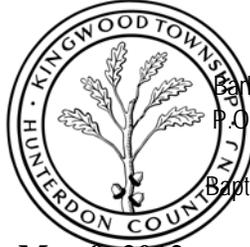


# TOWNSHIP OF KINGWOOD



Available to meet by  
Appointment  
Corner of Rt. 519 & Oak Grove Rd.

Fax: (908) 996-7753

Board of Adjustment  
Barbara Wilson, Secretary  
P.O. Box 199  
Baptistown, NJ 08803  
Phone: (908) 996-4825

**May 9, 2012  
MINUTES**

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

**PRESENT:**

L. Frank  
M.L.Haring  
T. Bayer, P.E.  
C. McBride  
J. Laudenbach  
T. Bayer, P. E.  
P. Stepanovsky  
D. Pierce, atty  
B. Wilson, sec  
T. Ciacciarelli  
D. Hewitt

**ABSENT:**

A. Planer, alt

**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.**

**MINUTES:**

The March 14, 2012 minutes was approved with a motion by J. Laudenbach, seconded by C. McBride. On roll call to vote.

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

**Absent: A. Planer**

**Abstain: D. Hewitt**

**RESOLUTIONS:**

None

**NEW BUSINESS:**

**Nextel of New York, Inc. & JCP&L – BL 26, L 24 – Request to carry the hearing to the July 2012 meeting. C. McBride made a motion to approve, seconded by P. Stepanovsky. On roll call to vote.**

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

**Absent: A. Planer**

**Abstain: None**

**Hearing:**

**Kingwood Township - BL 19, L 5** – use variance and subdivision so as to permit a six (6) lot residential subdivision, minimum lot area of one (1) acre containing one (1) residential unit of a duplex. The Raritan Valley Habitat for Humanity will take ownership of the lots as low income housing. The proposed units to be credited toward the Township's affordable housing obligation. The property is located on 254 Union Road, Frenchtown, N.J., in the AR-2 Zone.

Judy Kopen, township attorney, stated that she's here tonight for preliminary and final approval for a six (6) lot subdivision together with variance relief, variances (D1), (D5) and (C2). There is one (1) additional variance which was not on the original application and that relates to the minimum build-able area for Lot 5.04.

D. Pierce stated that the Proof of Publication and Proof of Service submitted satisfy the notice requirements and the Board may open the hearing.

Judy Kopen informed the Board that this application, if granted, would be a six (6) lot subdivision in which ownership would be transferred to RVHH and they would oversee the construction. This would be low income affordable housing and it would be a step toward the townships compliance for its affordable housing plan. The proposed units are an inherently beneficial use.

The following were sworn in by David Pierce, Board attorney: Carol Hoffmann (Representative for RVHH), Tom Decker (Township Engineer) and David Banisch (Township Planner).

Carol Hoffmann informed the Board that she is a volunteer for RVHH and is on the Board of Trustees and chair for Property Acquisitions Committee. She explained that they go through a selection process (COAH rules), they advertise and they can't give any person or any area any preference, a lottery is held but before that there is an orientation for the applicants that are applying to let them know what goes into it and what is expected of them. RVHH holds the mortgage at 0% - it's low income and is kept at low income. Before they are selected they visit their current homes to see their living conditions. RVHH look at the homes, talk about finances, go through a financial check and then there are various committees that review the information and once they are selected they do put sweat equity into the home so they are engaged into it and it's not like the home is being handed to them. Depending on the area, they are trained, such as in this area as to how to manage a septic, what well water is about. Habitat goes above and beyond the state rules in terms of qualifying applications. They want to make sure that they can afford it and stay in it and that they are part of the community. They have had some turnover-recently a house was sold because the couple got a divorce, another sold because the couple moved on to a larger home. They have had foreclosures but RVHH's financial committee works a payment schedule with them that they can afford. Carol looked at the architectural plans to see what would fit in the area because they want the people and the houses to belong.

M.L. Haring asked when they have a foreclosure situation does the sale go back into the lottery or does anyone from the public just buy it up?

Carol Hoffmann stated that they haven't had one but the property is deed restricted as low income. She believes that the income is from \$35,000 to \$50,000 depending on the number of family members.

L. Frank asked if these are for county or township residents or for anyone in the state.

Carol Hoffmann originally stated that it's for anyone in the state but corrected herself to say that they have to live or

work in Hunterdon County.

M.L. Haring asked if they have found the residents that would buy these yet? Carol stated that she was out of state and didn't know.

Judy Kopen stated that to her knowledge there hasn't been any selection process yet.

J. Laudenbach asked if there is a backlog?

Carol Hoffmann stated that there's not a backlog but there are people who are interested and the last that she knew they were doing some background checking.

Judy Kopen stated that part of that is because they would need to obtain approvals before this process could move forward.

M.L. Haring stated that they would pretty much know what the cost would be from the plans and building materials- you would have a pretty good idea.

Carol Hoffmann stated that it would be done in stages and not all six (6) at once.

Charles McBride asked how the price of the home is set and was informed by Carol Hoffmann that it's based on low income and she believes the house would be set at \$140,000.

Charles McBride stated that he knows that sweat equity is a requirement but is there any monetary equity?

Carol Hoffmann informed Charles McBride and the Board that it's a 0% mortgage, no down payment and a 15 to 30 year mortgage whichever is more advantageous, RVHH prefers a 15 yr. mortgage.

P. Stepanovsky asked if there is a limit to the size of families and was informed by Carol Hoffmann that they would have to have a breakdown from boys and girls because they cannot share the same bedroom, so if it's a three (3) bedroom house they can have 2 boys and 2 girls.

J. Laudenbach asked if that was a rule and was told that it's a state law.

D. Pierce - Ms. Hoffmann, Ms. Kopen indicated that once approval is received the property will be transferred to RVHH, is it habitat that's going to build the infrastructure to the road and the storm sewer. Ms. Kopen stated that it's the township.

Carol Hoffmann noted that it was mentioned about the 30 yrs. on the home, if a township requests that but as far as she knows Kingwood hasn't and they prefer to keep things in perpetuity, which would continue to meet the townships COAH obligation..

D. Pierce stated that that was going to be his other question -it was mentioned that it would be deed restricted for 30 yrs. is it actually her testimony that RVHH would require a deed restriction for low income housing in perpetuity.

Carol Hoffmann stated unless the township is requesting something else.

Judy Kopen's response was that they are not.

Charles McBride-so the question is once the mortgage is paid off what happens?

Carol Hoffmann-they own the house and it can be sold as low income housing.

Charles McBride asked who manages that and was told by Judy Kopen that it's managed by the townships housing

officer. It's the townships responsibility.

Questions from the public.

Richard Hill: How can you limit the number of people living in this house? Who's gonna police? We are well and septic s. He's really concerned with the number of people in the house and the proximity of the septic systems to the wetlands.

D. Pierce reminded Mr. Hill that at this time it's questions only and that later he will be given the opportunity to state concerns and issues after the applicant has finished it's testimony.

Judy Kopen addressed Mr. Hills concern and stated that that is addressed by the state rules for affordable housing, as well as the municipality to have an ordinance, if one doesn't already exist, as to how many people can occupy a certain residence.

Carol Hoffmann- to address the septic it was planned and perked for 8 units but they brought it down to 6 because there was concern about the water.

Judy Kopen stated that the engineer, Thomas Decker, will address the septic and any wetlands issues.

Richard Hill mentioned that they were talking about after the mortgage is up - Who's gonna police? It looks like RVHH is putting more work on the township that's required by state law.

Judy Kopen informed Mr. Hill that his question isn't for Ms. Hoffman but for her. She explained that it's the townships obligation to provide affordable housing and to monitor that.

C. McBride asked Mr. Pierce if the Township attorney is also presenting testimony as well as presenting the case?- it's seems like there is a line that we just went over.

D. Pierce stated that he feels that Ms. Kopen isn't providing testimony just information as to the statutory and regulatory obligations on this application.

Richard Hill asked if there is a time limit for these houses to be built-are they gonna build one and then wait 15 years or is it gonna sit undeveloped for a long time-is there any guarantees, any estimates, what guarantees are there that these are gonna be sold and occupied and not sit unused.

Judy Kopen answered this on a legal basis that the time frame is addressed, as far as the building of the units, in the agreement between the township and RVHH and the township has a legal obligation under the state affordable housing regulations to take these steps and see that these units are used as affordable housing units, so they can't say that they're doing this and let it sit.

Carol Hoffmann stated that habitat doesn't build on spec. The owners have been selected and they are working on their own home. They will have an owner before they start on them.

Richard Hill - so Kingwood Township has to do all the improvements before we know these homes will be occupied.

Carol Hoffmann stated that as soon as they have the selected families-then Kingwood, per their contract, will start working on it then (the improvements).

Richard Hill said -so if all these things are set-you have a builder, the homes are sold then Kingwood has to do them? All of them, one of them?

M.L. Haring asked at what time does the township start investing time and tax money?

Carol Hoffmann said it's not tax money, it's your COAH fund

M.L. Haring stated that what Mr. Hill is trying to get across is if they are going to wait until all 6 units are sold and it's all on paper and then the township begins work on the improvements or once this gets approved they start whether or not you have these units sold.

Carol Hoffmann stated that there are certain improvements that need to be done before they can start and they are not a large builder-they work with volunteers, sometimes they have had to pay people to do things like foundations, so they aren't going to do all the homes together they just can't manage that.

Judy Kopen stated that the township engineer can address some of these issues as well.

Richard Hill started to speak and was once again reminded by David Pierce that at this time it's questions only.

L. Frank asked how long does the selection process take once you receive all the approvals.

Carol Hoffmann stated that they are scheduled to start in the spring so they cannot guarantee someone the home until they have approval for it so once they have that then the family selection committee can start.

L. Frank asked once they have approval how long does it take-one month, two months, six months.

Judy Kopen stated that she doesn't know about the selection process but the date right now is that the units will be constructed by June 30, 2014 -that's all the units.

J. Laudenbach asked what kind of track record do they have-do they have people interested, is there a shortage of houses that need to be built.

Carol Hoffmann stated that with the economy it's a little harder to get people interested in the homes. They have always had a number of people coming to the family orientations. Can she guarantee it -you look around and see a number of houses for sale but they have an excellent track record and again they are not building the house until they have someone that is qualified for it.

Richard Hill, property tax – we have schools and roads to support- who pays the taxes and how are they assessed?

Judy Kopen stated that they are assessed as a comparable sale with similar properties as with any other home in the township and the taxes are paid by the homeowner as would be the case in any other situation.

Richard Hill asked if the taxes are included in the mortgage.

Judy Kopen doesn't believe that's the case with RVHH.

Richard Hill feels that it should be figured out before we go any further on that -who's paying.

Richard Hill asked about the evaluation of the property-is there a state law that says that if they bought the property for \$140,000 they will be assessed at \$140,000.

D. Banisch, Township Planner, stated that there has been challenges on that and it can only be taxed on the market value and that value is fixed by the deed restriction so if the market value is \$140,000 because of the deed restriction the assessor will assess it on the \$140,000 and they will pay taxes appropriate to that value.

Richard Hill -deed restriction does that mean it can be only sold for \$140,000 or market value?

D. Pierce stated that he will address that - it's a legal issue.

David Pierce – The deed restriction will require that the unit be sold at within the range of low income housing values as specified by State Law and administered by COAH. COAH has a series of regulations that determine what that range is for low income housing for a particular region and that may vary from Hunterdon County to Middlesex County to Essex County and that will change as demographics over time and county change but it will be tied to that definition.

No other questions from the Board and audience.

Judy Kopen asked if the architectural drawings be designated . D. Pierce stated that it's not necessary as that is part of the application.

Tom Decker, Township Engineer, submitted what is marked **EXHIBIT A-1 – AERIAL EXHIBIT PLAN Dated 5/9/12**. This subdivision is located across the driveway from the DPW facilities. The property is located on Union Road, before the park on the left hand side. The property, Lot 5, has an existing farmhouse and barn. The property Lot 5 was originally 90.5 acres and the town preserved all but 7.5 acres of that, Lot 5.01, which is currently farmed by the township. David Banisch will talk later on about what the intent was of this area of exception. The Locketong Creek flows in the NS direction and passes the site to the east. There are wetlands and stream corridors , flood hazard areas and a collection of environmental restraints from DEP and the D&RCC.

M.L. Haring – so the preserved land is not being disturbed land at all.

Tom Decker – it can't be. The preserved land can only be used for farming and cannot be improved and as part of this application they cannot propose any improvements within that area.

**EXHIBIT A-2 – TITLED EXHIBIT PLAN - COLOR RENDERING OF SUBDIVISION PLAN DATED – 5/9/12**. Tom Decker explained that this is a colored rendition of the subdivision plan submitted, with some modifications. The house, above ground swimming pool and deck, the farm structures and farm lane are all going to be removed. He believes that they may try to salvage some things out of the house. Some structures have been since removed.

M.L. Haring asked if the house is occupied and was told by Tom Decker that it's not occupied.

Tom Decker stated that he believes that RVHH is interested in reclaiming some of the wood from the barn for another location. They (RVHH) are consulting with an expert as far as salvaging the barn for another location.

Tom Decker stated that all the improvements on the site that exists now will be removed. What will be installed is a new cul de sac road, no curbing, impervious pavement to promote groundwater infiltration but also water quality which is something D&R is requiring of them, so that is approximately 370' that comes into the property and then along that road they will have six (6) lots, each having half of a duplex on it. If you look at Lot 5 and 5.02 that are adjacent to each other you'll have one (1) structure. The common property line between those two (2) lots will run down the middle of that duplex and is commonly referred to a zero lot line because there is no setback and that is one of the variances that they are looking for this evening. It's relief from having a side setback on each one of these lots. Each lot will be serviced with its own septic and well. The township has had an aquifer test performed and when that was done it was based off of eight (8) lots. It was submitted to the township hydro geologist, Vince Uhl, he reviewed it and was satisfied for this location and the well tests that were done and the wells monitored in this area that there is adequate water supply in this area.

M.L. Haring asked if the Board was provided copies and Tom Decker stated no, that it was submitted to the old firm that he worked for but he can provide copies to the Board.

M. L. Haring asked what wells in the area and Tom Decker stated, for example, the school.

M.L. Haring asked if there were any homes and Tom Decker stated that he believes so and that would be in the report.

Tom Decker stated essentially not only is this farmland preserved but across the road is another piece that was preserved by the town, a portion of which has the DPW facilities on it and cannot be developed, similarly the Kingwood Park cannot be developed so when you look at this six (6) lot subdivision relative to other homes in the area-he believes the closest home is located in the cul de sac, that they're a significant distance away from other residences. There was four (4) wells drilled on site that they used for monitoring and notices had to go out to residences within a thousand feet from the well asking for anyone that was interested in being part of the study.

M.L. Haring mentioned that she knows no letters were received.

D. Hewitt - wouldn't the closest homes be on the south side of Union Road opposite the park.

Tom Decker replied yes.

C. McBride asked how about the park itself – the park itself has water requirements. Were they included in the study?

Tom Decker stated that he would have to look in the study to check.

Charles McBride asked the Township attorney if the township was made part of the study.

Judy Kopen couldn't answer that.

Tom Decker stated that the aquifer testing was done three (3) years ago and the reason they did it then was to make sure that whatever the town was proposing with habitat was supported by the well and septic on this lot. The aquifer test has to be done between certain months-July to October. Tom Decker believes the test was done in 2008- 2009 the latest. If someone has moved in the area within the past two (2) years they may not have gotten the notice. Tom stated that this has been going on with the town and habitat for at least the last six (6) years.

Tom Decker said the study was done and he would get copies for the Board.

Tom Decker, flipping back to A-2- in addition to doing the aquifer test, they did the septic evaluations. They did septic evaluations based off of eight (8) lots-they're down to six (6), each lot has two (2) soil logs, one of which is used for permeability test on all these lots and was determined and based on flood and everything passed in accordance with the state requirements as far as septic suitability. Each septic field will be a mounded system because there is a high water table but they are still supported by systems. Someone mentioned the proximity to wetlands and actually clips a portion of the lots-two (2) corners. Wetlands has a 50' buffer and it's marked on the plan. There is also a 300' special resource protection area and a flood hazard area that is measured from the back of the Lockatong and that line is shown on the cover sheet. All the septic are beyond that flood hazard. All of the septic are set away from the wetlands, wetlands buffer, flood hazard area and the special resource protection area. All are consistent with the Township Ordinance and the State Requirements.

Tom Decker- had a pre-application meeting with the D&RCC and they were discussing various things including their \$8,000 application fee. One of the things that was discussed is that they have a 100' stream corridor buffer that is measured from the flood plain. That line is not shown on the plans because they weren't able to get a meeting with D&R until after the plans were submitted. The septic do fall within that buffer area. D&R has a provision much like DEP has where you can average the buffer. What that means is that you can reduce the buffer, in some areas, as needed as long as you provide additional buffer in kind. The same amount of area elsewhere on the property and that's contiguous with that corridor. What they have done is cut back the buffer about 10' beyond the septic fields. They are also taking credit for the buildings. Currently the buildings, swimming pool and deck are located within the stream corridor so they're taking those structures out of the stream corridor and restoring that area so it has a benefit that it doesn't have now. D&R is happy that these impervious surfaces are being taken out of the stream corridor and being replaced with areas that have septic in them and from their standpoint it still has permanent ground cover and still provides an overland buffer to the stream. They are almost classifying this as temporary disturbance. They will be submitting the layout for review and as with any approval from the BOA or PB an

outside agency approval would be a condition of any approval the Board would grant, so if the Board were to grant an approval for this application that application is not perfected until approval is received from all outside agency including D&R. If D&R doesn't like what they've done, they would have to come back to the Board to review those revisions.

Tom Decker – they have received approval from the HCSCD.

Tom Decker – they have received approval from Hunterdon County for the preliminary and final subdivision and they have some conditions with regards to providing additional storm water management information, which they will do.

Tom Decker – The township is responsible for obtaining all the approvals, putting in the infrastructure which is the roadway and the drainage. RVHH is responsible for the driveway, houses and septic fields. The township is acting as the developer and RVHH is the builder.

Tom Decker – There was a question earlier with regard to timing and what if the town spends the money and Habitat doesn't have residents set up yet. He believes that once this is approved and they receive final subdivision approval these lots are created and the deed is filed, he's not sure if RVHH takes all or as they get owners for those duplexes.

Judy Kopen stated that conveyance is after the subdivision approval.

Tom Decker – stands corrected. Everything after it's finalized goes to RVHH.

Tom Decker – They are proposing street trees along Union and Ukarish, per the Township Ordinance. You may see some natural buffers from these lots, which would mean less maintenance of the property.

Tom Decker – The review letter from Bayer-Risse came today, dated May 9, 2012. Tom Decker went over the letter as follows:

Page #3

**Sheet 1 - Cover Sheet**

No Comment

**Sheet 2 - Existing Conditions and Demolition Plan**

#1-Will be removed in accordance to DEP Requirements.

#2-Will be removed in accordance with State Requirements.

**Sheet 3- Preliminary/Final Subdivision Plan**

#1-No objection

#2-Will be provided as required

#3-Will add to the plan

#4-Will add to the plan

#5-Will change

**Sheet 4- Grading, Drainage and Landscaping Plan**

#1-Each will be mounded and the swales will be gradual to convey water around the houses and not in the septic area.

#2-Do have comments from HCPB and D&RCC and will incorporate those.

**Sheet 5- Soil Erosion & Sediment Control Plan**

#1-Agree

**Sheet 6-Construction Details and Road Profile Plan**

#1-Will include on plans.

**Inlet Area Drainage Map:**

No Comment

**Architectural Plans**

Would be feasible on lot # 5, 5.02, 5.03 and 5.04 and on lot 5.05 and 5.06 wouldn't be able to do that.

**General:**

#1-Asking for waiver since the applicant is the township.

#2-Will include as note on plans and attend that.

#3-Approvals: HCPB,HCSCD,HCHD (not until time of septic designs), NJDEP and D&RCC

M.L.Haring- from Union Road to the cul de sac, how many feet?

Tom Decker-1,560 feet

M.L. Haring- who responsible for the maintenance of Ukarish Court once it's transferred. Who plows, fills the pot holes?

Tom Decker- The township would be responsible for maintaining Ukarish Court since it will become a public road.

L. Frank- what are they going to do with the maintenance of the roof because it is a common roof.

Tom Decker- would have to defer that to habitat.

Carol Hoffmann- unfortunately she cannot answer that question but there was some talk that since their duplex's having a homeowners agreement.

L. Frank- in between the two (2) units the basement is solid poured concrete which separates between them-but on the ground floor it's wooden separation between the two (2) families.

Tom Decker- really can't answer architectural questions.

L. Frank- I'm wondering about any kind of noise and how are they gonna deal with that.

Carol Hoffmann- they built in Lambertville, doing a duplex right now, and there's gonna be a firewall. They have to go by state standards.

L. Frank- I was wondering about the condominium aspect of a duplex coming into the town which is new to us -see a common roof and a common wall and I'm wondering about domestic things.

M.L. Haring- what if the two (2) families don't get along and you get an eight (8) foot spite fence going half way down the middle.

Carol Hoffmann- a lot of towns have that same kind of construction, it's unique to Kingwood.

D. Pierce- he would recommend to the Board to include, if granted, that a condition be imposed requiring that each duplex unit have a separate common wall and roof maintenance agreement. With respect to the noise it would be no different than other properties in Kingwood.

L. Frank-our noise ordinance at the property line, he believes, is 55 decibels and that's gonna raise a whole another thing because they're living on the property line.

L. Frank- has the Fire Dept and Rescue Squad looked at the plans.

Carol Hoffmann- these are only architectural plans.

L. Frank- we just want to know if they'll be able to get in there with all their equipment and are prepared to deal with anything that happens there.

Carol Hoffman- they meet all the ordinances.

C. McBride asked if Kingwood township has any other zero (0) set back.

Tom Decker- it's a zero lot line.

David Banisch- don't know-honestly don't know.

Charles McBride- what we're concerned about here is that you're introducing not a whole unique configuration that will cause other issues later on. If one side wants to do their roof because they feel it's time and the other side doesn't- you're going to have a conflict.

L. Frank- he's not criticizing-he's just asking how it's gonna work.

Judy Kopen- the Township Planner can address this to some degree more but what she would also say if that is a concern of the Board they can impose, as a condition of approval, in terms of tandem roof maintenance.

C. McBride- What is the reason for making duplexes instead of two (2) separate units.

Judy Kopen- the township planner can address that.

L. Frank- they mentioned that the house will come down immediately but it wasn't mentioned when the barn is coming down-is it coming down before they start construction or whenever.

Carol Hoffmann- the barn needs to be taken down before they can get a CO for the house.

Carol Hoffmann- has made contact with Sal DeSapio, historian, but his wife has been ill so they have not been able to go out there. There are some very unique properties to that and there are things as far as mill in there and they would like to preserve that rather than just tearing it down.

L. Frank- so what you're saying is that the barn could still be there after you build the houses.

Carol Hoffmann- they could start with it according to ordinance but they could not get a CO and no one could move in until the barn is down.

David Pierce- I think what he is getting at is can they build any of the houses before they finish taking all of the other improvements down. The Board can, if approved, make condition that all the improvements be removed before they start construction.

Carol Hoffmann- their concern is that they would like to have that time to see what could be salvaged.

M.L. Haring- is the barn in very poor condition and is it a safety hazard. Usually barns that are that old are still structurally safe.

Carol Hoffmann- it is and they had an historic architect come in and the barn could be restored but the problems with the water and septic then by doing that. If they had infrastructure they could have made four (4) homes back in that barn.

D. Hewitt- if it does have historical significance as a mill, have they explored any avenues as far as auctioning it

off and preserved and reconstructed on another site.

Carol Hoffmann- not the whole barn.

Tom Decker- there was a question raised earlier with regard to septic and the number of people in the house.. The septic is designed by the number of bedrooms, not occupants and that's the state standard. These units will stay as three (3) bedrooms.

D. Hewitt- would they have the ability to come before the Board again to do other modifications say if they wanted to put on porches or decks or things like that?

L. Frank- or a shed for their lawn mower.

Carol Hoffmann- I can't guarantee, but they have always given them sheds in the other homes because they don't have a garage and it would give them a place to put lawn mower and garden equipment but that would have to meet the ordinances.

L. Frank- and that would mean another variance.

Tom Decker- they believe and Mr. Pierce can correct him if he's wrong, if approved with the variances as requested, which will establish the setbacks he believes that as long as they are proposing a shed which complies with the setbacks they would not have to come in and apply for a variance.

P. Stepanovsky- the area in the dark green will be natural habitat. What kind of control is it that's it's not multi flora roses.

Tom Decker- as much as any other subdivision approval that the town has where a conservation easement is created.

P. Stepanovsky- so there's no way to control them and stop them from growing back there.

P. Stepanovsky- so the township has no control over any part of the dark green and keeping it looking nice.

Tom Decker- it could if there were provisions made that they're mowed on a twice a year basis.

C. McBride- the conservation easement on the part on the left side (A-2) comes all the way up to the cul de sac, means that couldn't be mowed?

Tom Decker- essentially would people mow it, probably, but it's supposed to be left undisturbed.

C. McBride- is that really practical, especially when you're putting a tree there.

Tom Decker- he believes that the Township Planner has some thoughts on conservation easement, vegetation, buffering etc.

Tom Decker- the septic and the wells all comply with Township Ordinance as far as separation from septic, separation from wells, septic to well distances. Kingwood Township also requires that all wells be 100' apart from each other which is not something required by the state. The septic and the wells shown on the plans pretty much have to be as shown in order to fit on the property and keep all the spacing, and they also situated the septic fields so they are either downgrading or offset from the well locations. He can get a letter from Vince, for the Board, to acknowledge that.

M.L. Haring- are there any questions from the public for Mr. Decker.

Craig Leh- he was contacted about the well ordinance thing, he requested his well be monitored, never happened. He has lived in the same house for fifteen (15) years. He builds in Kingwood Township – you guys wouldn't allow me put that many houses on that lot, never, you would tell me I would have to put curbing around there, I know you would. When the septic go bad, and we all live in Kingwood and he puts septic in, where are they gonna put another one.

Tom Decker- to answer the question on curbing on roads, residential site approval standards which are mandated by the State of New Jersey as site improvements for drainage, roads etc. RSIS doesn't require curbing on roads like this.

Craig Leh- What about Wagon Wheel Drive-cul de sac – no connecting roads on it? You still have a septic issue-wouldn't be able to plug another one in there.

Tom Decker- the township has a cluster subdivision ordinance - this was part of a larger lot and the density based on the larger lot is much less with this than it would have been if a builder had come in for this parcel and David Banisch has the numbers and maybe he'll defer until he talks about it, but this was part of larger parcel and when you cluster a subdivision and you take a large piece of property you're allowing smaller lots on it with preservation of a large open space area so your density is basically the same but your confined to a small area which works to the towns benefit because it's much less road that the town has to maintain drainage etc.

Tom Decker- septic- there are other areas within the unconstrained area that you could get septic. They actually did two (2) other tests where there were suitable septic areas in some locations - yes, it's tight.

Craig Leh- Lot 5.08 is gonna be able to plug a septic down in there and then they're gonna pump it.

Tom Decker- No. You can't put a septic on another property. This would have to be repaired, replaced in time or moved somewhere else on the property. There is other open land adjacent to the septic that they could be repaired and they've seen repairs on much smaller lots than this. It's not ideal but it has been done.

Richard Hill- he's not against Habitat for Humanity or this project. He's against this projects location. He feels that Mr. Decker is a little unprepared because he (Hill) got an aquifer certified letter and he responded and it's not in evidence or here so that you guys could look over and see has everybody and he's closer than Kingwood School and so is the park. The park has septic, water in the pavilion and a home. He was here for a variance about eighteen (18) years ago and he had to come back about three (3) times because he didn't dot his **I's** and cross his **T's** and he expects no less from habitat and Mr. Decker.

Richard Hill- what he's really worried about is this D&R buffer zone move.

David Pierce- Mr. Hill is there a question.

Richard Hill- Yes, there is a question. The question is- is there evidence for this other than talking to because he feels the Planning Board needs that in evidence that they can allow to move that buffer.

Tom Decker- it is not in evidence and the adjustment that they made is based on his meeting with the DVRCC and also through conversations and e-mail exchanges where he has sent them sketches as far as the averaging. Any approval by the Board is subject to getting approval from D&R. If they don't like this and it creates additional variances or relief that's required from the Board - they would have to come back to the Board.

Judy Kopen- she would ask Mr. Pierce to confirm this but she would also indicate to the Board, in terms of conversations with the D&RCC being considered by the Board that Mr. Decker has testified to, that as an expert witness he is entitled to rely upon any such communications and the Board can consider them and in addition the Board has the relaxed rules of evidence, in terms of considering this testimony.

David Pierce- that is all correct, but more importantly as Mr. Decker has indicated, that if this is approved by the Board one of the conditions would be that the applicant demonstrates to this Board as condition of approval and it has received unconditional approval from the D&RCC. If the D&RCC changes anything they would have to come back with notice.

Richard Hill- can you explain better this drainage system. He lives across the street and has some pitch to his land and when it rains if he didn't have proper ditching and that, it would be flowing into his house. His concern is that the level of the land and he's walked back there ever since they've built the park and that will be floating back there and he is worried about the those people moving in that are going to be relying on these septic systems.

M. L. Haring- asked Mr. Decker to go back to the cover page -she has a question.

Tom Decker- he was going to ask Mr. Hill where his house is.

M.L. Haring- where the creek is and you said this has been in the works since 2009.

Tom Decker- earlier.

M.L. Haring- the flooding that we had, did anyone measure on the road where the barrier had to be put up because if you went through it you were going to lose your car. How far up the road that hit.

Tom Decker- not that he's aware of-they didn't. First of all as he's mentioned before this is all farm, so they're taking the farm which is in grow crop and permanently vegetating the areas that are not impervious so they are improving the ground cover. The road is pervious pavement per D&R, so that water there gonna be a certain amount of storage provided in stone from below that -so that water from the road goes into that stone, as far as any drainage around the homes there are inlets on the western side of Ukarish Court which will discharge down, there's already an existing ditch with a driveway pipe crossing that exists now and they will tie into that and discharging so that's being collected and directed down towards the stream. To his knowledge they had the 100 year flood elevation map on there per 2009 FEMA Flood Mapping Elevation and that was also per the direction of Vince from D&RCC who also wears a similar hat at DEP- land use which manages stream encroachment to wetlands. He would have to defer to the town as to how much water or impact the existing house has encountered with any flooding or if it has reached that or not.

P. Stepanovsky-it has.

Tom Decker-which is why we have the Flood Hazard Area and Stream Corridor. Yes, the septic area is located in a couple of areas along that corridor but again in that area the Flood Plain is located further away.

M.L. Haring- when the Delaware flooded three (3) times in eighteen (18) months, the creek flooded and the barriers were put up just beyond the recycling driveway but looking at this map she can't tell if that water line was in those peoples living room.

Tom Decker- the only thing they can go by is the 100 year flood elevation but based on current regulations, DEP, municipal, federal this is what they have to go by.

Richard Hill- the aquifer testing that I received a certified letter for, responded and never got any reply. Is there a limitation? Where talking about 2008 and it's now 2012- is there a statute, a limitation because in the building industry if you don't act on things quickly they have to be re-tested. Why didn't I get my aquifer tested when I requested it.

Tom Decker- the notice of the testing would follow a certain time period after the notice. He doesn't know if requesting it guarantees that it would be tested.

David Pierce- the ordinance provides that in a subdivision of six (6) houses that a minimum of three (3), up to five (5) off site existing test wells and notice be given to everyone within 2500 feet of the subdivision border. If more homeowners agree to participate than the number of required test wells than the township hydrogeologist selects the wells to be tested.

Tom Decker- clarified the process and explained that there is a whole protocol to the process before they even begin the test.

C. McBride- is it possible that because most of the property that's around that testing area is owned by the township that the township would like to use the townships own wells.

Tom Decker- the school was included and he thinks that the school is required to be included. He don't believe that the township wells were included but he'd have to check.

C. McBride- the school, firehouse and park, if they elected to use those three (3) wells. I certainly hope the firehouse would be- it's pretty close.

David Pierce- he would be supremely surprised and disappointed if they chose wells to be monitored on any basis other than what would be the best measuring or monitoring for the proposed development.

C. McBride- so in order for us to not speculate we would need to see that document.

Tom Decker- they can provide a letter from Vince indicating his approval. Also, when wells are selected geology has a lot to play into it, topography of the land, study on the geology of the aquifer and some areas you'll want to test more than others based on location.

C. McBride- you should just be careful because it's not just geological.

Richard Hill- we have this well ordinance in Kingwood testing- has it been followed through properly. He got the certified letter and didn't get tested. He feels that it doesn't have to do with geology, it has to do with the ordinance in Kingwood Township who has to be tested.

Charles McBride- when you stepped out the ordinance was explained and we requested a copy of the report because right now it's subject to speculation by a number of people.

Tom Decker- will provide.

P. Stepanovsky- on the subject if they fail, whose responsibility?

Tom Decker- it would fall on the individual property owner.

P. Stepanovsky- what if the owner doesn't have the money?

Judy Kopen- it's the same as with any other owner in the township it is the responsibility of the homeowner to maintain their residence.

P. Stepanovsky- the trouble with these septic systems their right on the borderline.

Judy Kopen- they're relying on Mr. Deckers indication that everything that has been submitted is in conformance with the township ordinance as far as buffers, wetlands and distances between septic systems and wells and she don't think you can require a higher standard for these particular units than other units on that basis.

C. McBride- don't think it's another standard but because it's affordable housing your looking at a price tag that might be the same cost as the building itself to replace the septic system, which could be \$50,000 to \$60,000 for a

\$140,000 house. Tell me how somebody with a \$45,000 income will be able to pay for that, so what will happen they abandon it, there's no tax revenue or it accrues and how are you going to sell that the next time as an affordable house for \$140,000, and by the way there's a \$20,000 tax bill, and by the way you'll need \$50,000 to fix the septic.

Judy Kopen- she doesn't think that we can speculate to put an additional burden on these houses in terms of an assumption that there's going to be unpaid property taxes or any other issues. The septic system will be designed to current standards under current requirements and she doesn't think you can have any additional requirements.

C. McBride- I beg to differ because you brought this up as a venture with Habitat for Humanity you opened yourself up to that. If this was going to be a managed subdivision by a company that says were gonna have affordable housing there would be a corporate entity responsible for that. The other document we need to see is the contract between the Township and RVHH.

Judy Kopen- we can provide that.

C.McBride- we need to know what the commitments are and where the commitments at.

Carol Hoffmann- as she said before that they are going from eight (8) houses down to the six (6), it was because of environmental concerns, so habitat, as well as the township doesn't want to see somethings going to fail like that, as low income should something fail they would qualify for USDA loans to do repairs. They are taking the extra steps to make sure that's not going to happen.

Frank Floyd, Chief KTFD- he has a couple of questions and asked Tom Decker about the underground storage tanks on the premise today – do we know if they are leaking.

Tom Decker- don't know if there are underground storage tanks on the property and if there are they will be removed in accordance with DEP requirements.

Frank Floyd- and if they are, and they are contaminating the ground water, have the tests that have been done verified that water usable.

Tom Decker- yes, as part of the aquifer test it was tested for water quality and it passed all the requirements. (potable water)

Frank Floyd- you testified that these tests were done in 2008 or prior, is there any requirement to re-test since he believes the DPW was built after these tests were done.

Tom Decker- the DPW was built before these tests were done.

Frank Floyd- did receive notice, did ask to be involved but don't recall if they were involved in the testing or not They don't recall receiving any notice that they were approved for 8 or 6 or 4 wells and feels it should be part of the public record as to what the test results were. If you do drill six (6) wells here what happens to surrounding wells, say the Fire Company gets 100 gallons a minute today and you drill tomorrow and it get 20 gallons per minute.

Tom Decker- that was all part of the aquifer test that was done. Will provide those copies but that is taken into consideration the impact on other wells. It was approved and tested for eight (8) wells and they're only showing six (6) at this point.

M.L. Haring- does that report say in layman's terms- yes or no the surrounding area wells won't be effected.

Tom Decker- the report is thick and contains a paragraph that sums up everything, so just flip to the back.

J. Laudenschlager – do they know how deep the fire companies well is.

Frank Floyd- don't recall the Fire Department or the Rescue Squad was mentioned as being solicited for approvals.

Tom Decker- any site plan requires Fire Dept. approval, not a subdivision.

Frank Floyd- he thought that everything that came before the Board-they would get a set of plans but he could be wrong.

L. Frank- was going to ask for that anyway as one of the conditions.

Frank Floyd- will Union Road be improved at all.

Tom Decker- No.

Frank Floyd- is there any opportunity to widen the road there so they don't have narrow near miss collisions.

Tom Decker- if there were to be any improvements to the road, as with any other developer, their obligation would only be the frontage of their property. You would get a widened section along the frontage and that's all. No widening from Union Rd. to 519 or in the other direction.

Frank Floyd- would the applicant consider widening Union Road since they own the property on both sides.

Tom Decker- that he would have to defer to the Township Committee.

Jim Drake, Deputy Fire Chief - we've talked about wells and septic, from a public safety standpoint on this, how wide is that roadway. Union Road will stay the same. The DPW was built prior to this – the pond was designed to hold a certain amount of water and is one of their main water sources in the township. They're looking for approval to build six (6) - three (3) bedroom structures which is going to impact more people for them to go in essentially to search for. Has anyone considered a water source and the amount of apparatus that they would have to bring in to an area like that to control if one of those buildings happens to become fully involved in a fire or residential sprinklers. The way it is now they have to call other tankers to bring them water. What's the distances between each one of those buildings as far as an exposure.

Tom Decker- he can get them the distance between the buildings. The closest is between the building on Lot 5.02 and 5.03 and it's 260 feet.

Jim Drake- do we know what the basic square footage of one of these buildings is gonna be.

Tom Decker- 1500 sq. ft -two (2) story-total 3,000 sq. foot structure. It's no different than a single family home.

Jim Drake- but in a single family home he wouldn't have to look for as many people. He's trying to figure in terms of water supply.

T. Ciacciarelli- how long for a house of that square footage for an average fire.

Jim Drake- fire doubles in size every minute and if there are no firewalls it will go right across.

L. Frank- so what are you suggesting a hydrant or something.

Jim Drake- putting a dry hydrant in.

C. McBride- could any of the existing wells that are going to be abandoned be used.

Jim Drake- it will not be able to supply enough gallons per minute.

M.L. Haring- any questions from the Board. Any questions from the public.

Richard Hill- questioned the reason for them needing a variance and is it co conflicting with other properties.

David Pierce- the Board decides the variances needed. They're before the Board because some of the proposed conditions do not conform.

David Pierce- they do not need to come back if they are within the setbacks.

Richard Hill- we have setback rules for a reason.

C. McBride- is the regular setback on a side yard is- 40' so these houses are 57' wide divided by 2 = 28' so if they wanted to put a overhang to put their car on – lets say the bottom 2 units where the driveway extends, they would be prohibited from doing so without getting an additional variance. Correct?

David Pierce- no, if the Board approves this application what the Board is approving is essentially approving a zero lot line and zero setback. Zero (0) as built.

C. McBride- we've had a couple of experiences where we've had an approved non conforming where they wanted to make a modification to another part of the property and they still had to come back for the variance.

David Pierce- the Board has the latitude to structure its approval either way.

C. McBride- does the application specifically say there's a zero setback on the building side of the side yard and not all sides yards.

Tom Decker- he believes he can clarify. There has been two concerns . You have been discussing an addition or a deck off of the building and another is sheds and other type buildings. Those would be subject to the setbacks for an accessory building and we are not seeking relief from those requirements , those requirements in the AR-Zone are a minimum front-yard setback of 100', where the principal is 75' and 30' from the side and rear yards. The zero lot line only applies to the principal building, not the accessory and each lot has the ability to put in a shed without requiring a variance.

D. Pierce- the application doesn't specify exactly what they've asked for.

L. Frank- the way it's built it looks they can add on a one car garage and they don't need a variance for that either.

Tom Decker- as long as there within the building envelope and it's attached -it's the same as a breezeway.

Richard Hill- what happens if they want to put on a garage or a deck. They're low income and they want to do it - are we coming back to the Adjustment Board all the time. You guys have to really nail it down for these people so they know what they can and can't do. This zero lot line is something new in Kingwood Township.

David Pierce- asked Richard Hill to refrain from providing testimony.

Richard Hill- how are we gonna handle these changes with the zero lot line. How is that gonna happen? Do we have to make new ordinances or is it gonna come to the Board of Adjustment all the time.

Tom Decker- believes that a lot of Mr. Hills questions will be answered in David Banisch's testimony with regards to the variances and the general relief that's sought.

## 17

Carol Hoffmann- she believes that habitat doesn't allow additions. They're not going to get their money back and remember they're deed restricted as to what their gonna sell that house back at.

Tom Decker- chances are if they're in a position to put an addition on, chances are they're gonna move.

J. Laudenschick- these families have to be low income qualified and as times goes by they prosper-they still own the house.

Carol Hoffman- that's part of the income qualify to make sure they have the amount that they need. They deal with them on a budget.

Tom Ciacciarrelli- it's expense management brought into this.

Carol Hoffman- there's a lot of education that goes into this.

Judy Kopen- Mr. Banisch has provided a report of today's date and copies have been provided to the Board.

David Banisch- he made a series of notes while we were talking and while the hearing was playing out he would like to make a few general comments initially. With regard to income the state regulations require that the affordable household pay no more than 30% of its gross annual income for its mortgage and all of its utilities and there's an utility allowance calculated in that, so it's very carefully calculated. Habitat has to conform to that and it can go lower if they want but they can exceed 30% of their housing cost including utilities. The number of occupants in an affordable dwelling is a function of the number of bedrooms, it's conceivable these families could grow after they acquire one of these units, but at the time they qualify it will be tied by bedroom size. There is an orientation that was mentioned and habitats intention is to conduct that here in town, and conduct an outreach campaign here in town. There are what's called affirmative marketing requirements in the region and the affirmative marketing plan has to address reaching out beyond the municipal boundaries. But habitat understands the need for affordable housing within the municipality by residents within the municipality, so they're outreach is going to be churches and civic organizations and are going to conduct orientation at the school with the hope of attracting local people, that's their intention. They have financial counseling and education courses that they offer prospective clients and they also have home ownership counseling and that includes educating the families on septic requirements, limitation and maintenance needs and things like that. They have thought these things through and they want these families to be successful, that's their mission. That's one of the things that attracted Habitat for Humanity as a partner.

David Banisch- the subject of the barn came up and consideration that they may request a temporary variance for storage of materials while some of these houses are constructed, so they would ask the Board to consider that as part of the variance relief in the mix here. It would be up to habitat if the land changes hands and they want to take the barn down ahead of time. The ordinance doesn't permit an accessory building on a lot by itself unless there's a principal building on the site first. They would ask the Board to allow that as a condition of approval, and that would be for the barn to remain for the purpose of storing building materials, but it would have to come down as a condition of CO for the lot that's affected and that is Lot 5.04.

David Banisch- there were some questions related to the common elements. The ridge line runs right down the common wall and it's true one half of the roof can be sided at a different time than the other but he believes that reasonable conditions can be imposed by this Board that the roof and siding always matches and any of the other common concerns be addressed.

David Banisch- noise-everybody has to adhere to the noise ordinances. A deed notification regarding what noise ordinance can actually affect, in effect that can be a reasonable condition that the Board can impose or stipulation.

David Banisch- comments from the Fire Dept. but we have to be a little realistic here about the budget for this. We have an affordable housing crisis in New Jersey - what various township committees have endeavored to do is address their affordable housing obligation primarily to protect the zoning in this town. When municipalities don't

## 18

provide their fair share of affordable housing the zoning can be challenged and affordable housing can be jammed down their throats, and so now while we have the luxury right now of being able to enforce the well ordinance it's not inconceivable that a court wouldn't view that ordinance with some degree of skepticism and perhaps some overbearance on an applicant and you may find densities well in excess of the minimum seven acre lot sizes

permitted in this town for a major subdivision at this point, so what the township committees for several years have tried to do is come up with an affordable housing plan, comply with their affordable housing obligations with your affordable housing obligations and everybody in town is carrying this weight, every town that's carrying an affordable housing obligation is carrying this weight, but he would ask the Board to be reasonable in the conditions that they would impose because there isn't a lot of money here, in fact what he needs to tell us is that over time the municipality has imposed development fee collection on new development in the township precisely to fund this affordable housing enterprise, that's so the township doesn't have to go to the taxpayer for the money. Banisch went over Master Plan-page 3-Item #5 from his letter dated 5/9/2012 and attached Ordinance No. 12-18-2004.

David Banisch- a question came up as to the design - why two (2) family. There was a lot of discussion about that, should they be individual single family detached homes or should they be attached and the thinking was that the public view would normally be accustomed to would be somewhat larger homes in a rural environment that's Kingwood Township and the general consensus was that a larger home would look more at home in the landscape than smaller homes only 1500 square feet each. This is an effort believe or not to preserve rural character and there is intention to preserve the visual integrity of the neighborhood where these homes are going. Look at the style of the home, it looks like a bungalow, the kind of bungalows that were built in this town in the early 30's.

David Banisch- there here tonight for 6 lot subdivision, use variance, density variance, minimum lot frontage, lot width, lot depth, side yard setback, minimum lot circle and minimum buildable area approval (see Banisch letter dated 5/9/12). Quoted from his letter, **page 3-#2 "Affordable housing partnership with Habitat for Humanity – 8 units duplex for-sale units on the municipality-owned Ukarish Farm (proposed)."** Affordable housing is an inherently beneficial use deemed by the courts.

Judy Kopen- she is sensitive of the time and knows that the Board has indicated that they stop at 10:30.

M. L. Haring- we actually have 5 minutes if Mr. Banisch wants to finish up what he was talking about.

David Banisch- they meet the enhanced burden of proof because it's specifically called for in the Master Plan even though it's not permitted in the ordinance. The two family attached was specifically selected so they have larger buildings to protect the character of the community. You have to consider the D5 density variance like a condition use variance. What we have here is residential housing in a residential zone. He ran through items noted on page 5 from his letter dated 5/9/2012.

L. Frank- so it's Open Space around it- not Preserved Farmland.

David Banisch- it's Open in the sense that it can never be developed.

L. Frank- Preserved Farmland is not open to the public, Open Space is.

David Banisch- this is completely different than market rate development and is a fact sensitive case.

David Banisch- yes, they are asking for some extraordinary relief here by common standards and they do believe that they have satisfied the positive and negative criteria for both the use and density variance.

M.L. Haring- has one quick question nine (9) years ago when COAH really started getting big the township had a Coah Board and at that time there was an actual count of how many affordable homes that need to be in Kingwood for us to satisfy our obligation - is there still that number somewhere.

David Banisch- the first number was 26 and in the third round they picked up another 68 which is being held in

19

abeyance by the Supreme Court right now. He thinks of the 26 they have 8 credits that they can count against it. They presently have 2-4 bedroom group homes and would need 18 to stay out of court. Right now they haven't met the 1987-1993 obligation or the 1993-1999. These units are working off of the prior round obligation.

L. Frank- is there any chance of getting a copy of this project to the Fire and Rescue Squad before the next meeting.

David Banisch- sure.

L.Frank- will the Fire Dept be able to give us a written opinion for the next meeting.

Frank Floyd/Jim Drake- sure they can.

M.L. Haring- at this time we're going to adjourn this portion of the meeting to next month, 6/13/2012, without prior notice.

P. Stepanovsky moved to adjourn this meeting until next month, June 13, 2012, seconded by L. Frank. On roll call to vote.

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

**Absent: A. Planer**

**Abstain: None**

**COMMUNICATIONS/REPORTS:**

Kingwood Township Ordinance No.- 17-01-2012, 17-02-2012, 17-03-2012 and 17-06-2012.

Kingwood Township Minutes for: 3/8/02, 2/2/12 and 2/9/12

**OPEN TO PUBLIC**

None

**ADJOURNMENT**

D. Hewitt moved to adjourn, seconded by L. Frank. All in favor. Meeting adjourned at 10:44 pm.

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