

**MINUTES**

**7:30 PM**

**PRESENT:** T. Ciacciarelli  
R. Dodds  
J. Mathieu  
S. McNicol  
E. Niemann  
L. Riggio  
J. Strasser  
M. Syrnick  
L. Voronin, Alt #1  
C. Ely, Alt #2  
T. Decker, Engineer  
D. Pierce, Attorney

**ABSENT:** P. Lubitz

**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**

D. Pierce related to the Board the background on the change to the site plan ordinance in 2014. The Board recommended to the Township Committee revisions to the site plan ordinance due to several instances where properties had changed hands and different businesses had come in and the prior business owner had never received site plan approval. The Board recommended to the Township Committee that the ordinance be amended to require a site plan application and approval whenever there is a change in use in a non-residential property. The change required the following application to obtain site plan approval.

**Applications**

Block 6, Lot 18 – DelVal Feed – 1139 State Route 12 – Site Plan/Graphics Permit – Determination of Completeness

T. Decker stated the applicant has provided some information on the property and has asked for waivers from all the checklist items. It is understandable as it is an existing property. The new business is comparable to what was there before and the well test and environmental studies would not be relevant to the application. He would suggest in an instance where there are no improvements being proposed that a survey or plan indicating the parking be provided. There are requirements for any type of business for ADA accessibility and spaces. The rest of the checklist items are irrelevant to the application. He stated parking is the primary aspect of this site plan. There are no other improvements being installed. The applicant needs to submit how much parking is provided and its layout. It then becomes a record so that if there is a change in use, there is a baseline to go back to as a reference.

J. Fisher, applicant, stated they have put in parking lines due to the fact that customers were confused about where to park. He will install the parking spaces as well as a handicapped spot when the weather improves.

D. Pierce stated the Board could deem the application conditionally complete providing a hand drawn map that shows the location and number of parking spaces, including a handicap space be provided. The applicant would provide testimony at the hearing if the property is ADA accessible.

T. Decker stated there are several buildings on the property and he would like the applicant to identify the function of those buildings, such as storage, retail center, etc. Each one of those buildings has a corresponding parking requirement. If there is a small office it may require two parking spaces but storage does not require that many per square footage.

D. Pierce stated the applicant should provide a plat which shows how many parking spaces are required and verify that they are being provided.

R. Dodds asked if the professionals could send him a note so the applicant knows exactly what he needs to do by the next meeting.

T. Decker indicated he will give him a list.

It was moved by E. Niemann, seconded by J. Mathieu to determine the application conditionally complete and schedule the hearing for August 13, 2015. All members present voted **AYE** on **ROLL CALL VOTE**.

E. Niemann recused herself from the matter

### **Block 40, Lot 8 & 8.02 – Galleria – Tumble Falls Road – Boundary Line Adjustment – Determination of Completeness**

T. Decker stated the administrative items have been received and the documents that have been provided by the applicant are complete. He recommends the Board deem the application complete.

It was moved by J. Mathieu, seconded by L. Riggio and carried to determine the application complete. All members present voted **AYE** on **ROLL CALL VOTE**.

R. Dodds inquired if the Board can determine an application and have a hearing at the same meeting.

D. Pierce stated the Board should open the hearing on the matter. He indicated the engineer received a revised plat this evening.

T. Decker stated it is a very straightforward application.

P. Casuscelli, owner of Galleria Homes, was present for the application this evening. Currently the house is only 22' from the property line. It is a pretty big house and to give it a better appearance, they are seeking a boundary line adjustment. During the construction of the home on Lot 8.02, the applicant encountered difficult ground conditions. The new owners of Lot 8.02 did not want to have much more than a two acre lot.

T. Decker stated the current location of the house on Lot 8.02 is in violation of the ordinance. It does not abide by the setbacks. After the boundary line adjustment the house will be fully conforming. He stated typically when the Township does property lines they like to see the lines perpendicular to the road as much as possible. The new plat submitted tonight address the remainder of this comments.

D. Pierce stated the Board can condition approval on the submission of a plat conforming to T. Decker's comments and to satisfy his other concerns. Approval would also be subject to the review and approval of the deeds by the professionals.

It was moved by R. Dodds, seconded by J. Mathieu and carried to grant approval of the boundary line adjustment with conditions. All members present voted **AYE** on **ROLL CALL VOTE**.

S. McNicol inquired about the changes on the plat submitted this evening. P. Casuscelli stated there were a few typos and the ROW.

T. Decker stated, other than the question about the lot line, everything else are the calculations of the ROW in the lot area. The new plat does not change any of the property lines.

E. Niemann resumed her seat on the board at this time.

### **Site Plan Waiver discussion**

M. Synchronick indicated the recent application for Del Val Feed brought up some questions of whether a site plan is needed or could be waived on certain applications.

D. Pierce stated there are a number of municipalities that have a site plan exemption or waiver when there is a change in use and no other change in the business or property. What arose with Del Val Feed and at the Board of Adjustment meeting with Maxx's repair, which was not permitted in that zone, is that they have to apply for a site plan. The application is not making any changes to the property but just using flex space. The way the ordinance is written now, any time a change of use is proposed site plan approval is required, such as with Del Val Feed. The applicant will request waivers and the Board will be provided with every limited information. The Board can then review the application and determine no formal site plan review is necessary. The ordinance was changed because there is a history of businesses being put in place with no approvals at all. When there is a change of use, the applicant would come to the Board. If the property already has a site plan on file they may be eligible for a site plan exemption. If there is no site plan approval on file, an applicant can ask for a waiver of certain items. If the zoning officer determines it a permitted use and there are no changes proposed to the building and grounds and there is no increase in the offsite parking regulations, an applicant would have to provide a copy of the existing site plan and proposed floor plan.

T. Decker stated if the subject property has not been in for a site plan, they would be required to submit an as-built survey.

D. Pierce stated the concept is if there has not been a prior site plan approval the proposed project would not be eligible for this exemption.

R. Dodds stated in the process the Township requested that the construction official and/or zoning official physically go and do a certification that nothing has changed. T. Decker stated most of the times he receives an application, he does a site review.

J. Mathieu stated if an applicant comes in for a building permit, they are required to obtain a zoning permit first.

D. Pierce stated as part of the qualification for this exemption or a lesser review, the applicant would have to go to the zoning officer. If the zoning officer has determined that the use is a permitted use in that zone he does not check to see if a Certificate of Occupancy has been required. He suggested T. Decker could do a site inspection and compare it to the existing site plan and verify it is in conformance or in what aspects it does not conform to the prior site plan.

D. Pierce stated the process is the Board should make a recommendation to the Township Committee to change the ordinance. The ordinance should contain a provision for an application fee. He is suggesting \$25-50. An escrow would have to also be posted.

After a brief discussion, a concern was raised if site access is granted in the application. D. Pierce will review and determine if there is currently one on the application form.

S. McNicol inquired if a business is existing for a while and a new owner takes over with the same type of business, how is the new owner made aware of what their limitations are in regard to the site.

D. Pierce stated the only way would be to require site plan approval in a change of ownership. It was previously discussed and the Board was not in agreement of adopting that requirement. It is the responsibility of the purchaser to inquire what restrictions or limitations have been placed on the property.

J. Mathieu stated some of the municipalities require you to register your business.

R. Dodds stated it is really the job of the zoning officer and code officials to go out and be vigilant.

R. Dodds stated if the Township has an expedited site review, possibly more applicants would come in for approvals.

### **Approval of Minutes**

It was moved by E. Niemann, seconded by R. Dodds and carried to approve the minutes of June 11, 2015 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, L. Riggio, J. Strasser and C. Ely, who **ABSTAINED**.

### **APPLICATION STATUS**

### **CORRESPONDENCE**

## **PRIVILEGE OF THE FLOOR**

E. Steves of Max Spann Real Estate was present this evening on behalf of the Gombosi family. The Gombosi's property consists of 3.78 acres. He personally applauds the Scenic Corridor Overlay, which keeps the buildings off the road. The issue is that the lot is a long and narrow vacant lot. The lot is 800' deep. The ordinance would require a setback of half the depth or a maximum of 300'. The setback requirements would squeeze all the buildings on the narrow stem in the back of the property. One of the items not addressed in the Scenic Corridor Overlay is these narrow lots. 300' would completely eliminate the front of the property where a person would want to put a house or barn.

M. Synchronick thanked E. Steves for explaining the situation as the Board was not sure by the Gombosi's letter of their concerns.

E. Steves commented the whole Scenic Overlay Ordinance keeps buildings from being too close to the road. In a residential zone it makes all the sense in the world. In this particular case, a setback of 200' would be more appropriate and still meet the spirit of the ordinance.

D. Pierce stated that it is very difficult to craft an ordinance that accounts for every potential situation. The Board of Adjustment exists for any waivers to the ordinance. It is easier to apply to the Board of Adjustment for a variance rather than try to contort the ordinance to address this particular instance where this may be the only lot in the area with this type of configuration. Relief could be granted by an application for a bulk variance to the Board of Adjustment. A bulk variance requires a less stringent standard than a use variance. With the unique configuration of the lot, it would be a good case for variance relief. The Board and Township could ask the planner if there are other lots similarly situated. If so, it may be appropriate for a change to be made to the ordinance. If there are no other lots similarly situated, it can be considered spot zoning. The Board of Adjustment could grant a variance for the setback requirements based on the unique configuration of the lot.

R. Dodds stated due to the lot configuration it should be a very good argument for the bulk variance from the Board of Adjustment.

E. Steves does not have any specific language for a change. He stated to design an ordinance for all eventualities is difficult. He thanked the Board for their feedback.

## **PennEast Pipeline**

M. Synchronick, as a citizen, gave an update on PennEast. The installation of the pipeline could do damage and put arsenic into our aquifers. FERC has been provided with reports prepared by D. Kratzer, T. Kratzer and the NJ Conservation Foundation about the effects of the current route of the pipeline.

## **ADJOURNMENT**

It was moved by E. Niemann, seconded by R. Dodds and carried to adjourn the meeting at 8:30 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudenschick, Secretary**