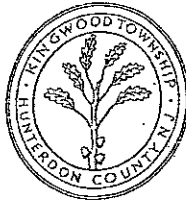


BOARD OF ADJUSTMENT
OF
TOWNSHIP OF KINGWOOD



Address Reply To:

Secretary
P.O. Box 199
Baptistown, New Jersey 08803-0199

July 13, 2011
MINUTES

M.L. Haring, chairperson, called the meeting to order, at 7:30 pm.

PRESENT:

D. Hewitt
M.L. Haring
P. Stepanovsky
B. Wilson, sec
T. Decker, eng

L. Frank
D. Pierce, atty
J. Laudenbach
T. Ciacciarelli
C. McBride

ABSENT:

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.

The 48 hour requirements of the Sunshine Law have been met. Notice of this hearing has been advertised in the Democrat. Copies of this notice were posted in the Kingwood Township Municipal Building and filed with the Municipal Clerk. The Board of Adjustment proceedings close at 10:30 pm.

RESOLUTIONS:

None

MINUTES:

D. Hewitt moved to approve the 6/08/11 minutes-with typo correction on page 2, seconded by J. Laudenbach. On roll call to vote.

Aye: L. Frank, J. Laudenbach, D. Hewitt, P. Stepanovsky, M.L. Haring
T. Ciacciarelli
Absent: None
Abstain: C. McBride

NEW BUSINESS:

Hearing:

Garden Solar, LLC/Clean Energy Solar Energy Farm V4-069-BL 12, L 16 & 16.01-Final Site Plan.

M.L. Haring and P. Stepanovsky both recused themselves from this application.

Walter Wilson was present on behalf of Garden Solar and Con Edison Development. They are present this evening for Final Site Plan approval. There were a number of issues that were open that they believe have all been resolved with this site.

Walter Wilson noted that Chris Nusser was present who is the site plan engineer and they have the plat that they can put up to refresh anyone who needs to look at it.

D. Hewitt, acting chairperson, stated that it was probably a good idea to put them up.

W. Wilson mentioned that there was an issue with the security lighting on this site but was told by Tom Decker that the issue was with the other site.

Christopher Nusser, sworn in, is a licensed professional engineer in the State of New Jersey. He gave his qualifications and was accepted as an expert witness.

Tom Decker noted that his office did not prepare a letter for review since they have satisfied all conditions of the Preliminary Site Plan approval. They have had the pre-construction conference, posted the appropriate inspection fees, the fence is completed, the piles, for the panels, have been driven and the project is preceding. He has no objection to it being approved as it is. Tom Decker also noted that a question has come up within the last week and the applicant wishes to go online which may put them before the planting season and they would like to get the CO post appropriate performance guarantee for the landscaping screening and put the screening in during the planting season.

Walter Wilson discussed this with Tom Decker and the township attorney. They will be ready to turn on in late August or the early weeks in September. They are looking for a temporary Certificate of Completion and will post a performance guarantee, in the form of a bond, for the landscaping. The township attorney has no objection but suggested that they make sure that the Board has no objection and that would enable them to work off the developers agreement. The time frame they are looking for calls for installation at the proper stage of construction. The landscape contractors are balking at guaranteeing the trees being planted in the middle of the summer. Walter Wilson believes that Mr. Banisch had defined the times, from the Dept. of Agriculture, as being from October 15th through April 30th. They expect to have them in, in October-1st week of November. It would take a couple of weeks to plant and 30 days to complete.

Questions from the Board.

Lee Frank had a question about the bond and how does that work which Walter Wilson explained to him. David Pierce stated that it would be worked out by the township attorney and would be included as a condition in the Final Site Plan.

D. Pierce noted that Walter Wilson referenced a period from October 15th to April 15th and that they were looking for April 30th to complete the planting. Davids perspective would be to give them to March 15th to

complete the planting, so in that way if there is a problem and the township has to call the performance bond they still would have time to get the trees in during the planting season.

T. Decker stated that right now the panels are pretty well buffered but during the fall when the leaves start to fall they will be more visible.

C. McBride asked if in the case between now and we do have a problem with weather and it's really unreasonable to do the planting and the performance bond comes up and it's agreed that it still couldn't be done-what would happen at that point-would it be re-negotiated?

Walter Wilson from a developers end they wouldn't be waiting until March 15th and if the weather was the case they would be monitoring and having discussions much earlier than the deadline date.

David Pierce stated that it would be re-negotiated with the township based on circumstances beyond their control.

No questions or comments from the Board or the Public.

C. McBride made a motion to accept this Final Site Plan for Garden Solar, LLC/ConEdison Development contingent on a performance bond being placed for the completion of trees and vegetation by March 15, 2012 and include all performance conditions as noted in the Preliminary Site Plan Resolution, seconded by T. Ciacciarelli. On roll call to vote.

Aye: L. Frank, C. McBride, J. Laudenschach, D. Hewitt, T. Ciacciarelli

Absent: None:

Abstain: M.L. Haring, P. Stepanovsky

Hearing:

Christopher Wildgen/Chris' Citgo-Block 9, Lot 2.01-Interpretation and C(1) Non-use variance.

The applicants attorney has requested that this be adjourned until the August 10th, 2011 meeting.

Determination of Completeness:

Nextel of New York, Inc. & JCP&L Co.-BL26, L 24- Use variance so as to permit the construction of a wireless communications facility on property located on 68 Featherbed Lane, Stockton, N.J. 08559, in the AR-2 Zone.

Steven Tombalakian is present on behalf of the co-applicants. Steven Tombalakian and Frank Colasurdo, RA both have reviewed Tom Deckers letter dated 6/24/2011 and Steven Tombalakian is prepared to address the items on page 3 in the absence of Frank Colasurdo, who is on vacation.

1. Site Plan Checklist Items # 13 & 14 – Will submit.
2. Site Plan Checklist Item # 48 & Variance Item # 19 will address.
3. Plan Requirements-Item # 4-Waiver-state law allows architects to prepare site plan.
4. Item #16- Shown on Z-4
5. Item #17-Waiver-no drainage impact.
6. Item #19-Waiver from submitting for the entire site.
7. Item #22/21-Addressed.
8. Item #23/22-Same as above (#22)
9. Item #35/32-None proposed
10. Item #40/37-Addressed on Z-4
11. Item #47-Waiver can provide testimony-no Category One streams within 150'.
12. Item #48/19 will provide at hearing

D. Hewitt stated that the location of the well and septic is something that the Board always asks for. They can present that during the public hearing.

D. Pierce noted two (2) additional items needed which are:

1. Owners consent letter from Theresa Kusant and POA.
2. Signed Escrow agreement.

No questions from the Board.

L. Frank moved to grant the waivers, with the exception of Items #13,14, 48/19, seconded by D. Hewitt. On roll call to vote.

Aye: L. Frank, C. McBride, J. Laudenschach, D. Hewitt,

P. Stepanovsky, T. Ciacciarelli, M.L. Haring

Absent: None

Abstain: None

D. Hewitt moved to deem the application conditionally complete subject to the following:

1. Owners consent letter and POA.
2. Site Plan Item # 13 & 14.
3. Site Plan Checklist Item #48 and Variance Item #19.

seconded by J. Laudenschach. On roll call to vote.

Aye: L. Frank, C. McBride, J. Laudenschach, D. Hewitt,

P. Stepanovsky, T. Ciacciarelli, M.L. Haring

Absent: None

Abstain: None

Hearing:

Russell V. Oakes II-BL 14, L 28.01- use variance (D1) so as to permit a 40x40 Helistop on an area of lawn to land a helicopter. No structure is to be built and no change will be made to the property which is located on 140 Horseshoebend Rd., Frenchtown, N.J. 08825, in the AR-2 Zone.

D. Pierce has reviewed the Proof of Publication and Proof of Mailing and the applicant has satisfied the notice requirements and the Board may open the hearing.

Russell Oakes was sworn in and informed the Board that he's proposing a 40x40 helistop on his property.

Russell Oakes stated the following:

1. NJDOT approved the site.
2. FAA approved the site.
3. KTFD found no safety issues.
4. Letters were sent to the KT State Police offering the site for emergency purposes.
5. Letters were also sent to the KTFD & KTRS.

Russell Oakes informed the Board that the property is in the middle of 200+ acres which the state and township took possession of. He also noted that there is nothing to be built on the property.

Tom Decker went over his letter dated 6/7/2011 and explained that from a zoning standpoint there isn't anything to review. Tom Decker read from his letter dated 6/7/2011, page 3 the definition of a "Helistop" as found in the FAA Advisory Circular 150/5390-2B.

Letter from NJDOT submitted and marked **EXHIBIT-A-1-Code Title 16-Chapter 54-definition of Helistop.**

Tom Decker stated that a "Helistop" basically equates to a bus stop.

Tom Decker read from his letter dated 6/7/2011, page 4/5-Zoning Review.

1. Per Ordinance 132-30D(2), private residential airstrips are permitted as a conditional use within the AR-2 District and subject to standards as provided in 132-102F.

Response from Russell Oakes- Not asking for an airstrip.

2. Ordinance 132-102F(1) states that a private residential airstrip can only be maintained upon lots containing 50 acres or more. Current property is 6.89 acres in size. This conditional use standard is not complied with and a variance is required. Supporting testimony in support of the variance is required.

Response from Russell Oakes- Submitted application for a variance.

3. Ordinance 132-102F(4)(a) requires a minimum 400 foot buffer zone from each end of a landing field and Ordinance 132-102F(4)(b) requires a minimum 200 foot buffer zone from each side of a landing field. The buffers are required to be located upon property in the same name as the owner of the landing field.

While the ordinance refers to a "landing Field", it is our opinion that this term is interchangeable with "landing area" as defined by the FAA P/CG. At its smallest, the landing area would be the size of the proposed 40' x 40' helistop. Associated required buffers from this area would extend to property not in the same ownership.

Therefore variances are required from Ordinance 132-102F(4)(a) and 132-102F(4)(b).

Response from Russell Oakes- We're talking about a helistop.

4. Applicant should advise as to the storage/parking of the helicopter when not in use. If stored/parked on site, it appears that the use does not satisfy FAA definition of a helistop, but would be classified as a helipad.

Response from Russell Oakes- Doesn't own a helicopter but if he did NJDOT allows for storage on property. He would like to get one and possibly store it in his garage. Tom Decker noted that if he stored it on his property would it then be considered a heliport?

5. Applicant should provide testimony regarding frequency of use and if night flights are anticipated. If night flights are anticipated, what are the lighting requirements?

Response from Russell Oakes- Minimum twice (2) a month/maximum ten (10) times a month or several times a week. No night flights per NJDOT.

6. A westerly flight path has been indicated in the application. Applicant should advise if the approach and departure are limited to this direction or if others are anticipated depending on origin/destination.

Response from Russell Oakes- Departures and arrivals would be limited to the west per instruction by NJDOT.

7. It is anticipated that the surrounding preserved farmland will be utilized by the general public for passive recreation, including equestrian. Applicant should address provisions for public health and safety including any possible effect of helicopter noise and activity on horses.

Response from Russell Oakes- He'd had the Fire Dept out, he has horses himself and certainly wouldn't want to put anyone in jeopardy. He has received some stuff that referenced helicopters that were the turbine motors which are much louder than the reciprocal motors that he flies, which are quieter. He certainly wouldn't land his helicopter if there were people riding horses nearby. The air flight is not limited and Class G airspace means that helicopters and airplanes can fly over the property all day so limiting him will not stop the helicopters or airplanes from flying over that property. There is already an active helistop 900 feet from his (proposed) which anyone can fly into if granted permission

M.L. Haring asked Russell Oakes if he presently has a license and was told that he **does not**.

Russell Oakes stated that as far as the approaches and departures -it is up to the pilot in command and it's up to his discretion.

D. Hewitt asked about the existing helistop that's within 900' - Why couldn't he use that? Russell Oakes replied that he couldn't because it's for private use only and he would need to get permission from the owner. Also, if he buys his own helicopter it would be illegal to land there and taxi over to his (Oakes) garage.

Russell Oakes gave an example as to the noise level: Chain Saw-100 decibels
Some Turbine Helicopters-120-130 decibels
Reciprocal Helicopters- 85 decibels

L. Frank asked if his helicopter is 85 decibels and was told **yes** by R.Oakes.

T. Ciacciarelli asked if he had the specs for the R44 with him and was told **yes**.

L. Frank mentioned to Russell Oakes that he received approval from the FAA and NJDOT and was informed by R. Oakes that he received approval of the site and once the variance is approved he would receive the approvals. FAA and NJDOT had no issues at all.

T. Decker asked if there was any limitations from NJDOT or FAA as to what type of helicopter and was told that he can't fly a large twin engine like the Coast Guard has or a Black Hawk, a Medivac **yes** – he could.

T. Decker asked from the air how would he identify landing and was told by R. Oakes with denoted cones or a painted or marked area.

T. Decker asked about his pilots license and was told by R. Oakes that he doesn't have it but that he has enough hours to get it but he just hasn't taken his test . He has enough hours that he is now pilot in command.

T. Ciacciarelli asked if he was getting a fixed wing license and was told by R. Oakes “**no**” just helicopter.

T. Ciacciarelli asked if the specs were based on 100' and was told **yes** by R. Oakes.

T. Ciacciarelli asked why does he want to land on his property and was told for convenience and a lot of the local airports have no hangar space, plus it's very expensive.

M. L. Haring noted that he said that it's up to the pilot in command for departures and approaches so it's really on your promise that you'll go from the west.

Russell Oakes stated that from the westerly departure, there is nothing there, and it was recommended by the NJDOT.

T. Ciacciarelli questioned his plans to use the helistop for his personal use – what about commercially? Russell Oakes said that it cannot be used commercially at all because it's not a commercial zone.

C. McBride said so the company that's training him cannot fly into there and Russell Oakes said he's not saying that – if he gave them permission they could land there.

T. Ciacciarelli so it wouldn't be used for somebody else's training to land there?

Russell Oakes would say that he wouldn't allow that and would limit it to personal/private use. There would be no reason for Sky River Helicopter to come and land on his property.

M.I. Haring noted that Russell Oakes stated approaches and departures from west and north but to the east there are farms animals, horses, cows which are a concern, as well as the citizens. Russell Oakes stated that is why the NJDOT recommended the westerly direction.

T. Ciacciarelli asked if they still have the auto of rotation to qualify and was told yes, they do.

P. Stepanovsky noted that he keeps referring that he's going to store the helicopter and that's not what he's here for and asking for.

Russell Oakes explained that part of a helistop is that you can land/ park and the NJDOT does not say that you can't put the helicopter on the property/ garage and in most cases it's anticipated that you would keep it on the site.

J. Laudenbach mentioned that the Clinton property was much larger.

C. McBride mentioned that he has no idea about the Clinton property and was informed that Clintons' heliport was approved by the Planning Board 10 years ago.

Russell Oakes noted that he had a copy of the Clintons departures and approaches.

D. Pierce noted the following: **EXHIBIT A-2-Chart titled "Aircraft Noise Data for US Helicopters" (2 pages)**

T. Decker brought to D. Pierces attention a notation on **EXHIBIT A-1 in Section 16.54-1.1B** which basically stated that Federal rules preempt State regulations.

Russell Oakes stated that there is no FAA regulation on landing on private land in the State of NJ-the FAA states that you can land anywhere with the owners permission. The NJDOT has their own rules and regulations which prohibits landing with the owners permission, in the State of NJ.

T. Ciacciarelli asked what the acreage is on the Clinton heliport and was told 14 acres. D. Pierce explained that that is what it is now but when approved it was 100 acres. David Pierce also noted that when approved it met all the conditions of the ordinance.

D. Pierce explained that Russell Oakes doesn't meet all the conditions because primarily he doesn't have the acreage.

EXHIBIT A-3- Clinton Heliport Aerial View-Dated 1999

No report received from the Fire Chief.

Russell Oakes stressed this a number of times, that this is a Class G airspace which means anyone can fly over that property legally right now.

C. McBride, so in NJ you can land with the owners permission. Russell Oakes stated no you can hover a foot off of the ground.

Evan Van Gilson was sworn in and informed the Board that he is part owner of Sky River Helicopter.

C. McBride asked, so if the State Police wanted to land they could. Russell Oakes replied not true but was corrected by his instructor, Evan Van Gilson who stated that the EMS has the right of way and can land anytime they want. The same with PSE&G and the State and County have free game.

T. Ciciarelli asked the safety record of the R44 and was told by Evan Van Gilson that he doesn't have the exact percentages but the majority is pilot error.

P. Stepanovsky noted that on a helicopter when they come in there's a lot of disturbance on each side -what is the distance of the disturbance? Evan Van Gilson stated that the disturbance is called down wash and it's about 25' in each direction, the wind is 10 to 15 miles per hr. The R44 weighs approximately 1350 lbs and the maximum weight is 2400 lbs and that includes fuel and passengers which can hold 3 plus the pilot.(R44)

Russell Oakes when asked what type of helicopter he would buy he replied an R44 (4 seater) or R22(2 seater).

M.L. Haring asked if there was anyone from the public that has questions.

Robert Thompson asked if he would be using a turbine and was told by R. Oakes that he would not – the cost to purchase is phenomenal.

Mary Felix , family owns property adjacent to the Oakes property, asked about the decibels and if it would be more or less noise than the dirt bikes that he runs. R. Oakes stated that the noise is less than the 2 stroke dirt bikes that he runs.

Robert Thompson asked how the new park is to be funded because if the park is impacted by the helicopter and the people want to use the park and pay fees that may impact the fee income from the park.

L. Frank stated that it's not actually a park it's Open Space.

David Pierce stated that they can establish fees for the use but they would have to get Green Acres approval for that.

D. Hewitt asked about the existing heliport-is it registered?

D. Pierce stated that they had to obtain all the appropriate licenses. The existing heliport is not part of the park property.

Russell Oakes stated that it's inspected every year for safety purposes.

Ann Kursinsky, has a horse farm on Spring Hill Rd., wanted to know who's liable if someone falls and is hurt? She stated that this is very disturbing being a horse woman.

D. Pierce stated that he can't answer that since every case is different.

Richard Dodds asked about the number of accidents from a R44 or R22-what's the average number of hrs.-less than 200-less than 500. Evan Van Gilson replied by saying it's typically a low time pilot. Richard Dodds also had questions about the existing heliport. He asked the location of R. Oakes helistop and was told it's near the swimming pool. **EXHIBIT A-4-License for Horseshoe Bend Heliport**

Liz Schmidt, Tumble Idell Rd., had a question for D. Pierce, it's her understanding that when a variance is granted that it remains with the property. D. Pierce stated "yes" unless a condition is included in the grant.

Lois Veronin asked if approved would there be any restrictions as to what can be constructed around it and what would be the distances.

D. Pierce noted, from Tom Deckers letter dated 6/7/2011, the only restriction would be a minimum 400' buffer zone from each end of a landing field and a minimum 200' buffer zone from each side of a landing field.

D. Pierce stated that in effect, if the application is approved, with respect to the park property the state can do whatever it wants and the township as well. Those restrictions are restrictions within the zoning ordinance and applicable to his (Oakes) property.

Bill Pandy, Spring Hill Rd., asked what the difference is from an approach from a helicopter, versus a fixed wing aircraft. Evan Van Gilson stated it would be the air speed and the pitch may be different.

Larry Aasheim, 71 Horseshoe Bend Rd., spoke with a helicopter pilot and was told that the FAA has a regulation of a 500' restriction. Evan Van Gilson stated that, that is for a fixed wing aircraft.

Susan Wells, Tumble Idell Rd., has a question regarding the helistop. Russell you say that you're not getting a turbo but the people that might buy your property next might get a turbo. If approved how can you guarantee that it will be 89 decibels and not something else that will come down in the future. Russell Oakes stated that the size of the helipad dictates the size that you can land there.

M.L. Haring asked D. Pierce if approved and they want to enlarge it, it wouldn't be a township issue. D. Pierce stated that it would be a township issue.

Evan Van Gilson stated so that everybody is clear in this room your neighbor can get approval to land a helicopter, if they get permission from the mayor, the state police and all they have to do is get a permit which can be used for a number of days for a \$10 fee. He has done this for a number of occasions.

Not identified, gentleman asked Russell Oakes if he would purchase his helicopter from Sky River Helicopter. Russell Oakes stated no, that he has no vested interest. Another question is should this variance be granted and an injury occurs is the township liable?

D. Pierce stated that people will sue anybody for anything and the township will have a defense that this is a quasi judicial proceeding where the Board will be granting relief from the ordinance.

Russell Oakes stated that just opening up that property for any use, to the public, is opening it up to liability.

Richard Dodds questioned Evan Van Gilson as to if someone decides to hover at 200' above his property. Evan Van Gilson stated that no one owns airspace. The pilot in command is to determine if it's safe or not.

M.L. Haring asked if there is anyone within 200' that has testimony.

Richard Dodds needs a clarification since the town owns the property within 200' does that include every resident in the town. D. Pierce replied, No.

Richard Dodds asked if there was anyone here this evening representing the town and D. Pierce stated that he doesn't see anybody.

D. Pierce stated that the township committee could have, if desired, designated someone here tonight and represent the township.

D. Hewitt stated that there are several entities involved including the state as well.

Jenny Pandy, Spring Hill Rd., is concerned that the township has a park that has been planned and feels it's totally against what their plans are to approve a helistop.

Russell Oakes stated that they already have an existing legal helipad that's in closer proximity than what his is.

M.L. Haring asked when was the last time that someone used it and was told by Russell Oakes that in the last 6 months someone landed there.

Jenny Pandy stated that the Clinton helipad was there before the park was conceived so it's history and not relevant to what Russell Oakes is proposing.

C. McBride has a question with the technical issue. When he looks at this he doesn't see a park-he sees several different lots of land. He asked D. Pierce if he's looking at this as a park or different lots and blocks of land.

D. Pierce, it's both, there are different lots and blocks but there are several of those which now have been acquired by the state and township as Open Space.

C. McBride had a question regarding adjoining properties within 200', he only sees Lot 28.

D. Pierce stated that's not the only one that's within 200'- Lot 30, to the east, is and if you look at the 2nd page you will see a flag stem that comes out of the property from Russell Oakes property.

Sandra McNichol, Oak Grove Rd., sworn in, submitted a map of the park with the trails which have been GPS and existing on the Horseshoe Bend property and she noted that the helipad is in the location of a trail.

EXHIBIT 0-1- Map of Trails

C. McBride asked how do we know this is authentic and was informed by D. Pierce that she has been sworn in and allowed to establish this by her testimony.

Sandra McNichol stated that there is also an established trail surrounding Russell Oakes property. The buffer zone only applies to structures.

Sandra McNichol stated that the park is a passive recreational facility and allows hiking, biking, horse back riding and hunting and no motorized vehicles are permitted.

P. Stepanovsky asked Susan McNichol why did they go so close to Russell Oakes property and was told that they were already existing.

Russell Oakes built those trails for his all terrain vehicles.

Sandra McNichol stated that as far as they know the former owner built the trails.

Russell Oakes wanted everyone to know that he didn't asked to be plopped in the middle of this public park. He also stated that he's giving up a tremendous amount of privacy that he has no control over.

P. Stepanovsky asked Susan McNichol that since they're there, can they be changed and was told by Susan, sure.

P. Stepanovsky asked Susan McNichol how much of a problem would it be – she couldn't say.

P. Stepanovsky asked Susan McNichol which is the north on the map she submitted and was told that on the bottom is north indicator. She went on to say that where the pad is indicated that the trails are right there.

P. Stepanovsky mentioned that there are no trails to the west.

Tom Decker clarified P. Stepanovskys comment stating that there are no trails to the east and there are two (2) trails-one (1) goes around the westerly property line of Russell Oakes and the other to the rear of the westerly property line of the Open Space.

Larry Aasheim, sworn in, submitted a packet that was marked **Exhibit O-2- FAA Advisory Circular AC 91.36D, and a # Articles**. Mr. Aasheim briefly reviewed the articles submitted which described noise sensitive areas, comparative noise levels, hardship for Mr. Oakes, private residential airstrips, Kingwood Township code, and horses and helicopters and he strongly urges that this application be denied.

Hearing closed.

T. Ciacciarelli suggested that the Board continue this hearing to next month and he would like to see the FAA regulations that was mentioned by Evan Van Gilson.

P. Stepanovsky stated that R.Oakes has 7 acres but with the flag lot it's only 2 acres. He says he eventually would like to store it there but that's not what he's here for. He hasn't had a chance to rebuttal the testimony from all the people and feels he should be able to.

M.L. Haring asked D. Pierce that they do need to have their closing statement but as far as what T. Ciacciarelli said, is that an option? D. Pierce replied "yes".

Russell Oakes once again reminded everyone that the park is in **CLASS G** airspace. Anyone can fly over at 10 feet. Articles that were sent to his neighbors referenced horse accidents that were with large turbine helicopters and pilots with very poor judgment- who in their right mind would fly over a parade where there are horses and carriages. He was going to bring in articles of accidents with mountain bikers and horses but in all reality-does that matter- it doesn't. Anyone that uses that property has to use it with some sort of judgment, when they're using it. His main reason for this use is to get to his house in up state New York-the other reason is for recreation, like so many of the private airstrips that are in Kingwood now. In some respect it's not a hardship for him, but was it a hardship for the other private airstrips in Kingwood? You can land a helicopter on an area as little as 40' x 40' and it's accepted by the NJDOT and the FAA. The FAA guideline is geared toward National Wildlife Parks, where you have elk and mule deer and all that funky wildlife that they don't want a helicopter flying over at 100' and scaring the heck out of them. Russell Oakes, in his opinion he's not asking for that much, he's blessed that he's in the middle of a 300 acre park. Do you have to worry about everybody with two (2) acres coming, absolutely not, how many people have the set up that he has. A lot has been taken from him because of this park and he has a lot of people coming down his driveway all the way to his garage and it's starting to annoy him. Stopping him from having a helistop is not going to stop air traffic. Russell Oakes stated that he's not going to do things to annoy people.He has horses, pigs, sheep and goats of his own that he wouldn't jeopardize Is he asking for a variance because he has 7 acres, yes, and he feels it's not an unreasonable variance. He's asking for a 40' x 40' square, on his own property, to land a helicopter. It's that simple.

D. Hewitt stated that his biggest concern is that it's in the center of the park.

L. Frank stated "Open Space" paid for with "Open Space" tax money.

D. Pierce stated that it can be paid for with "Open Space" tax money and used for recreation.

L. Frank stated that this is what he's having a problem with, this whole meeting turned into being all about horses and "Open Space" is for the people. He doesn't like that they're changing the rules to benefit horses.

M.L. Haring explained to Russell Oakes that this is a use variance and the benefits must outweigh the detriments.

D. Pierce agreed with M.L. Haring and noted that the issue before the Board is whether it's appropriate to grant a variance to allow the helistop on this property with taking into consideration the benefits vs the detriments.

D. Pierce also noted that the Board has to find that this variance can be granted without impairment to the public good or zoning plan or zoning ordinance.

P. Stepanovsky-benefits don't outweigh the detriments.

J. Laudenschick-not comfortable going that far against the township ordinance.

D. Hewitt taking into consideration the size of the actual acreage-very small and he's having a hard time from that aspect.

L. Frank, it's "Open Space" and as "Open Space" the buffer is not an issue to him-it benefits him- has no problem with that.

T. Ciacciarelli - the ordinance is designed to conform with the Master Plan and not to continue or create non conforming uses. He understands that it would be a benefit to him but not to the township.

C. McBride sees negatives on both sides but can't see any benefit to anybody.

M.L. Haring- he hasn't met the burden of proof for benefits vs detriments.

P. Stepanovsky made a motion to DENY this variance it hasn't been proven that the benefits outweigh the detriments, seconded by C. McBride.

**Aye: C. McBride, J. Laudenschick, D. Hewitt, P. Stepanovsky, T. Ciacciarelli,
M.L. Haring**

Absent: None

Abstain: None

Nay: L. Frank

COMMUNICATIONS/REPORTS:

Borough of Frenchtown – Ordinance #698 and #699

Kingwood Township Minutes for: 3/3/11, 3/15/11, 3/17/11, 3/23/11, 4/7/11, 4/25/11, 5/4/11 & 5/5/11

OPEN TO PUBLIC:

Mr. MacConnell commented on the hearing and thanked the Board.

ADJOURNMENT:

D. Hewitt moved to adjourn, seconded by L. Frank. All in favor. The meeting adjourned at 10:29pm.

A handwritten signature in cursive script that reads "Barbara Wilson".

**Barbara Wilson
Secretary
Board of Adjustment
Kingwood Township**