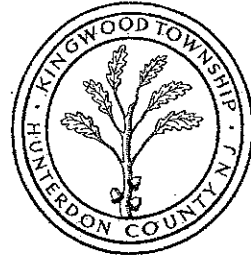


TOWNSHIP OF KINGWOOD



Available to meet by
Secretary
Appointment
Corner of Rt. 519 & Oak Grove Rd.
0199
Fax: (908) 996-7753

Board of Adjustment
Barbara Wilson,

P.O. Box 199
Baptistown, NJ 08803-

Phone: (908) 996-4825

JANUARY 11, 2012 MINUTES

B. Wilson, secretary called the meeting to order at 7:30 pm.

PRESENT:

J. Laudenbach
T. Ciacciarelli
M.L.Haring
P. Stepanovsky
L. Frank

C. McBride
D. Hewitt
D. Pierce, atty
B. Wilson, sec

ABSENT:

T. Decker, eng.

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.

RE-ORGANIZATION:

J. Laudenbach nominated **M. L. HARING FOR CHAIRMAN**, seconded by D. Hewitt. P. Stepanovsky moved that nominations be closed. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
T. Ciacciarelli**

ABSTAIN: M.L. Haring

ABSENT: None

M.L Haring thanked the Board for re-appointing her as Chairperson.

D. Hewitt nominated **P. STEPANOVSKY FOR VICE-CHAIRMAN**, seconded by J. Laudenbach. C. McBride moved that nominations be closed, seconded by T. Ciacciarelli. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, M.L. Haring,
T. Ciacciarelli**

ABSTAIN: P. Stepanovsky

ABSENT: None

P. Stepanovsky nominated Thomas Decker from the firm of Van Cleef Engineering Associates, for Board of Adjustment **ENGINEER**, seconded by T. Ciacciarelli. D. Hewitt moved to close the nomination, seconded by T. Ciacciarelli. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring, T. Ciacciarelli**
ABSTAIN: None
ABSENT: None

D. Hewitt made a motion that the **Kingwood Township Board of Adjustment meetings for 2012 be held on the SECOND WEDNESDAY OF EACH MONTH AT 7:30 P.M.**, seconded by P. Stepanovsky. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring, T. Ciacciarelli**
ABSTAIN: None
ABSENT: None

P. Stepanovsky made a motion that the **OFFICIAL NEWSPAPER IS THE DEMOCRAT** and the **ALTERNATE PAPER THE COURIER NEWS** seconded by D. Hewitt. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring, T. Ciacciarelli**
ABSTAIN: None
ABSENT: None

MINUTES:

D. Hewitt moved to approve the **November 9, 2011** minutes, seconded by L. Frank. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring, T. Ciacciarelli**
ABSTAIN: None
ABSENT: None

P. Stepanovsky moved that the **December 14, 2011** minutes be held over until the next meeting, seconded by T. Ciacciarelli. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring, T. Ciacciarelli**
ABSTAIN: None
ABSENT: None

C. McBride was sworn in. ("Oath of Office")

NEW BUSINESS/UNFINISHED BUSINESS:

Nextel of New York, Inc. & JCP&L – BL 26 L 24- has asked the Board to adjourn and carried this over to the March meeting. D. Hewitt moved to approve, seconded by L. Frank. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
T. Ciacciarelli, M.L. Haring**
ABSTAIN: None
ABSENT: None

RESOLUTIONS:

Christopher Wildgen-BL 9 L 2.01. Gaetano DeSapio, Frenchtown, N.J. is here on behalf of the applicant.

Gaetano DeSapio thanked the Board for their patience and stated that they got most of the language on the Resolution resolved at the last meeting. The issues at the last meeting was on what constituted parking or what doesn't constitute parking, particularly the area in front of the fence which will be erected essentially behind and adjacent to the building along the entire frontage. He had written a letter to Mr. Pierce suggesting some language to clarify that and to hopefully eliminate the disputes with him (Mr. Wildgen) and the Township. The reason for that is that the Resolution might be misread at times and there would continue to be arguments. His letter to David Pierce, dated 1/11/2012, asked that the Resolution be amended to say and the following types of vehicles that are not considered parked are as follows:

- a) **Vehicles that are situated at the gas pumps;**
- b) **Vehicles where the operator pulls in and temporarily exits their vehicles for the purpose of having a gas or propane tank filled;**
- c) **Vehicles that enter temporarily to assist with the drop off or pick up of another vehicle which needs repair;**
- d) **Vehicles that enter the site for an air refill, to fix a flat tire, or to have a problem addressed and/or to schedule a repair, provided however that if the vehicle problem is not immediately addressed so that the operator can leave the site with it, that the vehicle will be moved to the rear of the property and parked there as a "vehicle awaiting repair" as defined above; and,**
- e) **Vehicles temporarily situated for the sole purpose of ingress and egress from the two (2) service bays.**

Gaetano DeSapio stated that Mr. Pierce agreed that those types of situations didn't constitute parking and wouldn't be a violation of the Resolution so he (Gaetano DeSapio) requests that the Resolution be amended to specifically say that or something to that effect.

The second question was in regard to **off site parking** and he (Gaetano DeSapio) and Mr. Pierce generally agree but Gaetano DeSapio would like to have a sentence inserted that states that he's not barred from applying for permission to do that in the future.

David Pierce addressed the Board on those two (2) issues. With respect to the first issue, that began as a comment related to specific language in the Resolution and that language was very specifically and narrowly tailored to deal with the area between the garage and the eastern property line and would not by its language apply to any other portion of the property, the pump islands in front of the bays, things like that. D. Pierce generally supports Mr. DeSapio's desire for clarity in the Resolution because the last thing D. Pierce wants to have happen is litigating over what the Resolution means. However, at this point and with what has been presented to the Board there's no testimony or evidence in the record that was created as to what would constitute parking, and there's no Board discussion on the record as to what the Board members would interpret parking to be. There's no definition of parking in the Township Ordinance. David Pierce copied and left at each station the definition **Park, v. Term "park"** from **Brach's Law Dictionary** and his personal and legal opinion is that what Mr. DeSapio outlined in his letter shouldn't constitute parking but that's not his call to make it's the Boards decision to make after it hears testimony and the Board may want to hear testimony from the Township Planner as to what constitutes parking, so his recommendation is if the Board wants to entertain Mr. DeSapio's request the appropriate way to do that would be to re-open the hearing and amend the Site Plan approval on that particular issue, re-notice the property owners within 200 feet; there would be testimony on the record and the Board can make their decision based on that record. David Pierce noted that he was unable to attend the last meeting and Mr. Soriero (attorney covering for David) had indicated to him that there was a difference of opinion amongst the Board members which to him re-enforces the need that there has to be evidence presented to the Board so the Board can consider that and make a decision. The second issue, his problem with Mr. DeSapio's request is that it was specifically enumerated as to one of the conditions of the approval that there would be no off site parking. He agrees with Mr. DeSapio that the Board cannot prohibit Mr. Wildgen from later coming back to the Board in a subsequent application and asking approval for some off site parking in connection with his operation and that and one of the considerations of giving

him approval for that might be for a reduction of the intensity of the use on the existing property.

Gaetano DeSapio appealed to the Board to do it tonight on a common sense basis.

M.L.Haring stated that by definition park doesn't include temporary or momentary stoppage so all the items that have been set forth by Mr. DeSapio doesn't constitute parked cars and it's her opinion that someone pulling up to the gas pumps is not a parked car, so is the issue to include those cars or is this regarding the easterly section of the building.

L. Frank stated that they discussed passive vehicular traffic.

C. McBride noted that there was one (1) spot for dropping a car off, other than the handicap, and then one of his crew would move it in the back; and everything else is a transit vehicle.

L. Frank stated that they should talk to the Planner.

C. McBride feels the language proposed is reasonable.

J. Laudенbach stated that it's reasonable but it wasn't discussed at the hearing.

C. McBride stated that the summary to this is that Chris' Citgo is making a concerted effort to take all the vehicles in a repair state and employee parking and put them behind the fence and what has happened he has no parking spaces out front in order to appease the township because they don't want the vehicles that are under repair out in the open and this is the consequence of that and so they have to come up with a language that says this is what transient vehicles are. We have to make sure that he will be able to do business with these vehicles in a transient state.

M.L. Haring stated that in the resolution we have to define park.

Discussion amongst Board members regarding parking-passive and transient.

D. Pierce stated that whatever the Board decides to do he would not recommend that the Board try to define or re-define parking in this Resolution but to say these specific examples shall not be considered parking.

Gaetano DeSapio stated that in his letter he would suggest deleting "For the purpose and up to after repair" and just say the following vehicles at the site...David Pierce stated that he would go further than that and say - "The following categories of vehicle usage at the site are not considered parked vehicles under the terms of this Resolution."

C. McBride made a motion to amend the Resolution to include paragraphs **a, b,c,d, and e** suggested in Gaetano DeSapio's letter, dated January 11, 2012, to say with a preface to that "The following categories of vehicle usage at the site are not considered parked vehicles under the terms of this Resolution", seconded by P. Stepanovsky. On roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudенbach, D. Hewitt, P. Stepanovsky,
M.L. Haring**

ABSTAIN: None

ABSENT: None

NAY: T. Ciacciarelli

C. McBride had a question about the off site parking and would he (Chris' Citgo) have to submit a amended site plan and/or the property he uses for the off site parking. D. Pierce stated that it's his interpretation that both would have to because it's an expansion of that business.

C. McBride stated that the Board agreed that there is no increase in the intensity of the business.

D. Pierce corrected C. McBride by saying that the Board decided that there is an increase in the intensity but the Board is approving that for the various reasons set forth in the Resolution.

Gaetano DeSapio stated that they're okay and we can adopt the rest of the Resolution.

C. McBride made a motion to approve the Memorializing Resolution with changes that were authorized in December, as well as the changes that were authorized tonight, seconded by D. Hewitt. On roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
M.L. Haring**

ABSTAIN: None

ABSENT: None

NAY: T. Ciacciarelli

Nextel of New York, Inc., - BL 37, L 4. D. Hewitt made a motion to approve, seconded by L. Frank. Roll call to vote.

**AYE: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,
T. Ciacciarelli, M.L. Haring**

ABSTAIN: None

ABSENT: None

COMMUNICATIONS/REPORTS:

Delaware Township Planning Board- Master Plan Hearing Farmland Preservation Plan Element

OPEN TO PUBLIC:

Russell Oakes is here this evening regarding the bills from the professionals. He appeared before the Township Committee and they suggested that he discuss this with the Board.

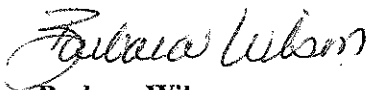
M.L. Haring has no idea how the billing is done.

D. Pierce explained to Russ that there is a specific procedure to follow if disputing the invoices.

L. Frank thanked M.L. Haring and P. Stepanovsky for taking the positions.

ADJOURNMENT:

C. McBride made a motion to adjourn, seconded by D. Hewitt. All in favor. The meeting adjourned at 8:33 pm.



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