

**MINUTES**

**PRESENT:** J. Burke  
R. Dodds  
T. Kratzer  
J. Mathieu  
S. McNicol  
E. Niemann  
L. Senus  
J. Strasser  
M. Synchron, Alt #1  
A. Clerico, Planner  
T. Decker, Engineer  
D. Pierce, Attorney

**ABSENT:** D. Haywood

**CALL TO ORDER**

The meeting was called to order by R. Dodds at 7:34 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 Express Times, 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**

Van Holten – Block 28, Lot 11 – County Road 519 – Phasing of Major Subdivision

D. Pierce stated he has reviewed the affidavit of publication and proof of service and the applicant has complied with the notice requirements.

P. Wolfson, Porzio, Bromberg & Newman, attorney for the applicant, was present this evening. He stated preliminary major subdivision approval was granted in 2006 for seven new lots and one remainder lot. In 2009, a one year extension was granted on the original approval. The applicant is requesting a one year extension this evening and permission of a phased development of the subdivision for perfection of the remaining lands. The lot that would be perfected is the exact same lot as originally approved. There are no changes proposed. The remainder of the property would remain intact until such time as the applicant returns for final approval.

M. Ardman of The Reynolds Group, engineer, was sworn in by D. Pierce.

M. Ardman, project engineer, provided a brief educational and professional summary of his credentials. He was the engineer on the original approvals and has been accepted as an expert on professional engineering. The remainder lot will contain 2.55 acres after a ROW to the County being netted out. The set backs, lot size and all dimensions are the same as in the original approval.

P. Wolfson stated the same variances requested at preliminary approval are required for the phasing of the property.

D. Pierce stated there were conservation easements as part of the original approval. Kingwood has enacted the form of the conservation easement to the Township. A condition of approval for the first phase requires the conservation easements be installed. He stated he does not have anything in his file which indicates Conditions #9 and #10 of the original preliminary approval have been met.

M. Ardman testified an inspection was done of the septic and the well was upgraded. He will provide documentation with the resubmittal of the plan.

P. Wolfson had a copy of the letter in relation to the septic system. He will provide evidence of the suitability of the well.

M. Ardman testified the easement is in the southern portion of the lot.

T. Decker stated, on an engineering standpoint, it is an approved major subdivision and the phasing will have no impact on engineering. Their review has been addressed to the lot area. His questions were answered.

R. Dodds called for comments from the public.

J. Zgurzynski stated he is a lot owner to the south of the property. He has lived south of Mr. Izzo for 41 years. He has been a beekeeper for 30 years. He stated the pond is the headwaters of the Warford Creek. It is fragile and important to protect. The pond drains through his property and goes to the Warford Creek. It is a C-1 trout water. There are native brook trout in the water. It is an environmentally sensitive area. He is hoping the development can install the proper drainage and not disturb the area. He inquired as the purpose of the hearing.

P. Wolfson stated the purpose is to phase in the approval and close out the project with Mr. Izzo. In order to effect the closing to Mr. Izzo, the applicant has to legally create the lot on which Mr. Izzo's home sits.

It was moved by L. Senus, seconded by S. McNicol and carried to close the public portion of the hearing. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by J. Strasser, seconded by S. McNicol and carried to approve the following:

1. The development shall be conducted in two phases as follows:
  - a. Phase I shall consist of the perfection of the subdivision of the proposed remaining lands, lot 11, from all of the rest of the property;
  - b. Phase II shall consist of the development of the lands other than the proposed remaining lands, lot 11, and consisting of proposed lots 11.01, 11.02, 11.03, 11.04, 11.05, 11.06 and 11.07.

2. Phase I of the development shall be subject to the following conditions:
  - a. The subdivision of the proposed remaining lands shall be perfected by recording deeds;
  - b. The proposed remaining lands shall be designated as Lot 11 and the other lot shall be designated as Lot 11.01;
  - c. The applicant shall submit proof satisfactory to the Board engineer demonstrating that the septic system for Lot 11 is adequate for the dwelling situated on Lot 11 and is properly functioning;
  - d. The applicant shall submit proof satisfactory to the Board engineer that the existing well for Lot 11 has been improved to comply with the current requirements for potable wells, including, without limitation, the requirements for the length and location of the well casing;
  - e. The applicant shall submit a Plan revised to:
    - i. Show the location of required conservation easement markers; and
    - ii. Include a note identifying the date and number of the Letter of Interpretation issued by the New Jersey Department of Environmental Protection;
  - f. The applicant shall submit a copy of the Letter of Interpretation issued by the New Jersey Department of Environmental Protection;
  - g. The deeds for perfection of Phase I of this subdivision shall be subject to the review of and approval by, the Board's professionals;
  - h. At the same time that the deeds perfecting Phase I of this subdivision are recorded the applicant will record Conservation Easements as shown on the Plat, the form of which shall be subject to review and approval by the Board's professionals
  - i. The deeds perfecting Phase I of this subdivision shall be recorded within 190 days of the date of this resolution
3. All other conditions of the memorializing resolution dated May 9, 2006 shall remain in full force and effect and shall apply to Phase II of this preliminary major subdivision approval.

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

ANJEC application / proposal for a Sustainability Plan Element

A. Clerico stated the Environmental Commission will submit a letter of endorsement at their next meeting. The application will build on work already done in the Township. The Sustainability Plan indicates measurable goals through time. An action plan goes with the Element. The Township can see how sustainability has become actuality in the Township. There will be three public meetings. The first one will be a kick off meeting which will provide an overview of the project. The second meeting will present a draft. The third meeting will be for the final plan. After the third meeting, an action plan will need to be developed. The action plan is not part of the application. It is an important next step at the end of the process. The application is requesting \$8,250 from ANJEC with a Township match of \$5,750 and \$2,500 in in-kind services. ANJEC will send out an acceptance letter in late spring. The application is due by March 31, 2010. The ANJEC grant for the Open Space and Recreation Plan will end in May.

D. Pierce stated formal action would be to make a recommendation to the Township Committee that this grant application be submitted on behalf of the Township Committee.

E. Niemann stated the Township Committee specified a maximum contribution of \$10,000.

It was moved by J. Mathieu, seconded by S. McNicol and carried to endorse the Township Committee's action in submitting the application to ANJEC for a Sustainability Plan Element. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Ordinance No. 16-4-2010

It was moved by J. Mathieu, seconded by S. McNicol and carried to recommend adoption of proposed Ordinance No. 16-4-2010 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

*E. Niemann recused herself from her position on the Board for the following matter.*

Proposed Ordinance No. 16-6-2010

R. Dodds stated the Board reviewed the ordinance at last month's meeting regarding the zoning ordinance which deals with mobile homes, campers and portable storage or cargo containers. There was a memo sent by Planning Board member S. McNicol to the Board with some concerns. S. McNicol had no objection of the memo being brought into the discussion this evening.

L. Senus stated she did some research on ordinances around the country on cargo containers in a municipal setting. In looking at the proposed ordinance, there were some things she felt were a bit lacking or needed clarification. The proposed ordinance does provide a definition of a cargo container but the other ordinances provided better definitions, which would include the kind that are loaded on a ship and the PODS. The ordinance should be consistent in its reference of the type of containers. Stacking of the containers should be prohibited because the Township would not want to see anything that is too tall. A common practice in the container industry is storing the containers on end (called racking). It is a space saving measure. She was not certain the ordinance prohibited racking. If the containers are repurposed containers, they may be painted with the shipping line names. The containers should be painted a neutral color except for a small spot on the end with the name of the owner. She is not excited about the prospect of having something like this in the Business Park.

M. Synchronick stated she has reviewed the ordinances in New Milford, New Jersey and Virginia Beach, Virginia. The ordinances contain a definition of a container. Both of the ordinances distinguish between storage and trash containers. They indicated a height and a length and the need for a permit. The ordinances refer to what the containers look like, the colors and logos. They are identifiable as to who owns them and who to call. It is possible the proposed ordinance does not have that requirement. The Virginia Beach ordinance limits the time a person can have the container in a downtown area to 16 days and it has to be associated with construction. On agricultural uses, there is no time limit or restrictions. There should be a definition if they are for agricultural, residential construction or construction use. She does not know if a 20' container is large enough for a business. It is large enough for a residential area. She commented the Board should be a little more specific about the appearance of the containers.

L. Senus stated a lot of the ordinances she has reviewed that allowed containers as an accessory structure required that they had to be behind the primary building and screened by a fence or landscaping. The intent is to keep it out of sight and back away from the road so it would not be something that would become an eyesore driving down the road.

J. Mathieu stated if it was an accessory unit, it would be taxable.

L. Sensus stated if it was used as an accessory structure, it had to be permanently attached to a footing or asphalt so it couldn't blow over and clearly would not be moved any time soon. The containers were taxed and had a building permit. There was also an inspection when it was removed.

M. Synchrony stated the ordinances she reviewed specified that you could not put it in the street or flood plain.

S. McNicol stated she tried to inform everyone about her concerns. The second part of the proposed ordinance dealing with the Business Park district encompasses 790 acres. She was concerned of what the area will look like with lots and lots of properties with containers. The proposed ordinance could open up the entire area to that use. She reviewed the gain with the tax assessor and he stated it is not much of a gain. She doesn't see how a town that is having difficulties financially is going to be able to enforce what we have outlined in the ordinance currently. The surveys are coming back that the community is concerned about how Route 12 will look. Section E of the proposed ordinance refers to screening from public view. What consists of public view, along the roadway or Route 12? Does public view cover across from a parking lot? What mechanism is in place that the screening will be repaired, kept and tastefully handled? The way the proposed ordinance is written is rather vague. It states the containers shall be screened from public view with adequate landscaping. There is no definition of adequate landscaping. Storage containers are not the most attractive items in the universe. The proposed ordinance needs to better define adequate. She commented the Board should work on the Land Use Plan and hold off on the introduction of the ordinance. The Board can determine if a more industrial area would be appropriate that would not impact the Route 12 corridor.

J. Mathieu stated he is concerned about the aesthetics of the proposed use. The original presentation was for a business that would have portable, smaller storage containers. It is possible it could become something larger.

J. Burke stated in reviewing the ordinances from the other townships, the proposed ordinance needs a lot more discussion. There needs to be more tweaking, definitions and additions to make him feel secure that this ordinance will do what it needs to do to protect the Township.

J. Strasser stated his concerns have been addressed by the other Board members. He does not think they are very pleasing to the eye. The appearance of Route 12 should be a concern to the Board.

T. Kratzer stated his concerns have also been addressed by the other Board members. He stated the proposed ordinance provides for a width and length but not a height. Along with stacking, there is also shelving that could be used to store the containers. He had a concern about the maintenance of the proposed site. He inquired about the transport mechanism and the activity on the property. How many and with what frequency? How are the transporting vehicles stored?

M. Synchrony stated the proposed ordinance refers to having the rental units in agricultural and single family residences. Can businesses rent the containers? The ordinance does not address businesses having containers. The other ordinances provide if a valid construction project is underway, a business can have a container. It is a conditional use.

R. Dodds stated “C” in the proposed ordinance provides for the units to be placed on some solid ground. Wouldn’t that trigger stormwater requirements? T. Decker responded if the surface is going to be stoned or paved it will be impervious. There was discussion at the first meeting that the units are on the ground but there is some gap between the ground and the unit. R. Dodds stated activity would be happening outside of the building. T. Decker stated some vendors store the PODS in warehouse buildings. The PODS are delivered to a house, it is loaded and the company stores it in their warehouse shelving system. R. Dodds suggested an annual permit. The permit would not be issued until the location was reviewed by the Board.

D. Pierce stated most of the ordinances prohibit outside storage of materials. The way it has been permitted in the past is with a variance application. It is his recommendation that any variance that is granted for outside storage be on a temporary basis with a report due back each year prior to renewal. He will have to do some research if it can be put in the ordinance.

J. Burke stated it is the responsibility of the code enforcement officer to see if the operation is in compliance with their approval without require any additional licensing or permitting.

D. Pierce stated once the site plan has been approved the Board does not retain jurisdiction to review it.

J. Strasser stated the limit on the number of containers can be computed at the time of site plan.

G. Dick, Oak Grove Road – His comments this evening are redundant. He had concerns the ordinance seemed to be moving along very quickly. There has been good deliberation this evening. The Board should be concerned with what it adds to the Township, its benefits and potential negatives. His concerns were unless the ordinance is carefully constructed, Kingwood could become the PODS storage center of Hunterdon County. The tax benefit would be minimal unless there were a lot of structures on the property. It is a detriment to other properties. Who will define what public view is, is it a view from the road or from an adjacent property? The view from the banquet room is different than from the road. It seems as if the landscaping restrictions are a little vague. The prior ordinance talks about stacking them up and placing a fence around them. Fencing will look like a stockade. Enforcement methods and outcomes have greatly improved since last January with a new code enforcement official. They are never a pleasant experience. The business of bringing in the business of storage containers is not a good idea.

P. Casuscelli and B. Casuscelli – owners of Block 17, Lot 15- stated they were the applicants who applied for the site plan for container use. The property is 400’ back from the road. They inquired if it is beneficial to the Township to have new businesses in the Township. There have been no new businesses brought into the Township the last few years. The business will be fenced in. They do not feel the business area should be as restricted as the residential areas. The containers will be empty. It is a drop in-between point with not much activity, possibly a truck or two per day. The main part of the business is in New York. The business would serve the surrounding Townships and States. The business will either be leased or in a partnership with the main business in New York. There are a lot of areas they rent to around here. A cargo container is a shipping container. They will be solid earthen colors. They will be on the ground and loaded with a forklift. The containers will all be uniform in size. They are requesting a size of up to 40’ which may be rented by businesses. They would like the opportunity to stack the units one high, if the Township was agreeable. The impervious coverage on the property would be utilized by the containers. The containers lock into one another. It would be a satellite facility providing a more convenient location. They stated they would like to see Kingwood grow. They will make the facility ultra modern with landscaping. They stated if they do not bring

the business to Kingwood someone else will do it. They suggested a limitation on the proximity of another similar type business to the one they are proposing so it does not become the storage container capital. The business park is not a big area. There is not a lot of foot traffic with the business.

E. Schmid – 164 Tumble Idell Road – stated she is a property owner in Kingwood who has lived outside of Kingwood in Hunterdon County. There were perceptions many of which were formed by Route 12 and its appearance as the gateway to Kingwood. Every property in Kingwood is impacted by the appearance of Route 12. The better Route 12 looks the better the property values. The Planning Board is cognizant of that fact. There are different kinds of business allowed in the Business Park zone on Route 12. The land use surveys are coming back from the community and it is a good time to evaluate the Route 12 corridor aesthetically, its usage and circulation.

A. Clerico stated as it stands, if the ordinance is not adopted, the applicant can go to the Board of Adjustment for a variance. She suggested possibly an ordinance could be drafted to be very specific in the type of businesses and their appearances, such as the frontage requirements and property size, for the Route 12 corridor.

D. Pierce responded a proposed ordinance could allow it as a conditional use with additional conditions, such as size of property, frontage and access.

R. Dodds stated there are two parts to the storage containers, the residential onsite storage and the business of storage containers.

D. Pierce stated there can be two ordinances, one for the residential onsite storage and one for the business of storage containers.

M. Synchron stated the ordinance should encompass residential, business and agricultural uses of temporary storage containers. The ordinance could permit a container for a certain period of time. It is another issue of a business that has a storage yard that stores the containers.

There was some discussion on the issues with code enforcement and the current location of several POD units in the Township.

It was moved by S. McNicol, seconded by L. Sensus and carried to make a recommendation to the Township Committee that Ordinance No. 16-6-2010 not be adopted in its current form but wait for additional information from the public by way of the Community Surveys. All members present voted **AYE** on **ROLL CALL VOTE**.

*E. Niemann resumed her seat on the Board at this time.*

### **Resolutions**

It was moved by S. McNicol, seconded by J. Strasser and carried to adopt **Resolution No. 2010-04 -Herbel – Block 18, Lot 2 – Route 12 – Amendment to Site Plan**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by J. Burke, seconded by J. Mathieu and carried to adopt **Resolution No. 2010-05 - Laurelton/Belmont – Block 22, Lot 16 – Hammar Road – Request for Extension to File**. All members present voted **AYE** on **ROLL CALL VOTE**, except E. Nieman, who abstained.

**Minutes**

It was moved by J. Burke, seconded by J. Mathieu, and carried to approve the minutes of February 9, 2010. All members present voted **AYE** on **ROLL CALL VOTE**.

**Solar Arrays**

T. Decker stated he met last week with a company that was interested in constructing solar arrays along the Route 12 corridor. Currently, the Township does not have an ordinance which addresses solar farms so the applications will be going before the Board of Adjustment as a major site plan with variance. The biggest problem with Route 12 is that there is no public sewer. It is the main reason you are not seeing high end commercial, retail and office buildings. There is a limit of 2,000 gallons of sewerage per day which would allow 16,000 sq ft of retail or office before the applicant would have to apply to the State and design a treatment plant. It is a limiting factor on Route 12. The Township is getting small entities because it is cost prohibitive to design and install a treatment plant.

After a brief discussion, A. Clerico was requested to investigate other ordinances for solar farms from other municipalities.

R. Dodds excused T. Decker.

**APPLICATION STATUS**

**CORRESPONDENCE**

State of New Jersey – COAH – Granting of 60-day extension – E. Niemann stated the temporary freeze was overturned by the Judge. COAH is back in business and the Township is required to be compliant in the time frame originally set.

DEP – Block 7, Lot 14 – Flood Hazard Area Applicability Determination

After some discussion, the Board decided they would like to have a presentation on this specific issue. It could possibly be at a meeting devoting 15 minutes to a half hour for the presentation. T. Kratzer commented he is working with the Hunterdon County Soil Conservation District, who has someone who does this as well as Rutgers and Cooperative Extension. They are lined up to do the Township’s Community Day. He will get a schedule.

**PRIVILEGE OF THE FLOOR**

M. MacConnell stated the DEP has a unit that did come to Kingwood several years back and made a presentation. She has some names. The presentation was done during the day.

E. Niemann stated about 180 of the Community Surveys have been tallied. There are approximately 340 in total. The results should be available for the next Planning Board meeting.

R. Dodds stated the Scouts will be working on the trail on the Lockatong Wildlife Management Area on April 10 and 11. Anyone and everyone is encouraged to attend.

S. McNicol stated the Open Space Committee is sponsoring a walk on April 24 from 10-12 at the Kugler woods.

**ADJOURNMENT**

It was moved by S. McNicol, seconded by E. Niemann and carried to adjourn the meeting at 9:27 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudenschick, Secretary**