

MINUTES

7:30 PM

PRESENT: D. Haywood
J. Mathieu
S. McNicol
L. Riggio
J. Strasser
L. Voronin
T. Decker, Engineer
D. Pierce, Attorney

ABSENT: T. Ciacciarelli
R. Dodds
M. Syrnick
C. Ely

CALL TO ORDER

The meeting was called to order at 7:34 PM by Secretary D. Laudenbach.

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

Appointment of Chairperson

It was moved by J. Strasser, seconded by L.Riggio and carried to appoint J. Mathieu as chairperson for tonight's meeting. All members present voted **AYE**.

Tumble Partnership – Block 32, Lots 11 and 11.01 – Minor Subdivision – Tumble Idell Road – Hearing

R. Zederbaum, a licensed Engineer and Planner, stated the application was before the Board about six or eight months ago requesting permission to downsize the original major subdivision approval. The original application was for six lots. The applicant felt the market would not support the sale of six lots so he has decided to reduce the application to a four lot minor subdivision. He has worked diligently with the engineer and has satisfied the majority of the Township Engineer's comments. There is one remaining comment that the Board will have to make a decision on this evening.

T. Decker issued the following review letter:

Plan Set Review:

Class II Minor Subdivision (Sheet 3 of 10)

7. Proposed lot numbers need to be assigned by the Tax Assessor. Plans show proposed lot numbers 11.03 and 11.04, however Lots 11.03 and 11.04 already exist. *For the purposes of this letter, reference to lot numbers will be as currently shown on the plans. **Partially Satisfied. Proposed lot numbers are pending approval by the Township Tax Assessor.***
14. Revisions and clarifications to Lot 11.05 are required as follows:
 - e. Bearing and distance are missing on the 4th length of the easterly conservation easement from the road ROW. **Satisfied.**
 - f. Distance shown on the easterly property line needs to be corrected to coincide with the revised northerly lot line. **Satisfied**
15. Clarification is needed regarding Right of Way dedication along the frontage of Lot 10. **Satisfied. Plans have been revised to include a Right of Way dedication along the frontage of Lot 10.**
19. A maintenance agreement for the common driveway is required. **Maintenance agreement may be a condition of approval and provided prior to filing of deeds or map.**
20. Per Ordinance §115-3, lots less than 4 acres shall be deed restricted to dwellings having a habitable floor area of no more than 3,000 sf. **Satisfied.**

Driveway Profile and Drainage (Sheet 4 of 10)

23. Two – 200LF 8” PVC pipes are proposed along the edge of Tumble-Idell Road at the common driveway crossing. Per Ordinance §112-13C, a minimum 12” diameter reinforced concrete pipe (RCP) is required with a dry laid stone headwall at both ends. Proposed piping is to be revised accordingly with supporting calculations for the 25 year storm. Pipe inverts, slope and cover is to be shown on the plans. **Satisfied**
24. Drainage at the Lot 11.05 driveway apron with Tumble-Idell Road needs to be addressed. **Satisfied**

Grading Plan (Sheet 5 of 10)

28. Plans should address the widening of Tumble-Idell Road along the project frontage for an ultimate width of 20 feet. **Remains outstanding. Applicant’s engineer indicates that it is his belief that the previously approved Major Subdivision was not required to widen the road and is therefore requesting relief for the present application.**

Condition #8 of Memorializing Resolution #2013-02 approving the Final Major Subdivision states:

“The applicant shall obtain the approval of the Board’s engineer for the scope of the proposed improvements to the existing public road that would be constructed on-site and shall make a contribution in lieu of construction to the Township in the amount determined by the Board engineer.”

The Board should determine whether to apply the same condition to any approval granted for the current application or require installation of the improvements to widen Tumble-Idell Road along the project's frontage.

Similarly, Condition #9 of the Final Major Subdivision resolution of approval required the applicant to provide an off-tract contribution toward future road improvements. This should continue as a condition of a Class II Minor Subdivision.

Soil Testing Results (Sheet 7 of 10)

35. Soil logs were performed between January 1999 and September 2004. As a condition of any approval the applicant should submit the soil data to the Hunterdon County Health Department for their review and approval in accordance with NJAC 7:9A Standards for Individual Subsurface Sewage Disposal Systems as revised in April 2012. ***Satisfied. Applicant's engineer has submitted individual septic permits for each lot as issued by the Hunterdon County health Department.***

Stormwater Management:

43. Calculations are needed for the 15" RCP from basin outlet structure. ***Satisfied.***

Outside Agency Approvals

47. Approval is required from the following agencies
- a. Hunterdon County Planning Board – ***Conditional Approval granted 12/18/2015***
 - b. Hunterdon County Soil Conservation District
 - c. Hunterdon County Health Department – ***Satisfied.***

T. Decker stated the applicant has satisfied the majority of the comments in his review letter. The applicant still needs to provide and it should be a condition of approval, the final sign off from the tax assessor on the lot numbers. The plan is a fully conforming plan. The only item remaining that the Board needs to discuss is the improvements to the road frontage. For the major subdivision, the applicant was going to make a payment in lieu of road improvements. Since this is a new application, the Board will have to consider the payment in lieu of road improvements again.

R. Zederbaum stated the applicant is applying for a minor rather than a major. He has reduced the application from six lots to four. It is a less intense subdivision. He stated traffic wise the applicant does not feel that road improvements are necessary or warranted. He doesn't believe that if the application originally came in as a minor it would have even been discussed.

D. Pierce stated that R. Zederbaum is portraying it accurately by stating the Township does not require road improvements on a minor subdivision.

In response to a Board members question about the conservation easement markers, T. Decker stated the applicant proposes the appropriate number and location of the markers.

J. Mathieu stated the only issue remaining was the off-track requirements and if the Board is satisfied with D. Pierce's interpretation, there is no compelling data that would suggest the applicant would have to provide for road improvements.

The Board members were polled and were in agreement with J. Mathieu.

It was moved by S. McNicol, seconded by J. Strasser and carried to approve the above application with the following conditions:

1. Review and approval by the Board's professionals, and recordation within 190 days, of deeds perfecting the subdivision.
2. Review and approval by the Board's professionals, and recordation, of:
 - A. A common driveway access and maintenance agreement;
 - B. A conservation easement for Lots 10, 11.02 and 11.05, with an attached map depicting the area of the Conservation Easement noting and subject to the right to apply to the New Jersey Department of Environmental Protection for permits to conduct activities within the area of the conservation easement;
 - C. A drainage easement.
3. The conservation easement shall be delineated in the field prior to the issuance of any building permit by the installation of two markers on each property at the outer boundary lines of such areas.
4. Prior to the issuance of a building permit, the applicant shall submit a baseline documentation report for the conservation easement documenting with photographs the installation of the boundary markers and the condition of the easement area;
5. No building/construction permit shall be issued for any lot unless and until a well permit has been obtained as required by Kingwood Township Ordinance Section 153-24.
6. Satisfaction of all requirements of the Kingwood Township well ordinance prior to the issuance of any building permit, including the issuance of a well certification for each potable well and the posting of all required escrows.
7. Prior to the issuance of a certificate of occupancy, water quality testing shall be conducted on the well for each lot as required by Kingwood Township Ordinance Section 153-25. The test results shall be submitted to the Township's hydrogeologist for review and determination as to whether a water treatment system is necessary.
8. Receipt of unconditional approval from the Hunterdon County Planning Board.
9. Receipt of unconditional approval from the Hunterdon County Soil Conservation District.
10. Receipt of approval of the proposed lot numbers from the Kingwood Township tax assessor.
11. The Township of Kingwood is dedicated to providing affordable housing and has established an affordable housing program with supporting land use ordinances and a housing trust fund based on the Fair Housing Act of 1998. If the applicant is required to pay a development fee to the Kingwood Township Affordable Housing Trust Fund, the applicant shall pay fifty percent (50%) of the estimated developer's fee to Kingwood Township prior to the issuance of building permits based on the Tax Assessor's estimated assessed value and his determination of the appropriate developer's fee. Building plans and as-built building plans for each development subject to payment of the developer's fee must be provided to the Tax Assessor and the remaining portion of the developer's fee shall be paid at the time of issuance of a Certificate of Occupancy for the new development. This paragraph does not constitute any determination by the Board as to whether the applicant is required to pay a developer's fee.

12. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. Approved Plats or Deeds shall not be released for recordation unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
13. The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.
14. The Township of Kingwood Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
15. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
16. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound

All members present voted **AYE** on **ROLL CALL VOTE**.

Approval Minutes

It was moved by S. McNicol, seconded by L. Voronin and carried to approve the minutes of March 10, 2016 and place on file. All members present voted **AYE**, except D. Haywood, J. Mathieu and L. Riggio, who **ABSTAINED**.

PRIVILEGE OF THE FLOOR

Sustainable Aquaculture

L. Voronin reviewed the report provided to the Board this evening from the Environmental Commission. She stated the report indicates that Sustainable Aquaculture mentioned that the 50,000 gpd they would be withdrawing would not create a cone of depression. MEL has stated that they are containing the plume by creating a cone of depression. The plume is in the area and MEL reversed the direction of flow and created a cone of depression. MEL is located a half mile from the proposed site for Sustainable Aquaculture.

There was a brief discussion on the comments the professionals from Sustainable Aquaculture made at the April Township Committee meeting in regard to the water withdrawal.

D. Pierce stated the Board will have a limited review role. The Board would only be able to review what they are proposing in Kingwood. The Board does not have any jurisdiction of what they are doing in Franklin. He stated the Township does not have jurisdiction on the water withdrawal rates. They will be obtaining their permits from the DEP.

D. Haywood stated all is not lost at this time. The Township has not been able to obtain the information they requested from the Franklin Township Land Use Board through an OPRA request. The attorney for the Land Use Board told her at last night's Land Use meeting that we should get the information from Sustainable Aquaculture. Sustainable Aquaculture stated they have a report in a draft form. If the report is in a draft form, how did Franklin Township's Land Use Board approve the application? They are reopening the hearing in June. She suggested the Township get as much information in advance of the June meeting and possibly V. Uhl can review it before the meeting. She stated at the Township Committee meeting Sustainable Aquaculture indicated the wells on the property produced 70 and 20 gpm.

L. Voronin commented the professionals from Sustainable Aquaculture stated one monitoring well had no effect at all. She showed the Board on the overhead the positions of the wells. She stated there was no impact because they were not connected. She stated Sustainable Aquaculture thinks there is a highly fractured band and that is where their well is located. She stated DEP regulates the flow in streams and if they are discharging into the stream it will be regulated by DEP.

D. Pierce stated the Township has done what it can do to have the best position. D. Haywood appeared before the Franklin Township Land Use Board meeting and presented the Township's objections to their granting of the approval due to a lack of notice. They are going to reopen the hearing. The Township will have an opportunity to participate, ask questions and seek information. It is his suspicion that the information Kingwood is looking for is not in the file in Franklin. The Township should have someone present at the meeting to frame the questions properly. Kingwood is a corporation so they would have to be represented by an attorney. He suggested that possibly the Township may want to approach MEL and see if they have an interest in participating in the hearing. It does have a potential effect on their operations. It would be important if the Township could get their cooperation to testify what MEL is pumping out each day to contain the salt plume. The net of what Sustainable Aquaculture is pumping is 30,000 gpd and is actually pumping less than MEL. The Land Use meeting will be the Township's opportunity to question them and present the Township's case. He stated the Township would be able to make comments on Sustainable Aquaculture's compliance with Franklin's Ordinances. Kingwood could suggest that Sustainable Aquaculture is not complying with Franklin's ordinance and will need a variance or waiver. Kingwood could require them to prove their case. Kingwood was required to get notice of the hearing so they could offer objections to the application. Kingwood could raise the issue of the Eastern Gateway Village Overlay. Municipalities are supposed to take into account and try to be consistent with neighboring municipalities. It is an issue that could be raised to them granting Sustainable Aquaculture any variances. The Land Use Board has a wide latitude. If Sustainable Aquaculture has satisfied Franklin's requirements under the law, they could grant the waiver or variance. He stated he does not know what was contained in their application. He doesn't know if they applied for site plan approval or whether it involved a use variance. If it were just a bulk variance, it could be granted by the Planning Board. Use variances would have to be granted by the Board of Adjustment with five affirmative votes out of seven. The Committee members are not allowed to participate. He stated anyone should be able, regardless of the OPRA request, go to Franklin's offices and see the documents for the application.

Since the discussion was general, J. Mathieu requested the professionals leave the meeting at this time.

D. Haywood stated she was the only non-board member at the Land Use Board meeting. She did not stay for the whole meeting. Sustainable Aquaculture was not on the agenda for memorializing but on the agenda for discussion. The Land Use Board allowed her to have her say and indicated they would be reopening the hearing in June and that the Township would be properly noticed. She stated the objection to the project should not be a budget concern. It affects the Township's citizens. The Township needs to get as much information they can up front.

S. McNicol stated the Township has a powerhouse on the Environmental Commission. The Environmental Commission has a hydrogeologist, geologist and D. Kratzer who is an expert on the well ordinance. She thinks the Township needs V. Uhl. The Environmental Commission's hydrogeologist, geologist and D. Kratzer also have had lots of experience on MEL and could offer some information.

L. Voronin commented the Township needs to have the information before the meeting. The Township needs to review the aquifer test they performed. There are different ways you can interpret data. The more people involved the better.

D. Haywood stated if the Township cannot get their OPRA request fulfilled, someone may have to go down to the building and review the paperwork on file. The OPRA request was done on March 1. Franklin is understaffed at this time due to the illness of their Land Use Board secretary but if you are understaffed you get a temporary worker. If it was the other way around, she doesn't feel that they would be nearly as understanding.

L. Voronin stated the Environmental Commission wrote an extensive letter.

S. McNicol stated when Sustainable Aquaculture came before the Environmental Commission, they were highly prepared. The Township needs to see their draft hydrogeologic report.

L. Voronin volunteered to go to the Franklin municipal building on April 19th.

APPLICATION STATUS

CORRESPONDENCE

NJ Planner – January/February

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by L. Riggio, seconded by S. McNicol and carried to adjourn the meeting at 8:20 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary