

**KINGWOOD TOWNSHIP  
BOARD OF ADJUSTMENT**

**DECEMBER 10, 2014  
MINUTES  
7:30 PM**

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

**PRESENT:**

D. Hewitt	C. McBride
M.L.Haring	C. Ostergaard, alt
P. Stepanovsky	J. Laudenbach
B. Wilson, sec	T. Ciacciarelli
D. Pierce, atty	L. Frank
T. Decker, eng.	

**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:**

The November 12 , 2014 minutes was approved with a motion by J. Laudenbach, seconded by D. Hewitt .On roll call to vote.

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

**Abstain: L. Frank**

**Absent: None**

**RESOLUTION:**

None

**NEW BUSINESS:**

Ken Johnson – Bl 12, L 9 – Application for a Certificate of Non-Conformity.

The applicant, Ken Johnson , was sworn in by David Pierce. Mr. Johnson informed the Board that after 42 years in the auto body business he would like to retire. He has a buyer and is asking permission to continue the business and rental (since 1983) on the property. He usually has long term tenants.

D. Pierce explained to the Board that the proceeding this evening is for an application for a Certificate of Non-Conformity. The MLUL provides that whenever there's a non-conforming use, a use that has been rendered non-conforming by an ordinance adopted by the township which is the case in this instance because the ordinance prohibits auto body shops that were not in existence as of a particular date and does not permit

single family dwellings in the HC Zone. The property owner or contract purchaser or anyone else with an interest in the property can make an application to the zoning officer or certificate that demonstrates that the use is a non-conforming use or verify that it's a non-conforming use, pre-existing non-conforming use and can be continued in the same operation without change in a lawful manner, and it's not subject to being shut down or violations just because it exists. That application to the zoning officer has to be made one year from the adoption of the ordinance that rendered it a non-conforming use. The one year has passed and the MLUL says that any application beyond that time frame has to come to the Board of Adjustment. Basically, what we have to look at here tonight is if the use in question existed at a time prior to the adoption of the ordinance to make him unlawful on that property.

David Pierce stated that he thinks he can make it easy for the Board and Mr. Johnson by a few questions.

David Pierce asked when the property was purchased and was told in 1972. He asked what improvements were there when he purchased it and was told half of the body shop- the other half was put up in 1979. He was asked if the house was existing and was told that it was. Mr. Johnson has presented evidentiary/written documents showing that he has been operating the business since 1973. The thing that is important is when the zoning ordinance made these uses permissible. The Kingwood Zoning Ordinance itself was first adopted in 1979, so these uses the residential dwelling on the lot and use of the lot for an auto body shop pre-date the zoning ordinance., so they qualify for pre-existing non-conforming uses. Essentially that's the essence of the application.

David Pierce informed the Board that they would need to adopt a Resolution. He understands that Mr. Johnson is anxious to get a closing date set. David Pierce wasn't sure it was going to be this easy and straightforward and if the Boards in agreement and adopts a motion he can prepare a resolution rather quickly that's read in and the written Resolution can be signed by M.L. Haring and the Board Secretary..

M.L. Haring – Does anyone have any questions?

Tom Decker stated that there is a grandfather provision in the ordinance and he states in his letter dated December 1, 2014, page three (3), second paragraph - *“it is our opinion that the existing use is grandfathered as provided for in 132-6F and issuance of Certificate for an existing non-conforming use is appropriate.”* The use pre-dates any ordinance.

No questions from the Board.

L. Frank made a motion to approve the application for “Certificate of Non-Conformity”, seconded by C. McBride. On roll call to vote.

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

**Abstain: None**

**Absent: None**

D. Pierce read the draft of the Resolution for Ken's Auto Body and an error was noted in the sf of the dwelling which was stated as 1500sf and should be 1150sf. Motion by J. Laudenschach,, seconded by C. McBride to accept the correction as noted. On roll call to vote.

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

**Abstain: None**

**Absent: None**

**OPEN TO PUBLIC:**

None

**COMMUNICATIONS/REPORTS:**

M.L. Haring - Does anyone have any questions for Mr. Barczyk.

Mr. Barczyk are we going to accept the timing for Chris's Citco.

David Pierce sent a letter to Guy DeSapio and agreed with him that the Resolution was ambiguous and what he advised him was that the intent was to have the project completed - first it was to have the permit to allow the project to proceed in a reasonable short time after the approval and then complete the project within two years after the issuance of the permit.

M.L. Haring asked Mr. Barczyk when he (Chris) obtained a permit and she was told a year and a half.

John Barczyk stated that the only permit that he needed to get is the relocation of the sheds and the fencing. This is going to go back to court and he is going to release it because everything has been completed.

David Pierce stated that the goal is to get him into compliance.

Tom Decker stated they they did get a letter from Guy DeSapio's office requesting an inspection which he did and Chris has installed everything that he has to with the exception of the striping for the handicap parking. He's very close to satisfying what the Board has approved.

John Barczyk stated that his main concern is with enforcing the ordinance to make sure he abides by it.

John Barczyk informed the Board that Crown Castle has approached him for permission to change a couple of antennae. He asked the Board what they feel about this and after discussion and the Board not knowing if the antennae are going to be a different length or if the ban is changing or if microwave will be installed it was decided that Tom Decker, engineer, should handle this and decide whether what they are proposing to do would require their appearance before the Board of Adjustment.

Lee Frank asked John Barczyk if he had any idea when the "SHACK" will be opening and was told by John that he didn't know, but he heard that they're getting close.

John Barczyk with regard to DRT he is still waiting for them to make the application.

John Barczyk with regard to Moskal he still has some tow trucks there.

2015 Budget Request - After discussion it was moved by D. Hewitt, seconded by P. Stepanovsky to request the same amount as last year, that being \$7,000. L. Frank, C.McBride, J. Laudenschach, D. Hewitt, P. Stepanovsky, T. Ciacciarelli, M.L.Haring - voted AYE.,

John Barczyk- Zoning Violation – Brenda King/David Moskal  
John Barczyk-letter regarding Summons 2014 SC-002035 & Summons 2014 SC-002036 (Greg Crance/Matteo Battimelli). BL 6, L 21.  
Summons 2014 SC-002046 (Chris Wildgen). BL 9, L 2.01  
Summons 2013 002029 (David Moskal). BL 8, L 16

**ADJOURNMENT:**

C. McBride moved to adjourn, seconded by D. Hewitt. All in favor. Meeting adjourned at 8:30 PM.

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

