

MINUTES

PRESENT:

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

ABSENT: T. Kratzer

CALL TO ORDER

The meeting was called to order by D. Laudenbach at 8:01 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 Hunterdon County Democrat and Express Times, 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

Nomination of Chairperson

J. Mathieu nominated and L. Senus seconded R. Dodds for Chairperson for 2009.

It was moved by D. Haywood, seconded by J. Strasser and carried to close the nominations. All members present voted **AYE** on **ROLL CALL VOTE**.

Nomination of Vice Chairperson

S. McNicol nominated and J. Burke seconded J. Mathieu for Vice Chairperson for 2009.

It was moved by D. Haywood, seconded by S. McNicol and carried to close the nominations. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu who abstained.

Appointment of Attorney

Lindabury, McCormick and Estabrook, D. Pierce, was appointed by D. Haywood, seconded J. Mathieu.

It was moved by D. Haywood, seconded by J. Mathieu and carried to close the appointments. All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment of Engineer

Gilmore and Associates, Thomas Decker, was appointed by J. Mathieu, seconded by S. McNicol.

It was moved by D. Haywood, seconded by J. Mathieu and carried to close the appointments. All members present voted **AYE** on **ROLL CALL VOTE**.

Approval of Meeting Dates

It was moved by D. Haywood, seconded S. McNicol and carried to approve the following meeting dates for 2009:

February 10, 2009
March 10, 2009
April 14, 2009
May 12, 2009
June 9, 2009

July 14, 2009
August 11, 2009
September 8, 2009
October 13, 2009
November 10, 2009
December 8, 2009

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

It was moved by E. Niemann, seconded by J. Mathieu and carried to change the starting time of the meeting from 8:00 PM to 7:30 PM. All members present voted **AYE** on **ROLL CALL VOTE**.

Designation of Newspaper

It was moved by D. Haywood, seconded by J. Burke and carried to designate the Hunterdon County Democrat as the official paper of the Kingwood Township Planning Board with an alternate of the Express Times. All members present voted **AYE** on **ROLL CALL VOTE**.

APPLICATIONS

Uncle Scott's Steakhouse – Block 24, Lot 1.10 – Graphics Permit

C. Lee of Charles Lee and Associates was present for the application this evening. The Board has received notification from the Zoning Officer indicating the application is in conformance with Article V “Graphics” of the Code of the Township of Kingwood.

It was moved by D. Haywood, seconded by J. Mathieu and carried to approve the Graphics Permit for Uncle Scott's Steakhouse, Block 24, Lot 1.10. All members present voted **AYE** on **ROLL CALL VOTE**, except E. Niemann, who abstained.

Route 12 Business Park – Block 15, Lot 8.02 – Graphics Permit

A. VanVeldhuisen was present for the application this evening. The Board has received notification from the Zoning Officer indicating the application is in conformance with Article V “Graphics” of the Code of the Township of Kingwood. The sign will be located at the right side of the avenue and 50’ from the curb outside of the sight triangle. He indicated the location of the sign on the overhead projection. He stated any sign over 9 or 10 feet will require structural detail. The graphics on the proposed sign are dictated by the business’ logos.

It was moved by D. Haywood, seconded by J. Mathieu and carried to approve the Graphics Permit for Route 12 Business Park, Block 15, Lot 8.02. All members present voted **AYE** on **ROLL CALL VOTE**.

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

Silverson – Block 7, Lot 14

R. Lorentz, engineer, and J. Silverson, applicant, were present for the application this evening.

R. Lorentz stated the applicant is seeking a determination of completeness this evening.

T. Decker provided the following memo on the application:

Item # 12 – Proposed Block and Lot #s as Approved by the Tax Assessor

Applicant has requested a temporary waiver stating that the Tax Assessor has been contacted, but no reply received to date. *R. Lorentz stated the applicant has received the certified list of property owners but not the approval of the block and lot numbers.*

Item #15 – Certified by the Municipal Tax Assessor

Applicant has requested a temporary waiver stating that the Tax Assessor has been contacted, but no reply received to date. *R. Lorentz stated he has received the information from the Tax Assessor.*

Item #21 – Contours and Topography within 200 Feet

Contours are not provided within 200 feet of the project limits. The checklist requires 20’ contours be provided. Areas to the north, south and west are not shown. *T. Decker stated it would be appropriate to grant a waiver for this item. R. Lorentz stated it could be provided if it was found to be necessary.*

Item #26 – Lot Grading Plans

This item is marked as “May be required due to unusual circumstances” on the checklist. However, this information may be needed in order to adequately review the plans on a technical basis. Of particular concern are the common driveway and stormwater management requirements. *R. Lorentz requested that they be at least temporarily waived for completeness purposes. If they are determined to be needed for the board to review the application, they will be provided. There are uncertainties as to how the project will lay out and it will impact how that information will be done. It is related to the scope of improvements and amount of imperviousness, which have yet to be determined.*

Item #29 – Soil Erosion and Sediment Control Plan

This item is marked as “May be required due to unusual circumstances” on the checklist. However, this information may be needed in order to adequately review the plans on a technical basis. Of particular concern are the common driveway and stormwater management requirements. *R. Lorentz requested that they be at least temporarily waived for completeness purposes. If they are determined to be needed for the board to review the application, they will be provided. There are uncertainties as to how the project will lay out and it will impact how that information will be done. It is related to the scope of improvements and amount of imperviousness, which have yet to be determined.*

Item #30 – Stormwater Calculations

This item is marked as “May be required due to unusual circumstances” on the checklist. However, this information may be needed in order to adequately assess that stormwater management requirements can be satisfied. *R. Lorentz requested that they be at least temporarily waived for completeness purposes. If they are determined to be needed for the board to review the application, they will be provided. There are uncertainties as to how the project will lay out and it will impact how that information will be done. It is related to the scope of improvements and amount of imperviousness, which have yet to be determined.*

Item #38 – Stormwater Management Plan and Supporting Calculations

Applicant has requested a waiver pending scope of improvements determination. *R. Lorentz stated the plan is dependent upon how certain items are treated. An example is the large existing barn on the front lot. It is a substantial feature that exists on the property but the way the subdivision lays out, it does not comply with the subdivision requirements. It will have to be determined if the building will be allowed to stay or be removed. R. Lorentz stated the principle that he intends to follow is that each of the individual lots would sustain themselves in terms of stormwater management. He stated the question rises as to do the new improvements generate the need for formal compliance with the stormwater management ordinance in terms of the amount of imperviousness, disturbance or net. Each lot’s requirements would be self sustained.*

Item #43 – Hydrogeological Report and Pump Testing

Although indicated as “Not Required” on the checklist, Amended Ordinance Section 153-25 requires testing and report. *R. Lorentz stated, reading the ordinance, this is required prior to subdivision approval or as a condition. He would like to request it be handled as a condition as was the case with the two other applications he was involved in last year, which occurred after the change in the ordinance. He is requesting it be a condition of approval. It is a time consuming, costly operation and they wouldn’t want to do it up front and have something change that would not make it valid.*

Item #45 – Affordable Housing Plan

Has advised in their application that they will provide the required pro-rata contribution per the applicable Ordinance and as determined and agreed to with the Planning Board. *R. Lorentz stated they will settle as they go forward.*

Item #50 – Freshwater Wetlands LOI or Presence/Absence Determination

Plans indicate that NJDEP has approved the wetland delineation. A copy of the Letter of Interpretation should be submitted for the project file. *T. Decker was provided with a copy this evening. Similarly, the two smaller buildings that do cross the property lines which are being showed as removed but it may work out that there is not a total removal. The ones encroaching on the ROW, labeled as a stable and shed, are existing impervious coverage the applicant would like to include in the calculation. If they are*

taken away, they become an asset. The applicant is requesting a temporary hold on the stormwater plans.

D. Pierce stated the Board has before them a subdivision application. In order to accomplish the alternatives of the buildings, there would need to be a variance application. As the application is presented, those buildings are coming down to comply with the setback requirements. There is no application for a variance before the Board this evening. The lack of a variance application implies the buildings will be removed.

T. Decker stated, in the past, R. Lorentz developed some calculations on a sliding scale for “x” amount of square footage for a home would require this amount for a drywell and similarly for the driveway also. The credit for the impervious coverage for any buildings that come down, such as the barn and shed, and if that credit is applied to Lot 14, it would limit the stormwater that would be needed for the other two lots. He would like to see the calculations for the sliding scale and the permeability of the existing ground for the dry wells.

In regard to the stable, J. Silverson stated he will be speaking with the owner of the other property. The stable is being used by the adjoining property owner. He is trying to reach an agreement with the owner of the other property.

D. Pierce stated Lot 14.04 was created sometime in the past and a condition of approval should have been that the stable be removed. If it wasn't removed, the deeds should not have been approved. The Board could ask the Code Enforcement Official and Township Committee to enforce that condition of approval. If not, then it is a simple matter, J. Silverson cannot control his neighbor. The Board can require that no portion of the stable remain on his property.

T. Decker stated the conditions of the determination of completeness are:

- The applicant provide the stormwater calculations on a sliding scale basis for each lot;
- Calculations for the imperviousness;
- Providing the credits for the removal of structures;
- Timeline on the pump test.

T. Decker stated the pump test is not tied to the building permit but part of the subdivision approval. It is not included on the subdivision checklist as a requirement for a minor subdivision but is listed in the ordinance itself. It could be provided as a condition of approval and would need to be completed prior to the release of the deeds.

D. Pierce stated the deeds would have to be filed within 190 days of approval.

D. Pierce stated if the Board is inclined to deem them conditionally complete, the applicants would have to supply the certified property owners list, storm calculation and plan documents and provide the time line in regard to the well testing at least 10 days prior to the date on which they are going to have their hearing. For completeness purposes, the Board does not look at the quality of their submission but that it somewhat meets the checklist requirements. They will have to address the issues and submit revised plans prior to the meeting.

It was moved by J. Mathieu, seconded by D. Haywood and carried to deem the application conditionally complete and to grant waivers, for completeness only, of Checklist Item Nos. 12, 21, 26, 29 and 45. All members present voted **AYE** on **ROLL CALL VOTE**.

S. McNicol resumed her seat on the Board.

Van Holten – Block 28, Lot 11

D. Pierce stated he had a telephone conversation with the applicant's attorney last week inquiring if the applicant should appear before the Board. He informed the attorney if the applicant would like to request an extension of time, he should appear before the Board. Due to the Permit Extension Act of 2008, he does not believe there is any need for the Board to take any action.

Revised Conservation Easement and Markers

D. Pierce stated at the December meeting the conservation easement was discussed. S. Honeyman's attorney raised a question relating to the language in the form of the easement relating to the easement area to be free of liens and requiring the payment of taxes. He is proposing the following language:

*7.1 **Costs, Legal Requirements, and Liabilities.** Grantors retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Easement Area, including the maintenance of adequate liability insurance coverage. Grantors remain solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements.*

*7.2 **Control.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Easement Area, or any of Grantors' activities on the Property, or otherwise to become an owner or operator with respect to the Easement Area within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and The Spill Compensation and Control Act, as amended.*

D. Pierce stated if the Board concurs with the above changes, the Board can make the recommendation to the Township Committee to adopt the revisions to the Conservation Easement Ordinance.

It was moved by S. McNicol, seconded by D. Haywood, to recommend to the Township Committee to make the above revisions to the Conservation Easement Ordinance. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, who was absent.

After a lengthy discussion, it was moved by L. Senus, seconded by S. McNicol and carried to request an additional \$1,000 for the Planning Board Other Expense budget line item to purchase the conservation easement plaques and posts. All members present voted **AYE** on **ROLL CALL VOTE**.

Banisch and Associates

A. Clerico stated she was informed the application for the ANJEC grant last year was a good grant and she will be resubmitting it this year.

After some discussion, it was decided to request that the professionals provide to the Board, in writing, the matters they will be addressing at the meeting and place those items at the top of the agenda to limit the costs to the Board for professional services.

Land Use Element

After some discussion, it was decided to request a total cost to prepare the Land Use Element from Banisch and Associates.

T. Decker left the meeting.

Approval of Minutes

It was moved by D. Haywood, seconded by J. Mathieu and carried to approve the minutes of December 9, 2008, and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Burke, who abstained.

It was moved by D. Haywood, seconded by S. McNicol and carried to approve the minutes of Executive Session of December 9, 2008. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Burke, who abstained.

Resolutions

It was moved by J. Mathieu, seconded by D. Haywood, and carried to adopt **Resolution No. 2009-01, Hewitt, Block 40, Lot 25 – Byram Kingwood Road, Boundary Line Adjustment**. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by D. Haywood, seconded by J. Mathieu and carried to adopt **Resolution No. 2009-02, Phillips, Block 41, Lot 13 – Byram Kingwood Road, Boundary Line Adjustment**. All members present voted **AYE** on **ROLL CALL VOTE**.

Code Enforcement Report

R. Dodds stated the Board has requested closure on some items that have been outstanding. E. Niemann stated the Township has hired a new Code Enforcement Officer who has not been updated to the outstanding items. He will provide a report for the February meeting.

Hydrogeologist

The matter was requested to be listed on the February agenda.

Checklist Amendment

D. Pierce stated the ordinance, requiring the well testing prior to the Planning Board approval, was changed but the Township Committee did not make the amendment to the checklist.

J. Burke inquired if the Board would like to change the number of plans required to be submitted with an application. The Board was in favor of reviewing the required number of plats but the majority of the members wanted a hard copy for all applications. The Board members will review the checklist at the February meeting.

CORRESPONDENCE

The Board reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

A. Hauck was present this evening and stated he has resigned from the Environmental Commission and will be studying the well water yields for the Township.

C. Niciecki commented on the Land Use Element. She requested the Board consider softening the zoning by not allowing any commercial business that would have a negative impact on the environment or people living along Route 12. J. Mathieu thanked C. Niciecki for coming this evening. R. Dodds stated the Board became aware of the permitted uses in that area in 2008.

R. Dodds noted S. McNicol is chairing the graphics subcommittee. She has the absolute privilege of recruiting volunteers.

E. Niemann stated it has been brought to her attention some professionals do not have a place to sit at the meeting. She will be reviewing a different configuration with R. Dodds prior to next month's meeting.

ADJOURNMENT

It was moved by J. Mathieu, seconded by D. Haywood, and carried to adjourn the meeting at 10:17 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach

Diane Laudenbach, Secretary