

MINUTES

7:30 PM

PRESENT: T. Ciacciarelli
R. Dodds
P. Lubitz
J. Mathieu
E. Niemann
L. Riggio
J. Strasser (7:35 PM)
L. Voronin, Alt #1
C. Ely, Alt #2

ABSENT: S. McNicol
M. Synchronick

CALL TO ORDER

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

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

Wydner – Block 14, Lot 20- State Route 29 – Hearing

C. and J. Snyder were present for the application this evening.

D. Pierce stated the application was deemed complete at last month's meeting and was scheduled for a hearing this evening to determine and seek approval for the subdivision. It is a straightforward application.

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

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

It was moved by J. Mathieu, seconded by P. Lubitz and carried to approve the application with conditions. All members present voted **AYE**, except E. Niemann and L. Riggio.

J. Strasser entered the meeting at 7:35 PM.

E. Niemann recused herself from the following matters.

J. Mathieu chaired this portion of the meeting.

Battimelli – Block 6, Lot 21 – Graphics Permit

It was moved by L. Riggio, seconded by R. Dodds and carried to approve the graphics permit for Block 6, Lot 21. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Strasser, who **ABSTAINED**.

Bunker Hill – Block 22, Lot 17 – Determination of Completeness – Boundary Line Adjustment – Barbertown Point Breeze Rd

T. Decker stated the application is on for completeness this evening. It is straightforward. There was a 40' wide easement that was originally designed as part of the Bunker Hill subdivision to provide access to the adjacent subdivision of Hidden Orchards. Due to DEP permitting, physical access was not permitted. The applicant is requesting to vacate the 40' easement which will increase the building envelope on the lot. The easement will not have any use. The submittal was limited to the filed maps for the subdivision.

It was moved by R. Dodds, seconded by J. Strasser and carried to deemed the above application complete and schedule it for a hearing on July 10, 2014. All members present voted **AYE** on **ROLL CALL VOTE**.

E. Niemann resumed her seat on the Board.

Discussion on Amending Open Space and Recreation Plan Element (OSRP)

E. Niemann stated the Township has the opportunity to apply for some Open Space funding from the County to do some work at the park but in order to apply for the funds, Kingwood's OSRP will have to be amended to include the additional parcels the Township has acquired since its original adoption.

R. Dodds stated the county contributed some dollars for Horseshoe Bend Park which opens it up for county funding for additional projects for maintenance and development. The Township is interested in applying for funds for a composting toilet in the southern portion of the park.

The draft OSRP amendment from D. Banisch included some lots that the Township is in the process of acquiring.

It was moved by P. Lubitz, seconded by L. Riggio to schedule a public hearing on the OSRP to add Block 14, Lot 30.01 for July 10, 2014. All members present voted **AYE** on **ROLL CALL VOTE**.

It was requested that the Board secretary contact the Board members to ascertain their attendance at the July 10, 2014 meeting.

PRIVILEGE OF THE FLOOR

D. Frank – Muddy Run Road – T. Burke – Barbertown Point Breeze Road were present this evening.

D. Frank stated there is still noise at the solar farm. The Township Engineer was to set up a meeting with ConEd. The fans start running at 5:30 in the morning. They are present here this evening to make sure the matter is still moving forward.

T. Decker responded he had a meeting on June 2 at 4-4:30 PM. It wasn't prime time to be listening as there was a lot of background noise. He took a tour of the facility. D. Frank had offered to have them come to his home at 6 in the morning. ConEd committed to having their foreman go out to D. Frank's property. D. Banisch had stopped by one morning at 8. He has stopped by at 8:30. He could hear things but the background noise had already started. If you listened you could hear the inverters. R. Dodds had also stopped there. After the meeting with ConEd, they offered to look and see if the manufacturer offered any noise attenuation system for on or around the inverters. They responded they had contacted the manufacturer and there was no standard sound attenuation available. He has scheduled with the foreman for June 20th to measure the sound from the inverters. They will be measuring the sound at the inverters to make sure it is not generating more noise than it should. He is going to request them to go further out from the inverters. When the Township's Zoning Officer was there to measure the sound there was a lot of background noise from the leaves and noise. The reason that the noise seems louder in the morning and evening is because the background noise is significantly diminished. It is a constant noise. He stated when he was at D. Frank's property in the morning you can hear it but if a car went by you heard the car and not the inverter. The direction of the fans on the inverters is a north/south direction. Landscaping would not be very productive in diminishing the sounds as the inverters are 600' from Muddy Run Road and about 700' from D. Frank's home. There are two inverters which are causing the sound and impact on the properties. When the inverters were installed, 2-1,000 kilowatt inverters are on a pad. When Sundancer presented the plan, the inverters were 500 kilowatts. There are currently half as many inverters but they are twice the size than what was proposed. It is more of an electrical code issue. The developers eliminated a fair amount of panels on the northern perimeter of Muddy Run Road. It is hard to say what the sound would have been with 2-500 kilowatt inverters rather than 1-1,000 kilowatt inverter. The inverters are twice the size but they are further back into the property than where the 500 kilowatt ones would have been placed.

D. Pierce stated the applicant would have had the flexibility to make modifications as long as they are not changing or violating some standard. Whatever agreement the neighbors had with the original developer was not incorporated into the resolution. The Township can only enforce the conditions in the resolution.

D. Frank stated the discussion happened at the meeting and was part of the conversation at the meeting.

D. Pierce stated no one could reasonably anticipate that no sound would come from the development. The Board has no authority to require more stringent limitations than required by law. There is a statewide standard for noise. There is nothing in his recollection that there was any noise exceeding that standard.

D. Frank responded the State of New Jersey has the loosest noise standard. Kingwood has adopted the state's standard verbatim from 7 AM to 10 PM with a sound limit of 50 decibels.

D. Pierce stated the State has taken the position that their model ordinance and regulations preempt municipalities' ability to limit. If there are more stringent requirements in other municipalities, they are in violation.

D. Frank stated he does not think that is true. Raritan Borough has included holidays and weekends. There are also two other towns which have more stringent regulations.

D. Pierce responded Kingwood's ordinance is Kingwood's ordinance. In response to a question from a Board member, D. Pierce responded, if the Township changed their ordinance, the development would not be grandfathered to the old code. He stated laws are made and applied retroactively all the time. They would have to comply.

In response to a Board members question in regard if the testimony at the hearing would have some validity, D. Pierce responded it would have had to been incorporated into the resolution. There was no specific condition in the resolution which pertained to sound.

T. Decker commented the other solar applications heard by the Board at that time stated the largest inverter available was 500 kilowatts. He offered to mark up a plan for the Zoning Officer of where he should take his sound readings. The readings should be done at 6 in the morning and should be done on several days.

D. Frank suggested they also contact K. Garay.

T. Decker stated another issue was the drainage issues and the landscape berms at the rear of T. Burke's property. ConEd has committed to remedying the drainage issue. The Township can hold them to the issue due to the fact that the Township has a performance guarantee. ConEd is responsible for posting a 2-year maintenance performance guarantee. In regard to the issue of mowing brought up last month, T. Decker stated the area is the responsibility of ConEd. T. Decker stated there have been no noise issues with the other two facilities since the inverters are enclosed.

Discussion of setback requirements for Scenic Overlay Ordinance (SCO)

R. Dodds stated the current Scenic Overlay Ordinance requires a setback ratio of 50% of the lot depth for any improvement, including parking. There is a property on Route 12 where if you applied the setback ratio, 18 acres of a 30 acre tract are undevelopable. When the Township developed the SCO, the goal was to not take value from anyone. The end result with the Transfer of Development Rights (TDR) was an increase in value plus added an option for residential development, which the standard setbacks. The ratio does not affect many lots as the majority are tiny or narrow lots.

D. Pierce stated the existing minimum in Highway Commercial is 125'. He suggested allowing the setback area to be used for parking with appropriate landscaping.

R. Dodds suggested somewhere between 125' and 500'.

It was suggested D. Banisch should come back to the Board with suggestions and different scenarios.

Release of Executive Session Minutes – April 11, 2006, May 9, 2006, August 8, 2006, June 12, 2007, November 13, 2007, December 11, 2007, December 9, 2008, May 12, 2011, June 9, 2011, July 14, 2011

D. Pierce has reviewed the Executive Session Minutes and has deemed it appropriate for them to be released.

It was moved by P. Lubitz, seconded by R. Dodds and carried to release the Executive Session Minutes for the dates of April 11, 2006, May 9, 2006, August 8, 2006, June 12, 2007, November 13, 2007, December 11, 2007, December 9, 2008, May 12, 2011, June 9, 2011, July 14, 2011. All members present voted **AYE** on **ROLL CALL VOTE**, except L. Voronin, who **ABSTAINED**.

Approval of Minutes

It was moved by R. Dodds, seconded by P. Lubitz and carried to approve the minutes of May 8, 2014 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Ciacciarelli, E. Niemann, L. Riggio and C. Ely, who **ABSTAINED**.

APPLICATION STATUS

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

E. Niemann stated she is submitting an application to the County Planning Board for the Route 12 Development Plan of the Scenic Overlay and Transfer of Development Rights for the 2014 Planning Award.

The Board members discussed briefly the detours through the Township because of the damage done to the bridge on 519. Concern was expressed on the weight limits of the bridges on the detours.

T. Decker stated Frenchtown will be starting construction on Horseshoe Bend Road within the next month or so.

ADJOURNMENT

It was moved by T. Ciacciarelli, seconded by P. Lubitz and carried to adjourn the meeting at 9:18 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary