

MINUTES

7:30 PM

PRESENT: T. Ciacciarelli
R. Dodds
P. Lubitz
J. Mathieu
S. McNicol
E. Niemann
L. Riggio
J. Strasser
D. Banisch, Planner
D. Pierce, Attorney

ABSENT: M. Synchronick

CALL TO ORDER

The meeting was called to order at 7:30 PM by E. Niemann.

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.

III. ROLL CALL

NEW AND PENDING MATTER

Presentation to the Planning Board and Board of Adjustment on the Master Plan.

P. Lubitz said the joint meeting demonstrated participatory democracy. Both Boards have an essential role in the kind of township we are and going to be in the future. The public does not have any clue of the time and dedication the Board members put into their positions on the boards. It is a great opportunity to coordinate the work the boards do together. One of the points of discussion should be if the Boards feel a joint meeting should be an annual event.

D. Pierce gave a basic review of the Municipal Land Use Law (MLUL) and how the functions of the Planning Board and Board of Adjustment relate to each other, the MLUL and Master Plan. Under the MLUL, the Planning Board is charged with the task of the development of the Master Plan. The Master Plan is a comprehensive plan for the development and utilization of lands and resources in the Township to meet the needs of the Township with affordable housing being most prominent. The Master Plan must include at a minimum a Statement of Goals and Objectives, Housing Plan Element and Affordable Housing Element. The Master Plan may also contain supplementary elements, such as a Circulation Plan, Historic Preservation Plan,

Community Facilities Plan, Recreation Plan and Utility Plan. The Master Plan is a comprehensive plan and document used to develop the zoning ordinance for the Township. In order to insure that the Master Plan does not become stale, the Township is required to examine the Master Plan every ten years. As long as the Township has a current Master Plan and Re-Examination Report there is presumptive validity to the zoning ordinance. If the Township does not adopt a Re-Examination Report the presumptive validity is lost. Once the Master Plan has been developed the Township Committee has the responsibility to adopt the zoning ordinance and development regulations. If any zoning ordinance or development ordinance adopted by the Township Committee is inconsistent with the Master Plan, the Township Committee can adopt the ordinance but must provide a reason why they are adopting an ordinance which is not consistent with the Master Plan. The Planning Board has jurisdiction of the development of the land. The MLUL recognizes that zoning and development ordinances are general in application. In instances where strict enforcement of the ordinances may not be fair, the MLUL provides for two types of variances, “c” and “d” variances. A “c” variance is a bulk or hardship variance which provides relief from variance setbacks and landscape requirements. A “c1” variance is when exceptional or undue hardship or particular difficulties which arise because of something specific to the property, such as a physical feature which exists. In a “c2” variance, the variance is needed for a specific piece of property and the property will be advanced by the granting of the variance rather than strictly enforcing the ordinance. The Planning Board has jurisdiction over subdivision and/or site plan applications. The Planning Board can review a “c” variance when it is in conjunction with another application. “D” variances can only be heard by the Board of Adjustment. A “d2” variance is for the expansion of a non-conforming use. A “d3” variance is a deviation from a specific standard pertaining solely to conditional uses. A “d4” variance is an increase in the permitted floor-to-area ratio. A “d5” variance is an increase in the permitted density. A “d6” variance would allow an applicant to have a principal structure that exceeds by ten feet or by 10% the maximum height permitted in the zone. Use variances are not favored under the MLUL. It is the burden on anyone seeking a use variance to demonstrate the special reasons to justify the granting of the variance. The applicant has the burden to demonstrate that the granting of the variance would enhance the purposes of the MLUL. One of the purposes is promoting the general welfare, such as providing a service or business in that particular area. An applicant must show that the site is particularly suited for that particular use from the public’s point of view but not the applicant’s point of view. It is what is in the best interest of the public. In both a “c” and “d” variance, the applicant must show that the benefits to the public must substantially exceed the detriments and must show there is no substantial detriment to the public good. The Board of Adjustment is required to evaluate each variance request in light of the intent and purpose of the Master Plan so this type of joint meeting is critical so that the Board of Adjustment has the information provided to them at the adoption of the Master Plan.

D. Banisch stated the burden is on the applicant to provide why a use variance should be granted. It requires an enhanced burden of proof. There should be no substantial impairment to the Master Plan. The applicant has to provide that proof on the record. If the applicant does not fully prove their case, it provides grounds for denial or requires the applicant to develop their case more efficiently. The Planning Board has spent a great deal of time developing Ordinance 17-15-2012 and 17-16-2012. Both ordinances deal with the face of the community. It is the most heavily travelled roadway in the Township. Currently there exists a sprawling development plan along Route 12. There is not much focus on the development on Route 12. The Scenic Corridor Overlay Ordinance (SCO), 17-15-2012, covers Route 12 from one end of town to the other and was especially designed to protect the visual quality of Route 12. The SCO is viewed in two segments, east and west of Baptistown. West of Baptistown it provides for long scenic view sheds plainly evident to the motorist. The secondary purpose is to provide reasonable opportunities for development along Route 12. D. Banisch reviewed the ordinance briefly. He stated an application before the Board should really seek conformity to the new standards as much as possible.

In regard to the Eastern Gateway Village Center Overlay (EGVCO), 17-16-2012, D. Banisch stated this is an attempt to focus development in a more concentrated way. The ordinance fully anticipates and permits different types of development on the same lot. There are design standards providing realistic opportunities for business

development in the Township. The Master Plan provides that the minimum lot size should be increased to 10 acres but no ordinance has been adopted to increase the lot size at this time. He reviewed the ordinance briefly. The ordinance is mindful of the fact this municipality is characterized by the historic settlements that have occurred at the crossroads and to protect them from change. It gives consideration to the visual impact that new development would have on the historic developments of the Township and protects community character.

E. Niemann inquired if there were any questions from the members present.

D. Banisch responded to a question that warehousing will not be permitted in the BP zone. He stated the warehousing that occurs is not typically a high value ratable and does not generate much employment. It is a fairly consumptive land use. The building is large as well as the driveway and circulation. It is not a lot of bang for your buck.

P. Lubitz stated he wasn't involved in the Township when the project was approved but it is not a warehouse use but commercial businesses. The ordinance creates a plan that will allow for the types of businesses that ended up inhabiting that structure. He stated only one or two of the units are used for warehousing.

D. Banisch stated the other warehousing units in the Township are struggling. Some are doing okay but are not fully occupied. By providing the uses permitted in the ordinance it will offer mixed uses and different opportunities. He stated the non-conforming uses may continue but the ordinance provides for new planning directions and new opportunities of development not permitted in the Route 12 corridor. D. Banisch stated the ordinance is really encouraging the Board to do what it can do and make the best of a bad situation. The ordinance will provide direction for the Board to work with for local applicants. He stated there are broad ranges of uses in the corridor and the ability for a variance does not eliminate the possibility of anything happening. D. Banisch stated the driver of the ordinances is the belief that the zoning ordinances that have existed over time have not really produced that kind of development that was hoped for along Route 12. He stated conventional housing is permitted as well as multi-family and different types of housing. It provides for work-live housing arrangements. The Township has a large number of affordable units that has to be provided for by zoning. The ordinances permit for attached housing in the BP zone. It is a direct response to the affordable housing requirement of 78 units. He stated by encouraging higher density development it will relieve the less dense areas of the Township. It will concentrate development and no sprawl development along the highway. He stated with people come the need for law enforcement. He stated everyone wants to avoid the necessity of law enforcement. He stated in the EGVCO a substantial lot has been approved for solar development. Solar facilities are regulated by the State and allowed in any industrial zone in the Township. D. Banisch reviewed the setback requirements along the Route 12 corridor.

P. Lubitz stated the ordinances are trying to move the potential for strip development to an area where it is easier to develop. The purpose of the ordinance is to maintain the visual character of one section and encouraging a denser development in another section. In regard to solar facilities, he stated they are permitted in the zones in which they were constructed on Route 12 but the Township by ordinance allowed them as a conditional use in other areas of the Township. The solar development had not been provided for in the Master Plan. He stated the Highlands Act has changed where people can build houses.

J. Mathieu stated Master Plan is an ever changing Plan. At one time Route 12 was zoned residential and then back to commercial. The Master Plan will rise and fall on its own merits.

E. Niemann stated to the Township has not seen much development along Route 12 in the past few years. The current zoning was in place when a robust economic climate was present and did not see any great development. The Township has a lot of property along Route 12 and very little has been developed. The Township can only provide the regulations for the development along Route 12. It cannot make it happen but

only set the stage so that a developer can come into Kingwood and see an opportunity in the sense that the Township is welcoming a certain type of development in a certain area. The Township is applying for grant monies to study the area and cut some of the steps that developers would not have to go through for their development, such as waste and well water studies. Waste capacity and well water availability is unknown to the Township at this time. It is critical work that has not yet been done. If those studies are done it would be more appealing to developers. The Township will be able to meet their affordable housing obligations. It would bring in some additional ratables. Residential developments are not beneficial to the Township. If the current zoning does not work, the Township may have to visit the subject and possibly revise it. She stated the municipalities bordering the Pinelands are under pressure to develop their areas.

R. Dodds stated if the Township does not provide for an area of high density there is a possibility of a “builder’s remedy”, which would allow a developer to come in and say the Township did not provide for a high density. The developer could then sue the Township to obtain approval for a higher density than allowed by zoning. The ordinance provides for an area of the Township which provides for the appropriate area for high density. The ordinance is a result of the survey conducted a couple of years ago by the Township. The responses indicated Route 12 needs some improvement. It is a positive change for Kingwood.

Some of the Board members expressed that Kingwood is not somewhere someone wants to travel to frequent stores. The customers are satisfied with staying in Flemington and Raritan Township to do their shopping.

P. Lubitz stated it is important for the Board to meet jointly with the Board of Adjustment sharing their issues rather than issuing bulk variances and having many applications that require variances. The Board of Adjustment serves a very valuable role in the Township.

APPLICATION STATUS

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by R. Dodds, seconded by S. McNicol and carried to adjourn the meeting at 9:04 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschach, Secretary