

MINUTES

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

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:32 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

Appointment of Planner

It was moved by E. Niemann, seconded by D. Haywood and carried to appoint Banisch and Associates as Planner for 2009. All members present voted **AYE** on **ROLL CALL VOTE**.

Honeyman – Block 26, Lot 4 – Kingwood Locktown Road – Extension of Time to File

S. Honeyman was present for the matter this evening. She is requesting the Planning Board permit her to file her deeds prior to the installation of the conservation markers.

It was moved by D. Haywood, seconded by S. McNicol and carried to permit the filing of the deeds for the minor subdivision of Block 26, Lot 4 prior to the installation of the conservation markers. 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 – Oak Grove Road – Hearing

R. Lorentz, J. Silverson and B. Blumberg were present for the application this evening.

D. Pierce swore in J. Silverson and R. Lorentz.

B. Blumberg stated since the affordable housing situation has been in a state of flux, he is requesting the contribution for affordable housing be made at the time of the issuance of the building permit and certificate of occupancy. There is no certainty as to what the requirements will be in the future or if the lots will sell in this market. Any approval that is granted can be conditioned that the contribution will be based on the requirements at the time of the issuance of the building permit.

T. Decker provided the following review:

Completeness Review

The following items remain outstanding from our January 12, 2009 Completeness Review letter for which the applicant has requested waivers as outlined in the Heritage Consulting Engineers letter of January 30, 2009.

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 testified he has not been able to obtain the information from the Tax Assessor after three attempts.*

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.

Item #43 – Hydrogeological Report and Pump Testing

Although indicated as “Not Required” on the checklist, Amended Ordinance Section 153-25 requires testing and report.

Technical Review

The subject property is located on Oak Grove Road and is referred to as Block 7, Lot 14 on Kingwood Township Tax Map Sheet #3 and is located within the AR-2 Agricultural and Residential District. The subject property is bounded to the north, east and west by residential lots and to the south by Oak Grove Road. The applicant proposes to subdivide existing Block 7, Lot 14 into two (2) proposed lots with a single lot remaining. This proposal is in accordance with the Class II Minor Subdivision provision of the Kingwood Township Ordinance. Lots 14.18 and 14.19 are proposed flag lots, each fronting on Oak Grove Road via a 25-foot stem and common driveway. The remaining lot, Lot 14, will front directly on Oak Grove Road with access through the proposed common driveway.

Upon review, we offer the following technical comments at this time:

1. In accordance with Section 115-3 under the definition of Class II Minor Subdivision (b4)(a) lots that are less than 4 acres in size shall be deed restricted to limit the dwelling size to not more than 3,000 square feet. This provision applies to the remaining Lot 14. Deeds and plans should be noted accordingly.
2. The proposed gravel lane complies with the ordinance for common driveways serving a Class II Minor Subdivision and should be suitable for the proposed use. A driveway permit in accordance with Section 112-8A of the Kingwood Township Ordinance must be obtained prior to the issuance of a building permit for the first residence.
3. The plans indicate that the 300-foot Special Resource Protection Area terminates at the northerly property line of Lot 14.04. Based upon the location of the tributary of the Nishaskawick Creek, it appears that the Special Resource Protection Area should continue through this lot and onto remaining Lot 14. In addition to the Special Resource Protection Area, a 300-foot Riparian Zone is required in accordance with the NJDEP Flood Hazard Area Control Act Rules (N.J.A.C.7:13). As these limits may impact the common drive location, the applicant should acquire a jurisdictional determination from NJDEP. *R. Lorentz testified obtaining a jurisdictional determination from the NJDEP is a very tedious, time consuming and costly procedure. In reading the regulations, this type of common drive or private road within a 300' riparian zone would permit 7200 sq ft of disturbance within the riparian zone for the purpose of putting in a drive to serve more than one lot.*
4. The plans should be revised to include a complete zoning parameters chart, depicting the required and proposed information for each of the lots.
5. Note #5 on Sheet #1 Minor Subdivision is missing the date for the referenced resolution.
6. The soil test results are incomplete. All testing should be provided whether passing or failing. On Lot 14, tests 15, 16, 32 and 33 are not listed. On Lot 14.18, tests 8, 23 and 29 are not listed.
7. The applicant shall provide infiltration testing in the area of the driveway infiltration trenches and proposed drywells.
8. The driveway cross sections should be revised to include a section from station 0+08 to 0+75 indicating the paved portion of the driveway with associated pavement specification. Common driveway section 0+25 to 1+25 shall be revised to indicate the driveway section from 0+75 to 1+25.
9. The pipe within the right of way at the common driveway shall be revised to graphically depict the correct pipe size. It appears that the pipe as shown is a 6" HDPE rather than a 12" HDPE. As such, the proposed cover of approximately 6 inches is inadequate for the proposed piping. The plans shall be revised to provide adequate cover. *R. Lorentz testified the culvert along Oak Grove Road, crossing under the driveway, is a 12" pipe. It is not reflected clearly on the design. It might be a little tight on coverage but the driveway can be adjusted.*
10. The stormwater calculations are unclear as to which design storm was used for the proposed calculations. Calculation should be revised to indicate storage for the difference in the existing condition verses the proposed conditions for the 100-year design storm.

11. The existing overland flow will be blocked by the common drive. Provisions should be made for this flow to bypass the drive and continue through Lot 14.18.
12. The proposed 1-1/2" PVC discharging from the pipe common driveway infiltration trench appears to be inadequate in size. Supporting calculations should be provided. *R. Lorentz testified the drainage across the driveway rather than being collected in a concentrated manner will provide a 200' section of the driveway that is absolutely flat. It will be dispersed over the entire 200' length as a sheet condition. The 1.5" pipe is an overflow of the infiltration area in the subsurface system so that after a storm event, if the entire facility fills up, it will gradually drain to allow that area to be available for the next storm while retaining what will be able to infiltrate in the lower area. The pipe is not sized for any particular flow.*
13. The applicant for each lot shall be required to submit a grading, septic and stormwater design plan for the proposed improvements for review and approval by the Township Engineer prior to receiving a building permit. Language stating such shall be added to the proposed deed for each lot. *R. Lorentz stated he has presented an alternative way of addressing the stormwater regulations. He made two different types of calculations and arrived at the same answer. He utilized the traditional assessment for the overall property, 27 acres, which has some existing impervious coverage on it in the amount of 10,000 sq ft. He has determined the run off number for the overall property. He has determined the before condition and after condition of the property and added some impervious. There is approximately .25 of an acre increase in the impervious coverage after all considerations on the 27 acres. The difference in the run off on the total property based on that .25 increase is small. The common driveway and dwellings will utilize drywell systems. The run off will be directed into infiltration devices. It exceeds the standard in that all imperviousness is converted to "0" runoff. He would like the opportunity to work with T. Decker on the matter. Each lot would have a grading plan individualized for that particular lot.*

Administrative

1. Subject to unconditional approvals from the following agencies as may be appropriate:
 - a. New Jersey Department of Environmental Protection
 - b. Hunterdon County Planning Board
 - c. Hunterdon County Soil Conservation District
 - d. Any other agencies having regulatory jurisdiction.
2. Application may be subject to off tract improvement contributions to be agreed upon with the Township Committee.

R. Lorentz responded to the questions on the Environmental Commission's review. Question No. 1 inquires if the wetland buffer should be 150' because all wetlands adjoining C1 streams are considered exceptional value and therefore automatically receive the 150' buffer? R. Lorentz stated the wetland buffer is shown at 50' because that is the buffer set by the LOI on the property. He doesn't believe that a C1 stream automatically has a 150' buffer. The LOI issued by the DEP in 2007 is current and it established the 50' buffer. There are several instances in the Township where that is the case. Question No. 2 inquires if the contours and drainage will be changed for the septic system(s)? R. Lorentz stated the contours will change very little. Question No. 3 inquires about the amount of impervious surface? R. Lorentz stated there will be no impervious surfaces related to a septic system. It is totally subsurface and might possibly have a manhole cover. They will be slightly mounded but not impervious. The recontouring will be very slight and extend approximately 20' at the

maximum from the disposal area itself. He doesn't anticipate any system would need to be elevated more than 3-4 feet and that amount of elevation can be dissipated very easily. Question No. 4 inquires how these changes would affect the storm flow drainage onto adjacent properties and into the C1 stream and the water quality of the C1 stream? R. Lorentz responded there will be no changes affecting storm flow. All of the systems are well within the property or close to another property. It will be down gradient from the property. The closest system is 400' from the C1 stream. Question No. 5 inquires if this is a creeping major subdivision due to three previously subdivided lots from the same lot, for a total of 6 lots? R. Lorentz responded it is a creeping major that will not creep any more. There is no opportunity for further resubdivision on this property. The application has been submitted to the County. It can be demonstrated this is the end and there will be nothing further.

A. Clerico, Banisch and Associates provided the following memorandum:

We have reviewed the following materials in preparation of this report:

- Concept Plan titled "Class II Minor Subdivision Lot 14 Block 7 at Oak Grove Road" prepared by Azmarc, LLC, Surveyors and Engineers. Dated 7/28/2008.
- Concept Plan titled "Concept Minor Subdivision / Boundary Line Adjustment for Jeffrey Silverson Block 7 Lot 14" prepared by Heritage Consulting, unsigned and not dated.
- Plan titled "Minor Subdivision for Jeffrey Silverson Block 7 Lot 14" prepared and signed by Patrick H. Fatton, PLS. Dated 12/18/08.
- Plan titled "Minor Subdivision for Jeffrey Silverson Block 7 Lot 14" prepared and signed by Patrick H. Fatton, PLS. Dated 12/18/08 with revisions on 1/26/09.
- Three deeds filed for proposed Lots 14, 14.18, and 14.19.
- Engineering Completeness Review prepared and signed by Thomas R. Decker, P.E., P.P., C.M.E., dated January 12, 2009.
- Technical Review letter prepared and signed by Thomas R. Decker, P.E., P.P., C.M.E., date February 9, 2009.

1. The applicant is seeking approval for a minor subdivision on 27.165 acres of existing farmland (Lot 14). The applicant proposes to resubdivide the existing lot and create a total of three (3) lots. Proposed Lots 14.18 (16.783 ac.) and 14.19 (6.714 ac.) are to be configured as flag lots, each with a 25 ft. stem. The Remaining Lands Lot 14 will consist of 3.6398 acres and will have 210 ft of road frontage on Oak Grove Road.
2. The applicant proposes a Class II Minor Subdivision for the three proposed lots. A Class II Minor Subdivision is defined at Section 115-3 of the Subdivision Ordinance as "consisting of not more than three new residential lots and a remainder... contain not less than two acres of land after taking into account the partial credit allowed for constrained areas... and up to two (lots) which are commonly known as a 'flag lot'..."
3. Section 132-30F of the Township Zoning Ordinance identifies a number of specific criteria to be met where constrained lands are involved. They are noted in the table provided on the minor subdivision plan. The applicant's proposed subdivision appears to comply with these requirements based on the information presented in the table.
4. A Tributary to the Nishishakawick Creek traverses the westerly portion of Proposed Lot 14.18 from the northwest corner to the southerly boundary of the lot at Oak Grove Road. A note on the plan identifies an easement granted to the NJDEP for Class I Waterway and encompasses 8.86 acres; however the 300 ft Riparian Zone is not labeled on the plan. The NJDEP Letter of Interpretation identifies this C1 waterway and intermediate wetlands with a 50 ft. transition area requirement, which is noted on the plan.

Two smaller tributaries of the Nishishakawick Creek gather on the northeast side of the Creek that is labeled on the plan. The 300 foot Riparian Zone is not drawn around these tributaries. This should be resolved through the jurisdictional determination recommended by Engineer Decker, which may impact minimum open lands provided on proposed Lot 14.18. *R. Lorentz stated he does not believe the two smaller tributaries are waterways. They are shown in the contour. Both have some wetlands associated with them. They were shown on the mapping presented to the DEP.*

5. A sight easement is identified on the plan on the east side of the common driveway. No sight easement is identified on the west side of the common driveway. Testimony should be provided indicating why and explain existing and required sight distance, and whether any sight obstructions exist.
6. Infiltration trenches are identified along each proposed driveway. A description in the plans should identify their use and the direction of the flow of water.

T. Decker stated he had spoken with R. Lorentz and the technical issues can be worked out between the two offices. T. Decker stated since Lot 14 is less than four acres, the dwelling is restricted to no more than 3,000 sq ft. In regard to #43, R. Lorentz did submit a letter with the revised plans which presented some arguments for a waiver for completeness purposes of the hydrogeological report and pump testing.

R. Lorentz stated the provisions of the ordinance have been amended and he recognizes that the testing and report is a required element. One of the problems is the time period of when the testing can be conducted, July through October. He is suggesting because of the time frame and other constraints with the procedure for subdivision, a protocol be developed that would make the actual testing and report part of the actual building process. The required escrow posting could be a condition of approval that could be satisfied prior to finalization of the lots with the perfection of the subdivision. The ordinance speaks to those items being submitted prior to approval as to suitability of subdivision. His view is that the approval of suitability of subdivision is at the release of the deeds for perfection. They are requesting it be made a condition as in the two prior instances.

T. Kratzer rationalized the reasoning behind the well testing prior to subdivision. A house that was built in the spring time, when the aquifer and water tables are higher, with an increased use in the summer, might incur problems. It is possible the person might end up with very little water. The ordinance requirements would look to see if those conditions are existing prior to the construction of a house not after the house is built on the site.

R. Lorentz stated it is the responsibility of the person buying the lot. The deeds would contain all the requirements that go with the lot, such as the need for an individual grading plan. He is requesting the testing not be done prior to the subdivision.

D. Pierce stated the ordinance requires the well testing report and conclusions be presented to the Board as part of the approval process so the well has an adequate supply and quality for the lots that are proposed to be created. Under the ordinance, as it is written now, the requirement must be satisfied before the Board grants approval. The applicant is requesting a waiver for the well testing and for it to be a condition of approval.

B. Blumberg requested if the Board is satisfied with the application, setting aside the well issue, could the Board approve the application subject to not allow the sale of any of the lots without satisfactory testing which would protect potential buyers? He is requesting it as a condition of approval as was done in two prior instances.

D. Pierce stated each case is a separate entity before the Board. A decision on one case does not make it a precedent for another. D. Pierce stated in the two prior applications, the testing was required prior to the application for a building permit. They were submitted prior to the ordinance amendment.

R. Lorentz indicated the location of the wetlands on the overhead. The wetlands are limited to the wooded area. The wetlands are limited with the ones associated with the stream and a small isolated area on the prior subdivision property.

T. Decker stated the DEP classifies the wetlands as intermediate value with a 50' buffer. He read from the DEP LOI letter. The transition area is 50'.

R. Lorentz stated the issue about the access to Lot 14 remaining lands is clear that it is a shared access. The further the dwelling moves back, with the limitation of the location of the access, the more imperviousness is created that will need to be addressed and more disturbances on the lot to get to the house site. The Board might want to consider allowing the access point to be further into the property. The application calls for a 50' easement area in the front that would provide the access as per the Class II driveway ordinance.

T. Decker stated there might be an advantage to moving the driveway up which will reduce the imperviousness and create a shorter driveway.

R. Lorentz stated the placement of the houses is conceptual. There is a lot of room on the back lots to site a house.

A. Clerico stated there is some agricultural activity on the property. If the location of the house was situated closer to the common driveway, it would keep the agricultural area intact.

R. Dodds called for comments from the public.

D. Pierce swore in S. McNicol.

S. McNicol stated she is a resident of Oak Grove Road. She has a problem with a number of things with the application. The first issue is the driveway. She has done some research regarding flood hazard rules. The driveway in question might fall into the flood hazard rules. The 300' buffer might interject more than it appears. The existing dwelling on Lot 14.04 has a driveway that is going to be butted next to the new driveway stem. There is a safety issue. There is a blind rise on the street. The drivers going east cannot see the drivers going up the hill. There is no sight line from this driveway. It is not the best location since there will be three new properties using the driveway as well as the existing house. She is requesting there be some change in its location. The second issue is the barn. The barn is a historic barn. It is scheduled to be removed. It has been there since the 20's and she understands that it is within the 40' set back. If the driveway is changed, the problem would be alleviated. Another issue is on Lot 14.04. There is a spring which has a constant problem on the road for the 20 years she has lived on the road. The Township has installed a piping system under the road and it drains underneath Lot 14.04's driveway, continues across Lot 14.04's property and then into the C-1 stream. It might be the Little Nishishakawick Creek. According to the new flood hazard rules for C-1 streams, the 300' buffer applies to drainage areas and rivulets. She drew an arc of 300' from the end of the upper most tributary and it cuts into Lot 14.18 quite a bit. The upper two soil logs might be void and located in the riparian zone. Going a little further, the larger "v" shaped tributary, which was going into the driveway and into Lot 14, could possibly obliterate the soil logs on Lot 14. The above issues change the layout of the plans. Page 2 indicates for Lot 14.18 to come upgrade 200' from the dwelling to the disposal area and the other one is about 150' upgrade. All of this area drains down into the stream. She thinks it is very important to consider the importance of the stream, the impact on the residents and the residents outside of the area. The LOI is from 2006. T. Decker stated the LOI is valid for 5 years. S. McNicol stated the flood hazard rules overrule the wetlands. The impact on Lot 14.04 should be considered. The driveway issue has to be reviewed. It is not appropriate. There is no planning involved in the application. There was no consideration of the other

driveways and accesses in the area. This was a major subdivision which was handled in two parts. Something should be done to allow one driveway to access this property. The lot configuration is like abstract art. She provided some pictures to the Board. D. Pierce marked S. McNicol's pictures as Exhibits.

B. Blumberg questioned about the procedure of a member of the Planning Board who has recused herself. He does not know if she is testifying as an expert witness or a neighbor.

S. McNicol stated she is testifying as a neighbor.

R. Dodds stated she is not providing expert testimony. It is testimony from a neighbor who is allowed to have their opinion.

B. Blumberg inquired if it is appropriate whether a recused Board member can testify in this manner?

D. Pierce responded it is appropriate for a property owner within 200' to testify, even if they are a Board member who has recused themselves. They are not recusing themselves from their right of commenting on the application.

J. Mathieu stated if she is testifying as an expert, the Board would require her credentials. Her testimony indicated items which might or might not be fact. J. Mathieu stated in his view, S. McNicol has not given him the indication that she is testifying with great certainty or scientific knowledge that what she is saying is valid. She was expressing an opinion which could be a fact.

B. Blumberg stated he thought her testimony was a little more affirmative than that.

R. Dodds called for additional comments from the public. No response was heard.

R. Dodds called for comments, questions or concerns from the Board members.

J. Mathieu stated he had a concern about a comment B. Blumberg made with regard to the COAH obligation being determined at the time of the sale of a lot or formal subdivision of the lots.

B. Blumberg stated it is his request that payment of half of the COAH fee be paid at the issuance of the building permit and half upon the CO. His request is due to the fact of what will happen with the COAH obligation. He would like to adhere to the regulations in effect at that time of the sale of a lot or formal subdivision of the lots.

D. Pierce stated the rules currently in existence are subject to legal challenge. The Township has substantive certification. The Township's ordinance with respect to affordable housing does not comply with the 3rd round rules. D. Pierce stated his opinion and D. Banisch's opinion is that the best option to the Board on affordable housing obligation would be to make it subject to the payment of the development fee at the time of the issuance of the building permit or in the alternative whatever COAH housing ordinance is in effect when the permits are issued. The 3rd round rules require inclusionary zoning, which the Township does not currently provide. It is D. Pierce's and D. Banisch's opinion the Board make any approvals conditioned on that circumstance.

The Board discussed the issues addressed in S. McNicol's testimony. T. Decker stated it is difficult to answer if the riparian zone is affected. The safest way to address the issue is to submit for a jurisdictional determination. In regard to the driveway, Chapter 112 addresses the requirements for site distances. The site distances could

be determined from field data. A study could be done that the site distances have been satisfied or if not, what would be necessary to comply.

A. Clerico responded if the barn is not on a historic register, there is not much the Board can do about it being demolished.

In response to a question by a Board member with regard to the structure located on the two properties, B. Blumberg stated there has been some communication between the neighbors. If the neighbor is able to move the structure within the set back lines, that would be fine with the applicant.

C. Dixon, Oak Grove Road, stated the applicant has not had any conversation with her mother, N. Dixon. She inquired how long does the utilization of a shed be considered eminent domain?

D. Pierce responded it is not an eminent domain process. It is adverse possession. If the use was by permission then there are no adverse rights and no adverse rights can take affect.

J. Silverson stated C. Dixon's mother had been doing some farming. It is his understanding the barn was probably built in the 1930s. He has spoke with N. Dixon in the past and some of the conservations were getting emotional. It was his understanding that she was represented by M. Mott. The particular building would have to be moved onto her property.

R. Lorentz stated the current plan calls for the driveway to come up the center of the line between the two flag stems. The 300' buffer would extend to that line and dip in and come out again. They could shift the entire driveway into the easterly 25' strip for the area that was impacted by the stream buffer and then bring it back to the center. The driveway could be placed anywhere within the 50' width. The smaller water courses are not identified on anything he has seen as a water course and being a C-1 tributary. It does not extend beyond Oak Grove Road. His initial assessment of the larger tributary running from Oak Grove Road and to the property does not have a drainage area of 50 acres or more. It gains its riparian zone by virtue of being a C-1 watercourse under the regulations. It runs from ditch to ditch. It is nothing more than a roadside ditch along Oak Grove Road. There is no watercourse extending to the south.

T. Decker stated the amount of drainage area is less than 50' into the tributary of the Little Nishishakawick Creek. It is probably a mute point even if the drainage area is less than 50 acres because it is a C-1 stream. He read the definition from the Flood Hazard Regulations. It is a little difficult to determine the definition of a channel. The applicant should apply for a jurisdictional determination review.

J. Silverson stated he has appeared before the Board four times. He stated the application is a fine plan. He moved the driveway to the east, but the Board was not in favor of that location. He is requesting the Board consider the application before them.

R. Dodds reviewed some of the comments that are outstanding:

Need for the hydrogeological report and pump testing prior to approval;
Need for jurisdictional determination by the DEP.

The Board members were polled and in favor of requiring the above items.

T. Decker described the process to obtain a jurisdictional determination. There is no fee. The applicant submits his plans and, workload permitting, a determination will be issued within 30 days of submitting a complete application.

D. Pierce stated he has a procedural question for the Board and the applicant. As the application stands currently, there is no well testing data and based on the comments made this evening, it is the Board's inclination that it does not wish to deviate from that requirement. The Board would have to take the application this evening and deny the application due to the lack of that information. The applicant, after having the benefit of the Board's thoughts, could consent to an extension of time and the matter adjourned.

B. Blumberg stated the applicant is in agreement with the proposal of an extension of time.

D. Pierce stated the applicant has agreed to table the application at this time and is granting an extension for the time in which to act so that no automatic approval is granted. He requested the applicant send in a letter indicating their agreement to the extension.

Cacciabaudo – Block 37, Lots 3.05 – 3.09 – Federal Twist Road – Conceptual

B. Szaferman, attorney, Barry Sutherland, engineer, and R. Cacciabaudo, were present for the application this evening.

B. Szaferman stated the applicant was before the Board eight months ago for a conceptual plan on the same application. The applicant is currently the owner of five existing lots that were approved by this Board. The applicant came back to the Board to simplify the subdivision by consolidating it into two lots and provide access from Federal Twist Road. To obtain the access from Federal Twist Road, the purchase of Lot 9.01 was required. The applicant currently is the owner of Lot 9.01 and now has access from Federal Twist Road. It is basically the same application requesting three lots rather than two.

B. Sutherland stated he is a professional engineer in the state of New Jersey. He has submitted the concept plan in PDF. The previous application was for two lots. They did not want to go for stormwater management of detention basins. The three lots will increase the impervious coverage to below .25 acre. The original lot was a five lot design with a cul-de-sac. Lot 9.01 was purchased by R. Cacciabaudo.

D. Pierce stated it is not a fully conforming Class II. A conforming Class II could have four lots but two have to have frontage on the road. D. Pierce stated there would be three variances: permit more than two flag lots off of a common driveway; frontage on the two lots; the issuance of a building permit not abutting a public street.

T. Decker stated the application is more consistent with the old Class III.

B. Szaferman stated it is a three lot subdivision. The applicant will require a variance for the frontage but they do not view Lot 9.01 as part of the subdivision. Lot 9.01 is only part of the subdivision to provide access.

D. Pierce stated he may be technically correct that Lot 9.01 does not need a variance to use the access but it creates the use of that frontage by the other two lots. There would be four lots. Lot 9.01 is existing and uses the flag stem for its access and three additional lots. One of the three lots would have frontage but not usable frontage.

B. Szaferman stated the driveway will be constructed of gravel.

B. Sutherland stated the driveway will be 1500' in length and is trying to not provide stormwater detention basins on the property. Gravel driveways are considered impervious.

D. Pierce stated one of the variances is required because the applicant is not providing the necessary width to the rear lot. The applicant, rather than go through and obtain the permits for the original configuration, is proposing this access instead. One of the applicant's arguments for the variance could be it is beneficial to the community to avoid the construction through the wetlands. The applicant can take the 50' of frontage, divide it into two 25' and make a single driveway for Lot 9.01.

B. Szaferman indicated they would have to consider the issues presented this evening before final submission.

T. Decker suggested, with the length of the driveway, fire department approval would be required.

R. Cacciabauda told the Board his history with the Township. His father was one of the original twelve people who started the Clover Rod and Gun Club. He has been coming to this area for 45 years. He does not intend to move to this area.

Van Holten – Block 28, Lot 11 – Fairview Road – Request for Extension of Preliminary Subdivision Approval

R. Dodds called the matter and there was no response.

It was moved by D. Haywood, seconded by J. Mathieu and carried to grant a one year extension to Block 28, Lot 11 – Van Holten. All members present voted **AYE** on **ROLL CALL VOTE**.

A. Clerico left the meeting at this point.

Conservation Easement Markers

It was moved by J. Mathieu, seconded by D. Haywood and carried to request \$1,200.00 as funding from the Township Committee for the purchase of 100 conservation easement markers and 3.5 x 3.5 x 6 composite posts. All members present voted **AYE** on **ROLL CALL VOTE**.

The Board set the fee for the plaque to be \$10.00.

T. Decker left the meeting.

Checklist Amendment (letter from Board of Health)

T. Kratzer stated #43 on the Subdivision Checklist needs to have a note placed with the item indicating if the total water consumption is projected to exceed 800 gpd, well testing may be required.

D. Pierce will provide the language for the next Planning Board meeting.

Proposed Ordinance 15-4-2009

D. Pierce stated it is an amendment to the existing Conservation Easement Ordinance to conform the form of the conservation easement to the changes discussed with the Honeyamar application by deleting the language for the payment of taxes and disallowing liens.

It was moved by D. Haywood, seconded by S. McNicol and carried to recommend adoption of Ordinance No. 15-4-2009 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

Hydrogeologist

T. Kratzer stated the discussion with regard to the Hydrogeologist was presented at the last Board of Health meeting. He would like to have the contract reviewed. There were invoices submitted at the end of year without prior knowledge of the services being rendered. The cost for V. Uhl's unexpected services was over \$3,000.00. There has been occasion where the testing should have been an aquifer test rather than a well test. J. Kopen had contacted V. Uhl regarding an increase in the escrow amount posted for individual well testing. The increase was to the escrow in the amount of \$1,000. The Board of Health did not amend the ordinance last year to increase those fees. He suggested scheduling a training session for the well drillers. There should be consistency in the reports they provide to the Board.

After some discussion, it was decided the Planning Board, if there was a need, would utilize the hydrogeologist the Board of Health has retained.

Correction to Alternate Newspaper

It was moved by J. Mathieu, seconded by L. Senus and carried to designate the Courier News as the alternate newspaper for the Planning Board. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

R. Dodds stated the Hunterdon County Democrat is not considered by the State to be a county wide newspaper. Many towns, who advertised in the Democrat for COAH, were found not to be in compliance with their advertising requirement.

Approval of Minutes

It was moved by J. Mathieu, seconded by D. Haywood and carried to release the minutes of November 11, 2008 Executive Session Minutes. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

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

It was moved by D. Haywood, seconded by S. McNicol and carried to approve the minutes of January 13, 2009. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

CORRESPONDENCE

R. Dodds reviewed as per agenda.

PRIVILEGE OF THE FLOOR

J. Mathieu stated, with the application for conceptual, the Planning Board should never entertain an application where someone wants to subdivide rear backlands on a ROW. The Board should require a deeded ROW. He would prefer if they wouldn't have a 10' cart-way. It should be wider. Any property that does not front on a public road will require a variance to obtain a building permit. The development will have to provide emergency vehicle accessibility.

It was requested to place the checklist on the March agenda.

ADJOURNMENT

It was moved by J. Strasser, seconded by J. Mathieu and carried to adjourn the meeting at 10:51 PM. All members voted **AYE**.

Respectfully submitted,

Diane Laudenbach

Diane Laudenbach, Secretary