirements.

Inclusionary Zoning (N.J.A.C. 5:97-6.4)

- Municipalities may adopt zoning provisions that require development to provide for on-site construction of affordable housing.
- Payment-in-lieu-of-construction option:
 - Funds collected from developers in place of constructing affordable units must be used to create affordable housing elsewhere in municipality.
 - Based on cost of subsidizing new affordable unit within municipality
- Site suitability must be demonstrated by:
 - Appropriate access
 - Minimal environmental constraints
 - Adequate sewer and water
- Presumptive densities
 - Based on SDRP Planning Areas
 - Based on NJDEP's Water Quality Management Rules

Redevelopment Areas (N.J.A.C. 5:97-6.6)

- Units within a designated redevelopment area where the municipality has adopted a redevelopment plan and issued a request for proposals for a designated redeveloper
- Site meets COAH's suitability criteria and if a brownfield, may be referred by COAH to the Brownfields Redevelopment Interagency Team (BRIT)
- Units subject to UHAC except that low- and moderate-income households displaced by redevelopment may be given preference over other applicants for new units within the redevelopment area.

Other Methods for Addressing Meeting the Obligation

- Municipally-sponsored construction using for-profit or nonprofit builders.
- Purchase of existing units for sale or rent to eligible homeowners.
- Creation of accessory apartments within existing structures.
- Buy-down program (*now called market to affordable?*).
- Alternative or congregate living arrangements including special needs housing.

Municipally-Sponsored and 100% Affordable Programs (N.J.A.C. 5:97-6.7)

- New construction or reconstruction to create affordable housing
- Municipally-sponsored or constructed by non-profit or for-profit developer
- 30-year controls on affordability

Accessory Apartment Program (N.J.A.C. 5:97-6.8)

- Self-contained residential dwelling unit with kitchen, sanitary facilities, sleeping quarters and private entrance
- Created within an existing home OR through the conversion of an existing accessory structure on the same site OR by an addition to an existing home or accessory building
- Minimum subsidy is \$20,000 per moderate-income unit or \$25,000 per low-income unit.
- May be designed to produce only low-income units, only moderate-income units or both low- and moderate-income units.
- Maximum of 10 units or 10% of fair share obligation, whichever is greater, until viability of program is documented
- Adequate water/sewer infrastructure with sufficient capacity (including individual well and/or septic system)
- 10 year controls on affordability

Market to Affordable Program (N.J.A.C. 5:97-6.9)

Combination of previous buy-down program and municipally-sponsored rental program

- New, pre-owned, or vacant market-rate units purchased or subsidized through written agreement with property owner and sold or rented to low or moderate income households
- Must be in sound condition
- Minimum subsidy \$25,000 per unit per unit for moderate-income and \$30,000 per unit for low-income households (additional subsidy as determined by local market)
- Maximum of 10 units or an amount equal to a combined total of ten percent of the fair share obligation, whichever is greater, until viability of program is documented
- 30-year controls on affordability

Supportive and Special Needs Housing (N.J.A.C. 5:97-6.10)

Previously known as Alternative Living Arrangements

- Structure in which individuals and households reside, including:
 - Residential health care facilities
 - Group homes for the developmentally disabled and mentally ill
 - Permanent supportive housing
 - Supportive shared living housing
- Long term health care facilities and boarding homes not eligible
- Count toward rental obligation
- Bedroom is unit of credit except for permanent supportive housing (unit of credit is unit)
- 18 and over
- Affirmatively marketed to individuals with special needs
- 30-year controls on affordability

Extension of Expiring Controls (N.J.A.C. 5:97-6.14)

- New construction credit for extension of existing affordability controls in accordance with UHAC
- Controls must be scheduled to expire during the 1999-2018 period
- Units must meet criteria for prior-cycle or post-1986 credits
- Unit must be up to code upon first transfer, or the municipality must fund an necessary rehabilitation work

AMENDMENT TO THE FAIR HOUSING ACT (A-500)

- Establishment of a statewide 2.5% non-residential development fee.
- Establishment of a new \$20M fund for Workforce Housing (household income equal to or less than 120% of regional median income).
- Elimination of Regional Contribution Agreements (RCA)
- Requirement for 13% of a municipal fair share obligation to be restricted to very-low income households.

The income requirements are (based on region):

- Very low – 1 person - \$ 20,307.00
- Moderate – 1 person - \$ 54,152.00
- Very low – 4 person - \$ 29,010.00
- Low – 4 person - \$ 48,350.00
- Moderate – 4 person - \$ 77,360.00

The plan has to provide for certain percentages of very low, low and moderate. There is no provision for retroactive applicability to households which are already eligible for COAH. The units have to be affirmatively marketed. The purpose of COAH is that there has been identified a need for additional housing. Some units could be rehabs but the units have to be affirmatively marketed. The units are deed restricted. The current occupant cannot decide they are income eligible so they are a COAH unit. There is an income limit but also an asset limit of \$147,000. The third round rules were expanded until 2018. The growth share requirements reviewed new residential development. One unit is required for every four units of residential development. Non-residential development is based on square footage. For every 1,000 of new non-residential development that is built, it equals a new job. Sixteen new jobs equal one new unit. Kingwood has to provide a total of 84 units, combining residential, non-residential and rehab. If Kingwood did not have any growth at all, they would have to provide the eleven rehab units. The computation is based on historical growth. COAH requires the Township to make a reasonable opportunity for the development of the required units. If the Township does not have the market rate development that our historical average indicates, then Kingwood would not have the obligation for all of the units. The requirement of the 84 units is a total of all three rounds of obligations. The Township has approved some subdivisions with accessory apartments. The Habitat for Humanity will be eight units and there are a couple other properties the Housing Board is considering. An item for consideration is the location of the units and the transportation available to those residents. The Township has to provide a realistic opportunity for construction of an affordable unit. A developer would need to provide 20% market rate units to maintain affordability for 30 years, 50% of the affordable units must be family units, up to 25% of the units can be age restricted, offer a rental obligation of at least 25% and a minimum of 13% of the units must be deed restricted for households earning no more than 30% of the median income.

A situation was discussed if you had an auxiliary apartment or unit on a lot that could be COAH and they were getting market rate for the apartment, who would provide the subsidy? The response was the municipality would provide the buy down, paid from the funds they have collected in their COAH fund. The fund should not be the only source of funding. It could be leveraged against other sources of income, tax credits or HUD grants.

A builder's remedy would allow a greater density than our zoning permits. The Township's certification from COAH would have to be withdrawn in order to be vulnerable to a builder's remedy. A reasonable effort has to be made. The governor has commented saying that affordable housing will not affect our water quality in the Highlands which pushes the COAH requirements out of the Highlands. According to a chart prepared by COAH, Kingwood Township has over 10,000 acres of buildable lands, not excluding wetlands and stream buffers.

Rental certificates still exist through HUD. The renter pays 30% of the rent and HUD pays the rest.

The affordable units could be a manufactured home.

The location of the Habitat for Humanity homes was discussed. As long as the engineering works the units can be constructed. The units are proposed to be constructed on the old Ukarish farm. The LOI has been done. Habitat for Humanity units are owned by the occupants. There is a requirement of providing a given number of hours for building that home.

If the Housing Plan proves to be unworkable, there is some flexibility.

The Township is corresponding with the Building Official, Tax Assessor and Tax Collector to see what inventory is available. The program will need to contract with an administrator.

The process of finding a tenant was discussed. It is a first come, first server selection process. The applicant is pre-screened. The landlord does not have the ability to choose the tenant. There is an economic advantage, if someone would not have been able to purchase the property without a tenant reducing some of the financial commitment, was able to afford the property. There is a possibility if the units are created, there will not be any occupants who wish to live in them.

Sandy McNicol – Onsite Wastewater Treatment Systems

S. McNicol stated the sub-committee had one meeting with R. Dodds and herself attending. They decided to use a model management ordinance from Jefferson in Morris County. She had contacted the Hunterdon County Department of Health inquiring about the reason so many failures occur in Kingwood. She has not received a response back from J. Beckley. Another meeting has been scheduled for October 6th or 8th. The model ordinance covers advance wastewater treatment, requiring a license for pumping, disposal field maintenance, abandoned systems, care and feeding and alternative systems. Alexandria has in the septic ordinance a requirement for the testing of a reserve area for lots under six acres. At the booth for Community Day, over 25 people signed up for the septic pumping. She stated septic installers are not licensed.

R. Dodds stated the sand mound systems are prone to failure. Septic systems are on-site waste water treatment plants. There are seven municipalities that are looking at licensing septic systems. You would be required to show a pump receipt in order to get your license. The purpose is to keep the water clean with the soils and strata in Kingwood. He stated a good science project would be to create a septic system and show how it works.

Banisch & Associates – Status of Master Plan Update: Summary of updated elements, prioritize Remaining elements

Banisch & Associates provided the following memo:

Prioritization and Status Master Plan Elements

- **Conservation Plan Element.** Any further comments?

It was suggested the Farmland Preservation Element should be referenced in the Conservation Plan Element regarding the block and lots of preserved property. Also suggested was the legends on the maps should be outside of the fold area.

- **Land Use Plan Element** should be next on the list to begin.
 - A land use plan element including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodland; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the “Air Safety and Zoning Act of 1983,” P.L. 1983, c. 260 (C. 6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;
- Other elements we anticipate working on
 - **Utility Service Plan Element**

A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage, and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, P.L. 1981, c.32 (C.40:55D-93 et seq.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L. 2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone.

○ **Circulation Plan Element**

A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail.

Land development discussion

1. Lot Width and Frontage Discussion –

- a. Definition of Lot Width from Section 132-4 (Definitions) of the zoning ordinance is, “That portion of a lot extending along a street line. In an odd-shaped or triangular-shaped lot existing of record as of January 31, 1979, the length of the frontage may be determined as the perpendicular distance between side lines at the setback point in the instances where the side line is parallel. In the case where the side lines converge toward or away from the front line, the frontage shall be measured along a line parallel to the front lot line drawn at a distance equal to the required minimum setback. In all instances where an optional method is used, the actual length of the street line shall not be less than 50 feet.”
- b. Our recommendation is that the width of lot should be defined as being measured at the front yard setback line.

2. Buildable area definition is also fairly cryptic and is defined in Section 132-4 of the zoning ordinance as follows, “A contiguous area of land located within the building envelope of a lot which does not contain any constrained areas and which is equal in size to the lesser of one-half of the area of the building envelope or one acre.”

- a. Our recommendation is that the definition of buildable area be amended to one-half acre or 21,780sq.ft. (half of one acre). Further, it should be established elsewhere in ordinance as one acre for major subdivisions and one-half acre or 21,780 sq.ft. for minor subdivisions.

3. The subdivision ordinance at Section 115-3A. Class I Minor Subdivisions, states that “lots that are less than four acres in size shall be permanently deed restricted to limit the size of the swelling to be constructed thereon to not more than 3,000 square feet in size.”

- a. It is our recommendation that this provision be limited to heated, habitable floor area excluding garages and outbuildings.
- b. Further, this should also apply to limit the maximum house size on all lots less than 7 acres.

The Board requested Banisch & Associates provide a visual to see development on a 2 acre lot, with different scenarios, such as a pool, shed and/or garage for the October meeting.

The Board reviewed the above memo with A. Clerico.

Elaine Neimann – Planning Board – Policies and procedures

E. Niemann inquired if the Board would consider not taking any new applications after 10:00 or 10:30? The Board members responded they remembered when the Board's meetings lasted past 12 midnight. She also suggested a break during the meeting. It was discussed there are legal limitations on applications. D. Pierce will be contacted regarding the time frame for applications and hearings. Starting the meeting at 7:30 PM was also discussed. It will be placed on the January agenda. Also, discussed was the need for a wireless microphone and repairs to the lights. She will bring the subject up to the Township Committee.

After some discussion, it was decided to add an item to the agenda. The item would be the completion of applications. The secretary stated she receives correspondence from the professionals when it is appropriate to release the deeds. The Board requested the correspondence be listed on the agenda.

J. Strasser commented on the Class III driveways and problems collecting the maintenance fees. He also commented on the type of retention basin that is below grade. It would eliminate the need for maintenance. He will provide an example for the Board to review.

The Secretary requested the Board members identify themselves prior to making a motion. It is difficult to hear or distinguish, on the tape, an individual's voice.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by S. McNicol, seconded by J. Strasser and carried to adjourn the meeting at 10:46 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary