

## MINUTES

7:30 PM

**PRESENT:** R. Dodds  
D. Haywood  
P. Lubitz  
J. Mathieu  
S. McNicol  
L. Riggio  
M. Syrnick  
C. Ely, Alt #2  
D. Pierce, Attorney

**ABSENT:** J. Strasser  
L. Voronin, Alt #1

### 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 on January 19, 2017, and has been posted in the Kingwood Township Municipal Building on January 13, 2017 and has been filed with the Municipal Clerk.

### NEW AND PENDING MATTERS

Perini – Block 15, Lot 8.01 – State Route 12 – Site Plan Waiver Application

M. Syrnick stated the applicant appeared before the Board of Adjustment last evening and the Board of Adjustment had determined that there was no change in use so the applicant withdrew his application.

The Board discussed when an applicant would have to appear before the Board for a site plan exemption. D. Pierce stated the application before the Board was to bring in a new equipment sales company in place of the one that is currently occupying the property. He made a suggestion that the Board could change the ordinance to require an application for a Site Plan when a property changed ownership or occupancy.

The Board requested an amendment to the site plan ordinance be prepared to require a Site Plan application for all properties upon which a non-residential use is conducted, and for which no approved site plan is on file with the Township, whenever there is a change in ownership or a change of occupancy for the non-residential use.

**Resolution No. 2017- 05 -Block 21, Lots 1.01, 1.02 & 1.03 – EREH, LLC State Route 12 – Preliminary and Final Site Plan**

D. Pierce stated the attorney for the applicant contacted him and indicated that the development of the common access between the two lots is anticipated being done when the new owners take title as part of the use of the preserved area. The applicant is not planning on closing the farm road.

It was moved by P. Lubitz, seconded by R. Dodds, and carried to adopt **Resolution No. 2017- 05 -Block 21, Lots 1.01, 1.02 & 1.03 – EREH, LLC State Route 12 – Preliminary and Final Site Plan** with the following change:

*Delete Item 4A.*

All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, L. Riggio and C. Ely, who **ABSTAINED**.

Proposed Ordinance No. 19-14-2017 - **AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132” OF THE GENERAL ORDINANCES OF THE TOWNSHIP AMENDING AND SUPPLEMENTING THE ROUTE 12 SCENIC CORRIDOR OVERLAY (SCO) DISTRICT REGULATIONS.**

D. Roberts provided the following memo to the Board members as a summary of what changes were being proposed in the ordinance.

- 1. The Scenic Corridor Overlay Zone standards will apply to any new development, including the expansion of existing development, but otherwise existing development will be grandfathered under the underlying zoning.*
- 2. The permitted uses will be limited only to R2 standards, consistent with the recommendations of the TNJ report.*
- 3. Several new permitted uses compatible with the agricultural character of the corridor have been added (wholesale feed and grain outlets, nurseries and garden centers and wholesale greenhouses.*
- 4. Parking for farm markets will be required to be located to the rear of principal or accessory buildings or sufficiently screened from Route 12.*
- 5. Solar farms will no longer be permitted, even as a Conditional Use.*
- 6. Bulk standards for accessory buildings, as well as standards for single family homes on flag lots have been called out separately.*
- 7. A line-of-sight analysis from Route 12 would be required for buffer design and buffer widths have been increased, per the recommendations of the TNJ Report.*

M. Syrnick stated the proposed ordinance deals with the Route 12 Scenic Corridor Overlay (SCO) zone. The ordinance was adopted and introduced on first reading by the Township Committee at their September 7, 2017 meeting. The Township Committee would like to adopt the ordinance prior to the end of the year.

C. Ely had a concern on page 4, paragraph 6: The keeping of poultry, horses or ponies for the use and pleasure of the occupant of a residential lot of at least two acres in the AR-2 District is permitted, provided that the buildings or structures related thereto and manure pile meet the minimum setback for accessory buildings or are located to be at least 150 feet from the residence on the adjacent lot, whichever is greater. C. Ely stated the unwritten rule for horses is three acres for the first horse and one acre for each additional horse. He stated a property with 2 horses would not require a Manure Management Plan. R. Dodds stated to his knowledge this is not a change to the current ordinance.

It was suggested that the Board create a list of the items that may need further discussion next year.

D. Banisch had provided the following memo to the Board:

*It appears that the proposed amendments will certainly reinforce the SCO viewshed protection objectives, however, he would ask about one possible exception which is:*

*Is the planning objective to require frontage buffering that may result in a vegetative screen across the frontage that may eventually grow-in to obscure the long views that the ordinance seeks to maintain? This is Section 132-41.0.*

*As I read it, there is a line of sight analysis required, but I don't see where the reviewing Board is authorized to require less than the prescribed frontage vegetative screening based on the Board's review of the line of sight analysis.*

*Perhaps I'm missing something? If not, do you think that something should be added to the ordinance so that the Board has flexibility in relieving the applicant of providing the required frontage buffer plantings across the entire frontage of the site in a situation where it wishes to preserve portions of the long view as perceived from the highway?*

*If I'm not mistaken on this, it may be appropriate to include a provision that requires the applicant to submit a line of sight analysis with some general definition of what that is, and permits the Board to determine how much the buffer is provided.*

*Please let me know if you share this concern or if perhaps I've overlooked something here that doesn't need to be addressed.*

*In connection with possible amendments to the EGVCO as pertains to the TDR: This zone will likely be the zone that the Township relies upon to satisfy its affordable housing obligation. To the extent that it may be contemplated to adjust zoning for TDR in the EGVCO, an appropriate level of by-right inclusionary zoning has to be reserved within the EGVCO to attain the Township's Round Three obligation. I ask that we discuss this if a possible amendment to the EGVCO is being considered to accommodate TDR.*

D. Roberts of DGRoberts was present this evening. In 2013-2014 the Township submitted an application for a Local Demonstration Grant Project. The Township was trying to preserve the scenic quality of Route 12 and

provide for the transfer of property rights from one place to another. It was patterned after the Farmland Preservation Program. At the time of the adoption of the original ordinance, the Township did not have a TDR (Transfer of Development Rights) in place, which requires the receiving area to buy credits in the sending area, who are compensated for their property rights. The Township applied for a grant from the state's TDR Bank. The Township was successful in obtaining the grant. The Township then embarked on taking it over the goal line. There are a number of things that need to happen. The Together North Jersey (TNJ) report which shows the recommendations for zoning changes analyzed the sending and receiving areas. They provided recommendations of changes to the ordinance. He thought the Scenic Overlay part of the ordinance would need an amendment as soon as possible because it was an overlay of a number of commercial zones and because the existing ordinance allows a number of commercial uses where the Township may not get what they were expecting. They would be getting commercial uses rather than farm uses. The only permitted uses in the amended ordinance are the ones permitted in the AR-2 zone. The uses that are currently present may continue and anything new would have to comply with the overlay. There was a sight line analysis added to the ordinance and more specific language on the buffer. The ordinance provides for the types of landscaping to be utilized for the buffer, which is now a requirement. If an applicant did not want to provide the required buffer, the applicant would have to apply for a waiver. In order for the TDR to work, there would have to be a need for more credits than are available, which would create some competition between developers. There are some parcels in the Gateway Village that are quite large. The changes to the SCO zone are necessary so the Township will be prepared for future developments that may come in to the Board. In the amendment some sections had their formats change but there was no new language. The only item added was poultry. He has noticed that poultry is becoming popular on small properties.

J. Scott was present this evening and he stated what the amendment does comes from the TNJ process. The Township went through a very deliberate process to secure the TDR grant. It was a fifteen month process. The Township did not want to proceed until they had the support in Trenton to develop the next TDR piece. The Township will have to go back to Trenton. The proposed amendment gives you greater control and a better ordinance. Any new development along the scenic corridor will be properly buffered.

D. Roberts stated that the Township has been dealing with the affordable housing issue, which is something that is anticipated will be dealt with in the Village area. The Eastern Gateway Village (EGV) zone is a large area. They are focused on the parcels that have the most uplands so that it can be determined how much of the affordable housing obligation can be accommodated in that area.

J. Scott stated when the Township gets to the EGV zone there are a lot of issues that are going to come up. There will be a significant disconnect from what was previously in place.

D. Roberts stated the Together North Jersey Local Demonstration Grant has a requirement that the Township have a partnership. The Township has a partnership with HART, which is a non-profit commuter organization. It is the bus line that runs down Route 12 to Flemington with connections to New York. He stated the Township is envisioning the EGV as a mid-point stop between Frenchtown and Flemington. The Township also needs the County's Wastewater Management Plan.

The Board suggested the amendment be very specific to require native species in the landscaping.

C. Ely expressed a concern about berms, which could block views and if the 50' maximum height includes silos.

D. Roberts responded the planted buffer requirement may change over time when they see what it looks like in five or ten years. The height was for the barn structure itself.

D. Pierce stated it only applies to properties in the SCO not the other properties in the AR-2 zone.

J. Scott stated the Township benefited by the severe economic recession that impacted both business and residential developments. There seems to be a broad consensus from the board to preserve the corridor in its current state. The current ordinance includes support for the EGV. The village will happen if the sending credits are in place.

D. Roberts stated that Chesterfield in Burlington County has a TDR in place. It was a huge area. It was developed for the pineland forests to be the sending area and the highway commercial to be the receiving area. TDRs are not common around the State. In Kingwood he thought it would be a simple application of preserving the main stretch of Route 12. On Route 12 there is the business park on the end of Route 12 and a packaging plant with another industrial developer. The rest of Route 12 is undeveloped. The Route 12 corridor is mid-point between Frenchtown and Flemington. The proposal is to make sure that there is not too much development for the Township to handle but make sure there is enough development for the Township to satisfy their affordable housing. The Planning Board will be involved in adopting the TDR element, which will contain all of the details such as the service, receiving and sending areas. The capacity of the receiving area will also be included. There will be a capital improvement plan which will include the water and wastewater facilities. All of that will have to be completed before adopting an ordinance for the establishment of the TDR. The State TDR program can be the Township's bank. The sending owner would sell their credits to the State TDR bank and the receiving area can buy from the bank. The collected funds in the TDR bank are similar to the agricultural development program. There is protection in place so the funds are not allotted to another use.

C. Ely stated it is a dynamic document which can be upgraded and vetted as the Township moves forward. There are some issues which are not covered by this amendment.

P. Lubitz stated the ordinance could be amended in the future. The ordinance provides for a couple of items that need immediate attention. The amendments will not make such a dramatic differences. The Board can come back in 2018 and review it to see if there are any other amendments that need to be done.

S. McNicol stated the Board just received the amendment and thinks the Board needs a little time to review it.

M. Syrnick stated that the biggest changes are the permitted uses and landscaping of buffers. The removed uses would have impacted the zone greatly.

J. Scott stated the amendment tightens up the original ordinance as best as they see it today. Hopefully as the Township continues down this process they might want to tighten up some things in the SCO. The ordinance is a living document and there may be other things that need to be added or clarified along the road. The Township should seriously consider putting the ordinance in place before the start of 2018.

D. Roberts stated he had discussed with D. Banisch the buffer and sight line analysis. The ordinance requires the analysis and an applicant would have to ask for a waiver. It is a tool recommended by the TNJ report. The ordinance adds the uses of wholesale greenhouses, wholesale grain sales, nurseries and garden center to the SCO. They are consistent with an agricultural area. He stated that D. Banisch had not seen the TNJ Report. He wanted to provide actual standards.

It was moved by C. Ely, seconded by L. Riggio and carried to recommend adoption of proposed **Ordinance No. 19-14-2017** to the Township Committee for adoption with the following changes:

132-41E(6) - Removal of poultry;  
132-41O(3) – Add a more universal reference to native species.

All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, who voted **NAY**, and R. Dodds, who **ABSTAINED**.

After some discussion, it was decided to add berms to the list of items they may want to discuss in 2018.

### **Green Infrastructure – EC Commission**

After a brief discussion, it was decided the above agenda item will be removed from the agenda unless the Planning Board receives additional information from the EC.

### **Approval of the Minutes**

It was moved by P. Lubitz, seconded by R. Dodds and carried to approve the minutes of August 10, 2017. All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, L. Riggio and C. Ely, who **ABSTAINED**.

D. Pierce left the meeting at 8:42 PM.

### **Highland Gourmet Market – Block 35, Lot 6 – County Route 519 - Notice of Proposed Activities**

The Planning Board received a letter from B. Avila, the owner of Highland Gourmet Market. In his letter he stated that he intends to have “Pop-up” dinners whereby “guest” chefs prepare meals onsite utilizing locally raised meats, locally grown produce and local cheeses. He also stated he intends to host weddings, special events and business related events conducted and hosted on-site with a mandate that each and every event both utilize and market agricultural products. He contends that the intended uses conform to the Right To Farm protections afforded under New Jersey’s Right to Farm Act which became effective on April 7, 2014, upon publication in the New Jersey Register. He enclosed with his letter a copy of the Hunterdon County Agriculture Development Board’s (HCADB) resolution entitled “Valley Crest Right to Farm Resolution”. He further stated that the Valley Crest Right to Farm Resolution specifically authorizes and approves of the very uses he intends to conduct at his farm provided that he conforms to the On-Farm Direct Marketing Agricultural Management Practice (AMP) protocols as established by the State’s Agricultural Development Committee.

The Board was provided with a copy of the State’s Agricultural Development Committee (SADC) Hearing Officer’s Report for their review.

After a brief discussion, the Board decided that B. Avila would be invited to attend a meeting of the Planning Board. The Board also requested that B. Avila be provided with a copy of the SADC Hearing Officer’s Report.

Due to D. Pierce having a conflict with the matter, the Township attorney will be invited to attend the meeting when B. Avila confirms his availability and attendance.

**APPLICATION STATUS**

**CORRESPONDENCE**

**PRIVILEGE OF THE FLOOR**

**ADJOURNMENT**

It was moved by J. Mathieu, seconded by R. Dodds and carried to adjourn the meeting at 8:53 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudenschick, Secretary**