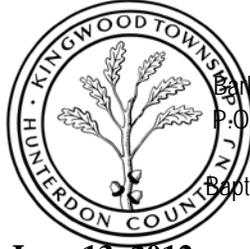


TOWNSHIP OF KINGWOOD



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
Leptist own, NJ 08803
Phone: (908) 996-4825

June 13, 2012 MINUTES

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

PRESENT:

L. Frank
M.L. Haring
B. Wilson, sec
C. McBride
J. Laudenschach

P. Stepanovsky
D. Pierce, atty
S. Rises, eng
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 King wood Township Municipal Building and filed with the Municipal Clerk. The Board of Adjustment proceedings close at 10:30 pm.

MINUTES:

Two (2) typos noted - L. Frank's name listed twice under PRESENT and page three (3) buildable spelled incorrectly. D. Hewitt moved to approve with the above noted corrections, seconded by L. Frank. 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

RESOLUTIONS:

None

NEW BUSINESS:

Hearing:

Kingwood Township – BL 19, L 5 – Continuation from May 9, 2012. Judy Kopen, township attorney, gave a recap and stated that David Banisch, planner, completed his initial testimony but due to the time constraints there was no opportunity to ask questions. Since the last meeting supplemental info has been provided to the Board. Judy also stated that she has two (2) additional witnesses-Nancy Asbury, Executive Director for Habitat for Humanity and Bill

Weisgerber, Construction Director.

D. Pierce reminded David Banisch that he was previously sworn in and remain under oath.

The following is the letter from David Banisch Associates, dated June 7, 2012 that D. Banisch reviewed for the Board:

The purpose of this memorandum is to provide supplemental information as a follow-up to the Township's public hearing of May 9, 2012 with the Zoning Board of Adjustment in connection with the above-captioned matter. We are providing information that responds to several issues that arose during the hearing, which are addressed in this memorandum and additional information for the Board's consideration:

1. Clarification of the additional variance for the barn (accessory use) for this application with suggested conditions should the Board grant approval.
2. Kingwood Township's affordable housing obligation – general information is provided regarding the Township's affordable housing obligations to provide the Board with an understanding as to the magnitude and planning complexity involved in addressing the Township's obligations;
3. Occupancy Standards & Income eligibility for an "affordable household" – this information is provided for the Board to have a general understanding of income parameters and occupancy characteristics for an income-eligible affordable household in the Habitat for Humanity program for the six subject dwellings proposed in this application;
4. Landscaping – a discussion of possible landscaping modifications took place on May 9 and a brief discussion is included in this memorandum for the Board to consider possible modifications to the landscaping that is shown on the proposed subdivision plans; and
5. Well testing information – we are aware that information has been provided under separate cover by the Township Engineer documenting well testing activities and results; however I indicated to the Board in my testimony that I was advised that well testing was satisfactorily completed in accordance with the Township's ordinance and the water supply for the proposed subdivision would not result in negative impacts on existing wells. Summary information is provided to confirm my understanding in this regard.
6. Kingwood Township Ordinance provisions, adopted in November of 2004.

1. Additional variances:

In addition to the variances listed on the plans and discussed at the May hearing, we indicated that a variance is sought to allow the existing barn to remain on proposed Lot 5.02. The request is to retain the barn on this lot for storage of materials and equipment during the construction phase of the subdivision prior to construction of the principal dwelling proposed for this lot. The barn may be removed for salvage materials or for re-construction off site, however Habitat may derive some benefit from allowing the barn to remain during the construction phase of the development. In its current location, the barn does not conform to the requirements for an accessory structure. The barn is situated in the front yard of proposed Lot 5.02 and is set

back approximately 10' from the proposed cul-de-sac (vs. 100' setback required). The barn appears to be located on lot 5.02 approximately 3-5' from the proposed easterly side lot line with proposed lot 5.03 (vs. the 30' side yard setback required). As an accessory building, allowing the barn to remain following subdivision and creation of the lots would violate §132-50.B, which states that "Accessory buildings not to be constructed prior to principal building. . ." Variances are requested to allow the barn to remain on a temporary basis, subject to the following suggested conditions:

1. Removal of the barn within 120 days following the issuance of the certificate of occupancy for the last of the six (6) dwellings to be constructed.
2. Establish an assurance (guarantee) that barn will be removed by the developer of the tract; even if Habitat, as the proposed developer, fails to remove the barn within 120 days following the issuance of the certificate of occupancy for the last dwelling in the subdivision.
3. In the event that the developer fails to complete all of the dwellings in the subdivision, maintain a requirement that the guarantee shall not be refundable so that removal of the barn is assured.

2. Affordable Housing obligation:

At the May hearing, the Board asked questions concerning the Township's affordable housing obligation, including a request for information as to the magnitude of the municipal fair share and the strategies included in the Township's Fair Share Plan.

The affordable housing obligation is established by state regulations and is assigned by the NJ Council on Affordable Housing (COAH). There are generally two components of need comprising the affordable housing obligation: (1) rehabilitation and (2) new construction. COAH has assigned municipal affordable housing obligations in three "rounds" since its creation under the NJ Fair Housing Act, which was adopted in 1986. Kingwood Township has submitted Fair Share Plans to address its municipal affordable housing obligation in each of the three rounds.

Each round includes (1) a rehabilitation component and (2) a new construction component. The three rounds are as follows:

- (1) Round one: 1987-1993;
- (2) Round two: 1993-1999; and
- (3) Round three: 2000 – 2018 (round three was initially proposed to expire in 2014. As a result of ongoing Court challenges to COAH's third round methodology for determining the fair share, the regulations were revised to extend the third round to 2018).

Round one and two are collectively referred to as the "prior round" or prior cycle. Unmet new construction affordable housing obligations from the prior round are carried forward cumulatively and must be addressed by the municipality for compliance with State regulations.

Due to a current challenge to the method used to determine the third round new construction

obligation, the Township’s actual third round *new construction* obligation will not be known until the current round of Court challenges are decided by the Supreme Court. At the present time, the portion of the Township’s third round obligation that is known with certainty include the prior round obligation (new construction) of 19 units and the third round obligation rehabilitation obligation of 11 units. All obligations assigned to the Township are listed in the table below.

Kingwood Township’s Fair Share Obligation
Per COAH’s 2008 Revised 3rd Round Rules

Prior round new construction obligation (1987-1999)		19
3 rd Round Growth Share		
Residential Growth Share	56.8	
Non-Residential Growth Share	8	
Total 3 rd round new construction growth share obligation to Year 2018		65*
Rehabilitation obligation: 2004-2018		11
Total Fair Share Obligation		95*

* Rounded

The Township’s cumulative new construction affordable housing obligation of 84 units includes 65-units of third round new construction obligation that is expected to change once the Supreme Court decides current litigation. The issue before the Supreme Court is to the method used by COAH to assign the 65-unit third round new construction obligation. The Appellate Division struck down COAH’s third round methodology as flawed. Now, it is up to the Supreme Court to determine whether COAH’s methodology should stand or be revised. The dispute is not whether there will be a third round municipal Fair Share obligation. The dispute is how that number should be assigned by COAH.

The Supreme Court challenge does not include the Township’s prior round new construction obligation of 19 units and the Township’s third round rehabilitation obligation of 11 units. Two projects partially in the Township’s Fair Share Plan address the Township’s prior round obligation of 19 units, which include:

- Existing 5-bedroom group home (5-credits) toward the prior round obligation of 19 new construction units.
- Proposed Habitat for Humanity 6-unit subdivision (6-credits) toward the prior round obligation of 19 units.

If approved, the Habitat for Humanity project and existing 5-bedroom group home will address 11 of the 19 prior round new construction obligation.

Once the Supreme Court decides the third round methodology question, a third round new construction obligation will be assigned, which the Township will have to address.

We note that Court challenges to municipal Fair Share Plans have arisen during the time COAH's methodology has been the subject of litigation. In Readington, the Court required the municipality to provide affordable housing to address a portion of its future third round obligation, even though the actual third round obligation is not known at this time.

Kingwood Township's current Fair Share Plan was adopted December 9 of 2018. The Fair Share Plan must identify realistic opportunities for the creation of affordable housing for the Fair Share Plan to gain State approval (COAH substantive certification). The Township's Fair Share Plan identifies a range of affordable housing strategies and projects to address the municipal fair share obligation as it was constituted in 2008 (a total of 84 new construction units had to be addressed at that time):

1. Easter Seals Group Home – **5-credits (existing)** group home);
2. Affordable housing partnership with Habitat for Humanity – **8-units** duplex for-sale units on the municipally-owned **Ukarish Farm (proposed)**;
3. Affordable housing partnership with Habitat for Humanity –20 units (10 for sale units; and 10 rental units) on the municipally-owned Melnyck Farm (proposed). The actual level of development will be determined based upon the resolution of a series of design options, which the Township will evaluate for the tract. These are currently in the development phase and will soon be available from private non-profit sponsor;
4. Affordable housing partnership with one or more non-profit sponsors as discussed below (2-4 four-five bedroom group homes);
5. Accessory apartment program – 10 units (maximum allowable until 10 units are inventoried). Three accessory apartments have been approved within the last calendar year – progress with this program has dramatically improved in the recent past;
6. Kingwood Park cottage – 1 unit. This unit is currently occupied by a household that meets affordability limits. The Township is requesting a waiver from the affirmative marketing requirements on this unit until such time as the current affordable household ceases to reside in the unit.
7. The ARC of Hunterdon – 4 units. This project will include two (2) two-bedroom units of housing for clients of the ARC of Hunterdon, which will be eligible for 4 units of credit.
8. Development Fee Ordinance – this ordinance authorizes development fee collections to assist the Township in providing municipal contributions needed for municipal partnerships and affordable housing projects that are listed above.
 - Residential - In accordance with the new regulations, the development will be assessed a 1.5% development fee on the increase in equalized assessed valuation (EAV) for the development.
 - Nonresidential - The Township's updated development fee ordinance requires that nonresidential development is assessed a 2.5% development fee in accordance with the Fair Housing Act amendments (**State has suspended collection of nonresidential development fees at this time**)
9. Business Park Mixed Use Affordable Housing BP/MU/AH Development Overlay Zoning Option Municipal zoning regulations will be modified to permit a total of 60 affordable rental units (approximately 60,000 sq. ft. based upon an average of roughly 1,000 sq. ft.

per unit), and continue to permit an additional 265,000 sq. ft. (approx.) of flex commercial / storage / light assembly use.

The Township decided to reduce the number of affordable housing units for the Ukarish Farm from the eight (8) units originally proposed in the adopted Fair Share Plan to the six (6) units proposed in this application.

3. Occupancy Standards - Income eligibility for an “affordable household”

On an annual basis, COAH publishes income guidelines or limits that define affordable households. The income limits are tied to the gross annual income for all persons residing in the household. The limits are set by the number of persons residing in the household. The income guidelines are published in a chart (see attachment) that COAH utilizes on a statewide basis for determinations of affordability. The incomes are based on the percentage of median income for the household according to the housing region in which the municipality is located. Hunterdon County is included in COAH Housing Region 3, which includes Hunterdon, Middlesex and Somerset Counties.

New Jersey’s “Uniform Housing Affordability Controls” (U.H.A.C.) identify “Occupancy Standards” at N.J.A.C. 5:80-26.4.(a). These standards identify affordability for family rental units, family for-sale units and age-restricted units. For a three bedroom unit for family housing, U.H.A.C. states that:

4. A three bedroom unit shall be affordable to a four and one-half person household.

COAH’s Region 3 income limits for the four and one-half person low- and moderate-income are as follows:

- The four and one-half person household low-income limit is \$53,872.
- The four and one-half person household moderate-income limit is \$86,195.

The Raritan Valley Habitat for Humanity (RV Habitat) website posts the following income requirements on their website for the Kingwood Township project consisting solely of three-bedroom units.

“To qualify for the **Kingwood** Project, your family income must be between these minimum and maximum levels, based on the number of people in the family:

Family Size	Minimum	Maximum
3	\$40,970*	\$46,620
4	\$40,970*	\$51,800
5	\$40,970*	\$55,944
6**	\$40,970*	\$60,088

* Minimum income level is higher than NJ-DCA guidelines to ensure RVHFH homeowners have enough income to meet expected financial obligations and meet the certification requirements of funding sources for the homes.

** Depending on family configuration, the 3 bedroom home may not be sufficient for a family of 6. Housing rules prohibit an adult and a child **or** a boy and a girl from occupying the same bedroom.

The upper income limit for each family size listed on the RV Habitat website indicates that all houses in the subdivision will be affordable to low-income households at the time of initial occupancy. COAH's upper limits for each household size listed above for the "low-income" household is identified as follows:

2-person:	\$41,440
3-person:	\$46,620
4-person:	\$51,800
5-person:	\$55,944
6-person:	\$60,088

The footnote regarding family configuration on the Habitat website references the U.H.A.C. rules concerning occupancy, which are listed at N.J.A.C. 5:80-26.4(c), as follows:

(c) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to

1. Provide an occupant for each unit bedroom;
2. Provide children of different sex with separate bedrooms; and
3. Prevent more than two persons from occupying a single bedroom.

For the proposed 6-unit project, RV Habitat will be acting as the administrative agent and will be responsible for the placement of families in the proposed affordable housing project in accordance with these requirements.

4. Landscaping.

Sheet 4, entitled "Grading, Drainage & Landscaping Plan" identifies a total of 28 shade trees to be planted along Union Road and the proposed new subdivision road (Ukarish Court). The plans identify: 9 – American Hornbeam trees; 8 – Green Ash trees; and 11 – Red Maple trees. All trees are specified as 2-1/2" caliper trees, approximately 12 – 14 feet in height at the time of planting.

Discussion of landscaping at the May hearing included a suggestion for planting additional landscaping (evergreen trees) along the westerly property lines of proposed lots 5, 5.02. and 5.03. This may serve to mitigate the visual impact of the new homes for traffic traveling east on Union Road from CR 519. The landscaping in this location will also serve to provide definition between the residential lots and actively farmed land adjacent to the subdivision. If the Board is inclined to add this landscaping feature, we would request that the Board allow a reduction in size of the 28 shade trees shown on the plan (from 2-12" to 2" caliper / 10' – 12' in height at the time of planting) to reduce the cost of these trees and allow for the addition of trees along the westerly subdivision boundary. The Board should determine whether this landscaping revision is desired and should be made to the plans.

5. Well Tests for Affordable Housing Subdivision

At the May hearing, I indicated that it was my understanding, based upon verbal reports to me from the Township Engineer, that well testing for the subdivision was satisfactorily completed in accordance the Township's well testing ordinance and that the proposed subdivision wells would have no detrimental impact on existing wells. I have since received a copy of a well testing review letter, dated December 09, 2010, prepared by the Township's consultant, Mr. Vincent Uhl, of Uhl, Barron Rana and Associates, that includes a series of comments regarding well testing, which include:

Under the heading: “• Aquifer Test Analysis” on page 3 of the letter:

o Water-level Drawdown Impacts:

Three of the four onsite observation wells showed drawdown impacts (OW-1, -2, -3); the shallow onsite well did not. Over the eight-hour pumping period, the pumping well drew down a total of 57.49 ft, OW-1 well – 1.66 ft, OW-2 well – 1.42 ft, and OW-3 well – 0.75 ft. No drawdown effects from the test were observed in any of the off-site observation wells.

The fluctuations in water levels match with previous use of the wells in the background test phase.

o Nitrate Dilution Model

The Nitrate Dilution Model was completed (Appendix G), as per the requirements of the Ordinance in Gilmore & Associates September 2009 Aquifer Test Plan and November 2010

Hydrogeologic Report. Their calculations show the development should not have a negative impact on the nitrate-nitrogen concentrations on and near the property.

Under the heading “Summary” on page 4 of the letter:

Drawdown impacts from the pumping test were observed in the on-site subdivision observation wells, but the pumping did not impact wells that were monitored at residential properties outside of the subdivision boundary.

These comments address three important considerations: (1) “No drawdown effects from the test were observed in any of the off-site observation wells,” (2) “. . . calculations show that the development should not have a negative impact on the nitrate-nitrogen concentrations on and near the property,” and (3) “. . . pumping did not impact wells that were monitored at residential properties outside of the subdivision boundary.” As such, it appears that well testing conducted for the subdivision indicates that the proposed subdivision can be accommodated on the subject property as proposed and that there will be no detrimental impact on wells on surrounding properties.

6. Affordable Housing Ordinance

Kingwood Township's ordinance includes the following provision found in Chapter 83, Affordable Housing, Article II, Low and Moderate Income Housing Regulations, subsection 83-11 provides the following:

Section 14(b) of the Fair Housing Act, N.J.S.A. 52:27d-301 et seq., incorporates the need to eliminate unnecessary cost-generating features from Kingwood Township's land use ordinances. Accordingly, Kingwood Township will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approval/denials on certain affordable housing developments. Kingwood Township will adhere to the components of N.J.A.C. 5:93-10.1-10.3.

This provision was adopted in November of 1994 as Ordinance 12-21-2004.

N.J.S.A. 5:93-10.1 provides that:

“5:93-10.1 Purpose and scope

(a) Section 14(b) of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) incorporates the need to eliminate unnecessary cost generating features from municipal land use ordinances as a requirement of substantive certification. In order to receive and retain substantive certification, municipalities shall eliminate development standards that are not essential to protect the public welfare and to expedite (or “fast track”) municipal approvals/denials on inclusionary development applications. In order to expedite the review of development applications, municipalities shall cooperate with developers of inclusionary developments in scheduling pre-application conferences. Municipal boards shall schedule regular and special monthly meetings (as needed) and provide ample time at these meetings to consider the merits of the inclusionary development application. The goal of such a schedule is to act on a development application within time limits approximating those outlined in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) Failure to expedite the approval/denial of an inclusionary development application shall be considered a reason for revoking substantive certification.

(b) Inclusionary developments that are included in a housing element and fair share plan have proceeded through a very public process. Therefore, the focus of municipal review shall not be whether the sites are properly zoned. Rather, the focus shall be whether the design of the inclusionary development is consistent with the zoning ordinance and the mandate of the Fair Housing Act regarding unnecessary cost generating features. Municipalities shall be expected to cooperate with developers of inclusionary developments in granting reasonable variances necessary to construct the inclusionary development.

N.J.A.C. 5:93-10.3 provides that:

5:93-10.3 Special studies/escrow accounts

(a) It is common for municipalities to require inclusionary developers to conduct special studies related to the fiscal, traffic and environmental impacts of proposed inclusionary developments. These studies are then reviewed by municipal professionals who are paid from escrow accounts funded by the inclusionary developer as a requirement of the municipal review of the development application. The Council has determined that these studies shall not be used to alter the density of sites that are part of the municipal

substantive certification. Such studies may be used to foster proper design and to determine pro-rata off-site and off-tract improvements. The Council has also determined that it is unnecessary for developers of inclusionary developments to pay for the initial preparation of such a study and for its review. Therefore, municipalities that receive substantive certification shall offer inclusionary developers the option of preparing fiscal, traffic and environmental impact studies or choosing a consultant from a list of at least six professionals (prepared by the municipality) to prepare the studies. If the developer chooses a consultant from the municipally prepared list, the developer and municipality shall rely on the consultant's recommendations.

(b) Fees to review development applications shall be estimated prior to payment of filing fees. Developers shall be entitled to review all charges against any escrowed fees and be provided with monthly accounting reports upon request.

We trust that the Board will find this information useful in its consideration of this matter.

M.L. Haring- on page 4- #5-does it mean presently there are 10 inventoried. (page 5 in minutes)

D. Banisch - there are non inventoried – non on the books.

M.L. Haring asked if a mother- in- law apartment would qualify for low income.

D. Banisch – they wouldn't (affirmative marketing - cannot be selected)

M.L.Haring – any COAH unit (1 -9) has to be approved by someone?

D. Banisch – it's based on income eligibility and it's put in a pool and selected randomly.

M.L. Haring – in the 80's when the COAH committee was created there wasn't any kind of application, so that has changed?

D. Banisch – essentially yes. The regulations were much more lenient

C. McBride (occupancy)- these limits are placed at the time of the purchase-what happens if they change.

D. Banisch – it could change – it's their house afterward s just like I make my mortgage payments and I can live there.

C. McBride- so there's no other further enforcement

C. McBride – your house doesn't have a zero setback

D. Banisch – agreed, but my house does have a non-conforming setback because it was built in 1835.

EXHIBIT A-#3 -Township Consultant prepared-off site observation wells. There were 4 test wells identified as being one at the school, house on Union Road opposite the park, Alford Lane and a dwelling on the other side of the Fire House. The Township Consultant has the say so as to whose these off site wells are.

M.L. Haring- we're trying to locate those mentioned from this map, because that's all we have to go by.

D. Pierce – what the Board is referring to is the Site Location Map Habitat for Humanity that is attached to a copy of a letter submitted by Gilmore & Associates, dated April 8, 2011.

D. Banisch – this map is based on information on USGS 7.5 topo maps of Frenchtown and are typically dated and don't include on the ground information, 1970 photo revised and probably the development didn't exist at that time.

C. McBride – he's looking at the coversheet with diagrams - and the map of Kingwood Township doesn't have Alford Lane on it.

D. Banisch suggested that he pass the exhibit around so they can see up close where these houses are.

C. McBride – tell us what the lot and block # is for the house on Alford Lane.

D. Pierce – just for the record, Tom Decker was reminded that he was previously sworn in and remain under oath.

Board members walked to the exhibit.

T. Decker, engineer, informed the Board that Alford Lane is a newer cul de sac and there is a home at the end of the cul de sac, BL 19, L 9.10 is owned by David and Nancy Young.

T. Decker – Figure 3-in the Gilmore Report shows the locations of the wells both on site and off site.

M.L. Haring asked D. Banisch about the drawdown in his report.

T. Decker – explained how they do the drawdown. There was no effect on the off site wells.

T. Ciacciarelli – what is the intervals used for the drawdown..

T. Decker believes it's a 24 hr. test.

T. Ciacciarelli – just wanted to put it into perspective.

P. Stepanovsky asked how far from the site are the wells.

T. Decker- these are approximate: **Union Road -1750'**; **Alford Lane -1900'**; **North of 519 – 2600'** and **Kingwood School – 2800'**.

P. Stepanovsky – so the test wells are beyond long distance.

T. Decker – keep in mind the area around it is deed restricted.

J. Laudenschlager – thinks the test is 8 hrs (page 7 of D. Banisch Letter) under Water-level Drawdown Impacts.

T. Decker – I stand corrected.

T. Decker – keep in mind that the Nitrogen Dilution was based off of 8 lots.

David Banisch explained what Nitrate Dilution Model is.

Five (5) minute break.

D. Banisch – noted on the well ordinance-the town has a very rigorous well ordinance.

D. Hewitt – the time frame for most of the testing of the wells were done in October 2010. Has there been any other developments in this area that would change that.

T. Decker – No-maybe a minor subdivision on Union Road, east of where the testing was done.

D. Banisch – prepared a Memo to address the negative criteria and asked if he could ahead with that from his memo dated June 13, 2012.

M.L. Haring – yes, but she had one question and that was, would the well tests that were done – would they've passed the Kingwood Ordinance as written presently?

T. Decker – they were done in accordance-Yes.

C. McBride on the Hydrogeologic Report in Appendix F-Laboratory Analytical Report – what is RIs?

T. Decker – this was done by Gilmore & Associates and he is not familiar with it.

C. McBride- the explanation is on page 4 of Appendix F.

D. Banisch – noted that in his letter dated May 9, 2012, page 5 of 6-last paragraph he states. ” The granting of the use and density variances in this case is not precedent setting. Variances are considered under the unique circumstances and facts of a case.”

Banisch Associates letter dated , June 13, 2012 - Re: Negative Criteria – Kingwood Township Board Application for Use and Bulk Variances for Affordable Housing Development on Township owned Land is attached to the Boards June 13, 2012 minutes.

P.Stepanovsky - if the township didn't take this piece of property off the whole Ukarish property this would come before the Planning Board. My problem is what you're trying to do is you're backing all these things up on wetlands, where if I had this whole piece of property I might want to have this whole development someplace else on this property, where I won't have this problem if something happens to the septic tanks or septic systems it won't be in the creek, the Lockatong, which means it would go down to the Delaware and cause problems.

D. Banisch – the standards that the septic system is going to be designed and constructed are to the modern standards and the homeowner will be given education on what it's about owning your own septic system. In the event of failure a replacement system could be accommodated on the unrestricted lot area not associated with the wetlands buffer, stream corridor buffer requirement or D&RCC.

D. Banish – he certainly understands that he (P.S.) might have different design objectives if it were his piece of property but it does provide affordable housing, and was also part of a Farmland Preservation project. This exception area was carved out by a prior township committee.

P. Stepanovsky – actually you could make it two (2)- two (2) acre lots upfront and one (1) – four (4) acre in the back on a flag lot. (total of three (3) units). It meets our ordinance of two (2) acre lots.

D. Banish – I suppose there are other design alternatives.

P. Stepanovsky – doesn't object to the well testing but the problem is septic. We have a problem with septic in Kingwood Township no matter what system it is.

D. Banisch believes the mounded system is a 20 to 25 year history of use.

P. Stepanovsky – how much failure.

D. Banisch – can't speak about that -haven't done any research on that so he can't answer that.

P. Stepanovsky – you're saying the system has a 20 to 25 year use then you should have testimony to support that.

D. Banisch – what's being proposed here is like any other system installed for a new home.

P. Stepanovsky – but there on two (2) acre lots that you can expand that system. These are on one (1) acre lots that back up to wetlands.

D. Pierce – Peter, I understand your concerns but I don't think that they're necessarily appropriate in the context of this application, and as you have indicated it might be possible to re-design this application to create three (3) conforming lots, which could be done, but there is nothing in the development ordinance that would prohibit any of those three (3) lots from putting a septic system in the same location where any of these systems are being proposed, there's nothing in the ordinance that would regulate the placement of those systems and they are allowed to be placed within a certain range of the wetlands under state law and we don't have anything that restricts that further and don't think that this Board can impose a more stringent condition because it's no different than any other residential development. The question whether a mound system is adequate or will function that's beyond the jurisdiction of this Board, that's the County Health Dept and the DEP with respect to approving those types of systems and they've approved them. He understands Peters concerns but don't feel they're appropriate to take into account in the context of this application.

M.L. Haring – I think one of the concerns that we're talking about is on this particular amount of acreage and six (6) individual sand mounds. If this was one home on two (2) acres or more you have options as to where you can re-locate a failed septic, where are the options on these six within this small amount of acreage – that's the concern, as well as, it's within the 100 yr. flood plain.

T. Decker – with regard to the septic, all the testing was done in accordance with the current regulations but the regulations have been revised as of April of this year so they have become more astringent than they were four months ago. There are additional features required within septic tanks to prevent overflow of solids into the fields and newer alternative corrective devices that can be put in for failed systems. The septic fields are not within the 100 year flood plain. The existing is in the 100 year flood plain and that system is being removed. They are clear of the wetland buffer and not seeking any waivers from DEP to install septic within the flood plain. The fields do comply with the county, state and local regulations.

D. Pierce – correct me if I'm wrong, but in prior testimony you did indicate that there are other areas where a new system could be built if one of the proposed fails.

T. Decker – that's correct.

T. Ciacciarelli – you're not seeking a variance.

T. Decker – we're not seeking any variance related to septic or well.

D. Hewitt – this is not related to septic but since the construction official is here tonight, at last months meeting there were some questions about fire issues between the two (2) residences and if there was a firewall.

D. Banisch – would you like to finish up with me first.

M.L. Haring – are there any more questions of Mr. Banisch from the Board.

M.L. Haring – any questions from the audience.

Richard Hill – Mr. Banisch you really worked hard and so did you Mr. Decker but I don't agree with everything. Where is the savings in a duplex as opposed to single houses-can you explain that?

D. Banisch – he would prefer a construction expert do that but he can guess that sharing the common wall would be a cost savings. He would have to refer to habitats construction guy to give more information.

Richard Hill – what if the Board says this isn't happening , what are the ramifications that you know of.

D. Banisch – first of all he don't know what the town would do. Six (6) units of Affordable Housing - six (6) of the nineteen (19) that we know exist, as the obligation today, will not be built, these six (6) on top of the five (5) bedrooms that are counted , with one existing group home in town are eleven (11) credits toward that nineteen (19) unit prior round obligation, so we still would be back to the five (5) units making no progress toward responding to our Affordable Housing obligation, setting aside what the 3rd round number would be.

Richard Hill - can the state make us do something?

D. Banisch – the obligation is essentially comprised of three (3) pieces-prior round obligation nineteen (19) which is not subject to court challenge, on top of that there is a 65 obligation for the third (3rd) round and that number we are uncertain about and until they rule we won't know. These six (6) are going toward the prior round obligation.

D. Banisch – the presumption of validity that attaches to your zoning is removed if you don't comply.

Richard Hill – can you tell me in Kingwood Township or any other township in Hunterdon County where they're presently building duplexes where sewage and water supplies are not available.

D. Banisch – can't tell you anything that I'm aware of currently under construction.

Richard Hill – can you tell me how many duplexes exist in Kingwood Township at this time.

D. Banisch – Don't know.

Richard Hill – can you tell me how many McMansions exist in Kingwood Township as opposed to 2,000 sq ft. houses or ranch houses because in your explanation you said that you are trying to keep in tune with what exists in Kingwood and from my observation everything new is a McMansion type large house and he believes the majority in Kingwood are smaller. Can you tell me when these houses are combined what percentage of existing in Kingwood does it really represent.

D. Banisch - can't answer that.

Richard Hill – can you tell me how many houses don't have garages or places to store lawn mowers to cut one acre properties.

D. Banisch – can't answer that question as well.

Richard Hill – can you tell me in Hunterdon County that have clustered homes in the past, how much open space and is this open space really open space available to these people or is it being farmed.

D. Banisch – it's a misnomer to call it open space because it's really preserved farmland, and it's preserved for the purpose of active agriculture in perpetuity on the site. The residents would have to go to the park like the rest of us to enjoy open space.

Richard Hill – it's his experience in Hunterdon County that when we cluster homes and there's two things missing, is the open space available to the people that purchase these properties and retention ponds. I've noticed that the water is going to be channeled directly into the creek

Richard Hill – now every time he builds in Hunterdon County when he is taking space that would soak the water in and everything– the runoff water was not allowed to run directly into a creek. Can you tell me of any other places in Hunterdon County where we let that run directly.

T. Decker – he'll field this question. Every site is judged on its own merits. With regards to this site we've done a storm water management report which has been submitted to the town, Bayer-Risse who is serving as the alternate engineer for the Board of Adjustment has reviewed it and to his knowledge everything has been found satisfactory. In this particular case they have existing improvements on this lot, existing driveway, barn, home, which all have an impervious value to them. A good portion of this lot is currently farmed with row crops. When you do the storm water analysis and you're taking row crops and going to permanent vegetation such as lawn, you improve the ability for water to infiltrate the ground. They are removing the existing impervious that is there now and proposing new impervious. The roadway is going to be constructed of pervious pavement to allow for infiltration into the ground. The net impervious and the amount of total impervious that they are adding to the site is less than a quarter acre. Based on current Kingwood Township Ordinance and the state requirements if you're below a quarter of an acre of additional impervious you do not need to provide water quality treatment. D&RCC requires any impervious that you put in, (he believes over 800 sq. ft.), requires treatment which is why they have the pervious pavement for the cul de sac because D&RCC required that. Roof run off does not have to be treated because it's considered clean. The driveways are stone. With regards to water quantity they are not required by the town or the state to satisfy water quantity. By way of converting the row crops to grass they have improved that. They have done the calculations and based on current state standards and the Township Ordinance they do not have an increase of run off from the site. The discharge is the same that currently exists on the site.

D. Banisch – explained to Richard Hill Open Space and cluster sub divisions.

Richard Hill – it's not required but it's usually practiced-is that correct.

D. Banisch – can't speak to that.

Richard Hill – who is responsible in this building situation?

Judy Kopen, township attorney, habitat representative could address that situation.

Nancy Asbury, executive director for Raritan Valley Habitat, was sworn in and informed the Board that they would be the developer and mortgage holder and if a bond is required they would put one up just like any other developer would. They are responsible for any issues that may come up. The homeowners have a one year warranty.

Richard Hill – when he went to the building and looked at the variance and paperwork he found an original drawing with different lot separations. Are you aware of that?

D. Banisch – they had some different concepts that were reviewed before the final subdivision.

Richard Hill – these were individual houses and not duplexes. You didn't follow up on that and did what the Board recommended -the duplexes?

D. Banisch – it's the towns decision.

David Pierce – asked everyone if you're going to have a comment or respond to a question, you need to be sworn in, and we need to have your name for the record.

Richard Hill – have you taken into consideration the location between two very high usage water supplies in Kingwood School and the Fire House. Did that weigh any decision on what you're going to build here?

D. Banisch – can't say personally it has, they relied on the well testing which showed no negative impact.

Richard Hill – are you aware of the problem at Kingwood School when their septic failed and effluent was running over the floor.

D. Banisch – remembers the situation a failure being reported.

Judy Kopen – counsel – she would like to indicate, certainly we're here to respond to any appropriate comments or questions but believes some are out of the range of this particular project and she would ask that they be limited in that regard.

D. Pierce – I understand your objection and will ask the witness to ask specific questions with regard to this application.

Richard Hill – I will but.....

D. Pierce – Mr. Hill this is the time to ask questions and you will have the opportunity to present your testimony and objections later.

Richard Hill – Mr. Decker brought up the D&R buffer zone, he looked at the drawings and it seems to touch every lot and three of the lots closest to the creek look more than 50%. What's this D&R buffer zone and you talked about getting some type of relief – can you explain?

T. Decker – referred to **EXHIBIT A-2**. D&RCC requires a 100 ft. buffer from the 100 yr. Flood plain. D&RCC uses the 100 ft. measurement to keep the average amount of improvements out of and they have a provision in their regulations that allow you to average that buffer, much like wetlands has for a wetlands buffer. In some areas they do average that buffer back – behind the septic that buffer is not an environmentally sensitive area. It was the D&RCC that had to be averaged and that only affects proposed Lots 5.04, 5.05, 5.06 and does not affect 5.00, 5.02 and 5.03. The averaging was actually suggested by the D&RCC when they met with them.

Richard Hill – what does the buffer mean that you're not allowed to build on it. Is it a regulation, a law or a suggestion type thing.

T. Decker – the D&RCC does require a buffer from the 100 year flood plain and in their regulations they have a provision as to where that buffer can be averaged and they're utilizing that provision within the regulations.

Richard Hill - is this a formal request-is there a form?

D. Pierce – the D&RCC has jurisdiction over this issue, it's required under state law, this Board has no authority to require any deviation from anything that the D&RCC would impose or require with respect to this application.

Richard Hill – how does the procedure work-these variances will be granted.

D. Pierce – Mr. Hill you have indicated that you develop homes.

Richard Hill – I didn't say that.

D. Pierce – you've stated, I believe, that you build homes.

Richard Hill - he builds barns.

D. Pierce explained how the variance approval process works. He informed Mr. Hill that he is being deliberately obtuse on this issue and trying to drag this out . It's been explained by Mr.Decker once and explained by him now and will not approve any additional questions about the approval process.

Richard Hill – he was not being obtuse he just wanted to be educated because he didn't know. I'm sorry.

Judy Kopen – believes there was a question asked by a Board member for the construction director.

D. Hewitt – believes there was some discussion ,at last month meeting, about some fire issues and a fire separation wall between the two units. He believes that's a code requirement but wanted to hear that in testimony.

Bill Weisgerber, construction director, was sworn in. You are correct the code and the architect design to the building code will require a fire separation wall. They have one in Lambertville under construction now with the same fire separation wall, on 84 York Street if anyone would like to go see that. He noted that someone had mentioned sound and they install very thick gypsum board which has a very high density. Wall sounds are dampened quite a bit.

D. Hewitt – what's the advantage of having them as a duplex as opposed to a single.

Bill Weisgerber – the other gentleman asked about the cost considerations. That wall is very expensive. He would argue that they may be able to build a separate house for nearly the same amount of money here and in Lambertville it's using the lots in a way here aesthetically to make a building that's more in keeping with the size of the community. They understand that the zero lot line is unusual for you guys here. What it does is instead of having six (6) – 1100 sq. ft. homes, you will have three (3) 2200 to 2300 sq. ft. buildings so when driving by in this rural area you'll see three (3) rather than six (6) homes. It was more of aesthetic planning and use of the land here in keeping with what Kingwood Township has. In Lambertville the zoning allows for that. As far as cost, it would be hard for him to prove that it would be cheaper because that wall system is really expensive.

T. Ciacciarelli – but there is a cost consideration of course.

Bill Weisgerber – it's really more in timing. They would be able to complete two units in the time it would take to complete one and would be able to have two units available instead of one.

D. Hewitt – do you have any other ideas for the barn other than storage.

Bill Weisgerber – having this barn here sort of per-mobilize get the generators down there and equipment there that they are going to need first, and having a place to keep it is very advantageous to them.

L. Frank – our Fire Dept. had some concerns.

F. Floyd, sworn in, stated that the concerns they had were for construction, they just explained it and obviously they

will have to adhere to the building codes. Some of the other concerns they brought up last month really don't belong for this application but belong in front of the Planning Board to address our overall ordinances. Speaking with their officers that's where they're going to head with those concerns specifically the dry hydrants, which Mr. Banisch had a concern about the cost. The driveways are good, the trees are kept back, they have the firewall and personally as a property owner, our concern was with their (Fire Dept) well. The well at the Fire Company pumps 100 gallons per minute so they believe they would have no issues. His concerns at this point are addressed.

M.L. Haring – is there anyone in the audience that has any questions.

Richard Hill – has anyone thought about a homeowners association for this, is that a viable thing. He remembers one of the Board members mentioning about doing a roof and they could be different colors. In Raritan they have homeowners associations so that doesn't happen.

Nancy Asbury – Habitat for Humanity does not do homeowner associations. When these are built both units will have the same siding and roof color.

No questions from the Board.

Judy Kopen – if there are no other questions she would like to conclude that this property is uniquely suited for Affordable Housing as evidenced by the history of the property acquisition in the townships Master Plan, you heard testimony in that regard, heard testimony that this is an inherently beneficial use and thereby satisfies the positive criteria, heard testimony that requested relief can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zoning ordinance, you've heard testimony about the special reasons that the proposed use is inherently beneficial and the benefit of the project outweighs any potential detriment and we would ask that the township grant preliminary and final subdivision approval with the requested variances.

M.L. Haring – is there anyone in the audience that has any testimony to give.

Richard Hill, sworn in, he doesn't want to lose Habitat for Humanity and wants low income housing in Kingwood. The well situation has been well addressed. He's really concerned about the septic system because of the problem they had at Kingwood School and he don't know if they resolved that because he saw them digging. It's the first time we've clustered things and we really have to look at it closely. This D&R buffer zone worries him. He knows counsel was angry at him for asking questions, but he didn't know if you guys know because he didn't know, honestly. I'm worried, I plan to live in Kingwood a long time and I'm worried if one of these systems has a problem, I don't know I'm really concerned about it. We have zoning regulations for a reason and we're asking for six variances, and an adjustment on the buffer zone and still we haven't met out requirement but he doesn't want to lose this. He thinks a homeowners association and don't know if Kingwood would want to get involved in it, because right away nobody is gonna do anything, but after 30 years and the deed restrictions are up or whatever, he's seen houses in duplexes where people put weird things on their things, on one house or the other. Don't know if we can make zoning regulations or if a homeowners association, maybe not monies but voting rights on everybody making a decision on colors and things like that. He wants them to look just like they were now. Where all thinking about now, what happens when are kids are living here. Just because he has a different opinion than some of the professionals here, it don't mean that he doesn't respect them and he was asking questions because he cares about Kingwood Township. Thanks.

D. Pierce – Mr. Hill, I certainly meant no disrespect to him by his prior remarks but would like to address your comments on a homeowners association. Typically in a development a homeowners association is required when there are substantial common elements amongst all the unit owners, such as a detention pond or drainage easements, things like that, in this case the only common element is limited to each duplex and the common wall on the roof so it would not be appropriate to have a homeowners association because that creates dues and other obligation, but and he appreciates his concern, that even after 30 years these duplexes should still look like, from the exterior, a single family home. The siding should match in terms of color and style and they shouldn't have a different roof system or

structure. The Board can impose a condition to make that a requirement that each duplex be subject to a maintenance agreement between the two owners of the units, such that they are required to maintain the same style and color of siding and roof. The Board can take care of that concern by imposing an appropriate condition and that would be recorded with the deed and be binding upon any successor owner of that property.

C. McBride – I just want to make a statement Mr. Hill said that the titles of these restriction, I'm missing the right word. I thought we had discussed last month that it's not expiring.

D. Banisch – these affordability controls remain in perpetuity-they do not expire.

Nancy Asbury – there have been differences based on the community that they're in. The municipality can require them to have those deed restrictions on in perpetuity. There are deed restrictions that vary from community to community and the projects that they've done and also based on some grants, we have certain grants that require certain restrictions anywhere from 5 to 30 years in perpetuity.

M.L. Haring – when Mr. Banisch was talking about income requirements and you have a family of four, husband, wife and two kids and the kids grow up and move out and now you have a family of two - is that still okay?

Nancy Asbury – the way affordable housing works is that the families are income qualified at time of purchase, so when a family signs a purchase agreement with us that's when we do the income qualification and they've seen sometimes that family size changes. The only thing that might change is if prior to purchase the family becomes disqualified because their income drops too low for them to be able to afford the home. Their hope is that the families do better over time.

M.L. Haring – are there any other habitat developments located around preserved farmland?

Nancy Asbury – don't think there are any right now.

M.L. Haring – wondering how do you keep the kids out of the fields.

M.L. Haring – as the kids grow up and with ATV's and then what happens -can this become a gated community to keep the kids out of the fields. This is very real, look at those maps that's all you see is farmland actively farmed all the way around.

Judy Kopen – I understand your concern and if it becomes a concern the township can draft ordinances and be controlled by the township.

M.L. Haring – another issue is traffic- a family of four and one reaches seventeen.

Nancy Asbury – remember we're talking about a family within a certain income bracket where habitat sells to families that make 30% to 50% of the area median income. Most of the families about 80% are single moms with kids. They drive one car and she don't know of any family now that have cars for their children. These families are making any where's from mid 30's to 40's in terms of their annual income.

C. McBride – I have a question - this is a little different than the units that you're building in Lambertville where you have to go seven miles to do anything and have to drive to the school, the high school. This is a much different environment and it takes twenty minutes to get anywhere in this township. I don't think you can make that conclusion that they might only have one car or two cars.

Nancy Asbury – I make that conclusion based on their income.

Nancy Asbury – would like to make one comment, addressed to you Mr. Hewitt, you had some questions about the barn. She had a local architect from Warren County, who does preservation, look at the barn. He would like to take a picture before it's demolished so there's a photographic record of the history. He said it was quite an interesting structure although not viable to be moved anywhere. We would like to contribute to Kingwoods historic record.

D. Hewitt – that would be great.

Nancy Asbury – he said that there are some things about the barn that seem to be unique.

M.L. Haring – does anyone have any testimony from the audience.

M.L. Haring – anyone from the Board.

D. Hewitt – has just one other concern, in the plantings he noticed there were ash trees planted or recommended, maybe those species could be changed - he understands that there could be trouble in a couple of years, the ash bore is moving our way.

D. Banisch – yes, we can do that with a more traditional shade tree.

M.L. Haring – if there are no other questions we'll move to close the hearing.

P. Stepanovsky – this piece of land he's very familiar with because it used to belong to his cousins. There is quite a bit of wetlands and even though the wetlands are down in the pastures and everything else most of the fields are wet. His concern is if the septic do fail on the bottom side they are close to the creek and if not handled properly we could have effluent down the creek. Kingwood Township has always had two acre lots and the reason is because of perc. He could see the concern for Affordable Housing but can't see this property is the proper place for it. He believes that there are other places in Kingwood Township that would be better suited.

J. Laudenbach - he knows the lots are small but the farmland buffer makes up for it. The well test is sufficient in water-everything is good. Its' very important to the towns COAH obligation to get their numbers in. He's in favor.

D. Hewitt – tends to agree with Jim he's in favor of it. The design stands well, he looks at what was on the original site and thinks it's actually going to be an improvement. All the bases are covered and the septic systems are going to be designed to present day standards, there's ample water and there's a lot of property around them. He would favor the project.

L. Frank – he agrees they covered all the bases. They did their homework and it looks good to him. He has no problem with it and feels it's a nice project.

T. Ciacciarelli – same thing-projects like this enhance the township. Applaud the application.

C. McBride – the only concern he has is the D&RCC buffer that puts these, not so sure what those restrictions are and you have one of the lots that's going to be almost 60% to 70% covered by that preservation area and he don't know what that means, it can't be planted, it can't be mowed, it goes all the way out to the cul de sac. If it's supposed to be natural vegetation you're planting trees on it, you're already contradicting yourself. I don't know if they'd sign off on that and I know that has to be a condition. That's the only thing that concerns him about this.

D. Pierce – he can address that. It's not a prohibition against any use of the area or any change of the area, like wetlands restrictions are. It's simply a prohibition on building any new structures in that area, so you couldn't put your tool shed or garden shed there, but you can still use the area, you can still plant it, that would enhance the buffer by creating additional vegetation to retain moisture and runoff. Its not a prohibition on use or mowing but a prohibition on erecting additional structures in that area.

C. McBride – does that include density.

D. Pierce – I don't know. I would suspect it doesn't, but again that would be within the D&RCC jurisdiction.

M.L. Haring – I support Habitat for Humanity and appreciate what the township is trying to do. I really think there's a better location that they could find for this. She would prefer to see six individual homes instead of the three. She sees problems down the road with people agreeing with six families on 7+ acres. Again, it's beneficial to the township because it satisfies six of our obligations to COAH but it goes against the heart of our ordinance. I just can't support this location. It's too close to the creek, it's too close to the 100 year flood plain. That's how I feel.

M.L. Haring – we need someone to make a motion.

C. McBride – before we do that could we have a list of the conditions.

D. Pierce – before I get into all the different conditions, one of the items Mr. Banisch raised was whether the Board wanted to see any additional landscaping on the western side of the property. It doesn't appear that that is an issue that the Board is concerned about.

D. Pierce – conditions for an approval are as follows:

- 1. The D&R buffer area would include the conservation easement.**
- 2. Receipt and submissions of all freshwater wetlands and storm water permits by NJDEP necessary for the project.**
- 3. Receipt and submission of unconditional approval from the HCPB.**
- 4. Receipt and submission of unconditional approval from the D&RCC.**
- 5. Preparation, review and approval by the Boards professionals and recordable with deeds of a common wall and roof maintenance agreement that requires that the siding and roof stay matched in terms of style and color in each individual unit.**

C. McBride- objects to that.

D. Pierce – whoever makes the motion can determine what conditions they want attached to the motion.

- 6. Homes to be permanently deed restricted to low income housing.**
- 7. Barn removal 120 days after completion of the last house or two (2) years from the last CO issued.**
- 8. Applicant submit an estimate of the removal of the barn subject to approval by the Boards engineer.**
- 9. Substitute another species for the Ash trees subject to approval by the Boards engineer.**
- 10. Submission of approval of all septic designs.**
- 11. Bond posted for the cost of removal of the barn.**
- 12. Install snow fencing (silt fence) prior to construction.**
- 13. Install conservation easement markers.**
- 14. Prior to CO issuance-the applicant shall prepare and file photographic documentation of location and baseline condition following completion of construction of the conservation easement areas located on that lot.**
- 15. Receipt and letter from the Township Assessor approving the proposed lot numbers.**
- 16. Name designation for the proposed street from the King wood Township Historical Society.**
- 17. Applicant provide documentation of removal of existing septic and underground tanks before the issuance of a building permit.**
- 18. Submission of deed of conservation easement for review and approval and recording and filing of plat for final subdivision.**
- 19. No permanent entrance or subdivision ID sign.**

****The rest are all standard conditions related to subdivision or variance.**

T. Ciacciarelli – the siding and roof are you suggesting that be an enforceable covenant with the deed.

D. Pierce – yes.

M.L. Haring – we need a motion.

D. Hewitt made a motion to approve this application based upon the aforementioned conditions , seconded by T. Ciacciarelli. On roll call to vote.

D. Pierce – just wanted to remind the Board before we go to roll call- this is a use and density variance, a D variance, and in order to approve five (5) affirmative votes will be needed.

C. McBride – could we then re vote on it if we change a condition?

D. Pierce – Yes.

C. McBride – I will note vote for this with the siding and roofing condition.

Board members had no problem with amending that in the condition mentioned (#5).

D. Hewitt amended his motion with not to require deed restricted that they would conform to existing roof and siding being the same, seconded by C. McBride.

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

Nay: P. Stanislavsky, M.L. Haring

Absent: A. Planer

Abstain: None

MOTION CARRIES

COMMUNICATIONS/REPORTS:

Alexandria Township - 2012 Periodic Re-examination Report & Land Use Amendment to the Alexandria Master Plan

Franklin Township - Ordinance 2012-04 to amend, revise and replace Article 17.1.9 of the Franklin Township Land Use Procedures Ordinance for applications, and requirements for New Applications after substantial change.

OPEN TO PUBLIC

C. McBride – did we have to postpone the tower application.

D. Pierce – that was postponed until July but I doubt they will appear in July. The Board may want to consider at that point whether they want to grant another extension or tell the applicant to file another application.

Elaine Niemann, mayor – wanted to say how grateful we are to the BOA for it's careful deliberation of this application and having the courage to express disagreeing opinions and for making the work of the township go forward.

ADJOURNMENT

D. Hewitt moved to adjourn, seconded by J. Laudenschach.. All in favor. Meeting adjourned at 10:30 pm. The next meeting is July 11, 2012.

**Barbara Wilson
Secretary
Board of Adjustment**