

MINUTES

PRESENT: J. Burke
R. Dodds
D. Haywood
T. Kratzer
J. Mathieu
L. Senus
M. Symnick, Alt #1
D. Banisch, Planner
D. Pierce, Attorney

ABSENT: S. McNicol
E. Niemann
J. Strasser

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:30 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

L. Senus recused herself from her position on the Board for the following matter.

Route 12 Business Park – Block 15, Lot 8.02 – Route 12 – Conditional Use Application

A. VanVeldhuisen was present for the matter this evening. He is the owner of the Route 12 Business Park.

D. Pierce reviewed the memo he provided to the Board this evening. The application this evening is for a conditional use permit for the Route 12 Business Park. In the BP Zone, retail uses are permitted provided certain conditions are met. The lot must have 400' of frontage along Route 12 and access from Route 12. The application satisfies that condition. The Board must find that the proposed use encompasses the uses permitted in the HC zone and will not interfere with the development of the BP uses in the BP zone. He reviewed the permitted uses in the HC and BP zones.

A. VanVeldhuisen stated he provided the Board with an overview package. He is proposing to install an indoor shooting range for handguns and archery in proposed building "A", which was approved several years ago. The retail use came up by allowing the sale of a small amount of products that support the indoor range, such as targets, ammunition, sports gear with the facility logo, cleaning supplies for someone's arms and strings for bows. It will not be like Sportmen's Rendezvous. The retail portion will be items to support the proposed use. There will be 700-800 sq ft of space in the lobby. The proposed use will require 18,000 sq ft which is not available in building "B". It will also move the firing line away from the other tenants. It will be built like a

box within a box. Someone standing outside, unless they put an ear on the building, will not hear anything. The archery will be on the second floor. There will be a staircase from the control area to the range masters on the second floor rather than the position of the staircase in the warehouse. It will be an anchor business. The facility will have closed circuit monitoring inside with 24 monitoring stations, a certified range master and be an NRA approved facility. There are ample septic facilities and water on the property. There are well over 200 parking spaces on the site. There will be no issues with parking. According to M. DeSapio, Zoning Officer, it was the retail use that required an application to the Planning Board. The activities outside the building will be a 2-yard dumpster, in the rear, and signage. Handguns will not be sold. There will be no heavy truck traffic just FEDEX and US postal. In regard to the landscaping, he stated building "A" will cover building "B". There will be a gunsmith present a limited amount of time for the maintenance and repair of firearms. The lockers will be in a locked room. The bullet traps will be a skid plate with an environmentally friendly liquid with a snail shell that drops the rounds into a tray. The floor will be cleaned on a regular basis with dry mops. The waste will be disposed of in a certain manner by an outside vendor. Most of the new rounds are non-lead. The environmental considerations of the old ranges are not a consideration of the new ranges. The largest issue is air quality. The facility will have a large air handling unit which will draw the air over the shooter's shoulders, downrange, through filtered media and expelled outside. There will be a wall constructed to the peak of the roof to protect the archers. The range will be encompassed in plate steel. He stated he will be part-owner of the business. Unloaded fire arms are required to be transported in a closed case. He stated the State Police qualify in Hamilton. Privately, a number of state troopers will have a law enforcement membership. They will be able to practice but it is not to be used by them as an organization. He will only be doing handguns. There will be no high powered rifles permitted. They might do pellet guns.

D. Pierce stated the proposed use is not specifically in the list of permitted uses and the Board in the past has not viewed it as having to be specifically in the list. The Kidz Zone was a conditional use. In the uses permitted in the HC zone, it would not have anything as that type of business listed but there are similar local services such as musical instrument repair, permitted in the zone, which can easily be interpreted as a similar local service use. The repair portion of the use would be permitted under that section. It is an individual recreational facility. It can be considered similar to a video arcade. The Board has the leeway to provide a general interpretation of the ordinance. Any use not specifically permitted is prohibited. The Board has to determine the intent of the ordinance. He read from the purpose section of the ordinance.

F. Brown, retired Chief of Police in Raritan Township, stated Hunterdon County needs a facility like this one. Gun ownership is on an increase. Handgun permits have quadrupled. There is no where someone can learn to use a handgun. The applicant is proposing to have instructors for the fire arms. It is a great idea and a great place to have. He served on the Raritan Township Planning Board for 8 years and commends the Board for their work.

R. Smith stated he has known the applicant and his family for 40 years. He echoes what Chief Brown has said. There is a need. They questioned him and they have all the bases covered. He has approximately 34 years in law enforcement. The proposed project is a good, safe place and he is proud of how the applicant is constructing it.

It was moved by J. Mathieu, seconded by M. Synchron and carried to find that the retail portion of the proposed business is permitted in the HC zone and will not have a substantial detriment to the BP zone and the BP zone uses. All members present voted **AYE** on **ROLL CALL VOTE**.

A. VanVeldhuisen stated he would like to come before the Board for the right side of the property. He is proposing changing from self-storage to commercial with some apartments above it. He would also like to mention that he is aware the top soil pile has been a concern of the Board. The current vendor died about 4 weeks ago and he is working diligently with one or two contractors to resolve the issue.

A. VanVeldhuisen stated the ordinance does not provide any charge for the escrow for this type of review. He suggested the Board appoint a subcommittee to come up with appropriate fees. The application falls between the cracks. The ordinance provides for full site plan review fees but his buildings have already been approved. According to the ordinance, the fees would have been \$3,000-\$4,000 for this type of review. He stated a conditional use application such as this one does not require site plan, parking or septic review.

D. Pierce stated it would require a change to the ordinance to create a specific category for those fees. The ordinance does not contemplate this type of use application. The ordinance provides fees for a conditional use application for an entire property that would require all aspects of the plan to be reviewed.

It was moved by J. Burke, seconded by J. Mathieu and carried to establish a \$500.00 escrow fee for this application. All members present voted **AYE** on **ROLL CALL VOTE**.

L. Senus resumed her position on the Board at this time.

Resolutions

It was moved by J. Mathieu, seconded by D. Haywood and carried to adopt **Resolution No. 2010-14 - Horseshoe Bend LLC – Block 14, Lot 30 – Horseshoe Bend Road – Request for Extension of Time to File**. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, L. Senus and M. Syrnick, who **ABSTAINED**.

It was moved by D. Haywood, seconded by J. Mathieu and carried to adopt **Resolution No. 2010-15 - Township of Kingwood – Block 7, Lot 2 – Oak Summit Road – Agricultural Subdivision**. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, L. Senus and M. Syrnick, who **ABSTAINED**.

It was moved by J. Mathieu, seconded by D. Haywood and carried to adopt **Resolution No. 2010-16 – Milford Meadow Farm – Block 9, Lot 25 – Approval of Building Permit for 5,800 sq ft Agricultural Building**. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, L. Senus and M. Syrnick, who **ABSTAINED**.

Draft Ordinance Solar Farms

D. Banisch provided the Board with a series of concepts and recommendations regulating solar installations and facilities. He stated substantive comments should be permitted in the ordinance. He has drafted an ordinance that might be suitable for introduction. His transmittal letter indicates the changes that have been made. R. Dodds stated a memo from the Environmental Commission addresses that solar panel installation should not be built in floodplains, flood hazard areas, wetlands, wetland buffers or within riparian corridors, screening should be required and the landscaping should use native species and must not include invasive species, and BMPs should be required if installations would increase runoff from a site. D. Banisch stated the Township can require a stormwater management plan only where the panels make ground contact. The issue of construction in flood hazard areas, wetlands, wetland buffers or within riparian corridors has been addressed in Section P(4). D. Banish stated he was not certain where the Board landed after reviewing the impervious coverage allowed in the AR-2 zone. He thought that the limitation of the area to impervious coverage in the zone was too restrictive. An alternate could be to require the system to be erected in the principal setbacks of the zone due to the passive nature of this use. He agrees it should be permitted anywhere in the principal setbacks of the zone whether it exceeds the permitted impervious coverage area in the permitted zone. The Board determined it would be in favor of construction within the setback areas of the zone.

In response to a Board members question regarding the disposal of the panels, D. Banisch responded the proposed ordinance, under P(15) addresses the removal and abandonment of the solar energy systems. He will add a section to require a plan for the appropriate disposal of the system and that the system cannot be disposed of on-site. The 20 acre minimum is consistent with state law. 20 acres would be used for major systems. It is a standard the Board may or may not apply to the non-industrial uses in the Township. Majors are not permitted in the Byram Colony Zone since none of the lots would meet the standard. There might be other zones in the Township which would also have difficulty meeting the 20 acre minimum. The lot size will be dealt with at the time of an application. The installation could occupy all the area of the front, side and rear setbacks. It can be fairly extensive. The adding of the soils and regulated area criteria to the limitations of where the facilities can be constructed will have a restraining effect. The Township's lands are typically constrained or farm soils. He has attempted to address the stormwater management but it cannot be regulated. The draft requires there be shade tolerant grasses under the panels creating a meadow condition. The planting is as far as the Township can go with regulating stormwater management. The legislature has adopted and the governor has signed into law that solar systems cannot be treated as impervious coverage. It does not regulate how the ground beneath is treated. With the proposed language, the Township is not overstepping their regulatory abilities.

In response to a question by a Board member regarding the safety of the solar panels, J. Burke stated the Township has received a letter from Integrated Clinical Systems indicating the electrical code requires the installation of a 6' high fence to prevent unauthorized personnel from accessing the array due to DC voltages carried by some of the wires from the solar panels to the junction boxes.

D. Banisch stated he has informally spoken to someone who is talking about designing a facility in Burlington County and they indicated the system can withstand winds to 130 mph.

It was suggested to request any concerns which should be included in the ordinance from the construction official and electrical subcode official regarding their installation.

In response to an inquiry, D. Pierce responded the properties will not be taxes as structures but will be treated as farm assessed properties.

The Board expressed a concern about not allowing a building for a battery bank on majors. On a minor, an exception can be made for someone who would like to be free of the grid.

D. Banisch stated on a major the wiring is attached to the racks, routed to a central place and put through a transformer to the grid. D. Haywood responded it is DC power when it comes in and three convertors change it to AC power. D. Banisch stated when they come in they move fast. They make a construction schedule within a construction season.

D. Pierce, in regard to the removal requirements in P-15(vi), stated there should be no distinction between leased or owned property. It is possible they might be able to convert those buildings to another use. D. Banisch suggested striking out the first section. D. Pierce stated, with respect to the berm that is required around the perimeter of the facility, P(8), it might have a potential of altering and interfering with the natural drainage. The Township should make a provision of grading and a stormwater management plan with respect to the berm. D. Pierce stated the ordinance has a height limit for a free standing array of 8'. Minors can be at 110% of the power consumed by the beneficiary's premises. Should there be a height limit for free standing minors? D. Pierce stated while the Township is prohibited from regulating the stormwater management related to the panels, he feels the Township may be able to regulate the erosion of the panels with a standard that indicates at the end of the row, the applicant shall provide a plan that the velocity coming off the property is less than a certain amount. D. Banisch suggested less than predevelopment conditions.

Public Hearing on Draft of Open Space and Recreation Plan Element

The hearing was postponed until the September meeting due to a lack of proper notification. D. Banisch stated he has not amended the plan to reflect the results of the survey. The list of the trails was also not included.

Picnic Grove Road – Vacation

J. Burke stated he was absent at the meeting that discussed the vacation of Picnic Grove Road. The Board determined to keep the bottom 310' of the road. He stated he has a concern because there are major environmental protection issues in the 310'. The road ditches on Milltown Road have been designated as tributaries of a C-1 stream. The ditches make a right turn down the side of Picnic Grove Road. There are major issues if the Township tries to improve the roadway the 310'. The Township would not be allowed to improve Picnic Grove Road with their current permits. R. Dodds indicated the Township is not vacating that portion but is not obligated to perform any restoration or improvements to Picnic Grove Road.

D. Pierce stated the road will need to be improved when Lot 10.01 receives a building permit. T. Decker had prepared a memo relating to the environmental constraints. The second culvert traverses a C-1 stream. There is no indication in the memo with respect to the drainage ditches. The reason the Board left that section between Milltown Road and the first culvert was due to the fact that the roadway is 41.5' wide and 16.5' is owned by Lots 10.01 and 10.02 and 25' is owned by Lot 14.01. If the Township vacated that section of the road, it would revert to the owners of those three lots making Lot 10.01 landlocked and without access to a public road. It would create for the owner of Lot 10.01 a claim resulting in a taking of his property. His recommendation to the Board would be to have T. Decker investigate any environmental constraints and if relief is available from the DEP. If Lot 10.01 would be able to get a building permit and the Township was unable to make any improvements to Picnic Grove Road, the owner would have a takings claim against the State rather than the Township.

Proposed Ordinance No. 16-14-2010

R. Dodds stated the proposed ordinance deals with the use of storage containers on residential and agricultural lots.

It was moved by J. Mathieu, seconded by J. Burke and carried to recommend adoption of proposed Ordinance No. 16-14-2010 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

PRIVILEGE OF THE FLOOR

William and Susan Dealaman, 7 Locktown Road, were present this evening to inquire if there were any applications for development of Block 17, Lot 1. They inquired if an approval could have been granted some time ago and still be developed. D. Pierce responded it depends on the type of approval and if there was a lapse date in the approval. D. Banisch stated they would receive notice of any application for development since they are an adjoining property owner. It was suggested they submit an OPRA request to see if any approvals had been granted.

D. Banisch left the meeting at 9:05 PM.

Approval of Minutes

It was moved by J. Mathieu, seconded by D. Haywood and carried to approve the minutes of July 13, 2010 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, L. Senus and M. Syrnick, who **ABSTAINED**.

APPLICATION STATUS

R. Dodds reviewed the application status:

Silverson – Block 7, Lot 14 – Deed Release;
Laurelton/Belmont – Block 22, Lot 16 – Deed Release.

CORRESPONDENCE

R. Dodds reviewed the correspondence listed on the agenda.

ADJOURNMENT

It was moved by M. Syrnick, seconded by J. Burke and carried to adjourn the meeting at 9:09 PM. All members present voted **AYE** on **ROLL CALL VOTE**.

Respectfully submitted,

s/ Diane Laudenschach

Diane Laudenschach, Secretary