

**MINUTES**

**PRESENT:** M. DeSapio  
T. Kratzer  
S. Stryker  
J. Kopen, Attorney

**ABSENT:** P. Lubitz  
R. Phillips

**CALL TO ORDER**

The meeting was called to order at 8:08 PM by M. DeSapio.

**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**

M. DeSapio announced the Board has received requests for a hearing on the denial of well certifications for the following:

- AA & G Builders – Block 24, Lot 2.06;
- Antiskay – Block 13, Lot 3.01;
- Belmonte – Block 29, Lot 5.01;
- BDAC – Block 23, Lot 17.02;
- Clark – Block 33, Lots 14.05 & 14.06;
- Rabosky – Block 8, Lot 25.13.

T. Stover stated he is representing every applicant except G. Rabosky. G. Rabosky is representing himself this evening. T. Stover stated when the tests were performed in October of 2008, his reading of the ordinance, review of the checklist and speaking with the witness, he was not aware of the requirement of the testing of the water quality on the new wells. He stated in order for the applicants to receive a Certificate of Occupancy, they will be required to do the same type of testing. He does not feel it needs to be done at the time of the drilling of the well.

J. Kopen stated the Township does not want any owner of a lot to be placed in the position of not knowing the quality of the water. The homeowners will have to realize there is some amount of risk if the board should issue a conditional certification. It will be conditioned upon water sampling being provided in accordance with the ordinance.

G. Rabosky stated he performed the testing and the water will require remediation by equipment to be placed in the house.

T. Stover stated Kingwood is the only township in Hunterdon County that requires the testing prior to the issuance of a building permit. West Amwell, East Amwell and Franklin are requiring the same pump test to prove there is adequate water present but there is no requirement for water quality.

J. Kopen stated she has advised the Board if an examination of the ordinance and administrative code regulation shows that if a case is made to the Board and convinces them there are circumstances that are beyond what was contemplated in the ordinance that caused the testing to not be done initially, the Board has the ability to issue a conditional certification

subject to the provision of water sampling passing the parameters in the ordinance. It may be limited to some reasonable time frame or condition, which could be set by the Board.

T. Stover stated the time frame requested for the water quality testing is when the house is built. The way the ordinance is written currently, 50% of the water quality testing will not pass. In order to obtain potable water a filtering system would have to be installed in the field and then dismantled. He would have completed the water quality testing at the time of the pump test if he was aware it was necessary. He thought it was for majors rather than for single lots.

T. Kratzer stated the way the ordinance is currently written is a little confusing. The initial intent was to have the water supply ready to go before you spend too much money to build your house. The parameters to be tested are listed in the state regulations.

T. Stover stated the homeowners need to pass the required fifteen tests. If they choose to do more, it is up to them. It is no different than doing a perc test. We can only meet the standards they are requesting.

T. Kratzer stated the term "potable water" could be changed. It does not have to be potable water but knowledge of what is present in the water supply should be known. Some contaminants can be remedied later. It should be up to each individual. If they want to build their house and then test, it is their risk.

T. Stover stated he is requesting a waiver for the above five since it was not done at the time of the pump test.

T. Kratzer stated the way things are now with the ordinance specifying the requirements, he recommends the testing be done. There should be a time frame. All well construction permits expire within two years.

T. Stover stated what is the difference if they are aware of the risk? A stipulation should be placed on the conditional well certification stipulating there was no test done and it is the owner's responsibility if they have a problem. Putting a time frame on someone is not fair.

M. DeSapio suggested a release statement signed by the original owner that he/she was advised of the risks.

J. Kopen stated if the Board determines they want to issue a conditional permit, the letter that goes to the owners indicate the permit is conditional subject to the condition of a passing water quality test result. The Board may put in a time frame providing the ceasing of the conditional certification. The language should indicate the property owner has been advised by the Board that the risk is on them in terms of whether or not the water passes these tests. A risk is assumed if they build their house prior to the time of the testing.

T. Stover stated the applicants would be willing to acknowledge they are taking the risk and releasing the Township.

The Board members voiced their agreement to those statements.

M. DeSapio requested if there were any individual owners who wished to comment this evening.

J. Kopen recused herself from the following matter.

Belmonte - Block 29, Lot 5.01

J. Belmonte was present and commented the hydrogeologist did notify him of the requirement of the testing. He intends to obtain a water test prior to building his house. The professionals he hired were unable to read the ordinance. The ordinance is difficult to read.

T. Stover stated the Private Well Testing Act requires a water sample to be taken. If they were aware of the requirements, they would have done the testing.

G. Rabosky stated he performed the test but did not obtain potable water.

T. Kratzer stated for some types of contamination there is no remediation. Some contaminations may require the EPA involvement. He recommends the testing be done as soon as possible.

V. Belmonte stated if you sell your property, the water has to be tested. If the standard testing fails, it falls into a filtering system.

J. Kopen returned to the meeting.

M. DeSapio called for comments from the public or testimony for these properties. No response was heard.

J. Kopen stated the Board could make it conditional on the eventual provision of a sample that conforms with the standards of the ordinance. The second requirement is for the owner of the property to sign off to the statement that they have been advised and assume any risks. They will agree to release the Township from any liability in any way.

It was moved by S. Stryker, seconded by M. DeSapio and carried to grant conditional certification to

AA & G Builders – Block 24, Lot 2.06;  
 Antiskay – Block 13, Lot 3.01;  
 Belmonte – Block 29, Lot 5.01;  
 BDAC – Block 23, Lot 17.02;  
 Clark – Block 33, Lots 14.05 & 14.06;  
 Rabosky – Block 8, Lot 25.13.

subject to the eventual provision of a water sample that conforms with the standards set in the ordinance and the owners sign an acknowledgement of the risk of the construction of any building prior to obtaining the results of the sample test and they release the Township from any possible liability in regard to and testing failure.

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

Smith – Block 36, Lot 1 – 330 County Road 519 – Septic Waiver

A. Mikos of Goldenbaum Bail, engineer and F. and E. Smith, owners, were present for the application this evening. The applicants are requesting four waivers for the installation of the septic system:

- ✚ Waiver from the required 50' of casing to allow the currently existing 17' of casing in the well;
- ✚ Waiver from the required 25' minimum to the existing house and permitting the proposed 15' from the existing house;
- ✚ Waiver from the required 50' from the existing drainage pipe and an inlet and permitting the proposed 23';
- ✚ Waiver from the required minimum of 10' to the property line along Route 519 for the toe of the mound and permit the proposed toe of the mound at the right of way line;

The current system is seventy years old. The property recently transferred ownership. The lot in question is  $\frac{3}{4}$  of an acre. There is only one location for the septic system. The system will contain a sand filter which provides for more dilution of the nitrates. There is presence of mottling at 48". A well sample taken in December of 2008, did not show any contamination of the drinking water. They have installed filters for arsenic and gross alpha. The existing cesspool is malfunctioning. They performed a hydraulic load test and the water did not move in twenty-four hours. The mound will extend 3.5' above the grade and 11' into the ground. It is a significant system. They did not encounter any bedrock and excavated to 132". Mottling at 48" is what necessitated a mound system. The house contains two bedrooms and they are not proposing any increase in the field or the house. The well is 170' deep with 17' of casing. The system is designed for 350 gpd for a two bedroom house. The current pit is decaying and has not been pumped. The cinder blocks are starting to

decay. There is more contamination with a cesspool. There is no filter or pre-treatment. The casement of the well cannot be extended. The current cesspool will be pumped and filled with sand. Due to the shape of the lot and least amount of damage to the property, there is no other location available for the system.

M. DeSapio called for comments from the public.

It was moved by S. Stryker, seconded by M. DeSapio and carried to grant and require the following:

- ✚ Waiver from the required 50' of casing to allow the currently existing 17' of casing in the well;
- ✚ Waiver from the required 25' minimum to the existing house and permitting the proposed 15' from the existing house;
- ✚ Waiver from the required 50' from the existing drainage pipe and an inlet and permitting the proposed 23';
- ✚ Waiver from the required minimum of 10' to the property line along Route 519 for the toe of the mound and permit the proposed toe of the mound at the right of way line;
- ✚ Require water testing after the installation of the system, six months after installation and twelve months after installation.

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

Ordinance No. 2009-01

Since the Sub-Committee for the Well Ordinance is reviewing possible revisions to the ordinance, the proposed ordinance will be incorporated into those revisions, if they are any.

Change of May meeting – May 27, 2009

It was moved by M. DeSapio, seconded by S. Stryker and carried to change the May meeting to May 27<sup>th</sup> at 8:00 PM. All members voted **AYE**.

Approval of Minutes

It was moved by S. Stryker, seconded by M. DeSapio and carried to approve the minutes of March 18, 2009 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

Release of Executive Session Minutes

It was moved by M. DeSapio, seconded by S. Stryker and carried to release the minutes of the January 21, 2009 Executive Session. All members present voted **AYE** on **ROLL CALL VOTE**.

## **CORRESPONDENCE**

M. DeSapio reviewed as per the agenda.

## **PRIVILEGE OF THE FLOOR**

A. Belle, Block 23, Lot 17.02, provided a letter to the Board. He stated the costs of a two lot minor subdivision has skyrocketed out of control. It is putting undue hardships on the residents of the Township. The ordinance is requesting the residents to front upwards of \$100,000 before being able to market the lots. It is unrealistic. The only people who are making money in this process are the professionals. Why is the Board requiring this for a two lot subdivision? A

developer of a two lot subdivision is required to do the same work as a major. He stated the Township is requiring the drilling of an observation well and test well on the site. He stated the Township does not require the monitoring of the neighbors' wells. A. Belle inquired why should he do the entire aquifer test to proving nothing? Why should he be spending this excess? The remediation escrow requires the money to be on deposit for 12 years. He may not live in the Township for 12 years and how does he get the money returned to him? Currently, there is one well that is more than 500 from his proposed well. He doesn't see what purpose the ordinance serves but just to cause people to spend money. He is requesting the following waivers:

1. Two additional waivers from certifying a potable water supply before issuance of building permits as required by 153-24 if a water quality analysis reveals that a filtration system will be needed before issuance of a CO.
2. A waiver from requiring the aquifer test plan and hydrogeologic report as required by 153-25 which is outlined in 153-29. Will only be required to perform the 3-part pump tests per 153-28.
3. A waiver from requiring the Well Water Supply Remediation Escrow as per 153-34.5a.

T. Kratzer stated the fees to the state and county are not due to the Township. In regard to the additional survey work, there is a new amendment to the ordinance which would allow the applicant to utilize the Hunterdon County records if they are 10 years old or less. The requirement for the monitoring wells, offsite, permit the residents to have their wells tested. The cost of monitoring those wells is borne by the individual property owner, as directed in the ordinance for 2 lots.

A. Belle stated it creates an undue burden for two lots, a minor subdivision. It requires the same amount of work regardless if you are doing a 50 lot subdivision or 2 lots. How can you maintain an affordability factor? It is the same amount of money as a major developer is spending.

T. Kratzer stated aquifer tests come in at a usage of more than 800 gpd., which applies to the two lots.

T. Stover stated if you are referring to 800 gpd, you are talking about one house. The septic law is 350 gallons per dwelling. Every other town is 100 gallons per bedroom.

J. Gross stated he had the same confusion in trying to understand the ordinance. If you have two lots and four bedrooms on one and four bedrooms on the other one, you have a usage of 1600 gpd. It is mandatory to do the aquifer test and the expenditures A. Belle has indicated. It is pragmatic that if you want to do a minor you will have to do an aquifer test. He has the same confusion or concerns relative to the way the ordinance is written.

T. Kratzer stated the 200 gallons per bedroom came from the neighboring township's ordinance and was the professional hydrogeologist's standards.

T. Stover stated a per person use is 75-100 gallons per day.

T. Kratzer stated it is referring to peak demand per day. The 200 gallons per bedroom is how the ordinance is written to buffer the peak demand.

A. Belle stated if there was a miswording in point #3, you could not be at 800 gpd if you were building two-two bedroom homes.

T. Kratzer stated referring to the rest of Table 1, a usage of 800 gallons per day or less, require a three part pump test and all the rest of them, greater than 800 gallons per day require the aquifer test. Consistency in the testing is the intent of the ordinance.

A. Belle stated based on the ambiguity he would like to request a waiver that it would not be exceeding the 800 gallons per day per lot.

J. Kopen stated it would be appropriate for some input from the Township engineer or hydrogeologist.

A. Belle stated he would like to request a waiver of the water quality analysis.

J. Kopen stated it would not be appropriate to grant a waiver if a permit has not been denied. The ordinance does not provide for waivers to be issued prior to the permit being issued. It requires the permit to be applied for and then a hearing if the permit is denied.

A. Belle stated how can he apply for a permit for something he might not be required to do? J. Kopen responded the application for a permit has to be denied prior to applying for a hearing. A. Belle stated he cannot apply for a permit without providing an aquifer plan.

M. DeSapio stated the Board needs to get further professional input.

A. Belle stated he is concerned about the hydrogeologist. In a major subdivision process, the hydrogeologist has 45 days to review the aquifer plan, five weeks notification is required and he could miss the October 2009 time frame. What can he do to get an answer quicker? If he has to do something, he has to know because of the time frames.

J. Kopen stated the engineer would be the person to contact.

A. Belle stated if the Board could respond once the Board has determined this. There is only a month before the window of testing comes up. He inquired if the attorney could respond to him? J. Kopen stated the Board cannot take any action unless there is a meeting of the Board. A. Belle stated based on the engineer's recommendations, the Board will have to take action. J. Kopen responded the board has to make the final determination. A. Belle inquired based on the determination, what is the time frame? J. Kopen responded if the Board decides to amend the ordinance, she could not tell him the time frame of the amendment.

A. Belle asked the Board for expediency. There is a limited window of time. With the lead times he has been told, it will not work very well.

J. Gross stated with the issue of the aquifer test, you have to create an aquifer plan, hire a hydrogeologist for "x" amount of dollars, submit the plan to V. Uhl, who has 60 to 65 days to approve, provide 4 or 5 weeks of notice, do the testing and there is another 45 day period where any of your surrounding properties can opine on the testing. If there is an objection, you go back to the beginning and start all over. It is potentially an indefinite loop. There is only a July through October window. If you cannot do an aquifer test in this calendar year, people are corralled up and may not be able to get out.

T. Kratzer will recheck the time frame. T. Kratzer reported the subcommittee met last Thursday and is making the ordinance much simpler. They are trying to summarize it. The summary will get you through the checklist. The time frame has to be reconsidered.

T. Stover requested they meet with the well drillers. T. Kratzer responded the subcommittee will be finalizing their recommended changes and then will meet with the well drillers. He will try to expedite this as quickly as possible by emailing the subcommittee members.

J. Gross inquired if the board would make a one time change for the calendar year 2009 while the ordinance is being reworked. J. Gross requested if the things that are causing a problem could be put in abeyance to allow business to take place?

J. Kopen stated the suggestion would have to done by way of an amendment to the ordinance. It is the only method by which the Board can act other than on hearings of denial.

T. Stover stated this is the only town that has the window. He has not seen a difference in the wells changing. If it is a marginal well, you could run into trouble in a drought season. There is more interference on a test with a 20 gpm well yield. Most of the time the tests were done in the summer and on the large volume ones there was some interference. On the wells right on the border of pass or fail, he has not seen interference with neighbors.

T. Kratzer stated there is approximately 46-47" of precipitation per year. He stated approximately 36-37% is the run off volume of the precipitation. There is 2-3% of recharge in the summer months. In some cases, such as the Equestrian Village pump test done in January of 2005 or 2006, did not show any interference but the one done prior to that in July showed drawdown in each of the observation wells.

T. Stover stated Milford Borough does not have a time frame, Flemington Borough does not have a time frame, West Amwell, if the well is over 5 gpm, you can drill the well at any time and in East Amwell any well 10 gpm does not have to be tested. In his opinion, East Amwell has worked very hard on their ordinance. T. Kratzer stated Kingwood's was originally based on theirs.

#### **ADJOURNMENT**

It was moved by S. Stryker, seconded by T. Kratzer and carried to adjourn the meeting at 10:19 PM. All members voted **AYE**.

**Respectfully submitted,**

*s/Diane Laudensch*

**Diane Laudensch, Secretary**