

MINUTES

7:30 PM

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

ABSENT: M. Synchron

CALL TO ORDER

The meeting was called to order by E. Niemann 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 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

PRIVILEGE OF THE FLOOR

R. Dodds recused himself from his position on the Board the following matter.

K. Pinkerton, owner of the Frenchtown Roller Rink, was present this evening. She inquired of the proper procedure to allow Delaware River Tubing to utilize her parking lot during the summer months.

D. Pierce stated Delaware River Tubing has filed an application with the Board of Adjustment for a use variance to convert the old HIG lot into a staging area for this business. As part of that use variance application, the Board and the objectors have inquired about off-site parking. Under the ordinance, every use is required to provide adequate onsite parking. Delaware River Tubing is not proposing any onsite parking on the old HIG property. Before the Board of Adjustment can grant any relief, it is his opinion that the Board has to be satisfied the applicant provides adequate off-site parking. Part of the testimony at the Board of Adjustment meetings has described their actual operations at the roller rink. The applicant is parking cars, having customer intake, storing their tubes and bus parking at the roller rink. They have 12 to 16 Port-A-Johns at the roller rink. From a legal prospective, the roller rink was approved, through the granting of a use variance in 1974, because the property is located in the AR-2 zone, a variance for the roller rink and parking. The Delaware River Tubing operation is an auxiliary use to the roller rink and there is nothing in the roller rink use variance approval that

permits an auxiliary operation on that property. At the Board of Adjustment meeting, there were inquiries and questions of the applicant's planner whether he is aware if the auxiliary use at the roller rink of Delaware River Tubing is a pre-existing non-conforming use or if a use variance was obtained. It is his understanding that the roller rink has a variance to operate a roller rink and he is not aware of any site plan or use variance to allow Delaware River Tubing to conduct its operation there. The use of the Delaware River Tubing of the property is significantly different than the roller rink. Typically when there is a change in the commercial use of a property or the addition of a new use, a use variance and site plan approval should be obtained. Delaware River Tubing would have to apply, with K. Pinkerton's written consent, to the Board of Adjustment for a use variance. According to the testimony at the Board of Adjustment hearing, Delaware River Tubing is continuing his operations at the roller rink except for the storage of the tubes. Delaware River Tubing should have obtained that approval before he began the operation. He stated, until this year, he is unaware of anyone complaining about Delaware River Tubing's operation at the roller rink. His speculation on the complaints is that there has been frustration with Delaware River Tubing's operation over the years with impact on the traffic and other issues along Route 29. The application has brought the issues to the front of the minds of the residents.

K. Pinkerton was advised to obtain the application from B. Wilson, Board of Adjustment secretary, to review the consent form in the use variance application.

R Dodds resumed his seat on the Board at this time.

Graphics Permit – Block 6, Lot 36 – Integrity Auto – Route 12

It was moved by J. Mathieu, seconded by P. Lubitz and carried to approve the graphics permit for Block 6, Lot 36, Integrity Auto Body pending zoning officer approval of the graphics. All members present voted **AYE** on **ROLL CALL VOTE**.

Bunker Hill – Block 22, Lot 17 – Development Agreement

E. Niemann recused herself from her position on the Board for the following matter.

J. Mathieu chaired this portion of the meeting.

After a discussion on the provisions of the Development Agreement, it was decided that #6 of the agreement would be the mechanism to have the developer resolve the issue of the O'Neill's driveway.

E. Niemann resumed her position on the Board at this time.

Approval of Minutes

It was moved by R. Dodds, seconded by P. Lubitz and carried to approve the minutes of August 8, 2013. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Ciacciarelli, E. Niemann and J. Strasser, who **ABSTAINED**.

T. Ciacciarelli recused himself from his seat on the Board for the following matter.

Executive Session

WHEREAS, Section 7 of the Open Public Meetings Act, Chapter 231 P.L. 1975 (R.S. 10:4-13) permits the exclusion of the public from a meeting or a portion of a meeting of this public body in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Kingwood, County of Hunterdon, State of New Jersey as follows:

1. The public shall be excluded from the meeting or a portion of a meeting at which this public body discusses the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:

Tumble Partnership – Block 32, Lots 10 and 11.02 - Litigation

3. The time when the circumstances under which the discussions conducted in closed session of this public body can be disclosed to the public is as follows:

The minutes of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements or personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and -13.

4. This resolution shall take effect immediately.
5. The Planning Board may take additional action upon returning to regular session.

It was moved by P. Lubitz, seconded by R. Dodds and carried to adopt the foregoing resolution. All members present voted **AYE**.

E. Niemann announced the return to regular session.

It was moved by R. Dodds, seconded by P. Lubitz, and carried to approve the Tumble Partnership Settlement – Block 32, Lots 10 and 11.02. All members present voted **AYE** on **ROLL CALL VOTE**.

T. Ciacciarelli resumed his seat on the Board at this time.

APPLICATION STATUS

CORRESPONDENCE

R. Dodds stated he has received a letter from J. MacConnell expressing his concern about septic system failures.
E. Niemann stated the Board of Health, on their to-do list, is to review alternate septic site for developments.

S. McNicol stated the Environmental Commission has stopped receiving the reports of the septic repairs and installations from the County. She stated when a septic inspection for the sale of a house is done, the system is flooded with water which overtaxes the system and possibly releases solids into the pipes. Sometimes the “D” box may have to be replaced but may not require the entire system to be replaced.

D. Pierce stated the Planning Board can require an alternative site for a septic. A system can be designed and built perfectly but it is the actions by the homeowner that make it fail in response to a question by a Board member of a guarantee by the septic installer or designer.

Budget Update

E. Niemann requested a budget update for next month's meeting.

Economic Development Plan Grant

E. Niemann stated the County has been awarded a grant to develop an Economic Development Plan in the amount of \$80 to \$90 thousand dollars. There is no allocation in the grant. It will incorporate all the municipalities in the county.

Site Plan Requirements

S. McNicol inquired how the Township can encourage people to come in for site plan review.

D. Pierce inquired, just related to a site plan of a commercially zoned property, if one permitted use is changed to another permitted use, no use variance is required and they are making no changes to the property, such as building, constructing, parking, they should not be required to come in for site plan review. A trigger for a site plan review would be the changing of the structure, landscaping or parking. If there is currently a designated parking area with the site plan and the new owner begins to park outside of the designated area, it is considered a change in the exterior use of the property and would require a site plan. He suggested to the Board a site plan review would be required if there are any changes to the footprint of the structure, an addition, change to the impervious park areas or any external changes to the property, such as putting in fill, landscaping or lighting. He stated the ordinance should be amended to specify the above statement. It should be put in the applicability section.

It was moved by R. Dodds, seconded by P. Lubitz and carried to authorize D. Pierce to draft an amendment to the ordinance to contain the language suggested by D. Pierce in the above paragraph. All members voted **AYE** on **ROLL CALL VOTE**.

Frenchtown III – Solar Facility – Barbertown Point Breeze Road

R. Dodds inquired if the photo documentation was completed prior to demolition. D. Pierce responded demolition has not started. D. Pierce stated the State has not resolved the full historic review of the site yet. He stated the size of the facility is being reduced due to the ruling by the BPU. The smaller portion of the facility will not be developed. It was determined that the reduction was not a significant change and they will not be appearing before the Board. It will be a beneficial change. The applicant is preparing a letter to submit to the Board about the reduction in the size of the facility.

R. Dodds inquired if the reduction in the size of the facility will change on the 30-50 acre parcel donation or cash in the settlement. D. Pierce stated he was not sure if the settlement was based on the size of the development.

R. Dodds stated the payment of the settlement will be done at the issuance of a CO or final approval.

R. Dodds inquired at what point, does the value of the materials in a house get taxed. E. Niemann stated D. Gill, Tax Assessor, should be able to respond.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by R. Dodds, seconded by J. Strasser and carried to adjourn the meeting at 8:52 PM. All members voted **AYE**.

Respectfully submitted,

Diane Laudenschach, Secretary