

MINUTES

7:30 PM

PRESENT: T. Ciacciarelli
R. Dodds
P. Lubitz
L. Riggio
J. Strasser
M. Syrnick
D. Banisch, Planner
D. Pierce, Attorney

ABSENT: J. Mathieu
S. McNicol
E. Niemann

CALL TO ORDER

The meeting was called to order by M. Syrnick 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

Resolutions

It was moved by R. Dodds, seconded by T. Ciacciarelli and carried to adopt Resolution No. 2013-05- Perrotti Subdivision – Block 23, Lots 11 & 11.01 – County Road 519 – Request for Extension of Major Subdivision Approval. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by P. Lubitz, seconded by T. Ciacciarelli and carried to adopt Resolution No. 2013- 06 - Block 27, Lot 17.02 – Belle – Barbertown Point Breeze Rd – Request for Extension to File Deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by P. Lubitz, seconded by R. Dodds and carried to adopt Resolution No. 2013-07 - Mammaro – Block 17, Lot 8 – Route 12 – Conditional Use Application. All members present voted **AYE** on **ROLL CALL VOTE**, except L. Riggio and J. Strasser, who were **INELIGIBLE**.

Re-Organization Meeting

The Re-Organization meeting of the Planning Board was scheduled for January 9, 2014 beginning at 7:30 PM.

Approval of Minutes

It was moved by R. Dodds, seconded by L. Riggio and carried to adopt the minutes of November 14, 2013 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

APPLICATION STATUS

CORRESPONDENCE

NJ Planner – September/October 2013;

PRIVILEGE OF THE FLOOR

D. Banisch reviewed his memo dated December 9, 2013:

The purpose of this memorandum is to provide the Planning Board with an update on the status of affordable housing litigation that was ostensibly concluded on September 26, 2013 when the NJ Supreme Court struck down COAH’s third round methodology for calculating affordable housing obligations.

On September 26, 2013, the NJ Supreme Court issued a ruling striking down COAH’s third round growth share methodology for assigning municipal affordable housing obligations on the basis that COAH was not authorized to utilize that method under the existing provisions of the NJ Fair Housing Act. The Court ordered COAH to issue revised third round affordable housing obligations utilizing prior round methodology within five (5) months. The prior round methodology was a formula applied on statewide with regional housing region adjustments to calculate municipal affordable housing obligations.

The Court found that an updated approach to calculating municipal affordable housing obligations may have merit since the prior round formula was developed 30 years ago (under the landmark 1983 Mount Laurel II decision) and noted that the passage of time changing and circumstances may warrant an updated approach. The Court called upon the Legislature to amend the NJ Fair Housing Act.

The Growth Share approach is/was the formula COAH used for the third round affordable housing obligations. Growth share identified the affordable housing obligations on the basis of municipal growth in the number of certificates of occupancy issued for residential units and the number of jobs created from nonresidential development.

The Supreme Court highlighted one particular flaw in the growth share methodology, which was that the formula was applied uniformly throughout the State and did not account for housing needs within the various housing regions in the state. There are six housing regions in the State and Hunterdon County is in Region 3 along with Somerset and Middlesex, which is the highest income region in the State.

There were a number of benefits to the growth share methodology, the primary benefit being that municipalities were required to provide affordable housing on the basis of actual growth that occurred in during the third round. While municipalities were assigned a series of growth projections that the Fair Share Plan had to address, the Township (1) would only have to provide affordable housing according to how much affordable housing was actually built. Additionally, growth share regulations allowed for municipalities to (2) require the developer to build affordable housing generated under the formula or (3) allow the municipality to collect payments in-lieu of construction for residential and non-residential developments that were tied to the actual cost of affordable housing production. All three of these provisions were substantial departures from the prior round methodology that (1) require affordable housing production according to an assigned obligation

and (2) permit only development fee collections on new development, which were normally substantially less than the cost of affordable housing construction.

The Township’s third round Fair Share Plan addressed the following obligation, which COAH identified as Kingwood Township’s need for affordable housing:

1. The rehabilitation share of **11 units**;
2. The prior round obligation (1987-1999) of **19 units**; and
3. The growth share obligation of **65 units**.

Since the third round was identified for 2000-2018, COAH is now faced with identifying municipal third round obligations that will presumably address the prior 13 years and some period of time going forward, in all likelihood through 2020 and possibly 2025. This time period combined with growth that occurred in Kingwood Township’s Housing region since 2000 could have a substantial impact on the number assigned under the prior round methodology --- if the Legislature does not intervene with amendments to the Fair Housing Act that would authorize COAH to utilize some form of growth share methodology.

The Township’s prior round combined new construction obligation for the 12-year (1987-1999) prior round period was 19 units, and compares favorably to the 65 unit obligation (64.8) estimated for the Township in the last iteration of third round rules which addressed the 18-year period of 2000-2018. Under the growth share approach, COAH assigned the following growth estimates to Kingwood Township:

- 284 Housing Units; and
- 128 jobs.

This projected growth was the basis for the 65 unit obligation assigned to the Township that was addressed in the third round Fair Share Plan. From 1995 through 2004, residential growth occurred in Kingwood Township with an average of 19.5 (20) units per year. From 2000 through 2004, that rate held steady, and then plummeted following 2008. It is unlikely that the 20-unit per year rate of growth will soon return.

A very rough estimate of prospective need, the major component of need in the prior round formula, is approximately 65 units (64.38) affordable units for the 2000 – 2020 time period. Prospective need accounts for the largest component in COAH’s prior round formula. However, COAH’s formula includes a series of adjustments to calculate the actual affordable housing obligation under the prior round methodology and we cannot estimate whether that will result in an increase or decrease in the obligation calculated under the prior round methodology. Our best guess is that the municipal obligation calculated under the prior round methodology will increase from the growth share planning target that was invalidated by the Court.

Since COAH was ordered by the Court to prepare revised affordable housing obligations by February 26, 2014, the Legislature does not have much time to act. One thing seems reasonable to assume: Unless the Legislature acts to amend the Fair Housing Act, revised third round affordable housing obligations are likely to be a return to the past with less planning and implementation flexibility than was provided to the municipalities under the prior round methodology.

After a brief discussion, it was moved by J. Strasser, seconded by L. Riggio and carried to recommend the Township Committee lobby the legislators to take action to amend the Fair Housing Act to authorize COAH to utilize growth share or another appropriate means to calculate municipal affordable housing obligations. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz who **ABSTAINED**.

ADJOURNMENT

It was moved by R. Dodds, seconded by J. Strasser and carried to adjourn the meeting at 8:22 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary