

MINUTES

7:30 PM

PRESENT: J. Burke
R. Dodds
D. Haywood
T. Kratzer
J. Mathieu
S. McNicol
E. Niemann
L. Senus
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 7:40 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 Courier News, 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

Public Hearing – Master Plan – Farmland Preservation Element

A. Clerico provided the following memo:

The purpose of this memorandum is to provide an overview of the Farmland Preservation Plan, which is the subject of this public hearing to amend the Kingwood Township Master Plan. The Township submitted the first draft of the Farmland Preservation Plan in 2007. SADC (State Agriculture Development Committee) has

requested revisions to the draft Farmland Preservation Plan, which have been completed and submitted for review to the SADC.

Adoption of this plan by the Planning Board will facilitate the award of State and County funding to Kingwood Township for Farmland Preservation.

This farmland preservation plan has been prepared pursuant to Paragraph (13) of section 19 of P.L. 1975, c.291(C.40:55D-28). There are certain statutory requirements for a Farmland Preservation Plan, which are addressed in this draft Plan:

1. an inventory of farm properties in the entire municipality and a map illustrating significant areas of agricultural lands;
2. a detailed statement showing that municipal plans and ordinances support and promote agriculture as a business;
3. a plan for preserving as much farmland as possible in the short-term by leveraging monies made available by the Garden State Preservation Trust Act, N.J.S.A. 13:8-1 et seq., P.L. 1999, c. 152 through a variety of mechanisms including but not limited to utilizing:
 1. Option agreements;
 2. Installment purchases; and
 3. Encouraging donations for permanent development easements.
4. a statement of farming trends, characterizing the type(s) of agricultural production in the municipality; and
5. A discussion of plans to develop the agricultural industry in the municipality.

Inventory of Preserved Farms and Target Farms:

Table 6: Preserved Farmland

Block	Lot	Name	Acres	Type of Acquisition
26	22	DeCroce, Richard	110.49	SADC Easement Purchase
26	27	Rosansky, Emily	51.436	Easement Purchase - County
1	6, 6.02	Sargenti, Dennis A.	105.141	Easement Purchase - County
6	31.02	Kocsis, Frank & Mary Mott-Kocsis	33.783	Easement Purchase - County
42	6	Foley, III, Edward J.	38.08	Easement Purchase - County
27	10, 6.04	Kenney, J & R	113.88	SADC Easement Purchase
36	11, 24.01	Michelanko, H & B	5.35	Easement Purchase - County
12	34.02	Gordeuk Farm	140.29	SADC Easement Purchase
12	34.01	Gordeuk Farm	51.56	SADC Easement Purchase
12	34	Gordeuk Farm	53.28	SADC Easement Purchase
12	27	Niciecki Farm	135.38	SADC Easement Purchase
12	35	Haring Farm	53.28	SADC Easement Purchase
27.02	2	Paulik Farm	16.95	SADC Easement Purchase
23	11	Perrotti Farm	129.9	Eight Year Program
4	2	Verity	37.2	Preserved Farm
7	7, 7.02	DeSapio, Salvatore	220.95	SADC Easement Purchase
Total Acres			1,296.95	

Table 20: Target Farms and Farmland Capable Soils

Owner / Block and Lot		Prime Farmland Acres	% Prime Farmland	Statewide Important Acres	% Statewide Important	Other Soils Acres	% Other	Total Acres
Gergar	Bl 2 Lot 16	0	0.00%	20.35	46.66%	23.26	53.34%	43.61
Pauch	Bl 2 Lot 4	36.23	100.00%	0	0.00%	0	0.00%	36.23
Curtis	Bl 2 Lot 2	56.88	78.48%	10.02	13.82%	5.58	7.70%	72.48
Helmer	Bl 2 Lot 5	43.68	75.25%	10.27	17.69%	4.1	7.06%	58.05
Cavallero	Bl 2 Lot 15	1.92	2.34%	20.96	25.56%	59.11	72.09%	81.99
Fadil	Bl 4 Lot 8	37.78	48.11%	26.53	33.78%	14.22	18.11%	78.53
Rey	Bl 5 Lot 4	0	0.00%	19.35	32.70%	39.83	67.30%	59.18
Rey	Bl 5 Lot 5	0	0.00%	10.71	26.14%	30.26	73.86%	40.97
Vieilles	Bl 6 Lot 7	0	0.00%	7.71	30.89%	17.25	69.11%	24.96
Gombosi	Bl 6 Lot 38	0	0.00%	21.84	45.45%	26.21	54.55%	48.05
Grossman	Bl 6 Lot 18	15.97	19.27%	41.72	50.34%	25.19	30.39%	82.88
Grossman	Bl 6 Lot 23.01	11.02	14.65%	39.5	52.51%	24.7	32.84%	75.22
Grossman	Bl 6 Lot 23.02	0.4	3.34%	11.38	94.99%	0.2	1.67%	11.98
Stepanovsky	Bl 7 Lot 3	27.64	23.77%	48.14	41.40%	40.49	34.82%	116.27
Makatura	Bl 7 Lot 6	77.17	68.83%	13.92	12.42%	21.02	18.75%	112.11
Gergar	Bl 7 Lot 2	0.15	0.25%	15.23	25.29%	44.83	74.46%	60.21
Perotti	Bl 7 Lot 14.10	0	0.00%	0	0.00%	0	100.00%	59.96
Ogrodnik	Bl 12 Lot 1	19.3	26.82%	41.4	57.52%	11.27	15.66%	71.97
Defrange	Bl 12 Lot 10	0	0.00%	26.22	43.62%	33.89	56.38%	60.11
Frenchtown Run	Bl 12 Lot 31	1.38	1.97%	41.14	58.59%	27.7	39.45%	70.22
Pandy	Bl 12 Lot 32	0	0.00%	105.65	66.15%	54.06	33.85%	159.71
Haring	Bl 12 Lot 33.01	0	0.00%	16.59	25.65%	48.08	74.35%	64.67
Pinkerton	Bl 14 Lot 12	21.1	49.28%	2.96	6.91%	18.76	43.81%	42.82
Wydner	Bl 14 Lot 20	9.87	10.70%	10.04	10.89%	72.32	78.41%	92.23
Augustine	Bl 14 Lot 21.03	1.24	2.00%	13.78	22.28%	46.83	75.72%	61.85
Felix	Bl 14 Lot 23	0.14	0.08%	83.85	47.70%	91.78	52.22%	175.77
Cooley	Bl 14 Lot 27	43.09	30.76%	58.03	41.42%	38.98	27.82%	140.1
Horseshoe Bend LLC	Bl 14 Lot 28	7.76	5.62%	55.03	39.89%	75.18	54.49%	137.97
Horseshoe Bend LLC	Bl 14 Lot 30	3.91	3.33%	53.06	45.16%	60.52	51.51%	117.49
Simon and T	Bl 25 Lot 8	0	0.00%	23.98	100.00%	0	0.00%	23.98
Williams	Bl 25 Lot 10	0	0.00%	93.06	100.00%	0	0.00%	93.06
Williams	Bl 26 Lot 21	0	0.00%	59.9	100.00%	0	0.00%	59.9
Trstensky	Bl 35 Lot 1	0	0.00%	40.93	100.00%	0	0.00%	40.93
Avila	Bl 35 Lot 6	0	0.00%	26.24	100.00%	0	0.00%	26.24
TOTALS		416.63		1069.49		955.62		2501.7

Table 19: Preservation Goals by Year

Year	Acres
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1	227
5	1,238
10	2,476.16

Table 24: Funding Needed for Target Farm Acquisition

Year	Acres	Value	State Share (60%)	County Share (20%)	Municipal Share (20%)
1	227.3	\$2,273,080	\$1,363,800	\$454,760	\$454,760
5	1,238	\$12,380,000	\$7,428,000	\$2,476,000	\$2,476,000
10	2,476.16	\$24,761,600	\$14,856,960	\$4,952,320	\$4,952,320

Assuming an SADC cost-share of 60%, a County cost-share of 20% and 20% Municipal cost-share, the Township is in need of: \$14,856,960 from the State, \$4,952,320 each from the County CADB and the Township’s Open Space Trust Fund.

The Tax raises approximately \$211,333.76 annually. If half is dedicated to farmland preservation, then the Township could only afford to preserve 52.8-acres of farmland, verses the goal of 227.3-acres of farmland preservation identified in the plan.

Open Space Tax revenues could be expected to increase over time, which will, in turn, increase the amount of acreage the Township will be able to preserve.

R. Dodds called for comments from the public.

E. Schmid, Tumble Idell Road, stated the amendment is a requirement for the Township to have a PIG (Planning Incentive Grant) plan. There can be no PIG funding without the amendment being adopted. The draft had been provided to the SADC in 2007 and the Township received their comments in September of 2009. The review was supposed to be completed in 60 to 90 days but instead it was 20 months. One farm in Kingwood has applied for PIG funding this year. The farm connects other preserved pieces in the Township. There is not enough funding between the Township, State and County to preserve this farm. It will require Federal Farm and Ranchland money (FFRM). They have received a promise of funding from the FFRM if the property closes by March of 2010. With the required work to be completed, it is a tight schedule. She requested the Board adopt the amendment because the preservation of the subject farm relies on the amendment’s adoption.

D. Pierce stated it is in jurisdictional purview of the Planning Board to adopt the Farmland Preservation Element of the Master Plan. The Board has had public input on the amendment and the Board may adopt the amendment with any changes the Board deems appropriate. The adopted amendment can then be sent down to the SADC.

R. Dodds indicated, on Figure 3, public property is identified in purple, such as the soccer fields, ball fields and Kingwood Park. There are other properties that are owned by the State but coded as vacant land. They should be identified as state owned rather than vacant land.

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

It was moved by D. Haywood, seconded by J. Mathieu and carried to adopt the Comprehensive Farmland Preservation Plan. All members present voted **AYE** on **ROLL CALL VOTE**.

Silverson – Block 7, Lot 14 – Oak Grove Road – Request for Postponement

R. Dodds announced the Silverson, Block 7, Lot 14, Oak Grove Road, public hearing will be adjourned, with no further notice, to December 8, 2009 beginning at 7:30 PM.

Wind Generating Equipment

The Sustainable Committee will be providing suggestions for an ordinance to the Planning Board.

Basement/Cellar and Habitable Area Definitions

A. Clerico provided the following memo:

The purpose of this memorandum is to address the Board's question concerning the applicability of a 3,000 sq. ft. house size limitation that is identified in the definition for minor subdivision. This memorandum recommends an amendment to the ordinance to clarify the intent of a maximum dwelling size limitation on minor subdivisions.

The Township's Land Development Ordinance at §115-3 Definitions. defines "Minor Subdivision" as:

"Minor Subdivision:

- A. Class I (4) – The lots that are less than four acres in size shall be permanently deed restricted to limit the size of the dwelling to be constructed thereon to not more than 3,000 square feet **in size**.
- B. Class II (4)(b) – The lots that are less than four acres in size shall be permanently deed restricted to limit the size of the dwelling to be constructed thereon to not more than 3,000 square feet **in size**."

The regulation limits the size of a house on lots that are less than four (4) acres in size. In the conventional sense, house size, whether a one- or two-story dwelling, generally includes all living spaces (living room, dining room, kitchen and bedrooms). The basement could be considered living space when it is a "finished basement". Likewise, a finished attic could also be considered living space.

The ambiguity in the Township's definition is the result of the two words "in size" (3,000 square feet "**in size**"), which is not clearly defined.

The ordinance includes two existing definitions that may be useful to the Board in its consideration of a zoning ordinance amendment to clarify the intent of this regulation. These are

- (a) "Gross Floor Area" or
- (b) "Habitable Floor Area."

Both terms are defined in the Township's Ordinance at §132-4 (Definitions), as follows:

- **Gross Floor Area** – The total floor area in a building or structure measured by using the outside dimension of the building at each floor and basement level. The floor area of uses sharing a common

wall shall be measured from the center of the common wall and from the outside of exterior walls.
 [Added 9-22-1988 by Ord. No. 6-13-88]

- **Habitable Floor Area** – The total floor area of those portions of any dwelling unit used as living space, including kitchens, living and dining rooms, baths and bedrooms and hallways but not including cellars, porches or attics, except expansion attics which may be finished to provide additional rooms without structural alterations to roof or exterior walls.

It is our recollection that the intent of this regulation, when it was recommended by the Board, was to manage the scale of new homes on smaller lots in the minor subdivisions in such a way that:

- (1) The resulting construction would contribute to a greater diversity of moderately priced housing stock; and
- (2) The scale (size and proportion) of a home that is limited to 3,000 sq. ft. would be appropriate to the lots created that are less than 4-acre in area.

The questions for the Board appear to be:

- (1) Is the intent of this regulation accurately described above; and
- (2) If the intent of the regulation is correctly summarized, could one of the two existing ordinance definitions ('gross floor area' or 'habitable floor area') be used to sufficiently clarify the regulation?

By way of example, we are providing the following two scenarios, which are designed to show whether a dwelling built to the 3,000 sq. ft. maximum size will conform to existing building coverage limitations and to demonstrate the reasonableness of this regulation. The two scenarios are as follows:

- (1) 3,000 sq. ft. of 'habitable floor area' as a ranch-style house; and
- (2) 3,000 sq. ft. of 'habitable floor area' articulated by a 2-story house with 1,800 sq. ft. on the 1st floor.
 The table below shows the resulting coverage for the ranch and two-story examples for 2.5-, 3.0-, and 3.5-acre lot sizes. These house sizes assume 3,000 sq. ft. of habitable floor area and include a 750-sq. ft. attached garage.

AR-2 Zone:			
– Maximum Building Coverage – 8%; (max. Lot Coverage – 13%)			
	108,900 sq. ft. (2.5 ac)	130,680 sq. ft. (3.0 ac)	152,460 sq. ft. (3.5 ac)
3,000 sq. ft. ranch (plus 750 sq. ft. garage)	3.4% bldg coverage	2.8% bldg coverage	2.4% bldg coverage
Sq. ft. remaining for other impervious coverage	105,150 sq. ft. (2.4 ac)	126,930 sq. ft. (2.9 ac)	148,710 sq. ft. (3.4 ac)
1,800 sq. ft. 1 st floor of 2-story (plus 750 sq. ft. garage)	2.3% bldg coverage	1.9% bldg coverage	1.6% bldg coverage
Sq. ft. remaining for other impervious coverage	106,350 sq. ft. (2.4 ac)	128,130 (2.9 ac)	149,910 (3.4 ac)

These examples show that the 3,000 sq. ft. dwelling with three-car attached garage appear to easily conform to building coverage limitation of 8% on lots ranging from 2.5- to 3.5-acres in area.

To assess the house size regulation in the context of maximum impervious coverage permitted in the AR-2 Zone, we are providing calculations that include the ranch and 2-story dwellings as per above and a generous estimate of impervious coverage (approximately 5,900 sq. ft.) for:

- A driveway with turn around area (1,710 sq. ft.);
- A walkway between the driveway and the house (150 sq. ft.);
- A deck attached to the house (384 sq. ft.);
- A pool (1,149 sq. ft.); and
- A large outbuilding (such as a barn/garage) that could potentially store additional vehicles, RV’s, lawn maintenance equipment, small tractors, etc (2,500 sq. ft.).

Combining the dwellings and the estimated 5,893 sq. ft. of additional impervious coverage yields the following:

AR-2 Zone:			
– Maximum Aggregate Impervious Lot Coverage – 13%; (max. Building Coverage – 8%)			
	108,900 sq. ft. (2.5 ac)	130,680 sq. ft. (3.0 ac)	152,460 sq. ft. (3.5 ac)
3,000 sq. ft. ranch (plus 750 sq. ft. garage)	8.0 % lot coverage	7.4 % lot coverage	6.3 % lot coverage
Sq. ft. remaining for other impervious coverage	99,257 sq. ft. (2.27 ac)	121,037 sq. ft. (2.73 ac)	142,997 sq. ft. (3.28 ac)
1,800 sq. ft. 1 st floor of 2-story (plus 750 sq. ft. garage)	7.1 % lot coverage	6.4 % lot coverage	5.5 % lot coverage
Sq. ft. remaining for other impervious coverage	101,132 sq. ft (2.32 ac)	122,237 sq. ft. (2.8 ac)	144,017 sq. ft. (3.3 ac)

These examples show that both the ranch-style and the 2-story 3,000 sq. ft. house with attached three-car garage and an assortment of appurtenant improvements will not exceed the permitted coverage limit of 13% on a 2.5-, 3.0-, and 3.5-acre lot in the AR-2 zone.

As illustrated above, applying ‘habitable floor area’ in the regulation, as we understand it, appears to provide the clarification the Board requested. Therefore, we recommend the following amendment to the definitions of Class I and Class II minor subdivisions regarding maximum house size limitation:

“The lots that are less than four acres in size shall be permanently deed restricted to limit the size of the dwelling to be constructed thereon to not more than 3,000 square feet **in habitable floor area, exclusive of basements or cellars.**”

The Board’s prior discussions of this matter included a question concerning basements and cellars. In response to the Board’s question, we note the following:

- At §132-37 (Floodplain District), the ordinance defines “basement” but does not define “cellar”.

“Basement” is defined as “Any area of the building having its floor sub-grade (below ground level) on all sides.”

Definitions for “basement” and “cellar” may be found in the “The Latest Illustrated Book of Development Definitions”, Harvey Moskowitz and Carl Lindbloom, Center for Urban Policy Research, 2004, as follows:

- **Basement** – “A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6.5 feet.”

A comment notes that ordinances should specify when the basement or cellar is counted as a “story” and when the floor space is used in computing the intensity of development. Some ordinances define a “story” as such when the vertical distance of the basement ceiling is greater than 5ft. Typically if a basement is used only for heating, mechanical and similar equipment, it is not included in computing the floor area. If the basement is used as storage for the principal use, the dwelling, or for office space or a similar function, it is included in floor area standards.

- **Cellar** – “A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6.5 feet.”

A comment notes that cellars should be used only for mechanical equipment accessory to the principal structure or for inhabitable space. As such, they are not counted as a story or in the computation of floor area.

One difficulty using either of these definitions and replacing the existing definition of ‘basement’ is that we don’t know the extent to which land use approvals rendered in the past by either the Zoning Board or the Planning Board may have relied upon the existing definition of basement as found at §132-37. Mindful of the potential that the definition of ‘basement’ may have been used in local approvals, we suggest the following amendments to the definitions:

“Basement” is defined as “Any area of the building having its floor sub-grade (below ground level) on all sides. A basement may or may not include habitable floor area.”

“Cellar” to be defined as “Any area of the building having its floor sub-grade (below ground level) on all sides that is used only for mechanical equipment accessory to the principal structure or for inhabitable space.”

D. Pierce stated the 3,000 sq ft limitation was a concession relating to keeping the two acre lot. It also was to create a more diverse housing stock and create some moderately priced housing.

A. Belle questioned what if there is a two story living room? Where is it in the habitable floor area definition? It is not floor area. The first floor could be larger than the second in floor perspective.

T. Decker stated a typical two story house has 1,500 sq ft on the first floor and 1,500 sq ft on the second floor. It is different looking than a 3,000 sq ft ranch with cathedral ceilings. The other caution with habitable floor area is that it does not take into account a garage. You could have a house with 3,000 sq ft of habitable space with a four or five car garage attached to it. The result would be a large house. It is the downside of the habitable area.

After a lengthy discussion and before the Board makes a recommendation to the Township Committee for an amendment to the definitions, they would like to see the definition of an attic.

Resolution No. – 2009-23 – BDAC – Block 23, Lot 17.02 – Barbertown Point Breeze Road – Amendment of Prior Approval

It was moved by S. McNicol, seconded by J. Burke and carried to adopt **Resolution No. 2009-23 – BDAC – Block 23, Lot 17.02 – Barbertown Point Breeze Road – Amendment of Prior Approval**. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and L. Senus, who abstained.

Resolution No. 2009-24 – Perrotti – Block 23, Lot 11 and 11.01 – Route 519 – Preliminary Major Subdivision Approval

D. Pierce stated the applicant has requested several changes to the draft resolution:

Page 11 - # 7 – add the word “depicted” after 14 lots on the third line;

Page 12 - #8 – add a sentence indicating the plat will be revised to reflect that Lot 11.12 requires a variance as it does not satisfy the requirement for the minimum buildable area within a lot as required by the Kingwood Township Code;

Page 14 - #22 – correcting typographical error - “proving” to “providing” on third line;

Page 18 - #15 – adding “This condition shall not be required to be satisfied prior to the granting of final approval.

D. Pierce stated the applicant has discovered, in reconfiguring Lots 11.12 and 11.13 that Lot 11.12 no longer allows for the drawing of the 100’ circle within the buildable area. There is a radius of 97.2’. It will require an additional variance. The change was not part of the public record or hearing. The applicant will have to reappear with an amendment to the approval or they can look at their plans and see if they can move the property lines a little more to alleviate the need for a variance. The applicant will be submitting a revised plat. The revised plat will be reviewed by T. Decker to ascertain if it meets with the conditions of approval. If they require a variance, they will need to appear before the Board for an amendment of approval.

It was moved by J. Mathieu, seconded by S. McNicol and carried to adopt **Resolution No. 2009-24 – Perrotti – Block 23, Lot 11 and 11.01 – Route 519 – Preliminary Major Subdivision Approval**. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and L. Senus, who abstained.

Community Visioning Survey

A. Clerico stated she has done revisions to the previous draft survey provided to the Board at the October meeting. She stated she simplified the statements, added greenway trails development, removed the option for checking the box for new development in rural area, identified the existing village centers, and rephrased the first check box in #7. She doesn’t feel it is necessary to wait until the return of the survey to move forward on the Land Use Plan Element. There should be a deadline for the return of the survey. The respondent’s information would be optional.

It was moved by J. Burke, seconded by S. McNicol and carried to expend up to \$1,000 for the mailing of the approved survey to the residents. All members present voted **AYE** on **ROLL CALL VOTE**.

2009 Budget Report

It was moved by J. Mathieu, seconded by L. Senus to request \$15,000 for the general operating expenses with a reservation of a request for the funding of the Re-Examination report. All members present voted **AYE** on **ROLL CALL VOTE**.

Approval of Minutes

It was moved by E. Niemann, seconded by J. Mathieu to approve the minutes of October 13, 2009 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer and L. Senus, who abstained.

J. Mathieu thanked the secretary for providing the minutes in a timely fashion. They are well done and it is appreciated by the Board.

APPLICATION STATUS**CORRESPONDENCE**

R. Dodds reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

A. Belle stated he feels that the minimal buildable area requirements cannot be accomplished in a lot of 2 acres. He stated the minimum size of the lot would need to be 2.3 acres.

D. Pierce stated the problem in the schedule attached to the zoning ordinance is that it does not reference the exemption in the zoning ordinance for a minor subdivision. He stated it is addressed but not every where it needs to be addressed. D. Pierce was requested to provide some feedback to the board for the December meeting. He stated it could be addressed at the same time the definitions are being changed.

T. Kratzer stated the New Jersey Water Supply Authority has received funding approval for the Lockatong and Wickecheoke Creek Watersheds Restoration and Protection Plan from the DEP. The available funding is \$300,000.

ADJOURNMENT

It was moved by D. Haywood, seconded by S. McNicol and carried to adjourn the meeting at 9:47 PM. All members present voted **AYE**.

Respectfully submitted,

s/Diane Laudenschach

Diane Laudenschach, Secretary