

MINUTES

PRESENT: J. Abel
M. Augustine
R. DeCroce
D. Haywood
J. Lutz
J. Mathieu
T. Siano
S. Zdepski
J. Harabedian, Alt. #1
L. Herrighty, Alt. #2

ABSENT: J. Strasser

CALL TO ORDER

The meeting was called to order 8:03 PM by J. Lutz.

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 Delaware Valley News and Express Times and sent to the Hunterdon County Democrat, 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

Approval of Minutes

It was moved by M. Augustine, seconded by D. Haywood and carried to approve the minutes of July 11, 2006 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Harabedian, who abstained.

Resolutions

Resolution No. 2006-20 – Gordeuk Block 23, Lot 17

D. Pierce stated this application is subject to the growth share requirements for affordable housing. The applicant has advised and the ordinance requires the applicant to provide a plan to the Planning Board of how they are going to satisfy their obligation, either by monetary contribution or provide housing units on the property. The applicant anticipates or will satisfy that obligation by constructing an accessory apartment on one of the lots for this mother, who would qualify under the COAH requirements. Applicant is requesting the Board

to include in this resolution a condition if they do subdivide Lot 17.02 within five years from the resolution that whatever affordable growth share resulting from the minor subdivision would be deemed satisfied by the accessory apartment. He would recommend to the Board the acceptance of the above condition. The applicant is an estate and the administrator is under substantial pressure to have the matter concluded. An additional item is the requirement of an LOI from the DEP confirming the location and extent of the wetlands on the property prior to the release of the approved deeds. There was some discussion last month but the matter was not resolved because of an absence of some information on the application. It is his understanding that the building department requires the letter from the DEP prior to the issuance of a building permit. There doesn't appear to be any real issue with the wetlands. The applicant's professional has provided the necessary information. There is a C-1 stream and plenty of room on both lots, without encroaching on any identified wetlands areas. He is looking for some policy in minor subdivisions if the Board's wishes to include a requirement for an LOI prior to the release of the deeds. The owner of the lot has to obtain one prior to the issuance of a building permit. If this application is not concluded in a short time frame, it is possible the transaction might not go through.

D. Pierce stated to alleviate the question, it could be a policy of the Board to either require or not require an LOI prior to the release of the deeds. There are two arguments. One is that the LOI is solely within the DEP's jurisdiction. Every property has an obligation to make sure, before they build, that they are not building in wetlands. The building department consistently requires the LOI before they will issue a building permit. The other argument would be there is some sort of moral obligation but no legal obligation to advise future property owners of the possible presence of wetlands on the lot. The future property owners could not be from this area and are unaware of the possible restrictions. The Board can require the applicant, before they actually perfect the subdivision and create the lot, to demonstrate and get DEP concurrence as to where the wetlands are and their degree.

It is an item the Board needs to consider as a policy matter one way or the other. He originally had taken a cue from the Board at one point to require the information. The policy at the building department is sufficient to protect the landowner. They will not be able to build unless they have a permit from the DEP. An LOI is valid for five years but can be extended. The DEP is changing the categories of some items. The American Holly is a wetlands species but five years ago it wasn't. There is no guarantee if they obtain an LOI now that they will be able to build later. The legal requirement in the state is no one may undertake an activity in a wetland area without a permit from the DEP. Kingwood has instituted a requirement in the building department, prior to the issuance of a building permit requiring the project is not in a transition or wetlands area. It is an unnecessary expense at the time of the subdivision to the owners of the lot. The applicant will be required to show the location of the delineation of the wetlands, the location of the septic, permeability and pit bails.

J. Abel stated the Board should require an LOI only if the application requires additional DEP permitting.

It was moved by M. Augustine, seconded by J. Abel and carried to adopt a policy that there not be a standard condition requirement of receipt of a Letter of Interpretation prior to the release of the subdivision deeds. If there is an application where a wetlands permit is necessary for the development, it will remain as a condition of approval. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu and J. Harabedian, who abstained.

R. Lorentz stated the actual delineation of the wetlands area and judgment presented on available information as to the transition requirements are now under the current ordinance and essential in the planning process of developing the lot yield in a minor and major. The current ordinance requires a substantial investigation to present a proper minor subdivision.

D. Pierce stated the ordinance requires, before the subdivision is recorded, the applicant has to provide to the Planning Board a plan or proposal of how they are going to satisfy the requirement of growth ordinance. The options are rehabilitation of another unit, building a duplex on one of the lots or a contribution in lieu of development.

J. Abel stated the applicants have incurred a liability of 2/8ths of a unit. The applicant does not have to build a unit, they can offer an in lieu contribution, provide an off site unit. The Township will be audited on the number of lots they have created. The unit will generate income. The applicant will enter into a landlord/tenant relationship. After ten years, the unit is theirs and they can do with it what they want. It would be in the Township's best interest to allow them to contribute the full requirement. Mr. Belle is under contract and responsibility for all the costs associated with the development. The Township is in the process of developing a project for approval by COAH. It has not been finalized so the Township does not have firm numbers. The firm numbers will be available within the next few months.

D. Pierce stated the ordinance addresses the requirements of the 3rd round. The obligation is calculated on the number of new units created in the Township. One unit is required for every new 8 units.

S. Zdepski stated 1/8th is approximately \$30,000.00.

J. Abel stated the fee would have to be paid for satisfaction of the requirement in another way. After 10 years the unit becomes a legal rental unit.

D. Pierce reviewed the changes to the resolution:

#13 (page 6) – requirement to obtain an LOI would be deleted;

#4 (page 4) – Prior to the release of the deedsPlan, would be deleted. In its place, since the proposed development of two new homes, the applicant is responsible for satisfying an obligation to provide a 2/8ths share of a growth share affordable housing unit.

It was moved by M. Augustine, seconded by D. Haywood and carried to approve Resolution No. 2006 – 20 with the above amendments and changes. All members present voted **AYE** on **ROLL CALL VOTE**, except S. Zdepski, who recused himself, and J. Abel and J. Harabedian, who abstained and J. Mathieu, who voted **NAY**.

Resolution No. 2006-21 – Hidden Orchards, Block 22, Lot 16

D. Pierce stated a correction to the spelling of Hammar Road, Item #8 should be changed to 13 lots, Item #12 to categorize it as a constructed water wetlands basin not a bio-retention basin, Item #13 the spelling of Acer Saccharum should be changed, Item #22, delete the requirement to provide as escrow of \$500.00 and in place stated “in accordance with ordinance requirements”, Page 6 correct the spelling of the name.

It was moved by D. Haywood, seconded by J. Mathieu and carried to adopt Resolution No. 2006 – 20 with the above changes. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Abel and J. Harabedian, who abstained.

Viscardi – Block 1.02, Lot 14.02 – Extension to File Deeds

G. DeSapio stated in order to perfect the boundary line adjustment, one of the lots in question has a mortgage and it will have to be cancelled prior to the closing. He is requesting a 60 to 90 day extension.

It was moved by J. Mathieu, seconded by D. Haywood and carried to grant a 90 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Abel and J. Harabedian, who abstained.

CDMA – Block 19, Lot 10 – Extension to File Deeds

G. DeSapio stated one of the conditions of approval was for the applicant to obtain all necessary approvals from the Delaware Raritan Canal Commission. The Canal Commission has issued an approval but it is requiring revised drawings.

It was moved by D. Haywood, seconded by J. Mathieu and carried to grant a 90 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

DeSapio – Block 6, Lot 9 – Amendment to Approval

G. DeSapio was present on behalf of James and Ellen DeSapio. They are requesting the requirement of an LOI prior to the release of deeds be removed from the approval and they are requesting a 90 day extension to file the deeds.

It was moved by M. Augustine, seconded by D. Haywood and carried to approve the applicants' request for the removal of the condition requiring an LOI and the granting of a 90 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu and J. Harabedian, who voted **NAY**.

Tumble Partnership – Block 32, Lot 10 – Public Hearing

J. Lutz announced Tumble Partnership is not prepared to proceed this evening.

D. Pierce stated the applicants requested R. Lorentz prepare a review memorandum. Based on the memorandum the applicant has decided to have their stormwater management approval prior to appearing before the Board. The applicants have provided notice by advertisement in the newspapers and by certified mail to the appropriate property owners. They have satisfied the jurisdictional requirements. The Board can open the hearing and adjourn the hearing immediately after opening and provide an announcement the hearing will be continued to September 12th without further notice.

It was moved by J. Mathieu, seconded by D. Haywood and carried to adjourn the hearing until September 12, 2006 without further notice. All members present voted **AYE** on **ROLL CALL VOTE**.

DeSapio – Block 5, Lot 6 & 6.02 – Minor Subdivision

G. DeSapio stated the application consists of a 69.5 acre parcel he personally owns on Ridge Road. There is one existing stone dwelling, which is one of the oldest homes in Kingwood. He would like to build a new home for himself and is proposing a 4 acre minor subdivision in the back of the lot. It is one of the highest points on the lot and the application complies with all the requirements of the current ordinances. T. Norkevich is doing a wetlands study of the property. The property had a delineation done in 1993 for the American Water Company

application. Based upon T. Norkevich's infield determination and S. Ombalski's understanding of the wetlands, the buffer should be 150'. If the 300' buffer is required, it does not affect the building envelope or septic system. He has performed permeability testing on the remaining lands even though the lot contains an existing dwelling.

R. Lorentz stated the 300' buffer relates solely to what is shown on the mapping as a Category 1 waterway. The buffer is based upon DEP review. The buffer is reducible to 150' in areas previously disturbed.

It was moved by J. Mathieu, seconded by D. Haywood and carried to approve the above application with conditions. All members present voted **AYE** on **ROLL CALL VOTE**.

Frey – Block 29, Lot 28 Minor Subdivision

Even though the plat indicates "Siano's Property", T. Siano is not an adjoining property owner.

G. Wilson, attorney for Douglas and Helen Frey, was present this evening. The application is fully conforming. The lot contains 6.68 acres. The applicants are proposing to create a 2.224 acre lot, which meets all the building set back requirements. The wetlands have been delineated by Eastern States Engineer, E. Cook. The value of the wetlands has been determined as an intermediate resource and require a 50' buffer. The septic will be generally located somewhere between POD3 and the wooded area.

J. Mathieu left the meeting.

R. Lorentz stated septic systems must be located ten feet from the property line and the logs can be as much as 15' from the field. The Department of Health will regulate the installation of the system. A disposal bed can be as much as 100' long. The laterals can also be 100' long. The only stipulation is that the soil logs be no further than 15 feet from the ends of the disposal bed and the disposal bed cannot be closer than 10' to the property line.

J. Mathieu returned to the meeting.

It was moved by T. Siano and seconded by R. DeCroce and carried to approve the above application with conditions. All members present voted **AYE** on **ROLL CALL VOTE**.

First U.U. Fellowship – Block 2, Lots 16, 17 & 19 – Public Hearing

D. Pierce stated the applicant has provided proof of advertisement and proof mailing. The Board can exercise jurisdiction.

G. Dilts stated the application is for subdivision and site plan. There will be two witnesses R. Clerico, engineer and M. Zubber, architect.

G. Dilts stated the application involves Block 2, Lot 16, which contains approximately 47 acres, the Oak Summit Historical Lot, which contains approximately .55 acres and the lot currently owned by the applicant containing approximately .69 acres. The proposal is to reduce Block 2, Lot 16 from 47 acres to 36 acres, adding .40 acres to the Historical Society lot and increasing the Fellowship lot to 10.44 acres. The site plans involves the construction of a 5,000 sq. ft. fellowship hall and future addition, parking and drainage.

D. Pierce swore in M. Zubber and R. Clerico.

R. Clerico of Van Cleef Engineering stated he was a licensed engineer. The Board accepted his credentials.

R. Clerico stated he will provide the Board with a general overview. The lots are located at the intersection of Oak Summit Road and Kingwood Road. Lot 16 consists of approximately 47 acres, depicted on sheet 1 of 1. The application is for a lot line adjustment which effectively creates a 10+ acre parcel of land from the farm lot and a smaller half acre of land merged with the Historical Society property. There will still be the church lot, Historical Society lot and the remaining lands. The application before the Board is for a conforming proposal. No variances are being proposed. The site plan consists of six sheets, dated January 9, 2006 with a revised date through June 7, 2006. Sheet 1 of the site plan shows the overall site plan, the parcel being created, the placement of the proposed improvements and construction of a new driveway in the certain portion (south side from Oak Summit Road). The parking lot is being created in the southerly portion of the property, which is a circulatory element. The structure is immediately adjacent to the parking area. The site plan contains a site for a potential church construction, which is not part of this application. The existing church structure will remain, as well as the other building. The gravel lot is going to be merged with the Historical Society. A gravel connection, in more detail on sheet 2 of the site plan, provides dimensional information of the construction, demonstrating the dimensions of the driveway coming into the property, the parking stalls and aisles. The Township requires a 10' wide parking space and the majority are 9 x 18'. The applicant is requesting a design waiver. The parking spaces along the northerly side will be handicap accessible. The plan depicts the construction of a sidewalk along the northerly side providing access into the building. The plan depicts the foot path, parking lot and new building construction, site lighting to serve the property including additional lighting along the sidewalk due to a recommendation of R. Lorentz. There are three fixtures, double mounted on the island in the eastern portion of the parking lot. The spaces immediately adjacent to the Fellowship will have minimum lighting. The engineering details are depicted on the remaining sheets. The property in question drains from the east in a westerly direction in the county road. The southerly portion drains in the northerly direction. In order to manage any potential runoff from the low areas and any of the fields, there will be the construction of a diversion swale, wide and flat, to convey water to the county road. There will also be a similar swale on the southerly section of the parking lot, discharging into a lawn area. Both swales will meet up along the ditch on the county road. The application disturbs more than one acre and is subject to the Stormwater Management regulations. The applicant has submitted a drainage calculations which will maintain sheet flow and minimize the impervious area. The application is not required to do a stormwater management recharge area. The recharge will be equal to or enhanced in the development of the property. The design will reduce total suspended solids by 20%. This application is subject to county review. R. Clerico distributed copies of the applicant's county Stormwater Management Plan. The underground wiring will be rerouted around the basin. The wetlands application has been submitted to the DEP.

After some discussion on the availability of parking, M. Zubber agreed no over-flow parking would be allowed on the street. Signs will be posted indicating "No Parking". The Fellowship will be going to double service in the fall to alleviate a larger congregation and parking availability.

M. Zubber, architect of the project, stated she is a spokesperson for the fellowship. She is a licensed architect 1989. There is a main entrance and a side entrance to bring in casseroles and small children. The west elevation faces Route 519 and is screened by a dense planting of deciduous trees, conifers and flowering dogwoods. The north elevation is the back building facing the field. The east elevation would be see from Oak Summit Road. The future building would be attached to this portion. The materials chosen for the building are intended to compliment the old stone church. Stucco on a frame, a couple of windows, and the roof would resemble the current, stone colored fiberglass shingles. The trim of the windows would be white. The occupancy is approximately 250 to 280.

J. Lutz called for comments from the public.

M. Cavallero – commented on the possibility of a requirement of the parishioners only allowed to make a right turn out of the parking lot and sent back to Route 519 by posting signs. R. Zubber responded the vast majority of the parishioners live in the Frenchtown area, Pennsylvania and the northern part of the county. 90% would use Route 519 because it is where they live. 300 people would be 60 cars.

R. Zubber was sworn in by D. Pierce.

S. Spanos – commented on the water runoff onto his property from the field. R. Clerico stated the sand drainage system will slow the water drainage from the property.

W. Pandy – commented on the sand filter and the solids remaining in the sand. R. Clerico stated there will be a maintenance manual with the system. The maintenance requires for raking of the sand every 2 or 3 years. The requirement of maintenance will be recorded in the deed.

It was moved by R. DEcroce, seconded by D. Haywood and carried to approve the above application with conditions. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Abel, who voted **NAY**.

Township of Kingwood Proposed Ordinance 13 - 31 – 2006

D. Pierce stated the ordinance contains the changes the Board recommended last month to the checklist ordinance. The Township Committee has introduced and adopted on first reading.

It was moved by M. Augustine, seconded by D. Haywood and carried to recommend adoption of proposed Ordinance No. 13-31-2006 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

Township of Kingwood Proposed Ordinance 13 - 32 - 2006

D. Pierce stated the proposed ordinance is in response to the third flood that has hit Byram Colony. It will minimize the need for the Byram residents to obtain variances. The height for elevated structures will be measured from the flood plain elevation rather than from the grade.

It was moved by J. Mathieu, seconded by D. Haywood and carried to recommend adoption of proposed Ordinance No. 13-32-2006 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

Executive Session – Resolution No. 2006-22

RESOLUTION NO. 2006 - 22

WHEREAS, Section 7 of the Open Public Meetings Act, Chapter 231 P.L. 1975 (R.S. 10:4-13) permits the exclusion of the public from a meeting or a portion of a meeting of this public body in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Kingwood, County of Hunterdon and State of New Jersey as follows:

1. The public shall be excluded from the meeting or a portion of a meeting at which this public body discusses the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:

Litigation

3. The time when the circumstances under which the discussions conducted in closed session of this public body can be disclosed to the public is as follows:

The minutes of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements or personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and -13.

4. This resolution shall take effect immediately.
5. The Planning Board may take additional action upon returning to regular session.

It was moved by M. Augustine, seconded by D. Haywood and carried to adopt the foregoing resolution. All members present voted **AYE**.

The Board returned to regular session.

CORRESPONDENCE

J. Lutz reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

J. MacConnell – commented on Ms. McNichol’s inability to make her public comments at last month’s meeting during privilege of the floor.

ADJOURNMENT

It was moved by D. Haywood, seconded by J. Mathieu and carried to adjourn the meeting at 11:55 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary