

MINUTES

**PRESENT:** J. Burke  
 R. Dodds  
 D. Haywood  
 W. Kastning  
 J. Mathieu  
 E. Niemann (8:09 PM)  
 J. Strasser  
 S. McNicol, Alt. #1  
 L. Senus, Alt. #2  
 A. Clerico, Planner  
 D. Banisch, Planner  
 T. Decker, Engineer  
 D. Pierce, Attorney

**ABSENT:** T. Kratzer  
 T. Siano

**CALL TO ORDER**

The meeting was called to order at 8:02 PM by J. Mathieu.

**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**

It was moved by D. Haywood, seconded by W. Kastning and carried to approve the minutes of September 11, 2007 and place on file, with the following corrections:

*Page 3 – “Sater” should be replaced with “Sader”.*

*Page 6 – “ It was moved by J. Burke, seconded by D. Haywood .....the classification of the store changes ..... All members present voted **AYE** on **ROLL CALL VOTE**.”*

*Page 7 – W. Kastning requested .....with a present conditions report.....*

All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, who abstained.

**Resolutions**

It was moved by D. Haywood, seconded by J. Burke and carried to adopt **Resolution No. 2007-24 – Schick – Block 14, Lot 39 – Fairview Road – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, who abstained.

It was moved by D. Haywood, seconded by J. Burke and carried to adopt **Resolution No. 2007-25 – Perrotti – Block 7, Lot 14.10 – Oak Grove Road – Extension of Time to File**, with the following change:

*WHEREAS clause should indicate W. Kastning recused himself.*

All members present voted **AYE** on **ROLL CALL VOTE**, except W. Kastning, who voted not eligible and E. Niemann and S. McNicol, who abstained.

It was moved by R. Dodds, seconded by J. Burke and carried to adopt **Resolution No. 2007-26 – Our Lady of Victories Church – Block 12, Lot 58 – Route 519 – Site Plan Approval**, with the following changes:

*Page 3 – measures is misspelled*

*Page 5, #16 – holding tank and replace .....*

All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood and S. McNicol, who abstained.

It was moved by J. Strasser, seconded by R. Dodds and carried to adopt **Resolution No. 2007-27 – Route 12 Business Park – Block 15, Lot 8.04 – Fastenal – Conditional Use**, with the following changes:

*Page 4 – Condition 1(b) should be or rather than and*

It was moved by D. Haywood, seconded by J. Burke and carried to adopt **Resolution No. 2007-28 - Laurelton-Belmont Properties, LLC –Block 22, Lot 16 – Final Major Approval**, with the following addition:

*Page 17, should add additional condition “I” – A marker plan for designating and identifying the boundaries of the conservation easement areas.*

All members present voted **AYE** on **ROLL CALL VOTE**, except E. Niemann and S. McNicol, who abstained.

In regard to the following resolution, there was a general discussion about additional language being placed in the resolution indicating the reason for the need for the extension of time. The majority of the Board members felt the resolution should be adopted as presented.

It was moved by D. Haywood, seconded by J. Burke and carried to adopt **Resolution No. 2007-29 – Kenney – Block 27, Lot 6 – Hammar Road – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**, except W. Kastning, who voted can't vote, S. McNicol, who abstained and L. Senus, who voted ineligible.

**Applications**

*D. Haywood recused herself from her position on the Board for the following matter.*

Route 12 Properties – Block 12, Lots 16 & 58 – Route 12/Route 519 – Boundary Line Adjustment & Minor Subdivision – Determination of Completeness

T. Decker issued the following review memorandum on the application:

**Item #1 - Electronic Copy of Plan**

An electronic copy of the proposed plan has not been submitted.

**Item #12 - Block and Lot Numbers Approved by Tax Assessors**

Applicant has provided a copy of their August 29, 2007 letter to the Township Tax Assessor requesting the assignment of proposed lot numbers. To our knowledge, approved numbers have not been issued.

**Item #15 - Property Owners Within 200'**

Applicant has submitted certified lists as prepared by the Township Tax Assessor of property owners within 200' of the property. However in reviewing the list as shown on the plan set, it appears some addresses are incorrect, specifically Block 12, Lots 14, 53, 54, 55 & 57.

**Item #24 – Engineer Certification Regarding Soil Profile Pits**

Engineer certification has not been provided.

**Item #26 – Lot Grading Plans**

Lot grading plans have not been provided, as it does not appear any improvements are proposed. The applicant should address the intentions of the proposed subdivision so the board may determine if adequate information has been provided.

**Item #27 – Conservation Easements**

Conservation easements will be required on all wetlands and wetland transition areas.

**Item #29 – Soil Erosion and Sediment Control Plan**

As previously mentioned, it appears no improvements are proposed at this time.

**Item #30 – Drainage Calculations**

As previously mentioned, it appears no improvements are proposed at this time.

**Item #33 – Proof of Submission of Application & Fees to Hunterdon County Soil Conservation District**

As previously mentioned, it appears that no improvements are proposed at this time.

**Item #37 – Mapping of Steep Slopes**

Based on the topography as shown, it appears that there may be areas of slopes in excess of 15%, these should be delineated on plans or a note added indicating that all slopes are less than 15%.

**Item #41 – Perc and Soil Log Certification**

The required certifications have not been included on the plan set.

**Item #45 – Affordable Housing Plan**

To our knowledge, an Affordable Housing Plan has not been submitted.

**Item #47 – Constrained Area Maximum Tract Yield Calculation Form**

The Tract Yield Calculation Form has not been provided in this submission.

**Item #50 – NJDEP Freshwater Wetlands**

Plans indicate that a Letter of Interpretation has been issued from NJDEP (NJDEP file number 1016-07-0009.1). A copy of the permit should be submitted for the Township's records.

**Item #51 – Septic Systems and Wells Within 100'**

Septic systems and wells within 100' have not been shown on the plans.

**Item #52 – Written Request for Individual Waivers or Variances**

Written request for waivers from checklist items has not been provided.

**Item #54 – Financial Disclosures Statement**

Planning Board Secretary should confirm that a Financial Disclosure Statement has been received for Block 12, Lot 16.

S. Taylor was present for G. DeSapio. She is present this evening to discuss the completeness of a subdivision application and lot line adjustment application. She acknowledges receipt of the Engineer's report. She has addressed several of the issues and will be requesting waivers for the ones she has not been able to address.

J. Mathieu stated it is the policy of the Board to have the Engineer and other professionals provide you a review of the application so waivers would not be required or the completeness denied.

E. Rupnarain offered the following comments to T. Decker's review:

- #1- at the time of the completeness of the subdivision;*
- #12 has not received a response from the Tax Assessor;*
- #26 will be requesting a waiver since there are no construction plans at present;*
- #27 will provide around the wetlands and transition areas;*
- #29 will submit to the Hunterdon County Soil Conservation for their approval;*
- #30 cannot provide any calculations since there is no development;*
- #33 will provide proof of submission;*
- #37 will provide the mapping of the steep slopes;*
- #41 the certification is on the cover sheet but will move it to sheet #4;*
- #45 in the process of providing;*
- #47 will provide;*
- #50 will provide. The applicant has obtained the LOI for the property;*
- #51 they have shown everything that is visible. Additional information is not available from the County Health Department with regard to the locations of the adjoining septic and wells;*
- #54 will be provided to the Board.*

S. Taylor indicated the waivers would be for the minor subdivision. There is a new well ordinance and the applicant is seeking a waiver from the well testing requirements. The ordinance requires all tests to be completed by the end of October. Her clients are at a disadvantage. They are requesting they be permitted to proceed with the completeness and be subject to the requirements of the well ordinance. The applicants are willing to perform the testing.

D. Pierce swore in E. Rupnarain.

T. Decker offered the following comments in regard to his memorandum:

- #1 – can be provided after approval but it is board’s intent to have it during the public hearing;*
- #12 – something that is easy to add later;*
- #15 – will correct;*
- #24 – can move the note to the sheet showing the septic testing;*
- #26 – with the storm water regulations the amount of impervious or disturbance that triggers a storm water management design is as the lot exists today;*
- #27 – the areas should be designated on the plat;*
- #29 – would not be able to provide;*
- #30 – would not want to lose the amount of the impervious;*
- In regard to the well testing, it is at the Board’s discretion.*

D. Pierce stated he has spoken with D. Banisch and A. Clerico and the proposed boundary line adjustment would add lands to the Our Lady of Victories property. Our Lady of Victories is located in the VR zone. The land being added to the Our Lady of Victories property is in the VC zone. In the VC zone, churches are not a permitted use. The church would be acquiring the land to devote to some church based use and in that regard requires a use variance. The granting of a use variance is not within the jurisdiction of this Board. In connection with the briefing of the LKR case, he ran across a case which announced the proposition that public health and safety issues, such as appropriate sewage and water supply, were of such public importance that they should not be waived as a condition of approval and should not be made a condition of approval. The Board has the discretion to deviate from the case law. The well ordinance requires the aquifer test for the creation of more than one lot. The LKR application was a request of relief of the well testing requirements without any extenuating circumstances. This is the first time the applicants have brought it to the Board and they have been diligent in preparing their plans. They are caught by the time issue through no fault of their own. The applicant would have 190 days after approval to record their deeds. Assuming this application is heard in November, memorialized in December, the time frame would expire prior to the allowable aquifer testing requirements. If the application would not be heard until December and, if approved at that time, memorialized in January, the 190 days would take it to July. They would be able to comply with the well ordinance requirements of seasonality. The lot line adjustment could be done by the Board of Adjustment without any well testing. In response to a Board’s member question, completeness is a determination the applicant has submitted the information and documentation of the checklist or obtained waivers for the submission of any lacking information or documentation. If the Board grants the completeness waiver for the well testing to be performed, the Board would have granted that waiver and testing would be required before the Board consider the application at a hearing. That decision would be inconsistent with LKR and could be used that the Board was arbitrary and capricious. An incomplete determination would not prohibit the applicants from applying to the Board of Health for a waiver.

The Board was concerned if the well ordinance requirements will be brought to the attention to the Board of Adjustment. D. Pierce responded T. Decker and himself would bring it up for a completeness issue.

It was moved by R. Dodds, seconded by J. Strasser to determine the Planning Board does not have jurisdiction as the plan is presented. All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood, who abstained.

*D. Haywood resumed her seat on the Board.*

#### Township of Kingwood – Proposed Ordinance

D. Pierce stated the ordinance provides for an addition to the checklist for street addresses for each property to be shown on the plat. During the review of the application previously discussed, it has been noticed that the checklist has not be amended to including the well testing.

It was moved by W. Kastning, seconded by R. Dodds and carried to recommend adoption of the proposed ordinance to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

#### **CORRESPONDENCE**

J. Mathieu reviewed as per the agenda.

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

##### Conservation Plan Element

A. Clerico reported she has received and responded to the email regarding the Transportation Plan from the County. In regard to the Conservation Plan Element, the draft has been updated. The plan is to have a public workshop in January or February.

##### 2008 Budget

E. Niemann suggested budget planning for 2008 should be started. J. Mathieu requested E. Niemann, J. Burke and M. Augustine review 2007's budget and provide some guidance to the Board. The Committee can give some general guidance. A. Clerico will provide a breakdown of their anticipated 2008 expenses by early next week.

##### Executive Sessions

After some discussion, it was decided a generic reference should be made on each agenda regarding the possibility of an Executive Session, listing personnel and litigation as possible discussions.

##### Subdivision Categories

S. McNicol stated she has been reviewing other town's subdivisions and has been able to acquire some copies. The Board should consider addressing the Township's minor subdivision categories. Neighboring communities

have similar circumstances and do not have three different types of minors. Minors and majors are the ways most other towns are handling subdivisions. The Municipal Land Use Law does not require notification for minor subdivisions. Most of the other town's subdivisions are only a maximum of three lots, whereas we allow five. It would be a good subject for a workshop meeting.

J. Mathieu went to the mandatory course over the weekend. The course indicated the Master Plan should be done and the other items will flow from it. The course urged not to rely on the six year statutory review requirement for a municipality. The Master Plan should be looked at continuously. The zoning should be consistent with the vision of the Township as expressed through the Master Plan.

D. Pierce stated because of the justification of the Class III in the Master Plan and Land Use Element, it would be prudent to do the Land Use Element and have the public hearing on that revision before changing the ordinance.

It was moved by E. Niemann, seconded by R. Dodds and carried to schedule a workshop meeting for November 27, 2007 at 8:00 PM. All members present voted **AYE** on **ROLL CALL VOTE**.

J. Burke inquired how to put some more validity to the 10 day requirement. D. Pierce responded the Board would have to enforce it and not create any exceptions or put it in an ordinance. The Board would have the ability to waive the requirement.

R. Dodds was concerned about setting a precedent in regard to the 10 day requirement. It is very difficult for the Board to deny the request. J. Burke stated he feels the Board made their position clear this evening that it could not happen again. J. Burke stated he was familiar with a minor one lot subdivision applicant who came before this Board, who spent extraordinary amount of money due to the ineptitude of her professionals. The Board cannot be responsible for the ineptness of the applicant's professionals. R. Dodds stated in a request for an extension of time, the public has no input. L. Sensus stated a waiver of the 10 day requirement should be something, such as waiting for the NJDEP approval and not the ineptitude of their professionals or the due diligence of the property owner. E. Niemann stated the matter should be listed on the agenda. J. Burke stated Kingwood's professionals have never issued a review memorandum on applications. T. Decker stated typically it is not the applicants who track the time frame on their extensions. The attorneys are usually doing it and the applicant has no idea.

W. Kastning inquired if a professional must be sworn in for a completeness review. J. Burke responded they are sworn in only at a hearing.

## **ADJOURNMENT**

It was moved by J. Strasser, seconded by W. Kastning and carried to adjourn the meeting at 10:10 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudenschick, Secretary**