

**MINUTES**

**PRESENT:**

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

**ABSENT:**

M. Augustine

**CALL TO ORDER**

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

**Approval of Minutes**

It was moved by E. Niemann, seconded by L. Senus and carried to table the approval of the October 14, 2008 minutes. All members voted **AYE** on **ROLL CALL VOTE**.

**Resolutions**

It was moved by S. McNicol, seconded by L. Senus and carried to adopt **Resolution No. 2008-18 – Bunker Hill – Block 22, Lot 16 – Amendment to Prior Approval**. All members voted **AYE** on **ROLL CALL VOTE**, except **T. Kratzer, E. Niemann** and **M. Synchron**, who abstained.

It was moved by L. Senus, seconded by R. Dodds and carried to adopt Resolution No. 2008-19 - Gross – Block 5, Lot 4 – Ridge Road – Site Plan Approval.

D. Pierce stated an issue regarding the additional water consumption for the construction of a new four bedroom house on the property was raised by V. Uhl. The applicants would be required to perform an aquifer test prior to obtaining a construction permit for the new house. The items approved in the resolution are confirming the existing house will be converted to an appropriate secondary dwelling and the site plan for the horse barn. The resolution does not have anything to do with the construction of the new home.

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

It was moved by S. McNicol, seconded by J. Strasser and carried to adopt Resolution No. 2008-20 - Mironchik – Block 19, Lot 10.07 – Fitzer Road – Minor Subdivision. All members voted **AYE** on **ROLL CALL VOTE**, except **T. Kratzer** and **M. Syrnick**, who abstained.

It was moved by D. Haywood, seconded by S. McNicol and carried to adopt Resolution No. 2008-21 - Honey-mar – Block 26, Lot 4 – Kingwood Locktown Road – Extension of Time to File. All members voted **AYE** on **ROLL CALL VOTE**, except **T. Kratzer** and **M. Syrnick**, who abstained.

It was moved by S. McNicol, seconded by R. Dodds and carried to adopt Resolution No. 2008-22 – Adoption of Conservation Element. All members voted **AYE** on **ROLL CALL VOTE**, except **T. Kratzer** and **M. Syrnick**, who abstained.

#### Applications

R. Dodds and E. Niemann recused themselves from their positions on the Board for the following matter.

#### **Laurelton Belmont – Block 22, Lot 16 – Hammer Road – Minor Subdivision/Boundary Line Adjustment - Hearing**

W. Wilson stated the application is a minor subdivision and merger boundary line adjustment. It will finalize the land and swap transaction for the entrance way to the major subdivision. It will perfect the recordable transactions to the access to the property.

T. Decker stated his office did not generate a report. The configuration of the lot line adjustment was previously approved as part of the major subdivision. His firm has no comments. The approval would be conditioned upon the acceptance of the form of the deeds and descriptions.

D. Banisch stated his office has no comments on the application.

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

1. Review and approval by the Board's professionals, and recordation within 190 days, of deeds perfecting the boundary line adjustment.
2. 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 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.
3. 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.
  4. 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.
  5. 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.
  6. 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 voted **AYE** on **ROLL CALL VOTE**, except for **T. Kratzer**, who abstained.

R. Dodds and E. Niemann resumed their seats on the Board.

Precision Drilling – Block 12, Lot 8 – Conceptual – Route 12 – Continuation;

G. Hirsch, attorney with Archer & Greiner, representing Errickson Companies and Precision Drilling. The applicant is requesting a rezoning of Block 12, Lot 8. They will be presenting some brief testimony by R. Liotta, planner and landscape architect.

J. Mathieu stated he would like to acknowledge the applicant allowing the Board members to look at the two properties involved, where he currently operates and where he is proposing to relocate.

D. Pierce swore in R. Liotta.

R. Liotta stated he is a professional planner. He has not testified before this Board but has testified before the Board of Adjustment. He reviewed his credentials.

R. Liotta testified he will briefly give an overview of the report submitted to the Board. He stated J. Errickson engaged his services to help him with the possibility of requesting a rezoning of the property on Route 12. He described the concept plan to the Board representing the applicant's plans. His office prepared a planner's opinion report. He testified he reviewed the different zone categories in the Township. The applicant is requesting an expansion of the HC zone to include the subject property. It is his opinion the Township's goals and objectives for this are consistent with the applicant's proposed use. He reviewed the existing use pattern and categories in the HC zone and fringe areas. He provided an aerial exhibit dated November 10, 2008. It is a compilation of a series of different base maps information, indicating boundary as well as zone lines. The subject property is on the south side of Route 12 and west of the Route 519 intersection. He has reviewed the zoning in the HC zone and compared the use categories in the BP zone and the different uses in the AR-2 zone. It is his conclusion that there are a series of uses in each of those zones that are considered to be or could be adjacent to one another. The HC and BP zone uses are in common. The AR-2 zone allows for the conversion of barns. There are some similarities and some common association of uses in the AR-2, HC and BP zones. Some of the similar uses are retail and warehouses, retail and mechanical contractors and yards. It allows garden centers and nursery type uses which have similar types of activities. The zoning basically considers those appropriate uses to be next to each other. He has reviewed the Master Plan back to 1988 and forward. There was a strong theme with respect to the Route 12 corridor and the desire to have increased economic growth. The commercial zone along Route 12 and the Village area at the Route 519 intersection and BP zone were identified as focus points. It was a desire to locate commercial and industrial uses along the Route 12 corridor. It was to keep that kind of activity on an infrastructure of Route 12 and keep it off of the county routes, as well as the rural and residential roads. The proposal before the Board is to request an expansion of the zone boundary to the west and include Lot 8 in the HC zone. The use will have some commonality in the zone analysis to be considered a conditional use. It will allow for the satisfaction of the goals and objectives in the Route 12 corridor. He feels the proposal is consistent with many of the goals, objectives and policies that have been carried through the Master Plan. His report contained a recommendation the proposed use would fall into one of the conditional use categories. It would achieve the policies, goals and objectives on the Route 12 corridor regarding traffic, lot intensity and scenic areas. The fairly sizable set back will maintain the rural character of Route 12 and with a slight lot width modification, 50' in this particular area, meet all the HC bulk standards with respect to the side yard and all other standards. There is light manufacturing with this business. The welding and manufacturing will occur inside the building. Any equipment, such as big cranes, big tractors or drill rigs will be stored in a way that they do not exceed the principal building height, which will provide a level of view through the Route 12 corridor consistent with the zoning as if the equipment is a building. When looking at this lot, in his opinion, the target lot is for development. It is currently being farmed and the soil group is not identified as a prime soil group. There are some wetland areas on the lot. He testified the site is developable and located on a state highway. It targets for commercial development. He has generated the opinion that this site is appropriate for the proposed use. It would not be contrary to the Township's prior policy. R. Liotta reviewed the chart included in his report on Page 12. The chart was a comparison chart between the permitted uses in the AR-2, HC and BP zones. He listed the permitted and conditional uses in the districts. The mechanical operation in the HC zone would use similar types of equipment and have the same effect in use intensity and use of the highway. A use like this would be compatible to Route 12 by being a low traffic generator. It would create less traffic because it is not a destination site. The equipment is distributed to work on other sites. He testified there was some legislative intent by the Board and Governing Body that certain uses would be compatible next to each other. His report provided for a catalogue of the uses in page three. On the south side in the HC, AR-2 zone, there are located a series of auto body repair shops, Copper Creek Landscape business, Training with Kindness and Delaware Valley Equipment Company to the west. There is a mixed bag of uses along Route 12 and some residences. There are also some businesses that exhibit some light industrial type properties and high intensity type uses. All of the aforementioned businesses are right on top of the road. There are cars parked in front, around and behind the buildings. He is suggesting a

conditional use standard for a business they believe is compatible with much stricter requirements for the buffer and the view shed of Route 12. The proposed business is a mechanical contractor and equipment storage type business that could be a conditional use and meet the conditional use standards as approved by the Township governing body.

He has suggested a 200' set back minimum with 50' side and rear buffers and a low intensity of building coverage and impervious coverage.

G. Hirsch stated looking at the Township's zoning table, one of the conditional uses in the BP zone can be made a conditional use in the HC zone and the zone line extended to include this lot. G. Hirsh prepared a memo describing the nature of the zoning changes and summarizing R. Liotta's report. It is a point of the exercise to eliminate an existing non-conforming use and move it to an area more appropriate along the Route 12 corridor, where the Township has been looking for economic growth to occur. The suggested proposal would build in some requirements relating to buffers, height limitation and limiting the impact of the use. In regard to the current location of the business, the property would revert to uses allowed by zoning. There are some buildings and facilities located on the property but the applicant would have to come in for a use variance. He could not build on the record as it exists now.

J. Errickson stated there are five rental garages and two of his businesses located on the property. They might be rental garages and low key use. All his operations on the property would be terminated. It would be an opportunity to obtain a good ratable on Route 12 with controlled buffers. Their traffic is nil, going in and out. It removes his operation from a residential zone. His business has grown and he is a successful business man. He works and lives in Kingwood. He does not pay the minimum wage but very good money. He is an asset to Kingwood Township. He knows he has a lot of opposition of moving up to Route 12. He has lived here since 1980. He received a commercial C.O. in 1980. There are plenty of other businesses that do not have Planning Board approval. He will be spending a lot of money to move out of the residential zone and establish his business on Route 12.

J. Mathieu read the letter the Board received from the Kingwood Township Agricultural Advisory Commission. He stated the Environmental Commission reviewed the application. The Environmental Commission does not make recommendations.

G. Hirsh reviewed the Environmental Commission's review and stated it deals with the site work that needs to be done.

J. Mathieu stated R. Dodds, S. McNicol, members of the Open Space Committee, and himself visited the property.

R. Dodds projected on the overhead, from Microsoft Live Maps, a current view of the property. They had parked in the front and walked through the corn fields. He indicated on the aerial view where they stopped on the property. He indicated the wet areas on the property. On the projected view, R. Dodds brought up the current site. There are stacks of pipe, cutting heads (drill bits) and two cranes. There are compressors lined up along the side of the property.

J. Errickson stated all the stored materials would be removed. The proposed building on Route 12 would be 80x130', approximately 20,800 sq ft, which is approximately the size of one of the buildings on the current property.

J. Mathieu stated they went down the common driveway on Route 12. It appears there is a significant amount of drainage that crosses the driveway with the bulk draining into the wetlands area.

S. McNicol stated they visited the three-bay repair garage. The employees were working on various pieces of equipment.

T. Kratzer stated he has not seen any of the sites up close but his main item of concern is the drainage from the proposed side. If the drains are into one location, whatever drains into there concentrates. T. Kratzer was concerned with the metals of the vehicles, such as tires, lead weights and the different types of metal in vehicles. J. Errickson responded he does not have any spills. There might be some oil on the ground. DEP has visited his site numerous times without a problem. He currently has a contractor's yard. There are no lead weights on any of the truck wheels, since they are not balanced. With the new requirements for stormwater management on the proposed site, any type of control can be built into the system. J. Errickson's current property has a monitoring well located at the front of the property. DEP has not tested the well since he removed the tanks. All oil filters are taken away and documentation is prepared for all the oil removed. They do not bring any drilling fluid or mud back from any site.

D. Banisch stated he reviewed some aerials photographs of the property and the use seems to occupy 7.2 acres. The proposal is for a storage yard of about six acres. J. Errickson stated the property on Route 12 contains more than six acres.

G. Hirsh stated the maximum lot coverage is 324,200 sq. ft which includes the driveway into the lot. There is a small parking area, the building and the remainder is the graveled lot, which is fenced and screened.

D. Banisch stated he is not aware of what is happening on the ground. It is his interpretation that these are the areas that will be devoted to the business. The area prompts the question if the yard on the proposed lot is large enough to handle the business. There should be a deliberate action to abandon the use on the current location. Non-conforming uses are extinguished when they are abandoned. There needs to be some very high level of assurance that no other use is constituted and the current use effectively abandoned.

J. Errickson inquired if D. Banisch meant to abandon all uses on his property. He currently has a 20,000 sq ft building as well as a 6,000 sq ft garage. Should he be required to tear those buildings down? D. Pierce responded the ordinance provides for warehousing and storage only in barn conversions. The intent of the ordinance was to allow use for agricultural buildings that were devoted to an agricultural use. As per the facts presented, those are pre-existing lawfully existing building on the site. There might be a basis for J. Errickson to request variance approval to allow him to devote those buildings to some sort of commercial use under the appropriate conditions.

R. Dodds inquired if the applicant owns any other property located within the HC zone which would be adequate for the proposed use. J. Errickson responded he owns another piece of property, located in the HC zone, but does not believe his proposed use is permitted in that HC zone. It is located next to the motorcycle place. He wants to locate his business on the property in question rather than his other piece. He stated he owns 36 acres in the HC zone. He inquired why some residents who have businesses in Kingwood and own commercial property on Route 12, do not use those properties?

J. Mathieu stated J. Errickson has a right to request a zoning change. He stated if the Township has a rezoning, it has to be balanced with what is good for the applicant as well as the Township. The Township has to consider what is the benefit to the Township. The Township also has to ask if this represents "spot zoning"?

The AR-2 zone is adjacent to the HC zone. There has to be a boundary somewhere. The applicant's planner has addressed what he believes is compliant with the Master Plan. The applicant has the ability to apply to the Board of Adjustment for a variance. J. Errickson responded applying to the Board of Adjustment would be a waste of time.

D. Pierce stated the request before the Board is a request to rezone a specific piece of property and to add a conditional use and language to the zoning ordinance for the HC zone. The Board does not have the authority or ability to condition its recommendation upon the disposition of the property on Route 519. The Board should use, as a basis for their recommendation, that this proposal is consistent with the master plan or not or some other reason why the Board considers it to be appropriate.

J. Mathieu inquired if the Board was required to issue an opinion rather than a yes or no? Could the Board do a fact finding by indicating what the Board has discovered touring the property and reviewing the regulations? The decision of the Board does not preclude the applicant from going to the Township Committee for a zoning change.

D. Pierce stated there is no established procedure for any resident or property owner to request a rezoning. The applicant has come to the Planning Board in a process similar to what the Board has done with the Conservation Plan Element. The Board is examining the request, conducting a public hearing, taking testimony and reviewing the findings of fact and coming up with a recommendation that the rezoning, as proposed, is acceptable and consistent with the Maser Plan or that is recommended but not consistent with the Master Plan and it should be amended in the following way. The Board could also not make any recommendation.

E. Snyder was sworn in by D. Pierce. She testified that she lives next to the property in question. She testified, after she reviewed the pictures, the current location looks like a junk yard. She testified she keeps her property nice. There will be a lot of trucks and equipment on the lot. The back land would have oil and different things spilled on it. She indicated on the drawing her dwelling. It is the little red brick house. She has wetlands in the back of her. If you have a pile of trucks, there is the possibility of leaking motor oil, anti-freeze and similar items.

K. Wynn was sworn in by D. Pierce. She testified she is directly adjacent to C. Niciecki. There is no buffer or tree line. The applicant is proposing to put a water basin right next to her, within 30 to 40 feet. She is concerned about the parking area, dirt, noise and operations. She has been here since 1959 and is totally opposed to the rezoning. She testified the back end of her property gets soaked and is saturated most of the time.

A. Dalrymple was sworn in by D. Pierce. She testified one of the things about this township that she has been happy about is that there are plans and zoning in place. She testified about the business next to her which will be close to her property line. She wonders if we make zoning laws, why are people able to obtain a variance? She testified that she was happy because it was a rural area. Her husband built the bowling lanes.

D. Pierce swore in C. Niciecki. She testified there is a preserved farm on the southern border of the applicant's property. No one mentioned that the location is a residential area. There are people living all around the property. A residential area is not appropriate for industrial businesses. C. Niciecki referred to several sections in the Conservation Plan Element. She reviewed the goals. There is agricultural use on the other side of the highway. She believes the area can be considered a greenway. She testified her farm has been in existence since the mid 1700's. The applicant's property contains wetlands, headwaters to the tributary of Copper Creek and suitable grassland habitat. There is a very good view when you get to the top of Frenchtown Hill. She

testified people do not want to drive and see equipment. The runoff from the back portion of the applicant's property slopes down to her property and if a stormwater detention basin is installed, it will drain into her property and a tributary of Copper Creek. She has several acres of her property in the wildlife habitat program. She requested the Board take the Conservation Element and apply it to their decision.

D. Pierce stated the Board can carry any matter. If this were an application subject to a hearing, the Board would not be able to consider written comments only testimony, in response to an inquiry of L. Voronin. In a hearing circumstance, there needs to be a right and opportunity to cross examine the testimony.

J. Mathieu stated the applicant's planner has provided a report and the Board should be provided the opportunity of reviewing it.

R. Liotta commented the Board is actively pursuing an update to the elements and suggested the rezoning could be included in the discussion of the Land Use element. D. Banisch stated the next priority will be the Land Use Element, beginning in January.

G. Hirsch inquired the date of the next meeting. The next meeting is scheduled for December 9, 2008.

S. McNicol recused herself from her position on the board for the following matter.

J. Mathieu left the meeting for a brief time.

R. Dodds chaired the following matter.

Silverson – Block 7, Lot 14 – Oak Grove Road – Conceptual

R. Lorentz stated he is a professional engineer and this is the third conceptual presentation on this particular piece of property. The applicant has been before the Board several times and at the last meeting, the applicant indicated a desire and possibility of providing affordable housing or the opportunity of affordable housing on the lot containing the existing large barn. It is a pretty significant structure and the applicant would like to preserve it. R. Lorentz stated, after leaving the last meeting, Mr. Silverson did further investigation into some of the regulations and standards that would apply to providing the affordable housing. It is something of a nightmare to have the existing barn converted into a regular residential use but more seriously into affordable housing with multiple units. The unit would require an elevator. Another possibility would be to occupy part of it with a residence and create additional apartments. The applicant has been reviewing alternatives in consultation with real estate advisors. Currently, there is on the books an existing subdivision which created Lots 14.15, 14.16 and 14.17.

J. Mathieu resumed his seat on the Board at this time.

R. Lorentz further stated the applicant is conceptually proposing to first reconfigure or essentially meld the existing previously approved subdivision, which has never been developed and he still owns, and incorporate it into the overall tract. The applicant would be doing a minor subdivision and boundary line adjustment creating three reconfigured lots in the same area as the previous lots. Lot 14 would be further subdivided into approximately 2 acres, which would potentially merge with Lot 14.04. The lot is entirely covered by Cat 1 buffer zones and is totally constrained as to environmental issues. It could not be developed. They would create a lot approximately a little over 2 acres surrounding the existing barn. They would slightly enlarge Lot 14.17. The current access to those lots would be moved to a central point so there is a single access into the

property. The access would serve seven lots in total. He has reviewed the calculations of the ordinance to determine what would be allowed under the current zoning. On a theoretical purpose, the property would support 9 lots, 2-2 acre and 7-4 acre lots. The applicant is proposing the creation of 3-2 acre lots, one of which would be merged into the adjacent property, and 5 flag lots. Two of the lots are extremely oversized due to the environmental constraints. The applicant is proposing nothing more than a driveway serving more lots in total than would be normal under the ordinance. Each lot would have an individual staff of 10' rather than 25', with a combined total of 50'. It would be one driveway running up the middle of the strip. All of the lots, based on their calculations, meet the constrained area calculations. The variance being requested could be granted without detriment and in many ways is conforming to the current zoning and master plan intents. The combining of the access to one point is a plus and lessens the access onto Oak Grove Road. On the prior subdivisions, there is a small isolated wetland pocket near the access strip, which has been approved by the DEP. The proposed plan moves the developable area of that lot well away from the wetland areas. The proposed plan offers more flexibility to develop the property. The application is non-conforming in the sense it is a single application creating more lots than would be permitted. If the application was done in two conforming Class II subdivisions, each one could create up to 2-2 acre and 2-4 acre flag lots, for a total of 8 lots. The applicant is willing to set aside Lot 14.17 to provide, up to two housing units, to satisfy not only the prior obligation but also the new obligation, possibly a duplex home or two small dwellings on different parts of the property with common facilities and at the same time, preserving the large rear area for what would probably be estate type homes on the larger lots.

T. Decker stated the biggest issue is the 10' wide staff to the flag lots which will require a variance. When he reviewed the plan, it resembled a Class III, which is no longer permitted.

D. Banisch stated the lot could accommodate a group home, single structure, with 4 or 5 bedrooms. There is a loss of the natural features with the buildable circles. D. Banisch commented the length of the access strip is over 1,000' and it is quite a distance for emergency vehicles without a turn around. When the applicant returns with an application, consideration should be given to emergency access.

R. Lorentz stated the property contains fences and stonerows and the layout is not cast in stone. Most likely, some adjustments could be made. In one area, he tried to position the line to preserve the natural features. R. Lorentz stated, in another application, he provided enlarged turnouts where the individual driveways leave the common drive so a K-turn could be made.

J. Mathieu commented he was concerned about the 10' width of the individual staffs. He commented he does not think it is good planning.

R. Lorentz stated the applicant does not desire to install a roadway because it would require major relief. Under a major, the lot would only yield a couple of lots out of the whole tract.

L. Senus commented aside from the fact it was creative to have 10' staffs, the plan is a major subdivision. She does not think it is good planning.

R. Lorentz stated the lots will generate a 1,000' driveway in order to serve the rear lot. The better building areas of this property are in the rear portion.

R. Dodds commented he was concerned about the precedent allowing a 10' staff.

R. Lorentz stated the only purpose of the stem is to provide frontage to the road and private access through the common easement. If there was some concern about the adequacy of the proposed drive, some upgrades in the form of the Class II standard could be considered and turn around facilities could be provided.

D. Banisch stated towns generally look favorably on this type of design due to the non-maintenance of the road. It will allow it to be a private road with common ownership and a common maintenance and access agreement. T. Decker stated it gets you back to a Class III. J. Mathieu commented the Township is trying to get away from common maintenance.

T. Decker stated in reviewing a rural road according to RSIS, it is 18' width. The RSIS designed road and stormwater management is the same for a major or minor. The difference is the lot yield. The amount of construction and design effort is the same.

R. Lorentz stated there is going to be a COAH obligation generated from this development. The applicant is trying to find a common ground between the COAH obligation and providing something of benefit to the Township to satisfy their obligation. The application is starting out with four building lots. The applicant is proposing to subdivide Lot 14. It would be Lots 14.18, 14.19 and 14.20 plus remaining lands. As a single Class II, the property would support 1-2 acre and 2-4 acre lots within the numbers created by the ordinance. The only difference is that less ground would be taken up with one driveway versus two driveways and will provide a little nicer lot layout for the easterly side. The applicant proposes a standard Class II drive but would be willing to talk about some enhancement. There is an entitlement to the three lots that already exist. The remainder of Lot 14 could be developed without coming before the Board. The layout is reconfigured by changing the lot lines to make them more regular in shape.

T. Decker stated the application reduces the amount of impervious but steers back to the Class III.

Regarding impervious coverage, R. Lorentz stated the applicant would completely mitigate the house with drywells and seepage devices. Imperviousness does not have an impact on the property at all.

E. Niemann stated she sees a major subdivision and echoes L. Senus' comments.

J. Silverson stated he has four lots in the bag and was proposing to get two more with one being given to the Township.

#### **Schick – Block 14, Lot 39 – Fairview Road – Request for Extension of Time to File**

It was moved by D. Haywood, seconded by R. Dodds, and carried to grant a 70 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

#### **Hewitt – Block 40, Lot 25 – Byram Kingwood Road – Determination of Completeness**

D. Hewitt, S. Phillips and R. Phillips were present for the applications this evening.

T. Decker stated the plans submitted were labeled as a boundary line adjustment and a minor subdivision. The plans that were submitted don't necessarily reflect the intentions of the applicants.

D. Hewitt stated the purposes of the applications are two agricultural property line adjustments. Block 40 and Block 41 each have an existing residence. On Lot 25, they propose to remove a triangular piece where the existing residence is located. The remaining lands of Lot 25 would then be attached to Lot 25.01.

T. Decker suggested providing a revised plan that includes the total outbound for Lot 25.01. They should show the lot line around Lot 25.01 to be removed. The small triangle piece at the tip of Lot 25 should be adjusted to make it more regular. D. Hewitt responded the area contains the ashes of his in-laws and should remain with the existing house.

It was moved by D. Haywood, seconded by R. Dodds and carried to deem the application conditionally complete. All members present voted **AYE** on **ROLL CALL VOTE**.

#### **Phillips – Block 41, Lot 13 – Byram Kingwood Road – Determination of Completeness**

T. Decker stated it is the same identical situation. The applicant needs to revise the plans to indicate the removal of the boundary of Lot 13.01 and change the lot numbers to indicate Lot 13 as the remaining lands.

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

#### Proposed Ordinance No. 15-25-2008 – Recommendation

D. Pierce stated the document was circulated by email and having received some comments, revisions were made and recirculated. No other comments were received and he has forwarded it to the Township Committee for introduction. It is being presented to the Board for a recommendation of adoption to the Township Committee.

It was moved by R. Dodds, seconded by S. McNicol and carried to recommend adoption of Ordinance No. 15-25-2008 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

#### Proposed Ordinance No. 15-26-2008 – Recommendation;

D. Pierce stated the proposed ordinance amends the existing ordinance to comply with the new COAH regulations.

It was moved by R. Dodds, seconded by D. Haywood and carried to recommend adoption of Ordinance No. 15-26-2008 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

#### Expiring Terms

E. Niemann will be speaking with the members who are expiring this year to see if they are interested in continuing.

#### Housing Board Recommendations to Housing Plan

D. Banisch reviewed the following memo:

At the Kingwood Township Housing Board October 22, 2008 meeting, the Board endorsed options for the Township's Fair Share Plan to satisfy the Township's affordable housing obligation. The endorsed affordable housing strategies are presented in this memorandum. This information is presented for the Planning Board's review and comment so that the Board may adopt an amended 3<sup>rd</sup> Round Housing Plan Element and Fair Share Plan in December.

As the Board is very well aware, COAH adopted its revised regulations for municipal Fair Share Plans in September 2008. The adopted regulations became effective upon publication in the NJ Register on October 20, 2008. Due to the compressed timeframe that COAH has identified for amending Fair Share Plans and petitioning COAH for 3<sup>rd</sup> Round substantive certification, the Housing Board has been very active developing an affordable housing strategy for the Township. At this time, the following series of projects and strategies are recommended as the basis for the Township's COAH compliance plan.

Proposed compliance techniques:

- Easter Seals Group Home – 5-units (existing);
- Affordable housing partnership with Habitat for Humanity – 8-units on the Ukarish Farm (proposed);
- Affordable housing partnership with Habitat for Humanity – 10-20 units (5-10 for sale units; and 5-10 rental units) on the Melnyk Farm (proposed). The actual level of development is to be determined by the Housing Board and Township Committee, based upon a pending review of design options, which are to be evaluated for the tract;
- Affordable housing partnership with one or more non-profit sponsors as discussed below (2-4 four-five bedroom group homes);
- Accessory apartment program – 10 units (maximum allowable until 10 units are inventoried);
- Kingwood Park cottage – 1 unit;
- Inclusionary overlay zoning ordinance pursuant to COAH's regulations. The concept is to apply COAH's regulations as an overlay zone for the entire AR-2 zoning district. The overlay will apply to all single-family developments involving at least 4 market rate units and will require the developer to construct one affordable dwelling unit for every four market rate residential units approved. COAH's regulations require a 40% increase over the existing density that is currently permitted in the ordinance. Although the Township's zoning does not specify density for the AR-2 zone, the 40% increase in density over Kingwood's minimum lot size requirement of 7 acres translates into a requirement of one dwelling unit per 5 acres ( $.1428 \text{ du/ac} \times 140\% = .2 \text{ du/ac}$  or 5-acres). This density does not include environmentally constrained areas, which may be deducted under the zoning ordinance today. COAH's regulations also require mandatory clustering or lot size averaging in the inclusionary zoning ordinance. This will result in the Township being able to include specific performance standards, such as a minimum open space requirement or farmland set-aside as a by-product of subdivision (i.e. 50% open requirement). In essence, this compliance mechanism allows for the municipality to capture the affordable housing obligation that accrues from new development at the time of approval, and shifts the cost and construction burden to the developer.

COAH's inclusionary zoning ordinance provisions permit the Township to give the developer the option of (1) constructing affordable units off site; or (2) making a payment in lieu of construction. If the Township includes this provision in the ordinance, it must be provided so that the developer may exercise the option at his discretion. If no such option is provided in the Township's ordinance, the developer must construct the affordable units on site at COAH's growth share ratio of one affordable unit for every four market-rate units approved. Payments in lieu of construction for fractional equivalents less than a full unit of obligation are permissible.

COAH's revised regulations no longer permit the Township to impose the payment in lieu of construction on developments that generate less than one full unit of affordable housing obligation. For developments involving 3 market-rate units or less, the developer can only be charged a 1.5% development fee on the increase in equalized assessed valuation for the development.

Nonresidential development may now only be assessed a 2.5% development fee. Municipalities are no longer allowed to require nonresidential developers to construct the affordable housing obligation that is created through nonresidential development.

The Housing Board noted the Planning Board's successful efforts with developers to provide accessory apartments at the time of subdivision. The Housing Board endorses the Planning Board's continuing efforts to pursue accessory apartments whenever possible. Once the Township successfully identifies 10 accessory apartments, COAH's regulations will permit the Township to amend its Fair Share Plan to include additional accessory apartments in the Fair Share Plan.

3<sup>rd</sup> Round Growth Share Formula - For the 3<sup>rd</sup> Round affordable housing obligation, COAH's growth share formula is based upon certificates of occupancy issued for residential and nonresidential development. The formula requires the municipality to provide one affordable dwelling unit for every 4 market-rate residential units and one affordable dwelling unit for every 16 jobs created from nonresidential development for all development receiving certificates of occupancy between January 1, 2004 and December 31, 2018.

Amended Fair Share Plan - The Township's fair share plan must address the following three components of need in the amended 3<sup>rd</sup> Round Fair Share Plan:

- Prior cycle need (1987-1999):            19 units (new construction)
- Rehabilitation share:                    11 units
- 3<sup>rd</sup> Round Growth Share                65 units

The Prior cycle need and Rehabilitation share for all municipalities is assigned by COAH. The 3<sup>rd</sup> Round growth share is projected by COAH, based upon the historic development trend identified by certificates of occupancy issued for development in the Township. This data is maintained by the NJ Department of Community Affairs (NJDCA) in the NJ Reporter. In establishing Kingwood's projected growth for the 3<sup>rd</sup> Round, COAH utilized this data.

Between January 1, 2004 and May 2008, which is the last month of reports available from NJDCA, an actual affordable housing obligation of 24 affordable units has accrued to the Township based upon certificates of occupancy issued during this period. These 24 units account for 36% of COAH's affordable housing projection of 65 affordable units for the Township for the 3<sup>rd</sup> Round.

For the Township's planning purposes, we have broken down the overall obligation into three separate components, including:

- (1) the prior cycle need (19-units),
- (2) the actual 3<sup>rd</sup> Round growth share obligation to date (24-units), and
- (3) the remaining 3<sup>rd</sup> Round growth share projected for the Township (41-units).

1.) The prior cycle need of 19 units may be addressed through the projects and affordable housing techniques that are identified in the following table. Bonus credits are identified in accordance with COAH’s rules, where applicable.

	Units	Bonuses	Compliance Mechanism / Project
<b>Prior Round Obligation</b>	<b>19</b>		
Less Adjustments:			
RDP	0		
Unmet Need	0		
<b>Prior Cycle Credits</b>	<b>0</b>		
<b>Post-1986 Credits</b>			
Inclusionary / Redevelopment / 100% Affordable Credit	0		
Supportive and Special Needs 1986-2004 Credits	5	4	Easter Seals (N.J.A.C 5:97-3.5(a))
Other Credits	4		Ukarish / Habitat for Humanity
	5		Melnyk / Habitat for Humanity
	1		Municipal Park Cottage
Sites Zoned in Previously Certified Plan			
Proposed Units Not Previously Certified			
Bonuses from Prior Round Plan			
<b>Total compliance credits and bonuses</b>	<b>15</b>	<b>4</b>	
	<b>19</b>		

This table shows that the Township’s prior cycle obligation of 19 units may be retired with the existing and proposed projects identified above, and includes a 4-unit bonus that is attributable to the Easter Seals home. The Easter Seals home is eligible for two units of credit for each bedroom because it is technically a rental project. In accordance with COAH’s rules, the Township may receive one rental bonus credit up to 25% of the prior cycle obligation (rental requirement). Thus, Easter Seals receives four units of bonus credit.

2.) Actual 3<sup>rd</sup> Round growth share obligation to date (24-units) - Using Certificate of Occupancy (C.O.) data from COAH’s website<sup>1</sup> it was determined that Kingwood has generated a 24-unit obligation between 2004 and May 2008. The following table shows this breakdown in Residential C.O.s and Non-Residential C.O.s issued, for a total affordable unit obligation.

<b>Obligation 2004 through May 2008: Based upon certificates of occupancy issued</b>		
Residential (47 / 4 = 11.75)	11.75	
Non-residential <sup>2</sup>	12.03	<ul style="list-style-type: none"> <li>• 22,790sf Use Group B development; and</li> <li>• 75,750sf Use Group M development</li> </ul>
<b>Total</b>	<b>23.78 (24) affordable dwelling units</b>	

The table above identifies the 2004 to date obligation. This may be addressed as follows:

- Accessory apartments approved by the Planning Board (2-units).
- Habitat for Humanity will construct 8 units of owner-occupied housing on the Ukarish Farm.
- Habitat for Humanity is evaluating options to construct up to 20 units of for-sale and rental housing for families on the Melnyk Farm.

<sup>1</sup> Third Round Resources <http://www.state.nj.us/dca/coah/buildingpermits.shtml>

<sup>2</sup> **Non-residential multipliers:** Office (B) = 5,714 sf generating one affordable unit = 22,790 / 5,714 = 3.98  
 Retail (M) = 9,412 sf generating one affordable unit = 75,750 / 9,412 = 8.05  
 3.98 + 8.05 = 12.03 *affordable units generated through non-residential construction*

- Community Hope, Inc. – owns and operates group homes for veterans. This is permanent supportive housing. A total of 2-four bedroom units (8-units of credit); ; and
- Cooperative Housing Corp. – owns and operates age-restricted congregate living housing. This is age-restricted housing where the unit of credit is the bedroom. A total of 2-four or five bedroom units possible.

<b>Addressing the current obligation (2004 through May 2008)</b>			
		<b>Bonus</b>	<b>Compliance Mechanism</b>
<b>Total units to address</b>	<b>24</b>		
BDAC	1		Accessory Apartment
Galleria	1		Accessory Apartment
Community Hope (VA)	8		Permanent Supportive Housing / Rental
Cooperative Housing Corp	4		Age-Restricted / Rental
Melnyk / Habitat for Humanity	5		Family Rental
Ukarish / Habitat for Humanity	4		Family Rental
<b>Total units provided and bonuses received</b>	<b>23</b>	<b>0</b>	
<b>Affordable Units left to provide</b>	<b>1</b>		

In gross numbers, all but one of the Township’s 2004-to-date affordable housing obligation of 24 units can be accounted for through the affordable housing projects and mechanisms identified above (see the following table). Because COAH has specific ‘delivery requirements’, such 12.5% family rental units, 50% family units, and 13% very-low income units, the projects identified so far may require adjustment.

COAH rules also specify *minimum* and *maximum* requirements governing how this obligation must be satisfied, including minimum requirements for family units, rental units and very low income housing and maximum limits on the percentage of units that can be age-restricted and the percentage of rental units that can qualify for bonus credits. These requirements for the Township’s 2004-to-date obligation are summarized below.

- At least 50 percent of the units within the municipality addressing the growth share obligation shall be family units (see 5:97-3.9). 2004-to-date obligation:  $24 \times .5 = 12$  family units.  
*Kingwood can provide 9 with the two Habitat for Humanity projects.*
- Recent legislation (P.L. 2008, c.46) has added a requirement that at least 13 percent of the municipal growth share obligation be affordable to very low income households (household income 30 percent or less of regional median), but that it may be included in the Township’s 50 percent rental share.  
2004-to-date obligation:  $24 \times .13 = 3.12$  units = 3 very low income units.  
*Kingwood has provided 0.3 very low income units needed, which may be possible to satisfy through Habitat for Humanity.*
- The minimum rental requirement for the Third Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b) 3). Growth share obligation:  $24 \times .25 = 6 = 6$  rental units.  
*Kingwood can provide 2 with the accessory apartments.*

- At least 50 percent of the rental housing requirement for the projected growth share obligation addressed within a municipality shall be family housing (see 5:97-3.4 (b)). 3rd round rental obligation: 12 units x .5 = 6 family rental units.  
*Kingwood has provided 0.*
  - The maximum proportion of the affordable units that can be age-restricted for the Third Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b)3). Growth share obligation: 24 x .25 = 6 age-restricted units.  
*Kingwood can provide 4 with the Cooperative Housing Corporation partnership.*
  - The maximum rental bonus permitted for the Third Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b) 3). Growth Share 24 x .25 = 6 rental bonus credits.
  - *The credits above do not provide Kingwood with any rental bonus credits. The minimum rental obligation of 25% of the 3<sup>rd</sup> Round Growth Share must be satisfied before bonus credits may be earned.*
- 3.) Remaining 3<sup>rd</sup> Round growth share projected for the Township of 41-units – The proposed mechanism for addressing the Township’s projected growth share obligation of 41 more affordable housing units is inclusionary zoning, as outlined above.
- 4.) As an additional compliance mechanism, the Township should consider the use of mixed-use nonresidential/affordable housing projects as a component of the affordable housing plan. COAH’s regulations at N.J.A.C. 5:97-6.4(b)2 states that inclusionary zoning “outside of a sewer service area in Planning Areas 3, 4, and 5 shall permit a presumptive density increase of 40% over the existing zoning. The presumptive maximum affordable housing set-aside shall be 20% of the total number of units in the development.” Certain zoning districts located along Route 12 may be appropriate candidates for such an approach to providing affordable housing for the Township.
- 5.) Another potential compliance mechanism could be to incentivize accessory apartment creation in conjunction with minor subdivisions.

Applying COAH’s minimum requirements to the Township’s 65 unit 3<sup>rd</sup> Round growth obligation yields the following **minimum requirements for the Township’s obligation:**

- At least 50 percent of the units within the municipality addressing the growth share obligation shall be family units [see 5:97-3.9]. Growth share obligation: 65 x .5 = 33 family units. *Kingwood has provided 5 units with the Habitat for Humanity for sale units.*
- Recent legislation (P.L. 2008, c.46) has added a requirement that at least 13 percent of the municipal growth share obligation be affordable to very low income households (household income 30 percent or less of regional median). Growth share obligation: 65 x .13 = 8.45 = 9 very low income units.  
*Kingwood has the potential to provide 3 units in a supportive housing / special needs home.*
- The minimum rental requirement for the 3<sup>rd</sup> Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b)3). Growth share obligation: 65 x .25 = 16.25 = 17 rental units. *Kingwood has the potential to provide 8 rental units with the accessory apartment program.*
- At least 50 percent of the rental housing requirement for the projected growth share obligation addressed within a municipality shall be family housing (see 5:97-3.4 (b)). 3rd round rental obligation: 17 units x .5 = 8.5 = 9 family rental units.

- The maximum proportion of the affordable units that can be age-restricted for the Third Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b)3). Growth share obligation:  $65 \times .25 = 16.25 = 16$  age-restricted units maximum.
- The maximum rental bonus permitted for the Third Round is 25 percent of the total growth share obligation (see 5:97-3.10 (b)3). Growth Share obligation  $65 \times .25 = 16.25$  rounded down to **16 rental bonus credits possible.**

Prior Cycle = 19 units			3 <sup>rd</sup> Round Growth Share = 65 units						
Project/Name:		Rental (25%) = min 17 units	Units remaining in plan for 3 <sup>rd</sup> Round Growth Share	Family (50%) = min 33 units (24 non-family units)	Family rental (12.5%) must be part of the rental = min 9 units	Rental (25%) = min 17 units	Very Low (13% - may be part of 50% low) = min 9 units very low	Very Low Family = 5	Age-restricted (25%) = max 16 units
Easter Seals	5	5	-						
Ukarish / Habitat	8	4	4	4				(?)	
Melnyk / Habitat	10	5	5	5				(?)	
Melnyk / Rental	10		10	10	10	10		(?)	
Municipal Park Cottage	1	1	-	-					
BDAC	1		1	1	1	1			
Galleria	1		1	1	1	1			
Community Hope	8		8	-		8	8		
Cooperative Housing Corp.	4		4	-		4	4		4
<b>Bonuses</b>	<b>4</b>	<b>4</b>	-			<b>7</b>			
<b>Total Units In Plan</b>	<b>48</b>	<b>19</b>	<b>33</b>	<b>21</b>	<b>12</b>	<b>24</b>	<b>12</b>	<b>0</b>	<b>4</b>
<b>Units Needed To Satisfy Obligation</b>	<b>23</b>	<b>0</b>		<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	May provide 12 more units in plan

- 12 Family units required;
- 5 Very low-income family units required (unless Habitat for Humanity units qualify as very low-income households);
- 33 unit in plan earn 7 bonus credits for a total of 40 units of credit.
- 25 more units required, minus 17 (if habitat is not very low-income) = 8 more units that may be age-restricted;
- Of the 25 units required, if Habitat is very low-income, then
  - 8 units may be age restricted,
  - 12 must be family units; and
  - 5 may be other.

D. Banisch stated there will need to be a joint meeting between the Planning Board and Township Committee at the next Planning Board meeting. The Planning Board takes action first and then the Township Committee. He stated after substantive certification the following needs to be provided:

1. Market to affordability – money has to be made available – condition extends to accessory apartments only– capped at \$20,000;
2. Inclusionary zoning ordinance for substantive certification;

D. Banisch stated the plan can be amended at any time.

**Executive Session**

It was moved by J. Strasser, seconded by R. Dodds and carried to adopt the following resolution:

**RESOLUTION NO. 2008 - 23**

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

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

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

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

**Personnel**

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

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

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

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

J. Mathieu announced the return to Regular Session.

**APPLICATION STATUS**

Schick – Block 14, Lot 39 – Deed Release.

**CORRESPONDENCE**

J. Mathieu reviewed as per the agenda.

Township of Kingwood – Agricultural Advisory Committee;

Franklin Township – Ordinance Amendment;  
NJ Planning Officials – Official Ballot/Mandatory Training;  
Sprint – EBI Consulting – The Board requested the letter be sent to the Township Historian, Sal DeSapio.

**PRIVILEGE OF THE FLOOR**

**ADJOURNMENT**

It was moved by R. Dodds, seconded by S. McNicol and carried to adjourn the meeting at 11:42 PM. All members present voted **AYE**.

**Respectfully submitted,**

**s/ Diane Laudenbach**

**Diane Laudenbach, Secretary**