

**MINUTES**

**PRESENT:** J. Burke  
R. Dodds  
D. Haywood  
W. Kastning  
T. Kratzer  
J. Mathieu  
E. Niemann  
T. Siano  
J. Strasser  
S. McNicol, Alt. #1  
T. Decker, Engineer  
D. Pierce, Attorney

**ABSENT:** M. Knapp, Alt. #2

**CALL TO ORDER**

The meeting was called to order by J. Mathieu at 8:08 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 Delaware Valley News 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 of January 9, 2007;

It was moved by W. Kastning, seconded by E. Niemann and carried to adopt the minutes of January 9, 2007 with the following corrections:

*Page 7 – top paragraph – should read “is it” rather than “it is”;  
Duplicate Page 7 should be removed;  
Spelling of S. McNicol’s name.*

All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and J. Strasser who abstained.

Approval of Minutes of January 30, 2007

It was moved by D. Haywood, seconded by T. Siano and carried to adopt the minutes of January 30, 2007 with the following correction:

*Spelling of S. McNicol's name.*

All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

### **Resolutions**

It was moved by D. Haywood, seconded by T. Siano and carried to adopt **Resolution No. 2007 – 11 - Trstensky – Block 24, Lots 13.09 & 13.10** with the following correction:

*Spelling of S. McNicol's name.*

All members present voted **AYE** on **ROLL CALL VOTE**, except W. Kastning and T. Kratzer, who abstained.

### **Applications**

Block 7, Lot 14.10 – Perrotti – Request for Extension to File

It was moved by D. Haywood, seconded by J. Strasser and carried to grant a 190 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

*D. Pierce swore in T. Kratzer as a new member to the Planning Board.*

### **Applications**

Block 38, Lots 20 & 36 – Rosemont Hills Estate – Determination of Completeness

The applicant was not in attendance this evening. The Board reviewed T. Decker's memo in regard to the above application. T. Decker stated the applicant is seeking waivers from #12 proposed block and lot numbers, #24 providing the septic testing on the individual lots, #25 location and results of the soil profile pits and permeability testing, #26 providing complete construction plans, #32 Community Impact Statement, #43 Hydro geologic report and pump testing and #46 Affordable Housing Plan. He recommends the Board deem the application incomplete.

D. Pierce stated the waivers are being requested for completeness only. The applicant will have to provide these documents for the hearing. Some of the requests should not be granted because without the information the Board cannot proceed. The requested waiver for the Affordable Housing Plan may be appropriate due to the recent court decision. D. Pierce read from Section 115.9(j) of the Kingwood ordinances regarding the required information in a Community Impact Statement.

D. Pierce stated, his opinion at this time, is that the Growth Share Ordinance in Kingwood is unenforceable. The COAH contributions from Deer Run and Equestrian Village are enforceable because of a settlement agreement not as a condition of the ordinance. The applicant voluntarily entered into the agreement. In the Van Holten development, they were originally subject to the Growth Share Ordinance. Their attorney has contacted me and indicated they were planning on putting in the required unit themselves. Any subdivision that is approved during this time or has been previously approved will be subject to the Development Fee ordinance.

He will be confirming the details with the Township Attorney. The Court invalidated the methodology the DCA used to compute the third round computation. The Court has expressly ruled that an ordinance which imposes a growth share obligation on the developer without giving the developer an incentive is in violation of the Mount Laurel decision. The ordinance is unconstitutional and unenforceable from the day it was adopted. The Court has informed DCA they have six months to come up with new obligations.

D. Pierce stated one sheet of the plat is their qualifying plan, which is what they would be able to build on a typical major subdivision. The applicant is seeking approval for a cluster subdivision with smaller lots in the center of the property with the open space on the outside of the property. The open space will be kept in perpetuity.

It was moved by R. Dodds, seconded by D. Haywood and carried to deem the application incomplete and deny the waiver requests for Nos. 12, 24, 25, 32 and 43, to deny without prejudice #46 and for the lack of certain items under #26. All members present voted **AYE** on **ROLL CALL VOTE**.

The Board briefly discussed the responsibilities of the maintenance of the detention basins.

Proposed Ordinance No. 14-04-2007

D. Pierce informed the Board this ordinance was drawn up based upon discussions held at the Board of Adjustment to try to ease the burden on residents in the flood plain, Byram Colony and some other areas in the Township. In order to comply with the FEMA and DEP requirements, all living spaces need to be elevated above the flood plain. There is a section in the Municipal Land Use Law (MLUL) requiring a variance be granted to a lot that does not abut a public street. The Board of Adjustment has been conservative in their interpretation of that law. There have been discussions with the Board of Adjustment that it should apply only to the initial construction and they should not have to return for a variance to construct a deck. The law was designed to provide access to emergency vehicles on private lanes. The Board of Adjustment decided if the residents in Byram Colony are not changing the structures, they would not be required to come in for a variance to obtain their building permit. The proposed ordinance provides for a system for the zoning officer to review the plans and make a determination that the structure is not being increased.

It was moved by W. Kastning, seconded by D. Haywood and carried to recommend adoption of proposed Ordinance No. 14-04-2007 with the addition of a reference to obtain the definition of a "living space" from the DEP regulations. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Ordinance No. 14-05-2007

D. Pierce stated this proposed ordinance was introduced to address the issue raised by the Fire Company regarding fire protection which would require the applicant to consult and comply with the recommendations of the Fire Company. He took the opportunity to make additional changes as a result of the discussions at the January Board meeting and the clean up the checklist.

As a result of the discussions in regard to the proposed ordinance and its need for some corrections, additions and rewording, D. Pierce suggested the Board not recommend the adoption of the ordinance to the Township Committee. He will present the revision at the workshop meeting with the changes discussed this evening. After review at the workshop meeting, it can then be presented to the Township Committee for introduction at their March meeting.

It was moved by D. Haywood, seconded by T. Siano and carried to not recommend the adoption of proposed Ordinance No. 14-05-2007 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

Electronic Information

D. Laudenbach inquired if the Board members would be opposed to receiving the agenda and minutes by email. The Board members were in favor as long as they had email. If they did not have email, a hard copy would be mailed to them.

**Appointment of Planner**

It was moved by T. Siano, seconded by D. Haywood and carried to appoint Banisch and Associates as the Planner for 2007 for the Kingwood Township Planning Board, subject to a Professional Services Agreement. All members present voted **AYE** on **ROLL CALL VOTE**.

**Smart Growth Grant**

After a brief discussion, it was decided Banisch and Associates should apply for the ANJEC Smart Growth Grant for Kingwood Township.

**CORRESPONDENCE**

J. Mathieu reviewed as per the agenda.

Township of Kingwood – Training for Board Members

D. Pierce, T. Decker and D. Banisch are designing a course to comply with the mandatory training required for the Board members. It is a five hour course covering specific topics with a test at the end.

**OTHER BUSINESS**

**Agenda**

S. McNicol inquired if the street names could be listed on the agenda along with the Block and Lots.

**Hydro geologist**

As a result of comments this evening, V. Uhl will be invited to attend the workshop meeting on February 27th.

**Subcommittee**

J. Strasser stated the subcommittee will have a meeting on February 21st beginning at 7:30 PM.

**PRIVILEGE OF THE FLOOR**

**ADJOURNMENT**

It was moved by T. Siano, seconded by D. Haywood and carried to adjourn the meeting at 10:04 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudenschach, Secretary**