

MINUTES

7:30 PM

PRESENT: R. Dodds
D. Haywood
J. Mathieu
S. McNicol
J. Strasser

ABSENT: P. Lubitz
L. Riggio
M. Syrnick
L. Voronin, Alt #1
C. Ely, Alt #2

CALL TO ORDER

The meeting was called to order by J. Mathieu 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

Block 40, Lots 8 & 8.04 – Minor Subdivision – Tumble Falls Road – Completeness Determination

P. Casuscelli, owner of the property, was present for the matter this evening.

T. Decker provided the Board with the following memo:

Completeness Review

Our office has reviewed the above submitted documentation for completeness in accordance with the current Kingwood Township Subdivision Checklist as last amended February 7, 2013. We have identified the following items as outstanding. All other items have either been provided or are not applicable to the proposed application.

A. Administrative

- Item 8. Copies of a stormwater management plan and supporting calculations.
- Item 12. Proposed Block and Lot numbers as approved by the Tax Assessor.

B. Plan Requirements

- Item 7. Proposed deeds to lot & lands remaining.

- Item 21. Date of approval of most recent previous subdivision of tract. *Applicant received a Planning Board approval for a lot line adjustment between existing Lot 8 and adjacent Lot 8.02 in 2015.*
- Item 27. Location of natural features to be preserved, including conservation easements.
- Item 28. Location and details of Conservation Easement Markers
- Item 29. Completed Constrained Area Maximum Tract Yield Calculation Form to be shown on subdivision plan.
- Item 30. Sketch of prospective layout of entire tract where subdivision covers only a portion of existing parcel. *Remaining Lot 8 contains 8.813 acres and could potentially be further subdivided as a Class I subdivision.*
- Item 39. Lot grading plans, including proposed spot elevations, grade at building, floor elevations, proposed drainage patterns, etc...
- Item 40. Soil erosion and sediment control plan in accordance with Chapter 103, Soil Erosion

Our office has no objection to the granting of waivers for completeness purposes for:

- Item A-12 – Assignment of new lot number by the Tax Assessor
- Item B-7 – Proposed Deeds
- Item B-21 - Date of approval of most recent previous subdivision of tract

Absent justification from the applicant supporting the granting of waivers for the remaining items, we recommend the application be deemed Incomplete at this time.

Zoning Review

Subject properties are located within the AR-2 Residential District.

AR-2 District Requirements for Detached Dwellings

Requirements	Required	Existing Lot 8	Remaining Lot 8 Existing/Proposed	Proposed Lot 8.04 Existing/Proposed
Min. Lot Area	7 acres (2 acre) ⁽¹⁾	14.494 ac ⁽²⁾	8.813 ac ⁽²⁾	5.681 ac ⁽²⁾
Min. Lot Frontage	250 ft (200 ft) ⁽¹⁾	792.42 ft	580.15 ft	212.27 ft
Min. Lot Width	250 ft (200 ft) ⁽¹⁾	769.87 ft	569.87 ft	200.00 ft
Min. Lot Depth	300 ft (250 ft) ⁽¹⁾	724 ft	723.64 ft ⁽³⁾	724.98 ft ⁽³⁾
Min. Side Yard (each)	40 ft	167.9 ft	167.9 ft	40ft
Min. Front Yard	75 ft	410.7 ft	410.7 ft	75 ft
Min. Rear Yard	60 ft	267.7 ft	267.7 ft	> 60 ft
Max. Building Height	35 ft; 2 ½ stories	<35ft or 2½ stories	<35ft or 2½ stories	<35 ft or 2½ stories
<i>Accessory Building</i>				
Min. Front Yard	100 ft	250 ft	250 ft	N/A
Min. Side Yard	30 ft	341 ft	176.5 ft	N/A
Min. Rear Yard	30 ft	460 ft	460 ft	N/A

Requirements	Required	Existing Lot 8	Remaining Lot 8 Existing/Proposed	Proposed Lot 8.04 Existing/Proposed
Min. Distance between Buildings	20 ft	80 ft	80 ft	N/A
Coverage				
Max. Building Coverage of Principal Bldg.	8%	0.41 % ⁽⁴⁾	0.7%	3.08% / 3.47%
Max. Building Coverage of Accessory Bldgs.	2%	.02%	0.04%	N/A
Max. Aggregate Impervious Lot Coverage	13%	2.72%	4.5%	3.9%

Engineering Review

- Proposed Lot 8.02 complies with the minimum 2 acre lot area in accordance with the Class I Minor Subdivision requirements.
- The ordinance defines “Lot Area” as the area contained within the lot lines of a lot, but not including any portion of the lot in use or to be used as a street or street right-of-way. Areas provided on the plan’s Zoning Schedule should be revised to reflect the lot area excluding the Tumble Falls Road ROW.
- Lot depth dimensions should be corrected to reflect distance from the ROW.
- Principal building coverage value provided in the Zoning Schedule for Existing Lot 8 appears to be off by one decimal place. Value provided is 0.041% should be 0.41%.
- A review of historic Google Earth imagery and property record search reveals that the home and improvements on existing Lot 8 were constructed in 2011. The zoning table indicates that 2.72 percent of the lot area (14.951 ac) is impervious coverage. This represents approximately 0.41 acres. Ordinance §115-6.2 Stormwater Management, last amended May 2, 2006 requires stormwater management measures for Major Developments. Per ordinance definition a Major Development is “Any development that provides for ultimately disturbing one or more acres of land or would create 1/4 acre or more of impervious surface.” This is consistent with the NJ Residential Site Improvement Standards (RSIS) and NJDEP stormwater management requirements.
Applicant should address what, if any, stormwater management measures were implemented on existing Lot 8 and provide stormwater management measures on proposed Lot 8.04. Stormwater management is required for both lots.
- Plans do not currently show any transition areas adjacent to the freshwater wetlands. The NJDEP LOI dated December 12, 2011 identifies the freshwater wetlands as having an Intermediate Resource Value with a corresponding 50 foot transition area. A follow up Transition Area Exemption letter was issued by NJDEP on May 10, 2013 stating transition areas are not required for existing Lots 8, 8.02 and 8.03 as those lots received subdivision approval from the Kingwood Township Planning Board prior to July 1, 1989.
The May 10, 2013 exemption letter states in paragraph 4 that the transition areas “shall no longer be exempt from the requirement of wetlands permit or open water fill permit if significant changes are

made to the approved site or subdivision plan.” It further states that “a significant change will be deemed to have been made if the change, while not voiding the approval, would require submittal to or approval of a new or amended application from the local authorities”.

It is our opinion that the current application for the creation of a new lot satisfies the NJDEP’s definition of a significant change and 50 foot transition areas for freshwater wetlands is required. Addition of transition areas will significantly affect the buildable area of proposed Lot 8.04, NJDEP permitting and Conservation Easement limits.

7. Conservation easement and easement sign details are to be added to the plan.
8. Proposed Lot 8.04 will be subject to Ordinance §153-28 – Three Part Pump Test for a well servicing the property.
9. Deeds and legal descriptions for the remaining and proposed lot are required.

In regard to Item B28, P. Casuscelli inquired if there were any alternatives on the required front wetland markers. Installing the markers would require him to cut down trees.

T. Decker stated the Township requirements for the wetland markers were that the markers were installed on 4 x 4 posts. He stated a possibility would be in some areas where the applicant may be able to square off the area and could minimize the corners. He stated the wetlands are primarily in the front set back and do not affect the building envelope. He stated D. Pierce mentioned that there was an LOI for the site which was an exemption form letter from the DEP in 2013 which was basically for the mother lot and the other two lots to the north. The two lots to the north were created prior to 1979 and not subject to the transition areas. There was a provision in that exception that as long as there were no other changes to the property or subdivisions those exemptions would apply. By subdividing the new lot the exemption is no longer valid because the applicant is subdividing lot 8 and it would be changing its configuration.

P. Casuscelli stated he is having his wetland’s engineer prepare an application.

T. Decker stated the area in the front would have a 50’ buffer that would be marked. The conservation easement would include the 50’ buffer and could be squared off.

R. Dodds stated the applicant could install them as a straight line along the road and put in six markers.

T. Decker stated the applicant would be required to obtain a GP10 permit for the driveway. DEP permitting is not a completeness item but would have to be a condition of approval. He stated the buffer will go into the ROW and any markers along the frontage would overlay into the ROW. He stated the applicant should make sure that he complies with the building envelope requirements, the 50’ buffer in the front and rear and 50’ added to the wetlands area at the rear where the house is being proposed.

P. Casuscelli stated he will move the septic field and house a little bit. There is a very large building envelope on the lot.

After a review of T. Decker’s memo, it was moved by R. Dodds, seconded by J. Strasser and carried to grant a waiver for B-7 for completeness purposes. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by S. McNicol, seconded by R. Dodds and carried to deem the application conditionally complete with the applicant providing the remaining items in T. Decker’s memo not less than 10 days prior to the next meeting date. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Ordinance No. 19-02-2017 – Specifying the Required Format for Digital Submission of Approved Plans for Land Development Applications to Establish and/or Maintain a Digital Tax Map & GIS Based Parcel Layer

D. Pierce stated this is the ordinance the Board discussed last month and referred it to the Township Committee for introduction and adoption.

It was moved by R. Dodds, seconded by J. Strasser and carried to recommend adoption of Ordinance No. 19-02-2017 to the Township Committee. All members present voted **AYE** on **ROLL CALL VOTE**.

SASI

D. Pierce report that Franklin Township had an additional hearing at the end of February. L. Voronin presented her review of the model that SASI's hydrogeologist used in his data. She was unable to produce the same result. Their hydrogeologist did not give L. Voronin the correct file. The Board's expert testified that it did not change is opinion that there would be an impact by the project. They are beginning their testimony from the planner. The next meeting is scheduled for March 29, 2017. They expect to complete their application and the Board will vote on it. He will prepare a summation that they are cramming too much on a small lot. The R & D facility is not a permitted use and the worse thing they can do is to let the project proceed. The applicant's proposal is to rehabilitate any affected wells and if they can't rehabilitate the well, they will buy the property. Their proposal is not going to put the injured party in the same position. His argument will be that it is the worst kind of planning that can be done. Real estate is unique. How will they be determining the value of the property? What will prevent SASI from low balling the price? Franklin is giving SASI the potential power of eminent domain for their use. If Franklin is going to approve the application a condition should be placed that the value would be by an appraisal as if there were no adverse impacts.

R. Dodds expressed his concern if the offer to rehabilitate the well or purchase the property would apply to Kingwood properties.

D. Pierce stated they potentially could. Regardless of what conditions are put in the approval, anyone can still sue.

Part of the problem in giving this type of approval is how is someone going to prove what is causing the impact.

R. Dodds stated he would be hesitant about having a well ordinance and approving an application which clearly did not meet the standards. A resident may have a case against SASI and Franklin Township.

D. Pierce stated they are seeking agricultural uses as a conditional use. SASI does not meet all of the conditions of a conditional use. A D-3 variance requires a majority of the members. There were four members who were opposed to granting the waivers and five in favor of granting the waivers. His hope is that his argument will convince one other member to not approve the waivers. It is SASI's position, despite their expert's testimony that it would be better to have test data rather than a model, is that they know there is going to be an impact but let them operate. His argument at the very least will be to have an approval for the production and hydroponic building but no approval should be given to the global office/R&D building. SASI should operate and come back with the results of the operation and see if the property can handle the additional amount of water usage.

S. McNicol stated G. Ashley, a geologist, brought to the Environmental Commission an illustration that showed she too believes that their modeling will not work. G. Ashley presented to the Environmental Commission a discussion on how the aquifer works. She stated that is one of the points that needs to be made to Franklin.

D. Haywood stated there would be an impact on the Gateway Project.

R. Dodds stated the Township cannot go after them for future development.

D. Pierce stated the testimony discounted any impact on MEL.

Approval of Minutes

It was moved by R. Dodds, seconded by J. Mathieu and carried to approve the minutes of February 9, 2017 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood, S. McNicol and J. Strasser who **ABSTAINED**.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by R. Dodds, seconded by J. Strasser and carried to adjourn the meeting at 8:14 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary