

MINUTES

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

ABSENT: M. Augustine
L. Senus

CALL TO ORDER

The meeting was called to order at 8:07 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 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 R. Dodds, seconded by S. McNicol and carried to approve the minutes of June 10, 2008 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by R. Dodds and carried to approve the minutes of the Executive Session of June 10, 2008 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by S. McNicol and carried to authorize the release of the Executive Session minutes of June 10, 2008. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolutions

It was moved by D. Haywood, seconded by R. Dodds and carried to adopt **Resolution No. 2008-10 - Laura Properties – Block 8, Lots 25.01, 25.14 & 25.15 – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by R. Dodds, seconded by D. Haywood and carried to adopt **Resolution No. 2008- 11 - Perrotti – Block 7, Lot 14.10 – Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolution No. 2008 – 12 – BDAC, LLC – Block 23, Lot 17.02 – Barbertown Point Breeze Road – Class II Minor Subdivision

D. Pierce stated that he had received a phone call from the applicant’s attorney indicating the applicant had spoken with the DEP regarding what may or may not be permitted within the area of the buffers shown on the plat, such as swimming pools. The attorney requested no action be taken by the Board on this resolution this evening. The applicant intends to reappear before the Board. A. Belle was in the audience and indicated he was requesting the matter be held over until next month’s meeting.

J. Mathieu announced Bunker Hill, Block 22, Lot 17, will not be appearing this evening.

Applications

E. Niemann recused herself from her position on the board for the following matter.

Galleria Construction – Block 39, Lot 7 – Barbertown Idell Road – Minor Subdivision with variances -
Continuation of Public Hearing

H. Widman was present this evening to discuss the applicant’s request for the relief that the two building lots contain one acre of contiguous area. The applicant did not have the calculations at last month’s meeting. Revised plans have been submitted with the calculations and the application does not require a variance. The applicant requires a variance for the one acre buildable area.

R. Lorentz indicated the table on the plan has the lot numbers reversed on the columns so what is listed as applying to Lot 7 applies to Lot 7.02 and vice versa.

T. Decker stated the track yield calculation does show the minimum of two acres on Row #5. The line indicates the minimum net site area as 2.123 acres for Lot 7.02 and 2.698 acres for Lot 7.

H. Widman stated it was a concern last month because the applicant did not know the calculations. H. Widman stated the applicant does not have a problem with deed notifications. The conservation easement causes more of an issue. The DEP will address the wetlands regulations. Wetlands can fluctuate and the LOI is good for five years. The applicant would like to rely on what is provided by the DEP and their regulations. The building department would request to see that the building is not infringing on those areas. In six years, the area could move closer or farther away from the proposed dwelling and be in a different place.

D. Pierce stated there is a provision in the conservation easement indicating that notwithstanding the foregoing limitations, Grantor shall not be prohibited from undertaking any activity within the Easement Area which is permitted under applicable regulations, N.J.A.C. 7:13-1, et seq., or for which Grantor has obtained a valid permit authorizing such activity from the New Jersey Department of Environmental Protection or such other agency as may have jurisdiction over activities within the Easement Area.

H. Widman stated it is a shame to add the extra expense by requiring additional engineering since there are protections from the DEP already.

T. Decker stated it would depend on what they are doing that would require the DEP permit and if the future property owners are going to know they require a DEP permit to build something. The Board has been requiring conservation easements along the buffer areas. If the conservation easement is going to be filed by a deed, the deed should contain a metes and bounds description of the easement.

R. Lorentz indicated the applicant will be installing markers.

T. Decker stated the language in the proposed deed of conservation easement allows that if a permit can be obtained from the DEP encroaching into the wetlands buffer, the easement does not preclude them from doing it.

D. Pierce stated the history the Township has had with wetland and transition areas which are subject to DEP regulation and enforcement. Buyers and property owners tend to ignore those restrictions and do not go to the DEP, undertake activities and then are subject to enforcement from the DEP. There are several instances that a septic has been installed in a wetlands area in the Township. The Board felt the current situation with regulation by the DEP and management by the DEP was not necessarily sufficient.

H. Widman stated if something gets a metes and bounds description for a wetlands area he is not sure if anyone will understand those descriptions.

T. Kratzer stated the installation of the markers will require metes and bounds to establish the position of the markers.

R. Lorentz stated the location can be established but not necessarily described by metes and bounds. The markers would be placed at key points, such as where a normal building envelope might cross the buffer line. That point would be significant because it would create a new set back line traversing the property. He had a suggestion of filing a small scale map with the deed for the property showing the location. It gives a much better representation to the average person than to read a metes and bounds description.

H. Widman stated the average homeowner does not comprehend a metes and bounds description. Visual material is more readily understandable.

R. Lorentz stated if the markers are in place before construction begins, it would show up on any location survey, foundation plan and/or plot plan for the building. Any physical feature above ground would be shown on that drawing. The markers would be placed at a point where the front part of the property intersects with the buffer line, which is a defined point on the map by coordinates on the outbound survey of the lot and transferred to a map if the monument is physically in place. It will take surveying to install the markers. The resistance to define the easement by a metes and bounds description is due to timing. The applicant is willing to be responsible for the placement of the markers but the applicant will not be the developer of the lots.

T. Decker stated the markers could possibly be removed and without a metes and bounds description the location would not be known.

J. Mathieu polled the board and the outcome of the poll was to require the applicant to describe the easement with a metes and bounds description.

R. Lorentz stated the applicant is about to receive the LOI which will confirm the location of the wetlands. From that determination the 50' buffer gets established. Once that is done, it can be transferred to the subdivision map. The actual limits of disturbance are the constrained areas and lot boundaries. The placement of a dwelling or structure is limited to the building envelope as constrained by the buffers and other factors. The applicant is in agreement to be constrained by the ordinance requirements that limit the building coverage to 8% on the lot. The amount of disturbance is difficult to estimate. A general rule of thumb is twice the impervious coverage for an area of disturbance with the development of the property. Each of these lots can be developed with no more than 4,000 sq ft of new impervious surface, for a total amount of 8,000 sq ft of new impervious, which is well under the .25 acre which would require stormwater management issues. The area of disturbance is limited by area. The requirement is that it be limited to no more than a total of one acre of impervious or one acre of total disturbance on both lots. The applicant intends to install dry well collectors with roof drains to be associated with the houses so that imperviousness will be infiltrated.

T. Decker stated his concern is looking at the two lots' total and the DEP requirements which allows for the maximum one acre of disturbance before triggering the stormwater regulations. If the lots are sold to two different people, the remaining lot is saddled with the stormwater management requirements. He suggests the allowable .25 acre of permitted impervious area be split in half. When the applicant is going from a heavily wooded area to a lawn condition, there is a more significant change in the stormwater run off characteristics.

H. Widman stated the applicant has addressed all the comments.

A. Clerico reviewed the memo from Banisch and Associates:

1. The applicant has revised the Constrained Area Maximum Tract Yield Calculation Form to include a breakdown of the constrained areas associated with each proposed lot, as requested. However, it appears that the two column headings labeled "Lot 7" and Lot "7.02" are reversed and the information provided below each pertains to the other proposed lot. The calculations provided confirm that the required minimum two (2) acres unconstrained land is provided for each lot.
2. The proposed filling of 7,056 sq. ft. of wetlands on proposed Lot 7 (Lands Remaining) is authorized in accordance with the NJDEP General Permit provided, dated September 20, 2007. The plan submitted with the application for the General Permit identifies a 50' transition area between the wetlands on Proposed Lot 7 and the proposed development. The plan shows the location of a septic system outside of the 50' transition area as well as a proposed driveway and dwelling, which has been reconfigured, but remains generally consistent with the location of the driveway and dwelling on the proposed subdivision plan.
3. Not included on the NJDEP General Permit Plan is the proposed subdivision, nor is there an indication of the proposed 50' wetlands transition area on the northerly side of the wetland. However, condition #4 of the General conditions of the General Permit states that "The activities shown on the approved plans shall be constructed and / or executed in conformity with any notes and details on said plans and any conditions stipulated herein."
4. Applicant should provide testimony whether the proposed 50' wetlands transition area has been approved by the NJDEP, and whether an LOI has been received or is required.

5. Conservation easements should be provided encompassing the proposed wetland and transition area on both lots. Deed notifications should be required for both lots concerning the location of wetlands, transition areas and use restrictions associated with these areas. The Board should require the placement of conservation easement markers along the transition area boundaries.
 6. A note should be added to the plan as per Section 115-3B of the ordinance that states, "Lots less than four (4) acres shall be permanently deed restricted to limit the size of the dwelling to be constructed to not more than 3,000 sq. ft." This should be made a condition of approval.
 7. Variance is required from Section 132-30F(6) of the Township ordinance requiring Class I minor subdivisions to have a minimum buildable area of one acre. Proposed Lot 7.02 meets the buildable area requirement with a net buildable area of 1.314 acres. The Lands Remaining Lot 7 appears to have a net buildable area of 0.436 acres (18,995 sq. ft.), and therefore requires a variance. *H. Widman was in agreement.*
 8. The minimum buildable area is defined at Section 115-3 as follows: "Buildable Area - A contiguous area of at least one (1) acre of land located within the building envelope of a lot and which does not contain any constrained areas." The net buildable area calculations for each proposed lot should be added as a row #8 in the Constrained Area Maximum Tract Yield Calculation Form.
 9. The revised plan lacks an indication of the proposed limits of disturbance. Plans should identify the total amount of disturbance proposed in this subdivision. Total disturbance may not exceed one (1) acre unless a stormwater management plan is submitted for approval. The limits of disturbance should be added as a condition of approval.
 10. The 'Zoning Schedule' identifies the maximum building coverage for each lot as < 8%, which conforms to the requirements for the zone. Once the limits of disturbance are provided, the actual proposed building coverage should be identified in sq. ft. and the percentage of total lot area.
 11. Stormwater management improvements agreed to with the Board in June should be added as notes to the Plan and incorporated as a condition of any approval that may be granted.
 12. The Board should condition approval upon approval of any other agency with jurisdiction.
 - A. Clerico stated the property is a unique circumstance with the amount of wetlands on the property. The plans show a proposed dwelling could be provided if the wetlands could be filled in. H. Widman responded the applicant has obtained a general permit. T. Decker stated the applicant should show the limits of disturbance.
 - A. Clerico stated the actual usable space of the property should be indicated.
- H. Widman stated the comments made are a lot of "what ifs". The requirements may change over the years and what is done this evening might not be relevant in the future. The applicant will have to prove the developable area when they apply for a building permit.
- T. Decker stated a grading plan would help show what they can do under the thresholds. A conceptual grading plan can indicate a reasonable amount of room for future amenities.
- H. Widman stated in regard to the issue of drainage conditions on the adjacent property, the applicant is willing to work out some sort of remediation. C. Wilson stated he requested a swale be put on the property line. C.

Wilson walked the property with the applicant and the applicant explained how the grading will be covered by the swales on the property. C. Wilson was satisfied with the solution.

D. Pierce stated a grading plan can be required as a condition of approval.

S. McNicol expressed her concern regarding the location of the house in a wetlands area. She suggested the house should be moved further into the lot. H. Widman stated the wetlands may only be a type of grass not necessarily a stream. B. Casuscelli stated there is no water laying on the property. B. Casuscelli further stated the wetlands have been determined due to a different type of vegetation growing. It is a little strip in the center, less than one acre. The applicant has a state permit. H. Widman stated the applicant does not want to disturb more trees than necessary. H. Widman stated the developer will have to design a grading plan that will provide the water run off away from the house. Possibly, foundation drains will have to be installed as well as a foundation coating. The builder's guarantee provides protection from water infiltration.

T. Decker stated he will have a better indication of the exact location of the wetlands when the LOI is issued.

A. Clerico stated the planner is asking the Board to consider requiring an affordable housing unit on the larger lot. The construction of two homes will require one half of a unit. B. Casuscelli agreed to provide one unit.

Discussion followed if the applicant was not the developer of the lots, he might be willing to make a contribution rather than build the unit. D. Pierce stated once the approval is granted and it is a condition of approval, any future owner is bound by that condition of approval.

It was moved by D. Haywood, seconded by J. Strasser and carried to approve the above application with the following conditions:

1. Submission of a Plat revised to include:
 - a. A note reflecting the square footage limitation on the dwellings to be constructed on the Lots;
 - b. The correct net buildable area calculations in the constrained area tract yield form;
 - c. The Letter of Interpretation number assigned by the Department of Environmental Protection; and
2. Revision of the deeds to include:
 - a. Language restricting the dwelling size on Lot 7 to 3000 square feet of living space, excluding the basement;
 - b. Language restricting the dwelling size on Lot 7.02 to 3000 square feet of living space, excluding the basement, plus the maximum square footage permitted for an affordable housing unit;
 - c. Language restricting the total impervious coverage and disturbance of each lot to the areal extent agreed upon by the applicant and the Board engineer pursuant to condition 3;
 - d. Language requiring the piping of all roof drains to dry well collectors;
3. Submission of a concept grading plan to the Board engineer and conference with the Board engineer to reach agreement as to the restrictions to be placed on each lot with respect to the areal extent of impervious coverage and surface disturbance which will be permitted on each lot;
4. Review and approval of the Deeds by the Board's professionals.

5. Recordation of a stone row conservation easement which shall be submitted to and approved by the Board's professionals
6. Receipt and submission to the Board of a Letter of Interpretation from the New Jersey Department of Environmental Protection verifying that the presence and extent of the freshwater wetlands depicted on the Plat is accurate.
7. Submission of the plat submitted to the New Jersey Department of Environmental Protection for purposes of obtaining the Letter of Interpretation.
8. The applicant shall confer with the Township Committee and the Board engineer and agree upon the amount of the applicant's off-tract improvement contribution;
9. Review and approval by the Board's professionals, and recordation, of: conservation easements for Lots 7 and 7.02, including both a metes and bounds description and a graphical depiction of the area and noting and subject to the right to apply to the New Jersey Department of Environmental Protection for permits to conduct activities within the area of the conservation easement;
10. All conservation and stone row preservation easements shall be delineated in the field prior to the issuance of any building permit by the installation of markers at all deflection points along the outer boundary lines of such areas and where such lines intersect property lines. Where the distance between deflection points and/or the intersection with property lines is greater than 100 feet, markers shall be installed every 100 feet. The form of marker shall be subject to approval by the Board's planner;
11. Prior to the issuance of a building permit, the applicant shall submit a baseline documentation report for all conservation and stone row easements documenting with photographs the installation of the boundary markers and the condition of the easement areas;
12. Completion and submission of the results of aquifer testing, the plan for which and the results of which shall be subject to the approval of the Board's hydrogeologist prior to the issuance of a building permit.
13. No building/construction permit shall be issued for any lot unless and until a well permit has been obtained as required by Kingwood Township Ordinance Section 153-24.
14. Prior to the issuance of a certificate of occupancy, water quality testing shall be conducted on the well for each lot as required by Kingwood Township Ordinance Section 153-25. The test results shall be submitted to the Township's hydrogeologist for review and determination as to whether a water treatment system is necessary.

15. Receipt of unconditional approval from the Hunterdon County Planning Board.
16. Receipt of unconditional approval from the Hunterdon County Soil Conservation District.
17. Receipt of unconditional approval from the D&R Canal Commission.
18. 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 growth share ordinance requires a developer to agree upon a plan for satisfying its portion of the growth share obligation created as a result of its proposed development. Pursuant to the growth share ordinance, each new home results in the creation of an obligation for 1/4th of a growth share affordable housing unit. Since the proposed development results in the creation of 2 new homes, the applicant is responsible for satisfying an obligation to provide a 1/2 share of a growth share affordable housing unit. The applicant has agreed to provide an affordable housing rental unit on Lot 7.02. The affordable housing rental unit shall be constructed and a certificate of occupancy issued therefore not later than thirty (30) months after the issuance of a certificate of occupancy for the primary dwelling unit on Lot 7.02.
19. Revision of the Deed for Lot 7.02 to contain appropriate notice and restrictions regarding the affordable housing obligation set forth in condition number 18.
20. The applicant shall establish an escrow for professional review of the aquifer test plan and hydrogeologic report as required pursuant to Kingwood Township Ordinance Section 153-34 (4). The escrow in the amount of \$3,200.00 shall be established before deeds are released for recording.
21. The applicant shall establish an escrow for well rehabilitation and monitoring as required pursuant to Kingwood Township Ordinance Section 153-34 (5)(a). The escrow in the amount of \$6,000.00 shall be established before deeds are released for recording.
22. The applicant shall establish an escrow for water quality monitoring as required pursuant to Kingwood Township Ordinance Section 153-34 (5)(b). The escrow in the amount of \$5,600.00 shall be established before deeds are released for recording.
23. 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. Approved Plats or Deeds shall not be released for recordation unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
24. 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 approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

25. The Township of Kingwood 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.
26. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
27. 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**.

E. Niemann resumed her seat on the Board.

Schlachter – Block 9, Lot 13 – Lower Oak Grove Road – Determination of Completeness

W. Wilson was present for the applicant his evening. The applicant is requesting a minor subdivision of one new lot. The property is located on Lower Oak Grove Road. It contains 30 acres. The new lot will contain 9 acres net and the remaining lands 20.5 acres net. The applicant is not aware they require any variances.

T. Decker's memo was reviewed. W. Wilson provided the responses.

Item #1 – Plat in Electronic Format

Applicant has requested a waiver for completeness purposes only and will provide an electronic format as condition of approval. *Applicant has provided to T. Decker today.*

Item #10 – Title Block Information

Telephone numbers of the subdivision applicant and owner has not been provided. *The applicant's phone is on the plat. The actual owner is the father of the applicant and he is not well. He has a land use authorization and consent. The applicant is requesting a waiver for providing the phone number of the owner.*

Item #22 – Existing and Proposed Drainage Facilities on and Within 200 ft of the Tract

Applicant requests a waiver as no drainage facilities are proposed at this time.

Item #27 – Natural Features to be Preserved, Including Conservation Easement

Conservation easements have not been provided along the existing wetlands or transition areas. *The application has wetlands and transition area buffers. He does not anticipate any reluctance to provide the easements. The applicant is requesting the information be provided when the application has been*

approved so they do not have to be resubmitted. The applicant is requesting the waiver for completeness purposes only.

Item #32 – Proof of Submission to County Planning Board

Proof of submission was not included in the application package as provided to our office. Board clerk should confirm receipt.

Item #33 – Proof of Submission Application and Fee to County Soil District

Proof of submission was not included in the application package as provided to our office.

Item #34 – Certification Regarding D&R Canal Review Zone for Exemption

The applicant has requested a waiver, as the property is not within the jurisdiction of the Delaware Raritan Canal review area

Item #36 – Variance for Fronting on a Public Street

Applicant requests a waiver, as relief is not required. Our office is in agreement with their assessment.

Item #37 – Mapping of Steep Slopes

Applicant has requests a waiver due to the limited nature of disturbance.

Item #38 – Stormwater Management Plan and Calculations

The applicant has requested a waiver due to the limited nature of the application.

Item #39 – Proposed Deeds

Applicant requests a waiver for completeness purposes only and agrees to submit perfection deeds upon approval.

Item #40 – Deed and Plat Language Regarding Sewage Disposal System

Applicant requests a waiver for completeness purposes and agrees to submit deeds upon approval along with appropriate language. Notes regarding the sewage disposal system should be added to the plat as well.

Item #42 – Right to Farm Language

Applicant requests a waiver for completeness purposes and agrees to submit deeds upon approval including appropriate Right to Farm language.

Item #44 – Executed Escrow Agreement

Applicant requests a waiver due to the limited nature of application acknowledges a responsibility to maintain adequate escrow balance.

Item #45 – Affordable Housing Plan

Applicant requests a waiver as it is their opinion that no available housing obligation is required for this application.

Item #47 – Completed Constrained Area Maximum Tract Yield Calculation

Applicant requests a waiver given the size of the proposed Lots.

Item #49 – Depiction of Category 1 Streams Within 300 ft of Property

Plans indicate a portion of Lockatong Creek along the Southwest corner of the property. Based on our review of available NJDEP GIS Mapping, it appears that there is also an offsite tributary to the Lockatong Creek running through the eastern adjacent property. Location of this tributary should be shown on the plans to ascertain any impacts on the tract in question. *The applicant has provided 27 copies of the Freshwater Wetlands Letter dated November 17, 2006.*

Item #50 – Application Submission for NJDEP Letter of Interpretation

Plans indicate that a wetland letter of interpretation was issued by NJDEP. A copy of the permit and approved plan should be provided. *The applicant has provided.*

Item #51 – Septic Systems and Wells Within 100 ft

Applicant requests a waiver due to the limited nature of the application and proposed lot sizes. It should be noted that the septic testing on proposed Lot 13.03 is approximately 40 feet from the common property line with adjacent Lot 13.01. Applicant should confirm that any wells on existing Lot 13.01 or at least 100 feet from the proposed septic area on Lot 13.03. *The applicant is requesting a waiver for completeness purposes. The information will be provided prior to the public hearing.*

Item #54 – Financial Disclosure Statement

Applicant requests a waiver as there is no corporate partnership or company interest.

W. Wilson stated most of the waivers requested are for completeness purposes only. The applicant will provide the requested information prior to the public hearing. The applicant is requesting waivers for the items that have been identified.

T. Decker stated most of the items he has no problem with given the proposed subdivision. The one concern he has was the Cat-1 stream. It may not have an impact. There could be wetlands in the area. He would request the applicant provide confirmation the location is more than 300' from the property as a point of recognition prior to the public hearing.

It was moved by S. McNicol, seconded by D. Haywood and carried to deem the application complete with the requested waivers being granted for completeness purposes only. All members present voted **AYE** on **ROLL CALL VOTE**.

Bunker Hill – Block 22, Lot 17 – Barbertown Point Breeze Road Road – Request for Relief from Condition of Approval

T. Decker provided the following memo to the Board:

1. The 50ft wetland buffer limit as shown on the Drive Relocation Plan does not agree with the Final Major Subdivision Plat last revised September 11, 2006, as prepared by George A. Sniffin, PLS. Buffer as shown on the Drive Relocation plan does not appear to reflect the transition area averaging.
2. Applicant's engineer should address any additional impervious area created by the two driveways and it's affect on the approved stormwater management design.

3. Driveway accessing Lot 17.03 crosses the common property line with Lot 17.02 and runs through Lot 17.02 for approximately 230ft. The alignment of the driveway falls outside the limits of the existing common driveway easement.
4. Common property line between Lot 17.02 and 17.03 should be adjusted, such that each driveway is contained within the same lot for which it serves.
5. A proposed separation of 2ft is proposed between the driveways for distance of approximately 220ft. Maintenance of vegetation in this area may be problematic.

D. Pierce stated the applicant has requested the matter be adjourned based upon the above comments of T. Decker.

R. Dodds recused himself from his position on the Board for the following matter.

Diminick/Rey – Block 5, Lots 4 & 5 – Ridge Road - Determination of Completeness

H. Rey was present for the application this evening. The application is a boundary line adjustment between his property and his daughter and son-in-law's.

T. Decker stated he did not generate a completeness letter since the application is a boundary line adjustment. The existing lot contains 71.7 acres. The applicant is taking approximately 2.4 acres from the existing lot. After reviewing the plan that was submitted with the application, he has determined it provides sufficient information.

It was moved by S. McNicol, seconded by J. Strasser and carried to deem the application complete. All members present voted **AYE** on **ROLL CALL VOTE**.

R. Dodds resumed his position on the Board.

Wetlands Markers

H. Rey stated he was present at last month's meeting and is suggesting the wetland markers be 2" PVC 4' high. If it is hit with a mower, no damage will be done to the mower.

Public Hearing – Amendment for Settlement Agreement for Equestrian Village – Block 14, Lot 30 – Horseshoe Bend Road

D. Pierce stated the matter is in connection with the proposed purchase of the Equestrian Village property by the Township and the County Open Space. They are in negotiations with the seller. The contract, as currently configured, has not been signed. It should be signed any day. The seller has requested revisions to the settlement agreement and subdivision approval to incorporate several provisions. The Township has not been able to obtain funding from the DEP for the purchase of the Deer Run property. The owner of the Deer Run property would retain ownership and development approvals. For the purposes to purchase Equestrian Village with the 43 approved lots, the seller desires to amend the approval to create one 12-14 acre lot with the existing house that they will retain. The original approval provided for the existing house on a seven acre lot. The helipad is not included in the plan. The Township and County will purchase the rest of the land. The proposal by the owner of the Deer Run development, as per the settlement agreement of October 2006 and the approval

resolution for Deer Run, is instead of making an in-lieu contribution for affordable housing, the owner be allowed to provide rehabilitation or in-lieu contribution at their option. Since the development, if the transaction is consummated, is less than proposed the owner is requesting the approval be amended to provide their contribution towards off tract improvements on the Deer Run property be on a pro-rata basis. The need for off tract improvements is assessed by T. Decker's office. The assessment would be based on a build out analysis of the entire road. Due to the fact that this was litigation, the Board needs to have a public hearing to identify the proposed amendment and obtain approval by the Board for the actual amendment to the subdivision approvals. The matter will not be proceeding this evening but will be scheduled for next month. The matter can be opened to the public. The amendment would convert the application from a major to a minor. At next month's meeting, the Board will have to consider an amendment to the settlement agreement for the COAH and off-tract contributions for the Deer Run property. A condition of approval will be on the actual consummation of the purchase of the property. If the purchase does not occur, the original approval and conditions stay in place. The amendment is looking to create greater flexibility. The contribution would be \$31,250.00 per approved lot into the affordable housing trust fund. If they could build the units cheaper than their contribution, they would have the option to build them on the lots themselves. Deer Run contains 15 lots.

J. Mathieu called for comments from the public. No response was heard.

D. Pierce stated the hearing should be closed. The Board can wait to approve the settlement agreement until next month because they will not be reviewing the amendment until then.

It was moved by D. Haywood, seconded by J. Strasser and carried to amend the settlement agreement of October 2006 between the Planning Board, Kingwood Township and the Board of Health and Frenchtown Run LLC and Horseshoe Bend LLC. It will allow Frenchtown Run LLC, with respect to the Deer Run property, to provide its affordable housing rehabilitation units or an in-lieu contribution at the option of Frenchtown Run LLC and to provide that the obligation of Frenchtown Run LLC to contribute towards off tract improvements along Horseshoe Bend and Spring Hill Roads, if any, shall be limited to liability for contribution for Frenchtown Run LLC's pro-rata share of all such off-tract improvements in accordance with MLUL and Kingwood's ordinances. The amount of the off tract contribution will be determined by agreement and in consultation with the Township engineer. All members voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

Draft Conservation Plan Element – Discussion & Public Hearing

A. Clerico reviewed the power point presentation on the Draft Conservation Plan Element. The public hearing was noticed and the board may take action to adopt the plan if it meets all the Board's needs and concerns. She thanked the Board for their commitment to make the plan as best as it could be.

J. Mathieu called for comments from the public.

A. Belle commented on the Draft Conservation Plan Element. He thinks lot size averaging is taking all the farm land away. Clustering preserves a large contiguous tract of land that could be farmed. The Township should keep it scenic and preserve the nature of the township. He commented the riparian corridor is not a "do not cross zone". General permits are available from the DEP. His fields have been disturbed prior to 2006. He can take hay, turn it back into a garden, put in a pool and install a fence without going to the DEP for a permit.

D. Pierce stated that local regulation of wetlands have been preempted by the DEP even if it is more restrictive. There is a whole legal analysis the courts would have to apply in terms of the intensity of the regulation of the DEP. The intention is that the DEP wetland regulations would preempt any local regulations.

T. Decker stated the riparian buffer is dependent on the classification of the stream. The inner 150' is the "do not cross" line. There are different buffers for different zones. Any number of buffers can be coinciding.

A. Belle was concerned about the 3' delineation pole. He stated horses or children could be hurt. He suggested, during construction, a snow fence be installed along the total outer area. When the construction has been completed, the fence is removed and the person can use their lawn. The owner can use the area for permitted purposes. He stated there is a difference between a riparian zone and wetlands. There is a difference between areas that have been disturbed and not disturbed.

Board members suggested light pollution and fertilizer application could be added to the Conservation Element as recommendations.

J. Mathieu closed the public hearing. The adoption of the Conservation Element will be held off until the August meeting.

Draft Deed Conservation Easement

D. Pierce prepared a revision to his previously submitted draft. He also submitted a draft proposed ordinance.

D. Pierce was requested to provide a memo for the points for discussion on the deed conservation easement for next month.

Proposed Ordinance – Conservation Easement;

Baptistown Town Center – Proposed Designation Discussion

E. Niemann stated the group, formed last month containing T. Kratzer, M. Syrnick, L. Senus and P. Lubitz, met before the Township public meeting. They discussed what was possible on the tract. At the public meeting E. Niemann did a short opening remark indicating the matter is being considered in theoretical terms and the Township has not provided approvals to any builders. D. Banisch did a presentation to the public for affordable housing and its appearance. There were comments from the public which were generally negative against the idea. There were a number of residents in attendance. She needs to obtain information on the waste water capabilities on the property. The group is considering meeting with five residents of Baptistown at a time to discuss their opinions. The feasibility of the project has to be determined first.

Stormwater Runoff Drainage Problem

T. Decker stated the conditions of the soil should be looked at in the spring or fall when the crops have been removed. It was suggested he contact B. Pandy.

CORRESPONDENCE

J. Mathieu reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

Maximum Building Area

T. Decker read from the Ordinance with regard to Class I and II subdivisions and the limitations of the dwelling. He questioned what determines the maximum building area. Does it include the footprint, floor area, net area or habitable area? There are two definitions in the Ordinance.

D. Pierce and T. Decker were requested to draft a definition of the maximum building area.

ADJOURNMENT

It was moved by D. Haywood, seconded by R. Dodds and carried to adjourn the meeting at 11:10 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick

Diane Laudenschick, Secretary