

MINUTES

PRESENT: T. Kratzer
P. Lubitz
R. Phillips
S. Stryker
J. Kopen, Attorney

ABSENT: M. DeSapio

CALL TO ORDER

The meeting was called to order by S. Stryker at 8:00 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 faxed to the Hunterdon County Democrat and Courier News 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**Yard Properties – Block 17, Lot 16.04 – Guidance on testing**

The matter was called and no response was heard.

BDAC – Block 23, Lot 17.05 – Well Ordinance Interpretation

A. Belle was present this evening and provided a copy of a letter to the Board. He stated there have been various correspondences going back and forth between himself, the Board of Health attorney and the Planning Board attorney.

J. Kopen responded his concerns have been addressed in various ways by D. Pierce, Planning Board attorney and herself. She stated he might be overlooking, in his presentation, the fact that there is a subdivision resolution that controls when the building permits are to be issued for his lots. Your argument is with the actions of the Planning Board rather than the Board of Health. The well permit is simply providing permission to drill a well. It does not go beyond providing that permission. Your lots are controlled by the subdivision resolution. The Planning Board made a determination, under their resolution, as to your argument about the more or less than 800 gpd and the exclusion in footnote #3. The professional's interpretation is that footnote #3 does not apply to you for the reasons Mr. Pierce has explained to you. She disagrees with his contention that the Board of Health has jurisdiction on this matter. Mr. Pierce, as attorney for the Planning Board, has the duty and regularly forms interpretations of ordinances and statutes that are applicable to a Planning Board application. He had given him his interpretation and you disagree. In order for you to obtain relief, a change would have to be made in the approving resolution. The only relief she can see from the Board of Health was if the Board of Health determined that they were going to amend the ordinance in such a way that an aquifer test was not required for a subdivision such as his. She has not been given any indication that the Board of Health will be proceeding with such a change. The above would be the only possible avenue for the Board of Health to become involved in this matter.

A. Belle stated he was at the Planning Board on July 14, 2009 and presented some questions to the Board. A member stated "The Township Attorney is waiting to bring forth their findings" in regard to his issues before the Planning Board on the interpretation of the well ordinance.

J. Kopen responded he has correspondence from Mr. Pierce with regard to those comments. Mr. Pierce indicated to A. Belle the statement was a statement by one Planning Board member and not the position of the Planning Board. Mr. Pierce has indicated he did not see anything in the minutes that supported that occurred as far as that quote is concerned and he disagrees with your recollection. She further stated because someone says something it does not mean the individual was correct or that it is the position of the Planning Board. J. Kopen stated in her memo that her interpretation is consistent with Mr. Pierce's. She stated his lots are controlled by the subdivision resolution and is where the controlling language comes in regarding the aquifer test.

A. Belle stated the resolution does not reference any specific or ordinance subsection he must comply with for his approval. A. Belle stated Mr. Pierce said the issue has to be answered by the Board of Health.

J. Kopen responded Mr. Pierce has stated the issue should be answered by the Board of Health only if she issues an opinion that disagrees with the Planning Board's interpretation.

P. Lubitz stated he tends to agree with J. Kopen. He appreciates what A. Belle has been through but he does not plan to take any action against the Board's attorney or the Planning Board. He does not intend to change anything that exists.

A. Belle inquired how he could apply for the exception in the line pertaining to a minor subdivision of two or more lots. He stated he has been to two Planning Board meetings and they have indicated the issue is with the Board of Health.

J. Kopen responded the exception does not apply to his subdivision. The calculation of the 800 gpd limit applies to all three lots. J. Kopen responded the resolution indicates the Planning Board will revisit the issue if the well ordinance was amended or if she issued a different opinion of its applicability.

A. Belle stated he wants to have his concerns answered by this Board. He has been appearing before the Board for the last five months and has not received an answer. He stated it was unacceptable. He stated if the Board has a specific interpretation, he is requesting the Board adopt specific language so it can be clarified in the ordinance. The Planning Board cannot provide clarification of the well ordinance. He is only requesting what is reasonable. He is not requesting anything over and above what the ordinance states. The ordinance provides for these exceptions. Superscript #3 exists. He has appeared before the Board for five months and five months is more than enough time to clarify his questions.

J. Kopen stated an interpretation to superscript #3 of the well ordinance has been provided. She further stated to indicate the Board is going back and forth is not accurate. He has received the answer and interpretations of the well ordinance.

A. Belle inquired why the Board is not amicable to removing the excluding lands in the applicability table.

J. Kopen responded it was not appropriate.

A. Belle stated if the ordinance is amended, he can reappear before the Planning Board.

J. Kopen stated the entire intent of the ordinance is to have control over the increased water usage over 800 gpd and an amendment, such as he is suggesting, would remove the ability to do so.

J. Kopen stated she is not responding to any hypothetical situations as A. Belle has requested. If A. Belle has anything new to present to the Board members, he should do so.

P. Lubitz stated A. Belle has raised many questions and suggests there might be room for confusion. He does not feel the Board can amend the ordinance this evening.

A. Belle stated the Board has imposed when the testing can be conducted. He provided the Board five months notice to the ending window. The testing has to be performed by October 31st. He would like to perform what the ordinance mandates. After the window is closed, he will have to wait another nine months. It is not a way to treat the citizens of the Township. The ordinances should be to protect the citizens. The ordinance does not state the requirements clearly. He brought the issue up six months ago and other people were present. He is asking for help and guidance. He has given the Board more than enough time and the window is closing. He is trying to perform the appropriate testing. He indicated he will be appearing before the Planning Board.

S. Stryker thanked A. Belle for coming before the Board. He stated it is not the Board's position to antagonize, be malicious or cause any hardship for the citizens. The Board is aware of his comments.

Hill Wallack, LLP – Bunker Hill Homes, Inc. – Block 22, Lot 16 – Barbertown Point Breeze Road

J. Kopen stated the issue was placed on the agenda as a result of correspondence that was sent to the construction official. She does not think there is any action needed from the Board. It is really in the hands of the construction official.

Reserve septic testing

S. McNicol stated the Planning Board requested the Board of Health to start considering reserve septic testing on lots on new subdivisions. The Planning Board provided a copy of Alexandria's ordinance. She is requesting the Board of Health move forward on the adoption of an ordinance. Referring to a report from the County for the first and second quarter of 2008, it indicates there are a number of septic repairs and alterations. She will continue to provide additional data to the Board so they can see the activity in the Township.

E. Niemann stated the County is considering a Water Quality Management Program that is being mandated by the State. It will filter down to the municipalities. It has been postponed until the end of this year. Ordinance work will begin in the fall. There is still debate and discussion on the septic maintenance component. The Water Quality Management Program is not covering reserve septic sites but it could be addressed at the same time.

R. Dodds stated the EPA has a fact sheet on onsite disposal units. If properly maintained a conventional system has a functioning life of 20 years or less. The more the Township becomes developed, the more this problem will come up. Kingwood contains a lot of developable area. The marginal areas are still undeveloped. There are nice big whole hills filled with water that have brown streams going out of them. In contemporary practice, it is common practice to have a second area for a repair area in case the original system fails. If some one adds on to their dwelling, they will have to add on to the existing system. Repairs and alterations are the majority of the septic work in the Township. New systems are minimal. The properties in Baptistown are ancient and on tiny lots that have one septic system site. In Minnesota, the failure rate of septic systems is 80% due to a high water table.

Mundy – Block 8, Lot 8.03 – General Code Enforcement Official

D. Laudenbach stated M. DeSapio offered the following comments regarding the General Code Enforcement Official's letter: *no date on the letter and did not provide any information if the matter had been resolved.*

D. Laudenbach stated the junkyard and property maintenance ordinances have been adopted by the Township Committee.

P. Lubitz requested M. DeSapio's comments be provided to the General Code Enforcement Official for his response.

Approval of Minutes

It was moved by P. Lubitz, seconded by R. Phillips and carried to approve the minutes of July 15, 2009 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz and R. Phillips, who abstained.

CORRESPONDENCE**PRIVILEGE OF THE FLOOR**

A. Belle commented when the Board is reviewing the ordinance for possible changes they should look at the three part pump test. He stated spending an additional \$15,000 for an aquifer test plan and \$4,000 for the Township Hydrogeologist when the pump test can provide the same information. No neighbors requested to have their wells monitored in his testing. His well was getting 50 gpm upon performing the three part pump test. Will requiring a minor subdivision to do an aquifer test change the outcome or benefit to the Board or the neighbors surrounding the property? He thinks this Board should look at such exorbitant costs. Most other Township's require the three part pump test. In a major subdivision, they have the money to spread the costs across the many lots. He doesn't see a purpose. The Housing Board is looking at illegal apartments. If a resident came forward with an illegal apartment and be admitted to the COAH program to accept a reduced rent apartment, they would have to be informed they would be required to perform an aquifer test and hydrogeological report at a cost of \$19,000. If the Board is not considering changing the ordinance, they should not go forward on this proposal.

S. Stryker stated there was an incident with Uncle Scott's Steakhouse, Block 24, Lot 1.01, with a septic break-through. It happened when we were experiencing the heavy rain. There was effluent on the parking lot and was going into the storm drain. He has taken it upon himself to contact the Hunterdon County Health Department so see if their health certificate was still conditional. They were pumping out on an acute basis. The County stated they were required to pump for three weeks and it was no longer required. The County stated their health certificate is conditional and they have to submit pump out receipts to the them. He has contacted the DEP on Uncle Scott's Steakhouse's application and was informed there was a slight delay and that they were working on it.

ADJOURNMENT

It was moved by P. Lubitz, seconded by S. Stryker and carried to adjourn the meeting at 9:02 PM. All members present voted **AYE**.

Respectfully submitted,

s/Diane Laudenschach

Diane Laudenschach, Secretary