

MINUTES

PRESENT: J. Burke
R. Dodds
D. Haywood
T. Kratzer
J. Mathieu
S. McNicol (7:48 PM)
E. Niemann
L. Sensus
J. Strasser
M. Syrnick, Alt #1
D. Posey, Alt #2
T. Decker, Engineer
D. Pierce, Attorney

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:31 PM.

NOTIFICATION

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

Notification of the time, date and place of this meeting has been published in the 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

Gural - Block 9, Lots 15 & 16 – Lower Oak Grove Road – Boundary Line Adjustment – Determination of Completeness

No one was present for the application

T. Decker provided the following memo regarding the application:

Our office has reviewed the submission for completeness and offers the following comments as they relate to the Kingwood Township Checklist.

Item #1 – Electronic Copy of Plans

Planning Board Secretary should confirm that an electronic copy of the proposed plan has not been submitted.

Item #8 – Plan Based Upon a Current Survey

It appears that a boundary survey has been prepared for receiving Lot 16, however not for Lot 15 from which lands will be transferred from. A boundary survey and property limits for Lot 15 should be included on the plan.

Item #10 – Addresses & Telephone Numbers

The addresses, telephone numbers and signature of the applicant/owner for Lot 16 are provided on the plan. Same is required for the owner of Lot 15.

Item #15 – Property Owners Within 200’

Board Secretary should confirm that a certified property owners’ list has been submitted as part of the application.

Item #16 – Required Setback Dimensions

Setbacks are shown for Lot 16 and part of Lot 15.

Item #21 – Contours & Topography Within 200’

The contours and topography for Lot 15 have not been provided.

Item #22 – Existing & Proposed Drainage Facilities Within 200’

The existing and proposed drainage facilities within 200 feet of Existing Lot 15 have not been provided.

Item #31 – Certification from Tax Collector

Board Secretary should confirm receipt of certification.

Item #32 - Submission to the County Planning Board

Proof of submission of application and fee to the County Planning Board has not been provided.

Item #33 – Submission of Application and Fees to County Soil Conservation District

Proof of submission of application to the County Soil Conservation District has not been provided. As both lots are currently improved and no additional improvements are proposed, a waiver is appropriate.

Item #34 – Certification to D&R Canal Review

Proof of submission of application to the Delaware & Raritan Canal Commission has not been provided. As both lots are currently improved and no additional improvements are proposed, a waiver is appropriate.

Item #39 – Proposed Deeds to Lots and Remaining Land

Deeds have not been provided at this time. A waiver for completeness purposes would be appropriate pending approval of the proposed merger.

Item #40 – Deed Language

A note has been added to the plans however deeds have not been provided at this time. A waiver for completeness purposes would be appropriate pending approval of the proposed merger.

Item #42 – Deed Language regarding Right to Farm

A note has been added to the plans however deeds have not been provided at this time. A waiver for completeness purposes would be appropriate pending approval of the proposed merger.

Item #48 – Depiction of Freshwater Wetlands within 150 feet

Freshwater wetland limits have not been provided. Given the alignment of the merger and nature of the proposed application, a waiver would be appropriate.

Item #50 – NJDEP Letter of Interpretation or Presence/Absence Determination

Proof of submission for an NJDEP Freshwater Wetland Letter of Interpretation (LOI) has not been provided. Given the nature of the application, a waiver may be appropriate

Item #51 – Depiction of Septic Systems & Wells Within 100'

Wells and septic systems within 100' have not been provided nor has a note to the absence of this feature been provided. Given the nature of the application, a waiver would be appropriate.

Given the nature of the application, waivers may be appropriate from several of the checklist items as identified above. However, our office does not recommend that the application be deemed complete until such time that the boundary survey information is provided for Block 9, Lot 15.

Cacciabauda – Block 36, Lot 3 – Federal Twist Road – Minor Subdivision – Determination of Completeness

B. Szaferman, attorney for the applicant and B. Sutherland, engineer for the applicant, were present this evening. B. Szaferman stated the application is to consolidate five existing lots into three lots.

T. Decker provided the following memo regarding the application:

Item #33 – Submission of Application and Fees to County Soil Conservation District

Waiver for completeness requested.

Item #34 – Certification to D&R Canal Review

Applicant's Engineer has indicated that DRCC approval is not required. A waiver is required.

Item #39 – Proposed Deeds to Lots and Remaining Land

Descriptions have been provided. Deed Language has not been provided. A waiver for completeness purposes may be appropriate.

Item #40 – Deed Language

Descriptions have been provided. Deed Language has not been provided. A waiver for completeness purposes may be appropriate.

Item #41 – Soil Log Certification

The Soil Log Certification has not been provided. A waiver is required.

Item #42 – Deed Language

Descriptions have been provided. Deed Language has not been provided. A waiver for completeness purposes may be appropriate.

Item #45 – Affordable Housing Plan

The applicant has agreed to comply with the Affordable Housing Plan.

The Board needs to determine if the above items may be waived for completeness purposes.

B. Szaferman stated the applicant is seeking waivers for the following, for completeness purposes only:

- Providing deeds;
- Delaying the application to the Hunterdon County Soil Conservation District until approval has been received from this Board;
- Utilize soil log certifications from prior application;
- Delaware Raritan Canal Commission (DRCC) approval;

B. Szaferman stated his engineer has determined the application does not require DRCC approval. The plan indicates the percolation tests for the original five lots.

T. Decker stated the items can be waived for completeness purposes. The applicant should apply to the DRCC to get confirming correspondence. He stated there is standard language on the checklist certifying the soil logs. B. Sutherland requested the applicant be able to utilize the certifications on the previous plan since the original plan has five locations and the current application is utilizing three. All the testing is within the parameters of the three proposed lots.

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

Schlachter – Block 9, Lot 13 – Lower Oak Grove Road – Request for Extension of Time to File

No one was present for the application.

D. Pierce stated the applicant is entitled to the extension. They are working on language issues and are moving forward in good faith.

It was moved by D. Haywood, seconded by J. Mathieu and carried to grant a 190 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

L. Senus recused herself from her position on the Board for the following matter.

Trstensky – Block 24, Lot 13 – Kingwood Locktown Road – Request for Extension of Time to File

G. Walton, attorney for the applicant, was present this evening. The application was originally made in 2003. The original applicant passed away during the application and it got lost in the shuffle. A confusing issue was that the tax assessor issued tax bills to H. Trstensky for the two lots. She assumed the subdivision had been perfected. D. Pierce stated a Common Driveway Easement and Maintenance Agreement has not been provided.

It was moved by J. Mathieu, seconded by J. Strasser and carried to grant a 190 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

L. Senus resumed her seat on the board.

Perrotti – Block 23, Lot 11 – Route 519 – Major Subdivision – Postponed to May 12, 2009

Razberry's – Block 17, Lot 15.01- Route 12

D. Pierce stated this letter is a result of Razberry's placing fill and building a berm along the eastern side of its property. The Board directed the Zoning Officer to write a letter to the owner informing them a site plan is required for that type of improvement. Six months later, Razberry's retained an attorney and submitted a letter to the Zoning Officer. Their attorney is taking the position they were doing a minimal landscaping project and no site plan is or was required. They were purportedly constructing a berm to provide screening from their neighbor and to stop storm water runoff conditions on their lot. The neighboring property has a reasonable right to continue existing drainage. It is something that should require board approval. The Board can make the determination it will accept the attorney from Razberry's opinion that it does not require site plan approval based on the scope of the improvement.

T. Decker stated he was speaking to the owner of the neighboring property, Galleria Construction, and he mentioned it blocks his view. T. Decker stated the berm is about 8' high. He has also installed another berm on the westerly property line, approximately 4' in height. The owner has received Hunterdon County Soil Conservation District approval.

S. McNicol entered the meeting at 7:48 PM.

E. Niemann recused herself from her position on the Board.

D. Pierce stated violations were issued from the DEP and they have been resolved. He is not sure if the resolution of the DEP violations required the removal of any of the fill. Our ordinance does not provide for a site plan waiver. The modification is minor, justifiable and easily explainable. The Board could adopt a reading of the ordinance to say this is a landscaping issue and it is not something that should be encompassed in a site plan review.

It was moved by J. Burke, seconded by D. Haywood and carried to request the owner to provide a copy of the approved Soil Erosion Sediment Control Plan and to have a representative attend the May meeting. All members present voted **AYE** on **ROLL CALL VOTE**.

E. Niemann resumed her position on the Board.

Block 29, Lot 3 – EBI Consulting Inc. – Invitation to Comment

D. Pierce stated the letter pertains to his property. They have been approached by Nextel to install a cell tower. The letter is part of their process for approvals. The letter requests comments on the historical significance this monopole will have on the area.

Checklist

T. Decker stated the discussion started because the checklist did not conform to the amended well ordinance.

After some discussion, the Board authorized T. Decker to revise the checklist and provide it to them for their review.

Plat Distribution

S. McNicol stated the Environmental Commission requires only one copy and the Open Space Committee is not reviewing them and does not need a copy.

T. Decker stated some towns require a certain number of full set plans and some 11x17 plans. It is a little difficult to read the text on the 11x17 plans.

T. Decker left the meeting at 8:17 PM.

Gural - Block 9, Lots 15 & 16 – Lower Oak Grove Road – Boundary Line Adjustment – Determination of Completeness

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

Proposed Ordinance – 15-06-2009

D. Pierce stated the proposed ordinance is a substantial revision to the junkyard ordinance which previously only required a license. The proposed ordinance changed the definition, provides for an application and very detailed information about a proposed junkyard business, revocation of the license and conditions of the license. It also amends Chapter 127 which deals with the issue of inoperable motor vehicles, changes the definition of operable and inoperable vehicles and specifies you cannot have an inoperable vehicle or part thereof for more than 90 days unless it is within a fully enclosed structure. It adds an exception that no more than two vehicles that are eligible for registration as historic motor vehicles as that term is defined in NJSA 39:3-27.3 or are eligible to be designated as collector vehicles as that term is defined in NJAC 13:20-43.1 may be stored outside on the property. It changes the definition of an automobile repair shop by making it more expansive. The Zoning Ordinance prohibits any new auto body repair shop and in 132(6), the prohibited use would also delete the word “body”. Under this ordinance change, any new automobile repair shop would be prohibited throughout Kingwood. There is a conflict between that and automobile service stations. The definition of automobile repair shop could be interpreted to mean all automobile service shops are prohibited. The definition prohibits automobile shops not in existence as of February 8, 1993. The way to correct the prohibition of automobile repair shops in the entire Township would be to amend section 132(6). It could be broken down into two separate categories: automobile repair shops in the AR-2 Zone, which do service or maintenance on an automobile is a prohibited use unless it was in existence prior to February 8, 1993, and changing the definition of the repair shop. He stated it is very difficult to exclude junkyards in the Township. There are certain limited areas in which they are appropriate. There are several businesses currently located in the Township which would require a license. If they were not granted a license, they would have to cease operation as a junkyard. He stated a junkyard is defined as any place, establishment or land which is maintained, operated or used for storing, keeping, buying, selling or accumulating junk on said premises. The current ordinance defines as selling those items and does not contain a provision for storing. You could argue how do you define if it is used for a principle or accessory use. If it was a homeowner, the right to farm might pertain. Another situation might be a homeowner whose hobby is collecting or racing automobiles but is not licensed. There are a lot of instances where it is borderline. Any old site may be able to continue under the current zoning ordinance. Section 86 is a general code and separate and apart from zoning, which is related to the purpose of the health

and maintenance of the community in an attractive fashion and is enforceable. Adopting such an expansive definition of junk and junkyard could catch a lot of people in that situation. The ordinance is designed to give the township the flexibility to deal with the very serious offenders. The township can prohibit them throughout the township but not through a definition. One of the things you might be able to do is have a provision that creates the presumption that it is a junkyard if it has more than a certain number of items, such as four vehicles. The zoning official will be reviewing the application for the junkyard license. If the use was expanded, the need for a site plan would be triggered. If they already exist under the current zoning, whatever exists now, exists and is approved as a pre-existing non-conforming use under the zoning. If you changed an ordinance definition, Razberry's would not have to come in for a site plan.

The ordinance is referring about junk material that has no use or value only as scrap or parts recycling. A resident, who is located in the township, could argue this definition is overbroad because it includes all used automobiles, farm machinery or parts thereof. It might be perfectly good equipment and not junk as defined in Webster's dictionary. It might have a value to the property owner. The other part of the definition deals with discarded material, old iron or metal. How many bottle dumps are there on properties in Kingwood? Are they junkyards?

The Board did not make a recommendation to the Township Committee to adopt the proposed Ordinance.

D. Pierce was requested to review the ordinance and discuss the changes from this evening with Township attorney J. Kopen.

D. Pierce left the meeting at 9:00 PM.

Conservation Easement Markers – Cost

After some discussion, it was decided to provide to the residents the plaques and specifications for the Conservation Easement markers. The cost will be \$10.00 each.

Resolutions

It was moved by D. Haywood, seconded by J. Burke and carried to adopt **Resolution No. 2009-06 – BDAC – Block 23, Lot 17.02**. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds and T. Kratzer, who abstained.

Approval of Minutes

It was moved by J. Mathieu, seconded by D. Haywood and carried to approve the minutes of March 10, 2009. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds, T. Kratzer and M. Synchron, who abstained.

APPLICATION STATUS

Mironchik – Block 19, Lot 10.07 – Release of deeds.

CORRESPONDENCE

State of New Jersey – COAH – Substantive Certification – E. Niemann reported the Township will be able to meet the deadline.

Banisch and Associates – Sustainable Jersey - E. Niemann stated the township is already registered. There are 10 - \$10,000 grants and 5 - \$25,000 grants available.

Hunterdon County Planning Board – Model Septic Management Ordinance;
NJPO – State Planning Conference – April 24, 2009;
New Jersey Planner – March/April 2009;
Borough of Frenchtown – 2009 Periodic ReExamination Report.

PRIVILEGE OF THE FLOOR

S. McNicol invited, as a member of the Open Space Committee, the Board members to a walk on May 2nd on the property that surrounds the Flagg residence.

E. Niemann stated the other expense budget for the Planning Board was set at \$15,000 for 2009. If any Board member has a need or interest to contact a professional, the call should be routed through R. Dodds, J. Burke and E. Niemann so they can check on the status of the availability of funds.

It was requested the Board receive a copy of the expenditures three times a year to see their financial position.

J. Burke reported the freeholders voted to proceed with the contract on Equestrian Village. The vote was four to one. All of the contracts have been signed and the closing should take place before August.

ADJOURNMENT

It was moved by J. Burke, seconded by D. Haywood, and carried to adjourn the meeting at 9:23 PM. All members voted **AYE**.

Respectfully submitted,

s/Diane Laudenbach

Diane Laudenbach, Secretary