

## MINUTES

**PRESENT:** M. DeSapio  
P. Lubitz  
R. Phillips  
S. Stryker

**ABSENT:** T. Kratzer

### CALL TO ORDER

The meeting was called to order by M. DeSapio at 8:01 PM.

### NOTIFICATION

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.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat, Courier News and Express Times and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

### NEW AND PENDING MATTERS

Septic Waiver – Block 19, Lot 1.01 – 1012 Route 519 – Stephen Risse, Bayer-Risse Engineering Inc.

S. Risse, engineer, was present for the application this evening. The property is located at the corner of Firehouse Lane and Route 519. The property is .3 of an acre. It is currently a one bedroom house. The existing septic system is failing. The septic system is currently located 43' from the well, and with the proposed replacement, the well will be located 50' from the septic system. The applicant is requesting waivers for the following:

1. The existing well will be only 50 feet from the proposed disposal bed and not the required 100 foot setback requirement set by state code. The distance can be reduced to 50' provided there is 50' of casing in the well. In addition, the water being tested and the results will be available for the Board to review at a future meeting;
2. The toe of the mound will be only 5' and 6' from the property lines and not the County policy of 10' from the property lines. Note 5 of page 3 of the plot plan states the engineer will inspect the final grading and provide certification that the grading has not impacted off site conditions;
3. There will be a retaining wall along the grading of the disposal bed. The toe of the slope will still be 3:1, however, this wall has been proposed for further support. Any approval by the Board shall be conditioned upon the engineer inspecting and approving the installation of the wall and provide a final certification to the Board and County.

The applicant had the water tested and no issues of contamination of coliform or nitrates were found. There was an issue with arsenic contamination. The applicant has contracted with Stover Wells for an arsenic removal system.

The cause of failure was due to the high ground water. The system was under water. He would place the age of the system from the 1950's or 1960's. The house is a one bedroom dwelling but the system is a design for a two bedroom. The water table is 2' from the ground surface. Relocating is difficult due to the small size of the lot. The system could not be enlarged without redeveloping the entire lot and moving some buildings. There is a pump tank and an alarm in the house. With a pressure distribution system, the size of the field can be smaller due to the efficiency of the system. Currently, the house is unoccupied. He stated he would recommend the tank be pumped every three years. There is an effluent filter on the tank. In regard to the depth of the casing, the applicant has applied to the DEP for the indication of the well's casing but there were no records available. There was a water test done in 1994 and the nitrates and coliform were within the limits. The current water test also indicates, even though the system is malfunctioning, there has been no influence on the well.

It was owned by P. Lubitz, seconded by M. DeSapio and carried to grant the following waivers:

1. The existing well will be only 50 feet from the proposed disposal bed and not the required 100 foot setback requirement set by state code. The distance can be reduced to 50' provided there is 50' of casing in the well. In addition, the water being tested and the results will be available for the Board to review at a future meeting. If the casing the well cannot be determined to be 50', the applicant will be required to appear before the Board for further possible conditions.
2. The toe of the mound will be only 5' and 6' from the property lines and not the County policy of 10' from the property lines. Note 5 of page 3 of the plot plan states the engineer will inspect the final grading and provide certification that the grading has not impacted off site conditions;
3. There will be a retaining wall along the grading of the disposal bed. The toe of the slope will still be 3:1, however, this wall has been proposed for further support. Any approval by the Board shall be conditioned upon the engineer inspecting and approving the installation of the wall and provide a final certification to the Board and County, and

All members present voted **AYE** on **ROLL CALL VOTE**.

Brookside Environmental – Mergott Property – 35 Byram Kingwood Road

M. DeSapio announced the request for a waiver from the well ordinance has been withdrawn.

The Board requested additional information regard the spill and remediation.

**Ordinance No. BOH – 2010 -01 - CHAPTER 153, ARTICLE 2 - "NON-PUBLIC WATER SYSTEMS AND WELLS" - ARTICLE 2 - NON-PUBLIC WATER SYSTEMS AND WELLS** – Public Hearing and Final Adoption;

It was moved by P. Lubitz, seconded by M. DeSapio and carried to open the public hearing on **ORDINANCE NO. BOH – 2010 -01 - CHAPTER 153, ARTICLE 2 - "NON-PUBLIC WATER SYSTEMS AND WELLS" - ARTICLE 2 - NON-PUBLIC WATER SYSTEMS AND WELLS**. All members present voted **AYE** on **ROLL CALL VOTE**.

A. Belle commented on the following sections:

Section 153-21 – Definition #12 – Average Daily Demand – The section references the Penn State University's College of Agricultural Sciences in the document entitled "Agricultural Water Needs and Sources of Water". He inquired if the Board believes the Penn State University's College of Agricultural Sciences numbers to be accurate enough to include in

calculating the daily demand, then why isn't the Board using their 50 gpd per person? P. Lubitz responded the chart is being applied to agricultural and not the per person water usage.

Definition #13 – Bedroom - "lowest floor" – Is that considered at or below grade, basement or first floor? It is not clearly defined. He stated he would interpret it as any rooms above the first floor are typically used for bedrooms. If rooms are designed on the second floor that are not bedrooms (w/o closets), will they be counted as bedrooms? P. Lubitz responded similar rooms can be used for a multiple of uses. There is no way to determine if they will be used at bedrooms or not. Only at the time of a Certificate of Occupancy or re-assessment can the information be verified.

Definition #36 – Seasonality – "Normal fluctuation in aquifer level and volume". A. Belle inquired what normal fluctuation in aquifer level and volume is and what is considered normal? P. Lubitz stated the definition is not particular to Kingwood Township but a general definition of "seasonality". A. Belle stated seasonality is being used to determine that the rest of Kingwood is locked out for eight months of the year. It has a very large ramification through the ordinance.

M. DeSapio suggested a copy of A. Belle's comments be provided to T. Kratzer or V. Uhl for clarification.

A. Belle provided to the Board members results from the USGS on the Sergeantsville and Stanton wells. The report indicate 10 years of data. In the Sergeantsville well the total seasonal water volume change was 3.2 gallons. In both the Stanton and Sergeantsville wells there was a less than 1% variance. The ordinance providing for a lock out of two thirds of the year based on fluctuations in the aquifer is not trivial. The USGS Water Cycle web page defines "evapotranspiration". It mentions 3,000 to 4,000 gpd are used for acre of corn and 40,000 gpy are used for a large tree. If you cut down ten trees and do not plant 2 acres of corn, there would be 6,000 gallons of water in the table. He inquired how this was being used scientifically. He has spoken to NJGS and they have not done a study on ground water fluctuations. There have been no studies on capacity. If your well drops 3' in the summer and is 3' higher in the winter, how does it affect capacity?

Section 153-23(3) – Map – "Latitude and longitude for new and pre-existing wells shall be record." He stated the state requires the location of the wells on the NJ Coordinate system.

Section 153-24(1)(a) – He inquired if the word "building" should be added prior to the word "construction permit". P. Lubitz stated the ordinance provides for a well permit and the term "construction permit" is implied to be a building permit. He inquired what test was required to determine the 10 or more gallons of water. E. Amwell has a witness certify the drilling test. M. DeSapio stated the well driller will determine the yield. P. Lubitz stated it grants someone the relief from the seasonality provision. A. Belle further stated the yield will not be determined on a three part pump test but at the time of drilling. He said the NJGS official stated they do not see the required 500% increase in yield to be justified. The NJGS has determined 3 to 4 gpm is sufficient for a house. P. Lubitz stated it is the Board's way of granting relief for the residents that were locked into the seasonality period.

A. Belle inquired how the Board could adopt the proposed ordinance without having the professionals present. The ordinance has been available to the public for only for the last 16 days. P. Lubitz responded there have been public meetings to discuss the proposed amendments with the professionals present. A. Belle stated there is no seasonality testing in any other township. He stated the ordinance requires a 500% increase over the state suggested numbers. He inquired what will happen when someone drills a well with a yield of 10 gpm or more and when they build the house and test in the summer months they get 2 gpm, what would their recourse be to get their well certified. P. Lubitz stated the well ordinance contains a provision for a well with less than 1 gpm. A. Belle inquired what the reasoning was to require the well which produces 10 gpm to come back in the summer for seasonality testing.

(b) A. Belle inquired why the Board was requiring a Hydrogeological Consultant to prepare a storage plan when the State allows a certified well/pump installer to calculate the required storage using the NJGS Report Series 1.

Section 153-25(1) – Table 1 – A. Belle inquired how the board determined the 800 gpd in the table under “Existing improved or unimproved residential lot with a proposed daily demand of  $\leq 800^1$  gallons”. What studies have been done to derive this number? P. Lubitz stated that particular section was not being amended this evening. Under “Change of Use<sup>2</sup> that requires additional water when the total daily demand will be  $>800$  gallons, unless the well has been previously certified for the amount of water proposed”, A. Belle stated the NJGS report indicates the margin is already included. The NJGS references the use of 100 gpd per capita, that value is applied as a planning criterion. The average is about 50 gpd, which falls in line with the Penn State Study. The assumptions for the NJGS study provided for 2.75 persons per dwelling with an estimate of 2 people per bedroom, a 100% allowance is already built in. P. Lubitz stated the proposed amendments have not changed that section of the table. A. Belle stated it is very pertinent. The Board has added the Penn State Agricultural documents. The total demand use has added the use for animals. Under the change of use and superscript, if a person has a 4 bedroom home and purchase a horse, their use will be 12 gpd more than allotted by this ordinance. If a person has a 4 bedroom home and add one swine at 1.5 gpd consumption, they will have a change of use. If the applicant is consuming 801.5 gpd use, they would have to come in for an aquifer test. If they add a four horse barn, they are adding 48 more gallons usage per day. Their usage would be certified at 848 gpd and will be denied a building permit for the home because it exceeds the  $\leq 800$  gpd allowed by the ordinance. He stated everyone who has a 4 bedroom house cannot add an animal to their homestead without doing a pump test and hydrogeological report. Adding the animal usage to the ordinance is a very big deal. He needs to know the answer. A. Belle stated E. Amwell allows 4,000 gpd for farmers. He stated E. Amwell requires a 20% change in use before you have to perform the aquifer test and hydrogeological plan. The 20% allowance would help with the animals. You would not have to spend \$20,000 for an aquifer test and hydrogeological report if you were increasing your usage by  $\leq 20\%$ .

153-25(1)(1) Table #1 – “Subdivision creating one (1) new lot” and “Subdivisions creating two (2) or more new lots”. He inquired if the requirements are based on some sort of scientific standard or data. The Board should base it on minor versus major. P. Lubitz stated the amendment was to make the definition more precise.

Section 153-26(11) – A. Belle stated he does not find any reference to the storage provided by the actual well. Mr. Uhl, at a prior meeting, stated it was acceptable.

Section 153-28(1)(a) – A. Belle stated he wanted to have clarification from the Board in regard to notification. If the applicant is rained out on both dates, is additional notification necessary to the surrounding property owners resulting in an additional 4 week period? The Board members felt if the testing was done within short period of time, no additional notification would be required. If the testing would be postponed for several months into the future, re-notification would be required.

Section 153-28(3)(b) – Constant Rate Test – A. Belle inquired by the wording as added to require a “Qualified Hydrogeological Consultant” instead of a NJ certified well driller.

Section 153-29(5) – Table #3 – A. Belle inquired on the first line if it applies to all major subdivisions. He stated the number of new lots should be 3 and not 2. He inquired if under the 2 new lots in Table 3 does the 1 observation well need to be on or off site. P. Lubitz stated the requirement needs to be clarified. M. DeSapio stated if it is not specified, it can be either.

Section 153-29(6)(a) – He inquired what was the basis for the 2500’ notification. The amount of water volume the test would require for a three new lot subdivision cannot be felt 2500’ away. E. Amwell requirements are based on subdivision size. P. Lubitz responded the requirement was based on geological conditions present in Kingwood and he is not familiar with E. Amwell geology. A. Belle stated, according to the state, interference cannot be felt at that

distance. In a 50 home subdivision it should be done due to the volume and area. He stated non-monitored residents would not have any recourse.

Section 153-29(11)(e)(ii) – A. Belle inquired how was the 5’ drawdown determined. The 5’ is only a well storage drop of 3 gallons. He inquired how much capacity and gallons per minute does it equate to in a well. He inquired if well storage have an impact on well yield? P. Lubitz responded the section was not being amended this evening.

Section 153-29(g)(iii) – A. Belle inquired how the Township arrived at the change from five lots to three new lots. He inquired what basis was used to determine the 1,500 gallons. In another part of the ordinance, the Township is mandating 800 pgd and here there is a leeway of 1500 ppd. P. Lubitz stated the leeway was in the number of bedrooms. A. Belle stated you could never get to the 1,500 gpd without performing the aquifer test and hydrogeological report. A. Belle inquired, on an aggregate basis, if the last lot is not at the lowest point. The ordinance should contain a provision of allowing for one on higher ground. He stated you would not be able to go on someone else’s property and install a monitoring well that was purchased ten years ago. P. Lubitz requested the matter be referred back to the well subcommittee.

P. Lubitz stated the amendments proposed this evening were done to meet the concerns of some of the Township’s citizens. The Board will address any additional concerns as they appear.

A. Belle stated the Board seems to be on a yearly schedule based on the past history of the amendments. The ordinance is locking people out from building. If the Board adopts this proposed ordinance this evening, they will probably not clarify it for a year.

153-56(6) – “Well-water supply & Water quality monitoring” – A. Belle inquired who determined which well to be utilized as a monitoring well. He inquired about the average depth of a well. He stated the well in Sergeantsville is 21’. He inquired how is the period of 12 years being determined. He inquired as to what does significance does the the 12 years have in regard to supply and monitoring.

153-56(6)(a) – Well water supply – A. Belle inquired as to the basis for the one lot exemption. It is something that is selectively added to Kingwood only.

153-56(6)(b) – Water quality monitoring – A. Belle stated it provides for an escrow for monitoring the well reports. The actual escrow is for the review of the submitted reports. He inquired what happens six years from now when the escrow has been depleted. He inquired if the ordinance is referring to each new monitoring well which is determined by the subdivision size. A. Belle stated the rehabilitation escrow is \$3,000 for each new well. He inquired if a claim comes in at \$10,000 will the Township go back to the original developer for replenishment or does it fall on the unsuspecting homeowner. A. Belle stated it should possibly go more to a fee rather than an escrow which is replenished. P. Lubitz stated the matter will be referred to the professionals for clarification.

A. Belle stated he was very surprised that this was a public hearing and none of the real big questions have been answered. He stated none of the professionals were present this evening. He is surprised the Board is able to adopt the ordinance this evening. There are so many questions that have been raised this evening without answers. He stated the Board should talk with the professionals for clarifications on his concerns and come back next month for adoption with the professionals in attendance.

It was moved by P. Lubitz, seconded by R. Phillips and carried to close the public hearing. All members present voted **AYE on ROLL CALL VOTE.**

It was moved by P. Lubitz, seconded by R. Phillips and carried to adopt **Ordinance No. BOH – 2010 -01 - CHAPTER 153, ARTICLE 2 - "NON-PUBLIC WATER SYSTEMS AND WELLS" - ARTICLE 2 - NON-PUBLIC WATER SYSTEMS AND WELLS.** All members present voted **AYE** on **ROLL CALL VOTE.**

The Board requested the concerns and questions be forwarded to the well ordinance subcommittee for additional study and clarification.

### **Approval of Minutes**

It was moved by M. DeSapio, seconded by R. Phillips and carried to approve the minutes of May 19, 2010. All members present voted **AYE** on **ROLL CALL VOTE.**

### **CORRESPONDENCE**

#### **PRIVILEGE OF THE FLOOR**

J. MacConnell thanked the Board for adopting the ordinance.

E. Niemann stated in regard to Mr. Belle's comments that there were no professionals available at this meeting, the Board did hold a public meeting with the professionals. The notice of the meeting, in which the professionals were present, was advertised broadly. At that meeting, the revisions were discussed with the professionals. Mr. Belle had several questions and did engage in conversation with the professionals. There have been numerous opportunities for the public to offer their comments. She stated without adequate water, the Township does not have anything. Water is a precious resource and there needs to be efforts to preserve it.

### **ADJOURNMENT**

It was moved by S. Stryker, seconded by P. Lubitz and carried to adjourn the meeting at 9:41 PM. All members voted **AYE.**