

MINUTES

PRESENT: M. Augustine
R. Dodds
D. Haywood
J. Mathieu
S. McNicol
E. Niemann
L. Senus
J. Strasser
M. Synchron, Alt #1
D. Posey, Alt #2
A. Clerico, Planner
T. Decker, Engineer
D. Pierce, Attorney

ABSENT: T. Kratzer

CALL TO ORDER

The meeting was called to order by J. Mathieu at 7:55 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 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

J. Mathieu welcomed the new members of the Planning Board.

Minutes

It was moved by R. Dodds, seconded by D. Haywood and carried to approve the minutes of January 8, 2008 and place on file with the following addition:

Page 4 – A request was made for Elizabethtown to provide the Township a mapping of the lines. The Board also requested copies of all permits.

All members present voted **AYE** on **ROLL CALL VOTE**, except E. Niemann, M. Synchron and D. Posey, who abstained.

It was moved by S. McNicol, seconded by D. Haywood and carried to approve the Executive Session Minutes of January 8, 2008. All members present voted **AYE** on **ROLL CALL VOTE**, except E. Niemann, M. Syrnick and D. Posey, who abstained.

Resolutions

It was moved by D. Haywood, seconded by R. Dodds and carried to adopt **Resolution No. 2008-04 – Honeymar – Block 26, Lot 4 – Rescinding Denial**. All members present voted **AYE** on **ROLL CALL VOTE**, except M. Syrnick, who abstained.

It was moved by R. Dodds, seconded by D. Haywood and carried to adopt **Resolution No. 2008-05 – Perrotti – Block 7, Lot 14.10 – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**, except E. Niemann, M. Syrnick and D. Posey, who abstained.

Applications

Honeymar – Block 26, Lot 4 – Kingwood Locktown Road – Minor Subdivision – Hearing;

G. Walton, attorney, J. DeMuro, engineer and S. Honeymar, applicant, were present for the meeting this evening.

D. Pierce swore in S. Honeymar and J. DeMuro.

In response to a letter written to the applicant by the Planning Board Engineer, J. DeMuro testified the application has been amended to allow for one new lot. The property will be divided down the middle. The rear portion of the property is in wetlands. The new septic testing is outside of the wetlands. Those tests will serve the new home. J. DeMuro stated the barn is within 50' of the transition area. The DEP is not objecting to the presence of the barn since it is an existing condition.

T. Decker stated he has spoken with J. DeMuro and J. DeMuro has submitted a revised plan. An item open for discussion is some sort of conservation easement with the understanding the applicant can utilize the rear of the property, which encompasses the barn and pasture. Typically, when there is a wetland and buffer, it is placed in a conservation easement. Usually, it is undeveloped land. The barn falls within the buffer.

S. Honeymar testified she bought the property in 2002 and the prior owner had owned it for eleven months. She testified the barn has been there for a long period of time. The house is over forty years old. The pasture is being used for sheep. The barn is a six stall barn. She has removed some of the fencing. The trailer indicated on the plat is a travel trailer.

D. Pierce stated a conservation easement can be subject to an exception area. The barn and existing structures are within the conservation easement. The area can be described by a metes and bounds description. If it is a wetlands area not previously used for agricultural purposes, the use would be prohibited. The rest of the woodlands would be unusable for any purpose.

J. Mathieu stated the board would grant a conservation easement on the area encompassing the pasture with an exception. The easement would be written, if there was a change in the use or demolition, the exception would be extinguished. A metes and bounds survey would be required showing the conservation area with the exception language for the barn.

D. Pierce stated each application is subject to some conditions. The condition can be a permanent marker plan with the markers installed at a certain point of time, etc., issuance of the Certificate of Occupancy or release of the deeds. There should be a baseline report to document the conditions existing at the time of the subdivision, which should be attached to the resolution. Since the applicant does not intend to sell the lot in the near future, the markers should be placed upon the perfection of the subdivision.

A. Clerico stated the markers should be a demarcation of the start of the wetlands. They could be a 5' fiberglass post with an iron pin. The markers should be placed at the angle points.

D. Pierce stated the sideline variance was granted when the application was originally approved. It was deemed no variance was needed for the front yard set back, since it was pre-existing. The side lot line setback variance was approved when the application was originally granted. In regard to the regulations on wetlands, the state permits, if it is a use that pre-existed the wetlands regulations of 1987, then the use is allowed to continue until such time as it may be discontinued or abandoned. Since access to the area around the barn is necessary, the Board should use the wetlands' line, the property line behind the barn up and over to the fence to the western most side of the fence and the fence area as the exception area.

In regard to the conservation markers, J. DeMuro indicated there is a vendor where he could purchase the markers. A. Clerico stated there is a vendor who manufactures the markers. She could get a sample.

T. Decker stated, with regard to the markers, that they be placed at a regular distance through the woods, at angle points and where the easement crosses the property line.

It was moved by S. McNicol, seconded by R. Dodds and carried to grant amended subdivision approval to the above referenced application with the following conditions:

1. Review and approval of the deeds by the Board's professionals.
2. Receipt of unconditional County Planning Board approval, or evidence that all conditions of any conditional approval have been satisfied;
3. Recordation of the deeds perfecting the subdivision within 190 days from the date of this memorializing resolution.
4. Submission of the Letter of Interpretation from the New Jersey Department of Environmental Protection confirming the location and extent of freshwater wetland on the Property to be in conformance with what is depicted on the Plat;
5. Submission of Plans revised to remove the notation of a "trailer";
6. Receipt of unconditional approval from the Hunterdon County Soil Conservation District, or evidence that all conditions of any conditional approval have been satisfied;
7. Recordation of a Conservation Easement for the area of the freshwater wetlands and buffer or transition area associated therewith, containing an exception area for the existing barn, paddock and run in shed. The Conservation easement shall be subject to review and approval by the Board's professionals and shall provide that in the event the structures located within the exception area are destroyed or the use of the paddock abandoned, the exception area shall lapse and shall thereafter be subject to the restriction of the Conservation Easement;
8. Submission to, and approval by, the Board's engineer of a marker plan for delineation of the area subject to the Conservation Easement, which shall be consistent with paragraph

11 of the Banisch & Associates, Inc. memorandum dated February 7, 2008, and provide, at a minimum, for the installation of markers of the type referenced in the memo to be located at all angle points and intersections with property lines. The markers must be installed prior to recordation of the deeds perfecting the subdivision;

9. Submission to, and approval by, the Board’s engineer of baseline documentation regarding the existing conditions within and at the boundary of the Conservation Easement prior to recordation of the deeds perfecting this subdivision;
10. The Township of Kingwood is dedicated to providing affordable housing and has established an affordable housing program with supporting land use ordinances and a housing trust fund based on the Fair Housing Act of 1998. The development fee ordinance requires a developer, pursuant to 132-13 of the Kingwood Township Code, to pay a development fee to the Kingwood Township Affordable Housing Trust Fund, as follows:
 - A) For all new residential development - one percent of the equalized assessed value of the new residential development;
 - B) For all new, non-exempt, non-residential development - one percent of the equalized assessed value of the new non-residential development.

Expansion of existing structures by fifty percent (50%) or more is subject to imposition of the development fee.

The applicant shall pay fifty percent (50%) of the estimated developer’s fee to the Kingwood Township prior to the issuance of building permits based on the Tax Assessor’s estimated assessed value and his determination of the appropriate developer’s fee. Building plans and as-built building plans for each development subject to payment of the developer’s fee must be provided to the Tax Assessor and the remaining portion of the developer’s fee shall be paid at the time of issuance of a Certificate of Occupancy for the new development. This paragraph does not constitute any determination by the Board as to whether the applicant is required to pay a developer’s fee.

11. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing resolution shall not be released to the applicant unless all outstanding escrow fees have been paid and the applicant’s escrow account contains sufficient funds to cover anticipated unbilled expenses.
12. Approval of this application by the Planning Board shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
13. The within approval, and the use of all property subject to the within approval, are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any

- approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon property application.
14. The Kingwood Township Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
 15. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statues, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
 16. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

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

Proposed Ordinance No. 15-7-08 – COAH Development Fees

The purpose of Proposed Ordinance No. 15-7-08 is to make the COAH Development fee 1%.

It was moved by R. Dodds, seconded by D. Haywood and carried to recommend to the Township the adoption of proposed Ordinance No. 15-7-08. All members present voted **AYE** on **ROLL CALL VOTE**, except M. Syrnick, who abstained.

Proposed 3rd Round COAH Rules

A. Clerico reviewed the following memo:

Under the new rules, the Township’s affordable housing obligation will be calculated as follows:

	Revised 3rd Round	Initial 3 rd Round
Prior rounds affordable housing obligation	19	10
Credits to be applied to prior rounds obligation	0	
Remaining prior cycle unmet need	9	
3 rd Round Rehabilitation Share	11	
Residential growth share (based on COAH’s housing forecast of 269 residential units ; and COAH’s 1 affordable unit/5 residential units)	53.8	21 (based on 187 units)
Non-residential growth share (based on COAH’s employment forecast growth of 75 jobs; and based on COAH’s 1 affordable unit/16 jobs)	4.68	12 (based on 300 jobs)
Non-residential growth share: 268 jobs (based on actual non-residential development since 1/1/04 and COAH’s jobs	16.73	

	formula)		
Revised 3rd Round residential and nonresidential growth share		70.53	
Proposed rule 3rd Round growth share obligation +		70.53 71	33
Prior Cycle Unmet Need +		9	
Cumulative Projected 3 rd Round Growth Share and Prior Cycle Unmet Need - New Construction Obligation		80	
Rehab Share		11	

The Township has to deliver 9 units from the prior cycle and a combined total of 71 units from the 3rd Round under the proposed new rules. Up to one-half of the 71 units (or 35) may be delivered as RCA’s.

Deadline to Re-Petition for Substantive Certification

- On or before December 31, 2008: Municipalities located in Cumberland, Gloucester, Hunterdon, Ocean, Somerset, Sussex and Warren Counties.

Fair Share Obligation “Delivery Period” (3rd Round)

- 2004-2018 – interval monitoring at 2, 5 & 7-years to maintain substantive certification.

Prior Round Obligation – Kingwood’s prior round obligation decreased by 1-unit

- New construction obligation (1987-1999): 19 units (was 20 units)
- Rehabilitation: 11 units (was 0 units)

Growth Share Obligation

- 1 affordable housing unit for every 4 market units (was 1 for every 8)
- 1 affordable housing unit for every 16 new jobs created (was 1 for every 25)

Projected 3rd Round Growth: 2004 – 2018: **71-units**

- Total Residential: 269 units / **Affordable Housing Units Required: 53.8**
- Total New Jobs (based upon local approximate number of certificates of occupancy for non-residential development issued since January 1, 2004: 267.77 / **Affordable Housing Units Required: 16.74**

Demolitions

- Demolitions may no longer be subtracted from the actual growth in certificates of occupancy – residential as well as nonresidential. Knock-down replacement dwellings will count toward the municipal growth share obligation, irrespective of demolitions.

New Jobs: Vacant Non-Residential Space

- Non-residential buildings that are vacant and documented as such at the time of the Township’s petition for substantive certification shall be included in the calculations for new job growth.

Regional Contribution Agreement (RCA)

- Minimum cost per unit for Regional Contribution Agreement (RCA) \$67,000 [Region 3 - includes Hunterdon, Somerset and Middlesex Counties]

- No more than 50% of growth share (**35 units**).

Rental unit obligation

- 25% of growth share (17.6 or **18-units**) must be constructed in the municipality.

Age Restricted Housing

- No more than 25% of growth share obligation that is constructed in the municipality (i.e. if municipality uses RCA; subtract RCA units from total and x 0.25 for max. age-restricted count). If no RCA, the maximum age-restricted component is **17 units**.

Family Units (New)

- At least 50% of growth share (36-units) obligation must be family units. A “family unit” is defined as:
 “A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is available to the general public and not restricted to any specific segment of the population.”

SDRP Plan Endorsement

- COAH eliminated the rule requirement for State Development and Redevelopment Plan (SDRP) Plan Endorsement (PE). PE is now “encouraged” but no longer required in the rule.

Payment In Lieu of Construction

- Housing Region 3: \$145,903 per unit – COAH proposes that this is the maximum allowable amount that may be charged for one unit of obligation generated by a developer. The amount is no longer subject to local costs as under the initially adopted 3rd round rule.

Inclusionary Zoning Ordinance

“Inclusionary zoning ordinances shall contain a development size threshold below which affordable units shall not be required. Such a threshold shall be based on whether or not the density and set-aside required by the zoning ordinance could result in the provision of at least one affordable unit on-site, e.g. the individual parcel would accommodate less than five dwelling units where the zoning requires a 20 percent set-aside. **Sites falling below such threshold shall not be required to provide affordable housing or make a payment in lieu** pursuant to (c) below. However, the ordinance may require the payment of a development fee pursuant to N.J.A.C. 5:94-8.3” [5:94-6.4 (b) 8]

Development Fees – May Be Increased – (Township should increase the fees)

- Residential: 1.5 % of equalized assessed value (currently 1%)
- Nonresidential: 3 % of equalized assessed value (currently 2%)

Accessory Apartments – Affordability Controls Reduced from 30 years to 10 years.

- Up to 10 units or 10% of the Township’s obligation may be satisfied through Accessory Apartments. Affordability controls must remain in place for a minimum of 10 years provisions

There are many additional changes in the proposed rules that will require careful analysis and discussion as the Township moves forward with a revised Housing Element and Fair Share Plan to re-petition COAH for substantive certification. Written comments on the proposed rules may be submitted up to March 22, 2008. We are in the process of conducting a continuing analysis of the proposed rules. We

request authorization for our office to prepare a letter for the Chairman and the Mayor, if she so chooses, with a series of comments tailored to the Township’s situation, which may be submitted to COAH during the official comment period.

The Board had a brief discussion on how they could meet the new proposed requirements.

Farm Stand Ordinance Review

J. Mathieu stated the Board might want to consider looking at the farm stand ordinance as they are moving forward with the Master Plan review. The Township does have an existing farm stand, who has received all the appropriate approvals and variances. Does the existing farm stand operate in the spirit of the intention of the Farm Stand Ordinance when it was adopted by the Planning Board? Do we have adequate controls on existing farm markets? He feels one of the items to be reviewed are what products and composition of products can be sold and what additional services can exist there. Are catering and a commercial kitchen necessary for a farm stand? The original theory was to provide farmers something more substantial than a table with a couple of vegetables on it. The Board should not be reviewing the current farm stand. He does not think it is appropriate for a liquor license to be on the premises and being open to 11:00 PM. Does the Board want the current situation replicated or do we need to look at the current ordinance?

S. McNicol stated the farm stand of Pittstown Road is approximately 5,000 sq. ft. and a lot of it is unused.

R. Dodds suggested the Board address the issue to the Agricultural Advisory Committee to get a feed back from people who are involved in this on a day to day basis. He stated being a farmer in NJ is not a lucrative career. If every farmer decided to have a farm stand in their yard, it might not be something the Board would like to see. E. Niemann responded one of the representatives on the Agricultural Advisory Committee stated most farmers in Kingwood grow staple products, such as hay and grain. She doesn’t know if they would be interested in having a farm stand. The Ordinance can go back to the Agricultural Advisory Committee for discussion. The Township can encourage backyard gardeners to share their crops by selling at a farmer’s market. J. Mathieu responded Delaware Township has one every Saturday from the end of May to early September. E. Niemann will take it to the Agricultural Advisory Committee and report back to the Board.

LKR – Block 38, Lot 20 & 36 – Federal Twist Road

D. Pierce reported he was contacted by the attorney for LKR requesting an additional stay and that the applicant has gone to contract with Green Acres.

Subcommittee Report

J. Strasser reviewed the following report:

- Attendees: Diana Haywood
- Richard Dodds
- Joe Strasser

Items Discussed

1. Conservation Easement

- a.) Richard Dodds to meet with Debbie Kratzer to get required input on the Conservation Easement information.

2. Home Owners Association

- a.) Develop a standard Home Owners Association agreement.
- b.) Have a mandatory meeting once a year with minutes addressing issues the Association is responsible for.
- c.) Have officers of the Association who are responsible to see that they address the required issues and the people in the Association adhere to the rules.
- d.) Each land Owner who is a member of the Association should have one vote on any issue no matter how large their land is.
- e.) Issues that the Home Owners Association should be responsible to over see at a minimum are as follows:
 - Plowing of roads in the community governed by the Association assuming the deeds read as such.
 - Repair of roads in the community governed by the Association assuming the deeds read as such.
 - Maintaining of wetlands and seeing that owners do not violate DEP rules.
 - Maintaining of retention ponds.
 - Maintaining of Fire Detention ponds or storage tanks.

3. Fire Detention ponds or storage tanks

- a.) Meet with members of the Fire Company to develop requirements for ponds and storage tanks

4. DEP – Wet Lands LOI

- a.) Create a standard type of permanent marker that delineates the location of wet lands.
- b.) Have a minimum distance that the marks must be set at.
- c.) Have language in the deed that the markers must always stay in place.
- d.) Have the markers located on the deed.

5. Types of trees & desirable shrubs to be specified for developments

- a.) The Planning Board may want to choose trees and shrubs that they would like to see used on new developments.

6. Design of School Bus Stop Protection Enclosures

- a.) The committee is to investigate different types of School Bus enclosures for protection from the weather for children who are waiting for the school bus. The enclosures should blend with the countryside atmosphere.

The Board discussed the memo briefly.

S. McNicol stated she had attended a mini conference with the New Jersey Conservation Foundation. There is a particular community who has documented their past easements, has programs to assure that all the recorded easements are inventoried and a monumentation program with ordinances that define who should handle these easements. The zoning officer takes an active part. It is incorporated into their Master Plan. A requirement should be added to the checklist to require the appropriate language is incorporated.

D. Pierce stated there are very standard agreements dealing with Homeowner’s Associations. Into those agreements, certain conditions have been incorporated, which impose an affirmative obligation on the homeowner. There is a separate agreement that delineates the responsibility of the Homeowner’s Association for the development. The Township has the right but not the obligation to maintain the requirements. The Board, in the past, has taken the position that they did not want the responsibility of maintaining the easements. The DEP is supposed to enforce the wetlands’ easements.

CORRESPONDENCE

J. Mathieu reviewed as per the agenda.

Township of Kingwood – Letter to Elizabethtown Gas Company – E. Niemann responded the Township has received the requested information.

ANJEC – Smart Growth Grants – E. Niemann stated the Township is going to apply for another grant to cover the Open Space Element.

A. Clerico stated a draft of the Conservation Plan Element will be provided to the Board members with a public hearing on the draft scheduled for the April meeting. The end of the grant period is in April. ANJEC understands we are off on our timeline. She is not sure if D. Kratzer has completed the ERI. The Board can have the public hearing on the revised draft and not adopt until the ERI is adopted. In regard to Smart Futures Grants, there are a couple of different categories we can apply for grants. The Visioning Component might be appropriate. Most of the other categories were for neighborhood planning and applied to a more urban area. The deadline is March 31st. If the Board is in favor, Banisch Associates can submit a proposal, work time line and scope. E. Niemann stated that, possibly, Visioning is inappropriate.

The Board decided to hold the public hearing on the revised draft at the April 8, 2008, meeting beginning at 8:00 PM.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by R. Dodds, seconded by J. Strasser and carried to adjourn the meeting at 9:59 PM. All members present voted **AYE** on **ROLL CALL VOTE**.

Respectfully submitted,

Diane Laudenschach

Diane Laudenschach, Secretary