

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT**

**April 10, 2013
MINUTES
7:30 PM**

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

PRESENT:

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

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

ABSENT:

None

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:

Correction on page 2, under **Monthly Meeting Dates**, remove C. McBride from voting – NAY and add C. McBride to voting AYE. On page 2-3, under **Newspaper**, remove C. McBride from voting AYE and add C. McBride to voting NAY.

D. Hewitt made a motion to approve the January 9, 2013 minutes with the above noted correction, seconded by P. Stepanvosky. On roll call to vote.

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

Abstain: None

Absent: None

The February 19, 2013, (Joint Planning Board and Board of Adjustment meeting), was approved with a motion by J. Laudenbach, seconded by D. Hewitt. On roll call to vote.

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

Abstain: None

Absent: None

RESOLUTION:

Annual Report of Variance Applications

D. Pierce noted two (2) corrections- third paragraph, first sentence, delete the word special and on the second sentence change five applications to four applications.

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, P. Stepanovsky, D. Hewitt,
T. Ciacciarelli, M.L. Haring, A. Planer**

Abstain: None

Absent: None

NEW BUSINESS:

Determination of Completeness:

Delaware River Tubing, Inc. - Use Variance application-BL 50, L 9

Michael Hoffman, from the law firm of Lanciano & Associates, appearing on behalf of the applicant; with him tonight is Mr. Hardcastle an associate with the firm, the applicant representative and Mr. Risse, engineer.

Mr. Hoffman informed the Board that it's his understanding that the application is complete with one caveat that a traffic report be submitted in writing as soon as possible, but no later than 14 days before the actual presentation of the variance. That is from a conversation between Mr. Risse and Mr. Decker.

Tom Decker, Boards Engineer, issued a review letter dated April 4, 2013 basically reviewing the submission and at the time the application was submitted it was for the use variance and it was reviewed for completeness for the use variance. There were three items that he noted, page 2-**Item # 6** (received a signed and sealed copy which satisfies that). Page 3-**Item # 19** (need to brush hog to see if there is any well or septic existing on the property) Mr. Decker is okay with that. Mr. Decker stated that for the purpose of the use variance the Board could grant a waiver for completeness purposes at this time. The 3rd **Item # 25**, page 3 – This is a bit of a unique application in that the location that they are proposing to use is an off-site location from their main operations and is going to serve as a drop off for their patrons. A traffic report needs to be submitted 14 days prior to the meeting.

Michael Hoffman, attorney, informed the Board that there was a single document excluded from their submission and they are looking for site plan approval along with the variance and has been provided at this time along with a checklist item that was missing and has been provided. They will address all the conditions that the Boards' engineer has asked them to address.

T. Decker, Boards' engineer, stated that that is the case and one thing that the applicant wasn't aware of is that in February the Township adopted an Ordinance (Ordinance No. 17-02-2013) pertaining to threatened and endangered species and environmental impact assessment. That ordinance added three items to the checklist which are not on the checklist located on the website. It's Items # 18, 19 and 20 under administrative. #18 is a Threatened/Endangered Survey Data, #19 is a Statement of Environmental Impact and Assessment and #20 is Threatened and Endangered Species Investigation. Given the nature of this application T. Decker would not have an objection to the Board granting waivers from those items for completeness purposes so we can move things along and if the Board finds during the public hearing process that they need any of that information they would still be within their rights to ask for that.

Mr. Hoffman, attorney, we're waiving an environmental report that otherwise would be required by virtue of this ordinance that the township has passed, although the issue may arise during the presentation of the application and the Board may have in that regard. Mr. Hoffman asked if he could have one minute to speak with their engineer. They are requesting a waiver but will engage a professional to address that ordinance and its requirements in writing and serve that, if possible, 14 days prior to the hearing on May 8, 2013.

D. Pierce stated that there is one other item needed and it's Administrative- we have an Ownership Disclosure for Ryms, LLC, property owner, but we will need an Ownership Disclosure for the applicant, Delaware River Tubing, Inc.

Mr. Hoffman, attorney, stated he will provide that by Friday.

D. Pierce stated that they would simply make that a condition to be provided by the next hearing -make that recommendation.

Mr. Hoffman, attorney, stated that he will take care of the escrow tonight with the Boards secretary.

Anthony Planer stated he's not sure why the recommendation was made to forgo that environmental report for now. They seem to be willing to satisfy that and he's not sure why we're waiving that.

D. Pierce stated that the waiver is simply for purposes of making determination as to whether or not the application is complete for purposes of proceeding to a hearing on the application. Granting a waiver for completeness purposes simply means that the applicant does not have to satisfy that prior to the hearing but the Board has the right, at the hearing, to request information on that issue and the applicant has indicated that they will attempt to do that even in advance of the hearing. The whole purpose of a waiver for completeness purposes is basically to streamline the application instead of making the applicant wait another month, come back in May for another completeness determination and then have a hearing in June. This way the applicant is able to begin their hearing in May and if the Board requires additional information that has not been provided by that time the hearing can be carried to June. but instead of punishing the applicant for a requirement they had no notice of and it wasn't on the online ordinances- the checklist which hasn't been amended yet or printed to contain those new requirements. The recommendation for a waiver for completeness purposes is intended to treat the applicant fairly and equitably.

Mary L.Haring asked David or Tom- We have received numerous packets for this applicant when there was different subject matter-Are we not addressing those issues and working on what's in front of us now?

David Pierce, that's correct. This is an entirely new application and the older application materials are immaterial and should go in the trash and not be considered.

P. Stepanovsky asked David Pierce if the part where they stage everything is part of this application.

David Pierce stated that at this time the application deals only with the location along the river, the Industrial Gas Site. The parking at the Roller Rink is not part of this application and it's not the Boards function to enforce the ordinances and compliance of the ordinances for that operation. The applicant has made representation that they have an agreement with that property owner to provide parking through the end of this season. He would recommend the way the Board handle that issue is that any approval that is given, if an approval was given, that it be limited to and tied to the provision of adequate off site parking. Obviously there is no parking available at this site and so unless the applicant provides information documenting parking arrangements, satisfactory parking arrangements beyond the season, the only relief the Board could give would be a variance that is limited in time for the duration of this season and if the applicant receives an approval the applicant would have to come back to the Board for an extension of that approval showing adequate off site parking.

Mr. Hoffman, attorney, if it pleases the Board they can ask their traffic professional to speak to all flow of traffic in their report.

M.L. Haring-are there any other questions from the Board.

D. Pierce noted that first we need a motion for the waivers for completeness purposes only on Variance application Checklist Item #19 and for completeness purposes only on the Site Plan Checklist Items # 18, 19, 20.

David Hewitt made a motion to grant the waivers, noted above, for completeness purposes only, seconded by C. McBride. On roll call to vote.

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

Abstain: None

Absent: None

C. McBride made a motion to deem this application conditionally complete subject to the applicant providing a Traffic Report not less than 14 days prior to the hearing and a Ownership Disclosure for Delaware River Tubing, Inc., seconded by J. Laudenschach. On roll call to vote.

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

Abstain: None

Absent: None

M. L. Haring stated that the hearing date is May 8, 2013 and the submission date is April 24, 2013.

C. McBride asked if they could put documents on a USB drive so that we can put it up on the screen for a better presentation.

OPEN TO PUBLIC:

Diana Evans approached the Board wanting to make comments regarding the Delaware River Tubing application and was informed by David Pierce that she will have the opportunity to do that at next months hearing.

David Pierce asked if the Board remembered the Oakes application and mentioned a variance application that Donald Trump submitted for a helipad. The application for variance was denied by Colts Neck Township. Donald Trump went to the Department of Transportation Division of Aeronautics and was approved.

After discussion the Board members recommended that Barbara Wilson write a letter to the Township Committee stating the following: "The Board of Adjustment wishes to recommend to the Township Committee that the ordinance on air strips be researched and modified to include the definitions and provisions for helistops, helipads and heliports and also set a minimum lot size for helistops, helipads and heliports."

Motion by P. Stepanovsky, seconded by D. Hewitt. On roll call to vote.

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

Abstain: None

Absent: None

COMMUNICATIONS/REPORTS:

Kingwood Township Minutes: 11/12/2012, 12/17/2012,2/7/2013

Kingwood Township Ordinance No. 17-02-2013

BRIDGE-Delaware Township Newsletter

ADJOURNMENT:

D. Hewitt moved to adjourn, seconded by L. Frank. All in favor. Meeting adjourned at 8:23 PM.

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

