

**MINUTES**

**PRESENT:**

J. Burke  
R. Dodds  
D. Haywood  
T. Kratzer  
J. Mathieu  
S. McNicol  
E. Niemann  
J. Strasser  
M. Syrnick, Alt #1  
D. Posey, Alt #2  
D. Banisch, Planner  
A. Clerico, Planner  
T. Decker, Engineer  
D. Pierce, Attorney

**ABSENT:** L. Senus

**CALL TO ORDER**

The meeting was called to order by R. Dodds at 7:30 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**

Razberrys Block 17, Lot 15.01 – Route 12 – Request for Waiver of Site Plan

S. Gruenberg, attorney for Razberrys, stated the Board had some discussion on the berm installed on the above referenced block and lot. The berm was installed as a beautification project for the property. It is a landscape berm which will be planted with seasonal wildflowers. It is not a change in use which would require a site plan. Hunterdon County Soil Conservation District (HCSCD) has put a hold on the project until a determination by the Planning Board. The HCSCD requires the slopes to be at 2:1 incline.

T. Decker stated it is a landscape berm and does not have a negative impact on any drainage.

It was moved by D. Haywood, seconded by J. Burke and carried to determine no site plan is required for the installation of the landscape berm and that the zoning officer be notified of the decision with a copy to the HCSCD. All members voted **AYE** on **ROLL CALL VOTE**.

Cacciabaudo – Block 36, Lot 3 – Federal Twist Road – Minor Subdivision

Matter postponed to the June 9, 2009 meeting.

Perrotti – Block 23, Lot 11 – Route 519 – Major Subdivision – Public Hearing

D. Pierce has reviewed the proof of service and notification and has found them to be satisfactory.

P. Henry, attorney, and C. Stires, engineer and land planner, were present on behalf of the applicant.

P. Henry stated the application is for a major subdivision. He has reviewed the comments from the Township planner and engineer. The application contains 14 lots, one of which is the large farm lot and the remaining lands. The application is based on the lot size averaging provision of the ordinance. Basically the application complies with the ordinance except for a few technical variances which are being requested.

D. Pierce swore in C. Stires.

C. Stires reviewed his professional qualifications. He testified Exhibit A-1 is a colorized version of the qualifying plan. The property is located between Thatcher and Barbertown Point Breeze Roads and on the south side of Route 519. A 12' stone driveway leads to the heart of the site. Lot 11.01 contains a small residence. If you continue down the farm driveway, you will get to the main house on Lot 11. It contains the farmhouse and a number of outbuildings. The driveway is stone. The tract is 135 acres and is being actively farmed. The Lockatong Creek is along the southern boundary and meanders on and off the property. It is a C-1 stream with a 300' buffer. There are areas of various wetlands on the property. There is a larger wetlands area in the southwest corner and smaller ones in the northern and western corners. The development will have access through a 50' flag or stem that extends onto Route 519. The crossing of a small wetlands area will be necessary for the access to the site. They have a valid LOI and have submitted a flood hazard plan to the DEP due to the buffers and Lockatong Creek. They have prepared the maximum tract yield calculations. There is a 75' power easement along the western boundary heading to the south. The maximum tract yield takes into account the easements, wetland buffers and any constraints on the property. It has been calculated to have a yield of 13.5 lots. The qualifying plan, Exhibit A-1, indicates 13 lots at 7 acres each with a proposed driveway in conformance with the ordinance. With the constraints on the property, the applicant would prefer to do the lot size averaging and lot clustering down to 2 or 3 acres. An additional rendering, Exhibit A-2, is the grading plan showing the entire tract at the same time and the proposed conditions. The proposed subdivision will have a proposed road through a 50' stem off of Route 519. The road cul-de-sac is 2500' long. The plat shows 12 market rate lots and an inclusionary COAH lot. It shows the farmhouse and outbuildings on the 90 acre remaining lands lot. Each of the lots will have wells and septic. They have done all the necessary testing for the septic but the window closed for the well testing last summer. The Hydrogeologic Plan has been approved by the Township hydrogeologist. The applicant will perform the hydrogeologic test when the window opens up in July. Since the plans were submitted, they have had discussions on the COAH lot and what it entails. They had a perc and soil test in the proposed field in the northwest corner at the edge of the road. There is another perc test below the proposed dwelling which would accommodate,

potentially, what the applicant will be doing with the COAH lot. The site drains from the north to the south to the Lockatong. The stormwater from the roads will be directed towards the creek. The application will have a wet pond that will hold water and be located on the remaining lands. The pond is approximately 5' deep and covers over an acre in surface area. It could be used by the fire department as a potential source of water. The application provides for some access to the pond for the maintenance of it. They intend to connect the stone drive to the farmhouse and branch off the driveway to the pond. The proposed lots are between 2.4 and 4.8 acres. The application is seeking two variances: 1. Permit lot yield of 14 due to the inclusionary lot; 2. On Lots 11.12 and 11.13, the unconstrained area does not meet the requirements of the ordinance of one acre. They have reduced the sizes of Lot 11.12 and 11.13 to create more of any opening for the farm lot. Lot 11.13 contains 42,600 sq ft buildable area, which is just under an acre. Lot 11.12 contains 25,265 sq ft buildable area, which is .58 of an acre. Both contain substantial buildable areas. He has reviewed the engineering comment letter from the T. Decker. He provided an electronic copy to the chairperson.

T. Decker provided the following memo: (*applicant responses are indicated in italicized lettering*)

Our office has reviewed the above documents on their technical merits and offers the following comments at this time:

### **Project Description**

Subject property is located along County Route 519 (Kingwood Road) and is known as Block 23, Lots 11 and 11.01 having frontages at two locations of 50.48 feet and 26.83 feet. Having 130.764 acres, Lot 11 is improved with a two story farmhouse, two barns, a garage and assorted farm structures. Lot 11.01 is 4.601 acres in size and contains a single story dwelling. Both lots are served by a single driveway accessing Route 519 through a 25 foot wide flagstaff between adjacent Lots 6, 6.01 and 7. A 75 foot wide New Jersey Power & Light utility easement traverses the site in a north south direction along the westerly property line.

The property is currently farmed with wooded areas along the perimeter and southern portion of the property. Portions of the Lockatong Creek, a Category One stream, are located in the southern portion of the site as well as the associated 300 foot Special Water Resource Protection Area and Riparian buffer. Freshwater wetlands have been located in the southern and interior portions of the site as verified by the New Jersey Department of Environmental Protection (NJDEP) Letter of Interpretation as issued on January 13, 2009.

The application proposes a 13 (thirteen) lot residential subdivision consisting of 2.49 to 4.776 acres and 1 (one) remaining lot of 89.739 acres. The remaining lot includes the existing two story dwelling and farm buildings. The single story dwelling on existing Lot 11.01 is proposed for removal. Access is provided by a 28 foot wide, 2,500 LF cul-de-sac road accessing Route 519 at the northwest corner of the property. Stormwater runoff is collected in a series of inlets and piping directed toward a wet pond with extended detention.

### **Zoning – AR-2 Agricultural & Single Family Residential**

1. Property is located within the AR-2, Agricultural & Single Family Residential District. The proposed layout is designed in accordance with §132-30-D(1) of the Kingwood Township Ordinance permitting lot averaging as a conditional use.

2. A qualifying conceptual plan last revised March 13, 2009 has been submitted demonstrating that the property can support up to 13 total lots in a conventional layout. The Maximum Tract Yield Calculations indicate a density of 13.532 lots is mathematically permitted.
3. As noted on the qualifying plan and Affordable Housing Plan, the applicant proposes 14 total lots to include an additional inclusionary lot in an effort to satisfy the application's COAH requirements and provide additional units credited toward the Township's obligation. A 10 unit Shared Living Resident building is proposed in partnership with the Cooperative Housing Corporation. As this exceeds the maximum density of 13 lots, a variance is required.
4. §132-30-D(1) of the Kingwood Township Ordinance requires that the open lands associated with a lot averaged layout contain a minimum of 50% of the gross tract area and a minimum 30% of the unconstrained tract area. Calculations are required to demonstrate compliance.

### **Plan Review**

#### ***Boundary & Topographic Survey, Sheet 2 of 27***

1. Identify unlabeled structures on the Boundary & Topographic Survey, Sheet 2 of 27.  
*Applicant will provide.*

#### ***Preliminary Plat, Sheets 4 & 5 of 27***

2. Legend should be provided. *Applicant will provide.*
3. Net lot areas are required for each lot. *Applicant will provide.*
4. Monumentation and boundary corner markers are required in accordance with the Map Filing Law. *Applicant will provide.*
5. The 300 foot Special Water Resource Protection Area and Riparian Buffer limits should be shown. *Applicant will provide.*
6. Lockatong Creek, Floodway and Flood Hazard locations should be added. *Applicant will provide.*
7. Surveyor certification per the Map Filing Law should be added. *Preliminary does not need to meet the Map Filing Law. Signature will be provided on final.*
8. Township and County signature blocks should be added. *Applicant will provide.*
9. Easements are labeled, but lines are missing. Add easements with bearings and distances. *Applicant will provide.*
10. An easement is required encompassing the stormwater management basin and providing access for maintenance purposes. Easement would be dedicated to a homeowners association and grant the Township the right, but not the obligation to access the basin for maintenance and repair purposes. *Applicant will provide.*
11. For clarity purposes, wetland areas should be hatched. *Applicant will provide.*

12. Lot 11.01 should be deed restricted from having direct access to Route 519 through the existing 25 foot wide flagstaff. *Applicant will provide.*
13. A note should be added deed restricting the lots from future subdivision. *Note is on cover.*

***Horizontal Control Plan, Sheets 4 & 5 of 27******Grading & Soil Erosion Plans, Sheets 8 & 9 of 27******Utility Plans, Sheets 10 & 11 of 27***

14. Our office recommends consolidating sheets 4 through 11 as they contain duplicate information and to minimize the potential for inconsistencies. *Applicant does not feel it is necessary. They feel it makes it clear. Changes are noted on each sheet individually.*
15. Legends should be provided. *Applicant will provide.*
16. According to §7.9A-7.4 of the NJDEP Standards for Individual Subsurface Sewage Disposal Systems, the 10 unit shared living residence on Lot 11.13 has an anticipated daily flow of 1,550 gal/day. Based on soil test results, this daily flow requires a 3,968 sf septic disposal field. The field shown on the plans has an area of 1,375 sf in a very narrow portion of the lot. Given the confines of the lot, topography and proximity of the soil tests, it is questionable that a 3,968 sf field can be installed in this location. Additional testing or selection of a different lot for the residence may be required. *Applicant indicated the septic which was originally proposed in the corner lot has been retested behind the lot and updated on resubmitted plan.*
17. Submission should be made to the Hunterdon County Health Department confirming septic suitability for the subdivision as proposed. *Applicant will provide.*
18. For clarity purposes, wetland areas should be hatched. *Applicant will provide.*
19. Label the existing dwelling on Lot 11.01 to be removed. *The dwelling is part of the COAH discussions and if it is removed, they will address the labeling.*
20. Cross drain sizes and lengths should be provided at driveway/road interfaces. *Applicant will provide.*
21. Note portion of existing drive accessing remaining Lot 11 to be removed. *Applicant needs clarification after having received County review letter.*
22. Fencing is required around the perimeter of the wet pond in compliance with BOCA requirements. *Applicant did not see any reference in the BOCA code for fencing around ponds. Applicant wants to keep it as a nice visual piece without any fencing.*
23. Soil Log locations should be added to the plans. *Applicant will provide.*
24. Applicant should provide testimony regarding the parking requirements associated with the shared living residence. It appears that parking for 5 (five) vehicles has been provided. Additional parking may be required. *Applicant will address.*
25. Conduit outlet protection is required for FES #19. *Applicant responded since the flared end is running into the water, they do not need the rip rap, if the County approves.*
26. A second safety shelf is required in the wet pond in accordance with the New Jersey Best Management Practice. *Applicant will be working with T. Decker.*

27. Pond drain pipe is required providing a positive discharge to grade. Current design does not allow for draining of pond without pumping. *Applicant will be working with T. Decker.*
28. Inadequate cover is provided on the storm pipe run from Inlet 12 to FES 13. *Applicant will provide.*
29. The following notes shall be added to the plans.
  - a. Storm sewer piping shall be installed prior to all other utilities.
  - b. Township Engineer must be provided a minimum of 2 (two) business days notice prior to start of construction. A pre-construction meeting is required prior to construction.
  - c. All signage must be in conformance with the Manual on Uniform Traffic Control Devices.
  - d. Limits of disturbance are to be staked in the field prior to construction.
  - e. Tree protection fencing to be provided adjacent to existing tree lines that are not to be disturbed
  - f. Limits of all conservation easements and environmentally sensitive areas shall be surveyed and delineated in the field prior to construction. *Applicant will provide.*

#### ***Landscape Plans, Sheets 12 & 13 of 27***

30. Plant schedule should be moved from the detail sheet to the plan for ease of reference. *Applicant requests it be left where it is.*
31. Additional landscaping adjacent to the wet pond would be appropriate. *Applicant stated it reverts back to the pond, landscaping and fencing.*

#### ***Details, Sheets 25, 26 & 27 of 27***

32. Provide a 2 foot wide graded area between the edge of pavement and 5 foot wide ditch transitioning from the 3% road cross slope to the 3:1 ditch slope. *Applicant can provide.*
33. Sluice gate and pond drain detail should be added to the outlet structure. *Comment ties into Comment #27.*
34. Storm inlet details shall include a medallion in accordance with the NJDEP stormwater management regulations stating that the structure drains to a stream. *Applicant will provide.*
35. Provide detention basin fence detail. *Comment ties into #22.*
36. Provide a tree protection fence detail. *Already on sheet #25.*
37. Septic system detail should be noted as typical and that approved individual septic system designs shall be required from the Hunterdon County Health Department. *Applicant will provide.*

#### **Stormwater Management Review**

1. Groundwater recharge calculations are required in accordance with NJDEP stormwater management regulations utilizing the New Jersey Groundwater Recharge Spreadsheet (NJGRS). *Applicant will provide.*

2. Low Impact Design Calculations are required in accordance with the NJDEP stormwater management regulations utilizing the NJDEP Nonstructural Strategies Points System (NSPS) spreadsheet. *Applicant will provide.*
3. Applicant's engineer should provide testimony with regards to the wet pond's ability to sustain a permanent pool, aeration and associated future maintenance. *Applicant stated originally the pond was on the other side of the farmhouse. They performed a test pit in the area. The ground water level is 60" down. They will perform another test pit and if any adjustments are necessary, they will be made.*
4. Onsite soil testing within the confines of the proposed wet pond are required to demonstrate the soils ability to support a permanent pond. *Applicant will provide.*
5. Has consideration been given to other stormwater management options, such as constructed stormwater wetlands, in lieu of the wet pond?
6. Formation of a Homeowner's Association for the maintenance of the basin is required. *Applicant will provide.*
7. Submission of a Maintenance Manual is required upon finalization of the stormwater management design. *Applicant can provide if approved.*
8. Swale design calculations are required downstream of FES #13. *Applicant will provide.*
9. Time of Concentration (Tc) flow path for Existing Drainage Area #2 is incorrectly shown on the drainage area map as parallel to the contours. *Applicant will provide supporting information to T. Decker to justify the design.*
10. Drainage area maps must show and clearly label all study areas and time of concentration flow paths, including disturbed and undeveloped area. *Applicant will provide supporting information to T. Decker to justify the design.*
11. Impervious cover for houses and driveways has not been included in the un-detained developed conditions. *Applicant will provide supporting information to T. Decker to justify the design.*
12. CN values for lawn should be used for all residential lots. *Applicant will provide supporting information to T. Decker to justify the design.*
13. Time of concentration for impervious cover should be the minimum of 6 minutes or supporting calculations provided for the 15 minutes as provided.
14. Calculations of the permanent pool storage volume are required. *Applicant will provide supporting information to T. Decker to justify the design.*
15. Supporting calculations are required for the times of concentration contributing to the storm drainage design. A time of concentration of 25 minutes is excessively high for an upstream drainage area of 0.189 acres. *Applicant will provide supporting information to T. Decker to justify the design.*
16. Supporting calculations are required for the runoff curve numbers used in the storm drainage design in accordance with Table 7.1 of the Residential Site Improvement Standards. Coefficients provided appear to be lower than required. *Applicant responded the reason the coefficients are lower is because they are based on a 100 year storm and it has been adjusted to a 25 year storm.*

The Community Impact Statement should be revised to reflect the currently proposed lot yield, age restricted shared living residence and revised stormwater management results. *Applicant stated the statement can be updated but it is a net change of one lot.*

### **Administrative**

1. Subject to unconditional approvals from the following agencies:

- a. Hunterdon County Planning Board
- b. Delaware & Raritan Canal Commission
- c. Hunterdon County Soil Conservation District
- d. Confirmation from Hunterdon County Health Department regarding septic suitability.
- e. Any other agency having regulatory jurisdiction. *Applicant will have to provide.*

2. Subject to review by Township Hydrogeologist.

D. Banisch provided the following memo:

1. The applicant is seeking approval for a major subdivision for 14 residential lots on a 135.36-acre farm (Lot 11) and a boundary line adjustment to existing Lot 11.01. The applicant's Qualifying Conceptual Plan identifies a maximum of 13.52 (13) dwelling units in accordance with the ordinance standard for a maximum of 1 D.U. / 7 acres is permitted in the AR-2 Zone and the maximum tract yield calculations found at §132-30.F.(4).

2. Site Description:

- a. The 135-acre tract is irregular in shape with an approximately 26 acre dogleg portion of the tract extending to the south-west of the tract.
- b. The Lockatong Creek runs in a southwest direction generally along the southerly boundary of the tract. The Lockatong is designated a C-1 water, which requires a 300' Category One (C1) buffer requirement associated with the Creek.
- c. An extensive wetlands complex extends from the Lockatong Creek into the tract in a northwest direction, for which the applicant has identified a 150' transition area. *Applicant responded Lots 11.07, 11.11. and 11.09 require general permits for the crossing of the wetlands and stream encroachment or flood hazard permits.*
- d. The northerly portion of the tract is primarily unconstrained upland, which includes the existing farmstead that is surrounded by primarily unconstrained upland, with the exception of a wetland complex that extends from the Lockatong Creek on the east. Additionally, the wetland complex that extends north from the Creek is situated along the west side of the tract with a varying width of 250' to 500' along the west side lot line to a point approximately 1,200' of County Route 519. A small wetland complex is situated on the north side of the barn at the existing farmstead, which appears to be associated with a pond.
- e. Approximately half of the 26 +/- acre dogleg area on the south side of the tract is unconstrained by wetlands or the Lockatong Creek 300' C1 buffer.
- f. A 75' wide electric power easement traverses the site from north to south on the west side of the tract from County Route 519 to the southerly-most point of the tract.

- g. The tract is relatively level with a high point of about 500' elevation in the north to a low point of approximately 465' along the Lockatong Creek on the south side of the tract.
3. The applicant proposes to remove the lot line between Lots 11 and 11.01 and construct a 2,500 ft long cul-de-sac access road within a proposed 50' wide right-of-way to provide access to thirteen (13) new lots. Each proposed lot includes a minimum of 3-acres, with the existing farm to remain on 89.73 acres. A total of 14 lots are proposed which include 12 new lots for market rate housing, a lot designated to address the applicant's affordable housing obligation and the remainder farm lot. 12 certificates of occupancy for new market rate housing will result.
4. Section 132-59 of the Township ordinances requires a provision of affordable housing in conjunction with market rate housing. The applicant may provide affordable housing on-site, off-site, or through a payment in lieu of construction. In this case, the applicant seeks to create an additional building lot, beyond the 13 lots indicated on the Qualifying Conceptual Plan. The additional lot is designated for the provision of affordable housing on site, instead of off-site or through a payment in lieu of construction.
  - Variance required.

#### Qualifying Conceptual Plan:

5. The Qualifying Conceptual Plan includes a 50' wide right-of-way access road. The applicant has identified a 200' lot circle on each lot within the required setbacks. All lots appear to conform to the bulk requirements for the AR-2 zone district, including dimensional and setback requirements. Proposed Lots 11.07 through 11.09 on the Conceptual Qualifying Plan appear to require access through regulated wetland and transition areas.
  - The applicant should provide testimony concerning access to lots 11.07, 11.08, and 11.09 relative to the wetlands and the transition area crossing that appears to be required, and identify the NJDEP permitting requirements that would enable access through these regulated areas as shown on the conventional qualifying plan.

#### Proposed Subdivision Plan:

6. The proposed subdivision plan identifies two access points from County Route 519. These include the proposed access road on the west side of the tract from CR 519; and an emergency access road. The applicant proposes to retain the driveway to the existing farmstead with approximately 26' of frontage on CR 519 as a proposed emergency access road. The proposed primary access road enters the tract a distance of approximately 2,300' south of the existing driveway on CR 519. The area of the tract for the proposed primary access road includes just over 50' of frontage on CR 519. *Applicant discussed in addressing prior comments.*

The County apparently does not favor retaining the proposed driveway as an emergency access road to the subdivision. We believe that the emergency access road has merit. One possible way of encouraging the County to allow the applicant to convert the driveway to emergency access may be to include a finding, in any resolution of approval that may be granted (*not a condition*) that the Board finds the emergency access desirable – if in fact that is the Board's view. The proposed emergency access road could be fitted with a Knox box for access if needed in an emergency.

7. Section 132-30J Cluster or Lot Averaging Subdivisions, states that in an effort to preserve the rural character of the Township, an applicant seeking to subdivide a tract of land 40 acres or greater in size shall apply to the Planning Board for mandatory cluster or lot size averaging subdivision. Lot Size Averaging permits a minimum lot size of two (2) acres to which all lots conform. Reduced lot frontage, width, depth, and yard requirements are identified in the ordinance, and all proposed lots in the proposed subdivision comply with the reduced lot size averaging dimensional requirements.
8. The tract contains 94 acres of constrained area that is generally located in the south and west portions of the property. The proposed lot size averaging development avoids disturbance in these areas. In this case, the proposed cluster subdivision results in approximately 89 acres of active farmland being preserved and remaining undeveloped. Additionally, constrained areas will be preserved through the use of the cluster subdivision include the Lockatong Creek C-1 300 stream buffer and the majority of wetland areas associated with the Lockatong. These regulated areas are protected by the NJDEP required 300' buffer (N.J.A.C. 7:8-5.5(h)), and wetland regulations. The Township's conservation easement ordinance permits agricultural areas to remain in agricultural use to the extent that State regulations permit the applicant to do so. *Applicant dealt with briefly and has submitted the flood hazard plan to the DEP.*
9. Ordinance #15-25-2008 requires the use of Conservation Easements over land where environmentally sensitive areas exist for the protection of these areas. Prior to the issuance of a building permit, the ordinance requires that conservation easement boundaries be delineated and easement markers placed in the field. For areas that are the subject of active agricultural activities at the time of the creation of the easement or for which agricultural activities are intended to be continued following development approvals, easement markers are required to be placed at all intersections of the boundary line of the outermost line of the Protected Areas with setback lines and property lines. As indicated in Engineer Decker's report, easement marker locations should be located in the field prior to construction. *Applicant has dealt with briefly and has submitted the flood hazard plan to the DEP.*

Affordable Housing Obligation:

10. The applicant's affordable housing efforts to date have included extensive meetings and telephone discussions with the potential provider of a 'Shared Living Arrangement' facility (group home) for the elderly. Cooperative Housing Corporation (CHC), located in Somerville, until recently expressed serious interest in constructing this type of housing on proposed Lot 11.13. The dwelling unit would consist of 10 bedrooms in a ranch-style dwelling that would be architecturally designed to blend in with the single-family residential neighborhood character of the proposed subdivision.

On Friday, April 24<sup>th</sup>, we were advised by CHC staff that their Board of Trustees declined the offer to construct the proposed 10-bedroom group home that had been under discussion between the applicant and CHC's Executive Director and staff. Apparently, the Trustees declined the offer at this time due to concerns related to the rural location of the site and its proximity to CHC's main office and existing group homes in Somerset County. CHC's model for Shared Living Arrangement housing involves staff that visits the site 2-3 times weekly for meal preparation, maintenance, and counseling when needed. The primary concern at this time is CHC's ability to adequately provide staffing due to the distance, particularly in potential emergency situations.

However CHC has committed itself to serving elderly residents in Hunterdon County and is currently establishing a group home in Franklin Township near Route 78. We have been advised that once their project is established in Franklin, CHC will be willing to again evaluate their ability to construct the 10-bedroom group home for the elderly in Kingwood, at which time (i.e. 1-2 yrs) the lot in this proposed subdivision may still be available. *Applicant stated the CHC was not familiar with working with a private land owner and were hesitant. The applicant might propose to build a market rate unit on Lot 11.01 with an accessory COAH unit on the same lot.*

11. Since the applicant is required to address its fair share obligation prior to the time approval is granted, an alternative affordable housing solution to the CHC project must be identified. In recent discussion with the applicant's attorney, the following alternative approach was discussed: (1) Designate proposed Lot 11.13 for construction by the developer of a moderate-income affordable dwelling unit with an attached low income accessory apartment dwelling; and (2) designate the existing dwelling on proposed Lot 11.01 as a low income accessory cottage to the market-rate dwelling proposed for that lot. This solution would satisfy the applicant's affordable housing obligation.
12. Because the CHC 10-bedroom group home provides 10 credits of affordable housing credit to the Township, this appears to remain a desirable solution to the applicant's affordable housing obligation because it would yield 7 units of COAH credit for the Township. As such, if the Board and applicant agree, a condition in any resolution of approval that may be granted could include an 'if / then' provision for either affordable housing solution. The condition could stipulate that the applicant shall construct a moderate-income dwelling with attached accessory apartment on proposed Lot 11.13 and retain and convert the existing cottage on proposed Lot 11.01 to a low-income affordable accessory cottage to the dwelling on that lot. Alternatively, if CHC is either willing and / or able to construct the 10 bedroom facility, the group home for the elderly may be substituted for the three affordable units that the applicant is required to provide.
13. Discussion is required by applicant as to this suggested alternative, and additional discussion is required relative to the provision of well and septic system for any CHC group home that may ultimately be constructed in place of the three affordable units.

#### Landscape Plan:

14. Sheets 12 and 13 of the Plan Set depicts proposed shade trees to be planted 50' on center along the proposed road. The proposed planting list on Sheet 25 identifies the following number and species of shade trees:
  - o 19 – *Celtis occidentalis* 'Magnifica' – Magnifica Hackberry
  - o 21 – *Fraxinus pennsylvanica* 'Patmore' – Patmore Green Ash
  - o 19 – *Gleditsia triacanthos inermis* 'Shademaster' – Shademaster Thornless Honeylocust
  - o 21 – *Quercus phellos* – Willow Oak\*
  - o 21 – *Ulmus Americana* 'Valley Forge' – Valley Forge American Elm

\*Native species.

*Applicant provided the planner with a list indicating the proposed trees were native to the area.*

The applicant has provided an adequate variety of shade trees such that the number of species provided is of a sufficient diversity that if one species were to be affected by disease resulting in loss, the remaining species would remain. Not all species selected appear to be native species, and we recommend that this planting list should be revised to include native tree species. Additionally, a shade tree easement should be identified on the plans.

15. We recommend that the Board and applicant discuss the addition of shade trees in side yards along proposed common property lines. Since the subdivision is to be constructed in open fields with no trees or vegetation separating home sites, we believe that the addition of trees along common property lines will better define side yards and result in an enhanced neighborhood character at the time that the homes are ultimately constructed. We recommend that trees be planted along lot lines at 50' intervals beginning 50' from the edge of the road (proposed street shade trees) at distances of 50', 100', 150' and 200'. Additionally, the Board should discuss planting shade trees along the new and remaining portions of the driveway to the farmstead. This would add to rural character and add continuity and visual interest to the neighborhood.
16. The stormwater detention basin is located adjacent and approximately tangent to the rear lot line of Lots 11.09 and 11.10 and occupies approximately 1.2 acres of area. The basin is approximately 9' deep with approximately 30% side slopes. The Board should require that the applicant provide a split rail fence around the detention basin with a black wire mesh attached to prevent access through the rails or an alternative fence design that the Planning Board may deem appropriate. Additionally clusters of landscaping including trees and shrubs should be added around the perimeter of the basin to add visual interest and soften the view of the basin. *Applicant stated additional landscaping has been provided between the lots and the basin in the proposal but can add a little more.*
17. A proposed roadside swale design conveys stormwater to the subsurface collection system consisting of 15 catch basins distributed along the proposed access road. The proposed access road 28' wide .
18. The applicant should provide testimony on the location of the proposed yard swales that are identified in the construction details. To the extent these features may be integral to the stormwater management system they should be placed in drainage easements. *Applicant stated they are easements.*
19. The Planning Board may grant variances in connection with subdivision and site plan applications in accordance with N.J.S.A. 40:55D-70.c, which requires that the applicant must (1) 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 (2) 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.

In addition, the applicant must demonstrate that the negative criterias 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.

P. Henry stated the applicant received a conditional approval from the Hunterdon County Planning Board with four conditions:

- a. Revision of the County road frontage improvement plans to include 15:1 taper for the acceleration land and construct a closed storm water system tying into the subdivision's storm water system and grade swales to 2%;
- b. Provide a 30x100 site easement at the intersection of the proposed road with County Road 519;
- c. The proposed emergency driveway needs to be eliminated;
- d. Provide a disk containing a geo-referenced CADD drawing in dxf. format.

P. Henry requested the Board approve the subdivision with the two variances that are technically required: COAH lot – to allow the applicant the 14<sup>th</sup> lot and to allow the lots minimally less than the contiguous area.

T. Decker stated, with regards to the access from the farm lane as an emergency access, he can see the benefits of having it remain but it bisects the back corner of the property. C. Stires responded the applicant would like it to remain as it currently exists. C. Stires further stated if you bend it back, you are getting into a turning radius issue. C. Stires responded to T. Decker's question regarding the location of the septic on the existing building as it being behind it. T. Decker requested it be shown on the plans.

T. Decker stated some kind of shade trees should be planted on the lots but not necessarily on the property lines. D. Banisch suggested putting a shade tree easement along the property line.

C. Stires stated the applicant will work with D. Banisch on a landscaping plan. D. Banisch will review the applicant's proposal.

The Board was concerned about the standing water in the pond and the breeding of mosquitoes. A suggestion was to have some sort of aeration installed in the pond. The electric could be shared by the homeowner's association.

In response to a question regarding groundwater recharge, T. Decker responded the applicant has provided the groundwater recharge rates in accordance with the state regulations. The development is using more swales and less piping.

C. Stires stated making the pond into a larger area with less depth will not allow them to get the recharge they need. If the area were drier and the groundwater lower, bio-retention basins could be a solution. The lot is more conducive to the wet pond. It is very flat at the entrance. They are installing a catch basin and piping system on the other side of the high point. Anything that drains off the property will go into the Locketong. The water will not be able to get onto the other properties. This property is very isolated. The property on Route 519 drains into this property. There is a good buffer around the tract.

D. Banisch commented he is looking for a processional planting along the farmstead driveway, such as a double row of trees along the side. D. Banisch suggested a walking trail for the residents of the subdivision with an access point from the subdivision road. P. Henry stated it might be opening up the property to public access. D. Banisch responded the trail could be limited to the residents of the development. Some sort of shielding of the outdoor lighting will need to be made.

D. Banisch's last point was to go back to the variance that are being sought and whether you are arguing a C-1 or C-2 variance. P. Henry stated C-2 variances are not truly a hardship but just a better design. The benefit weighs as no impact at all. Lot 11.13 is only minimally under the requirement. P. Henry further stated there is no negative detriment and is a planning benefit. The 14<sup>th</sup> lot becomes a C-2 which COAH encourages rather than inclusionary housing. D. Banisch stated the applicant has three options: on site, off site or a payment in lieu of construction for his COAH obligation. The provision of affordable housing is preferable to accepting a check.

R. Dodds opened the hearing up to comments from the Board members.

S. McNicol stated the Environmental Commission did a quick review. The major question has to do with the procedure for determining the number of lots in plan. She read the comments from the review. She requested the trees be placed so they do not interfere with the functionality and maintenance of the roadside swales.

T. Decker stated there was an original qualification plan that was submitted based on the wetlands prior to the LOI. The qualifying plan has been revised to incorporate the information from the LOI. The wetlands have expanded from what was originally planned. They have obtained clarification of the buffers. Some of the ditches and swales have no buffers associate with them. C. Stires stated the C-1 limit, the 100' flood plains and the radius of the 300' buffer are shown on the plan. C. Stires further stated the applicant believes they can permit through a general and flood hazard permit to access the other three or four lots. C. Stires stated the soils and hydrogeologic report have not been completed.

T. Decker stated there are different regulations with the riparian buffer. It is permissible but a lot more has to be done to mitigate the disturbance on the developer's part.

P. Henry, in regard to COAH, stated a couple of members of the CHC did not feel comfortable with a 10 bedroom unit. They would prefer a 5 bedroom unit. They were concerned it would be too massive of a building to keep in conformance, in style, to a moderate single family home.

J. Burke stated he will present to the Housing Board the proposal of a 10 bedroom unit.

There was a general discussion on the type of occupants of the COAH housing.

C. Stires stated the detention basin, outside of the 50' buffer, will have no affects on the wetlands. The proposal is staying out of every environmentally constrained area. All the buffers will stay. The isolated wetlands in front of the barn might be permitted.

P. Henry stated in regard to the maintenance of the emergency access road, the homeowner's association will be responsible for the maintenance with an easement to the Township.

R. Dodds called for comments from the public.

F. Francescone, County Road 519, expressed his concern about water runoff. He indicated he did not receive the notice of the hearing. In regard to notice of the hearing, P. Henry provided the proof of mailing to him at his address. C. Stires responded the surface swales and reinforced storm piping will take care of the water runoff. F. Francescone inquired why the development could not gain access from the current flag stem. C. Stires responded it is not wide enough.

S. Doyle, 770 County Road 519, expressed her concern about the presence of standing water on her property. C. Stires responded the design will remove the water from F. Francescone's property, which is currently draining on S. Doyle's property and be directed to the storm drains.

J. MacConnell, Spring Hill Road, commented on the difficulty of obtaining water in the area.

A. Belle, owner of Lot 17.02, on the southwest corner of the proposed lots. He commented the development does not provide for the use of the prime soils for farming. He commented on the size of the lots. He inquired what would happen to the existing structures on the remaining lands. J. Perrotti responded they own the farm and are maintaining the farm, buildings and machinery. A. Belle suggested a provision for trails.

D. Pierce stated the applicant has to supply the flood hazard determination by the DEP, which may affect their qualifying plan and the well testing. The ordinance specifically requires the well testing be completed and satisfactory before approval is granted. If it is the board's intent to hold the decision pending the well testing results, it would put us at the August meeting. The Board has 120 days from the application being deemed complete to act upon the application. The options are to request an extension of time from the applicant. If the applicant does not grant an extension of time, the Board would have to act on the application by the July meeting. Preliminary approval can be granted without having the COAH issue settled but it has to be resolved by the final approval.

P. Henry was confident he will be pursuing with the application by asking the Board for approval with conditions. They have not explored the issue of a delay. His clients have worked on this for three years.

It was announced the public hearing was being adjourned to June 9, 2009 at 7:30 PM. No further notice will be provided.

D. Banisch left the meeting at 10:26 PM.

**Resolution No. 2009 -07 - Schlachter – Block 9, Lot 13 – Lower Oak Grove Road – Request for Extension of Time to File**

It was moved by J. Burke, seconded by D. Haywood and carried to adopt Resolution No. 2009 -07 - Schlachter – Block 9, Lot 13 – Lower Oak Grove Road – Request for Extension of Time to File with the correction to the spelling of "*Township*" on Line 3. All members voted **AYE** on **ROLL CALL VOTE**, except S. McNicol who abstained.

**Resolution No. 2009-08 -Trstensky – Block 24, Lot 13 – Kingwood Locktown Road – Request for Extension of Time to File**

It was moved by J. Burke, seconded by D. Haywood and carried to adopt Resolution No. 2009-08 - Trstensky – Block 24, Lot 13 – Kingwood Locktown Road – Request for Extension of Time to File. All members voted **AYE** on **ROLL CALL VOTE**, except S. McNicol who abstained.

Conservation Easement Verification

R. Dodds inquired how the Planning Board can verify the conservation easement markers have been installed correctly? D. Pierce stated it would be more appropriate for a professional who has liability insurance in case the marker was erroneously placed. T. Decker stated, regarding a minor subdivision, there are no public improvements so there would be no escrow which would cover the cost of that inspection. With a major, there are improvements and would be covered by the inspection escrow. T. Decker suggested the applicants be required to provide an as-built survey or certification from their surveyor of the correct placement. D. Pierce suggested a way to eliminate the need for a professional would be for someone to verify the conservation easement markers are present and the owner's professional certifying they are in the proper location. It was suggested the duty could be the responsibility of the code enforcement official.

It was moved by D. Haywood, seconded by S. McNicol to authorize a letter be written to the Township Committee requesting the appointment of an individual to verify the installation of the conservation easement markers. All members voted **AYE** on **ROLL CALL VOTE**.

#### Checklist Amendment

T. Decker provided a draft revision to the checklist. He pulled out the administrative items and put them into one heading. He bolded and marked in red the administrative items. He replaced the "M" (may be required) with an "X" (is required). On the application forms, they should be updated to allow for an area for fax numbers and email addresses as well as attorney and engineer information. D. Laudenbach will work on the applications and checklists.

After some discussion, it was decided to reduce the number of copies to twenty. The changes will have to be incorporated into an amendment to the ordinance.

#### D. Pierce Memo – Wind Powered Energy-Generating Devices

D. Pierce stated he has been contacted by the zoning officer with regard to a resident in Byram Colony interested in installing a wind generating turbine. After reviewing the code, he noticed one section references another and the other does not provide for any set back distances. Currently the set back is "0". On a cell tower, the set back is three times the height of the tower. He suggested a setback from any other structure equal to or at least the height of the tower plus a little margin.

T. Decker stated most municipalities require reserve septic testing on lots, which would require two suitable locations for a septic system.

It was requested D. Laudenbach obtain copies of surrounding township's solar panel and alternate septic testing site ordinances.

J. Burke announced the Township received a grant in the amount of \$115,000 for solar panels at the garage.

T. Decker left the meeting at 11:00 PM.

#### Approval of Minutes of April 21, 2009

It was moved by J. Mathieu, seconded by S. McNicol and carried to approve the minutes of April 21, 2009. All members voted **AYE** on **ROLL CALL VOTE**.

**APPLICATION STATUS**

Honeymar – Block 26, Lot 4 – Release of Deeds

**CORRESPONDENCE**

Receipt of the correspondence listed on the agenda was acknowledged.

**PRIVILEGE OF THE FLOOR**

**ADJOURNMENT**

It was moved by J. Strasser, seconded by S. McNicol and carried to adjourn the meeting at 11:02 PM. All members voted **AYE**.

**Respectfully submitted,**

*s/Diane Laudenbach*

**Diane Laudenbach, Secretary**