

MINUTES

7:30 PM

PRESENT: R. Dodds
D. Haywood
P. Lubitz
J. Mathieu
S. McNicol
L. Riggio
J. Strasser
M. Synick
C. Ely, Alt #2
T. Decker, Engineer
D. Pierce, Attorney

ABSENT: L. Voronin, Alt #1

CALL TO ORDER

The meeting was called to order at 7:30 PM by M. Synick.

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 – Public Hearing

P. Casuscelli was present for the application this evening. He is applying this evening for a bulk variance and minor subdivision. He has provided notice to the surrounding property owners and advertised the hearing.

D. Pierce requested copies of the proof of publication and notice.

P. Casuscelli stated they were in his truck and he would get them.

The Board changed the agenda until P. Casuscelli was able to obtain the proof of publication and notice.

Block 37, Lot 18 – Filler/Clover Rod and Gun Club – 100 Byram Kingwood Road – Boundary Line Adjustment - Determination of Completeness

T. Decker stated the applicant is proposing to come in with a minor subdivision with lands remaining. The notes on the plan indicated they are merging adjacent Lot 19 with Lot 18. His suggestion to the applicant was to do a boundary line adjustment rather than a minor subdivision. With a minor subdivision the applicant would have to prove septic suitability for the new lot. The applicant will be amending their application.

D. Pierce stated the Board would have to deem the application incomplete otherwise it would be deemed complete automatically.

It was moved by D. Haywood, seconded by S. McNicol and carried to deem the above application incomplete. All members present voted **AYE** on **ROLL CALL VOTE**.

Block 40 Lots 8 & 8.04 – Tumble Falls Road - Minor Subdivision with Bulk Variance – Public Hearing

D. Pierce reviewed the proofs of mailing and publication and has deemed the Board can have jurisdiction on the application this evening. The Board may open the hearing.

M. Synchron opened the hearing on the above application.

P. Casuscelli stated he has provided another exhibit which shows the lot as a conforming lot. In the exhibit showing the conforming lot, the proposed lot conforms with the ordinance for the building envelope. He feels it creates an unusual lot. The house would be built between the blue striped area of the usable building envelope on the overhead. The setbacks are 40' on the side yard and 75' on the front yard. He prefers the lot configuration which would require a variance. The configuration without the variance would have the lands remaining wrap around the proposed new lot.

T. Decker stated the proposed lot is not conforming because there is a requirement for the buildable area. The buildable area requirement is a minimum of 1 acre or ½ of the building envelope. The building envelope is defined by the setbacks. The first configuration conforms as the building area is less than an acre but it satisfies the requirement of ½ of the building envelope, whichever is lesser. The original plan included a large section of the wetlands in the rear. The wetlands occupied a considerable amount of the building envelope. T. Decker stated the applicant indicated that the building envelope is the same regardless of the two configurations. The variance allows the applicant to add in the rest of the wetlands without affecting the building area.

D. Pierce stated the lot would be non-conforming but would not require further variances unless an applicant as going to apply for a deck which would expand the footprint and encroach into one of the setbacks.

D. Miller, 34 Tumble Falls Road, inquired about the size of the new lot and if the applicant was going to be building a house.

P. Casuscelli stated he was going to build a house for a prospective buyer. The proposed lot is going to be 5.6 acres if the Board approves the variance.

T. Decker stated the conservation easement markers would be installed per the ordinance and are shown on the original plan.

D. Miller inquired if the maps were available online.

M. Syrnick responded he could come into the building to review the plans.

P. Lubitz stated that if the Board approves the application, the lot configurations would be available on the next update to the tax map. The Township just adopted an ordinance that requires all drawings to be submitted in a CAD format.

P. Lubitz stated the configuration of the conforming lot given to the Board this evening gave a defensible reason for the granting of the variance.

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

D. Pierce stated the plans need to be revised to show the applicant as P. Casuscelli individually. If the applicant was Galleria Construction, as indicated on the plan, they would have had an attorney represent them for the hearing this evening.

It was moved by R. Dodds, seconded by L. Riggio and carried to approve the application as presented and to grant the variance for the minimum buildable area of the ordinance, subject to conservation easement compliance with the ordinance with the following conditions:

1. Submission of a Plat and Grading Plan revised to show the Applicant's name in the title block instead of Galleria Homes, LLC.
2. Receipt of approval of a letter of no jurisdiction from the D&R Canal Commission;
3. Review and approval by the Board's professionals, and recordation, within 190 days of this memorializing Resolution, of Deeds and legal descriptions;
4. Review and approval by the Board's professionals, and recordation of Conservation Easements for Lots 8 and 8.04, 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;
5. The conservation easements shall be delineated in the field prior to the issuance of any building permit by the installation of markers on each property at the outer boundary lines of such areas using the form of marker approved by the Board's planner;
6. Prior to the issuance of a building permit, the applicant shall submit a baseline documentation report for all conservation easements documenting with photographs the installation of the boundary markers and the condition of the easement areas;
7. 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.
8. 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.

9. 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 the 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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 thereby.

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

Block 17, Lot 11 – Route 12 – Sabet - Informal Discussion

G. Dilts, attorney, was present for the application this evening as well as the owner of the property, M. Sabat. G. Dilts stated they are here this evening for an informal discussion on the possibility of subdividing Block 17, Lot 11 into two lots.

G. Dilts stated the property currently contains a little over 8 acres and is in the shape of a horseshoe. The two tops of the “u” front along Route 12. Razberry’s is on the left of the property and a private dwelling is located in the middle of the “u” of the property. The property is located in the Scenic Overlay Zone as well as in the Business Park zone, neither of which permit a residence. The current house is a non-conforming use. He indicated on the plan the proposed configuration. The current residence’s lot would contain the 2.26 acres and the proposed new lot, development to be determined, would contain 5.9 acres. The applicant does not want to incur the expense of the required testing. He would like to lay it out to the Board to see if they get any negative or positive comments. The 5.9 acre lot would be conforming.

P. Lubitz stated the overlay provides for a greater density than a single family dwelling. The overlay also provides for a mixed residential use.

T. Decker stated the overlay provides for a multi-family component. He stated the two points that front on Route 12 are 150’ and 198.96’. In the overlay district the minimum frontage requirement is 200’. A variance would be required.

G. Dilts stated his applicant is not a developer. His intention is to have a small residential lot and leave the other lot without any plans for development at this time.

D. Pierce stated the applicant would be required to apply for a use variance.

P. Lubitz stated the subdivision would limit the development potential of the Scenic Overlay Zone as well as the sending zone.

T. Decker stated it is an odd shaped lot and there is a maximum impervious coverage requirement. Based on the entire lot area, there would not be much of a buildable area. The more property a person may have the higher the buildable percentage. It would have to be concentrated in the rear of the property. Removing the 2 acre lot would eliminate the issue of a buildable area.

D. Pierce stated, based on P. Lubitz’s comment, the applicant would have to have a pretty high standard to meet and satisfy the requirement to show that there would not be substantial impairment to the zoning ordinance in light of the Scenic Overlay ordinance.

P. Lubitz stated the property could be a good swap for the sending district.

D. Pierce stated it is perfectly situated with an entry and exit for townhomes. The current wetlands may only have a 50’ buffer.

G. Dilts stated the applicant was not thinking townhomes but the discussion this evening might spur inspiration.

M. Sabat stated he was told by the zoning officer he could not build another home on the property. The zoning officer informed him that he could not do anything unless he subdivided the property. The property's use was non-conforming in the zone. The zoning officer told him that he couldn't have two uses on the property. The BP zone requires a 5 acre lot.

D. Pierce responded he could not build another single family home on the property. The zoning officer was not completely inaccurate in his information to M. Sabat. The property currently contains a single family residence which is a non-conforming use in the zone. With the current house remaining, it would intensify the non-conforming use if another dwelling was added to the property.

Sheds in the AR-2 Zone

R. Dodds stated the subject came up as a result of a resident coming into the Township building to see if he could put up another shed on his 2 acre lot. The resident did not want to have the new shed placed within the current setbacks which would result in it being placed in the middle of the back yard. The existing shed is pretty close to the property line and placing another shed next to it would make the new shed non-conforming. The resident did not want to go before the Board of Adjustment for a shed.

T. Decker stated he had spoken with K. Campbell, the Township attorney, about an ordinance that Branchburg currently has adopted. A property is allowed one shed up to 150 sq. ft., 15' off the property line. The ordinance limits it to one shed. The shed is defined by height and area. The ordinance was not specific if the shed had a foundation or not but it was considered a permanent structure.

R. Dodds stated the issue comes up on the smaller 2 acre lots. R. Dodds stated it was one individual who brought up the issue and possibly the Board would like to think about it for a month or two.

R. Dodds stated to go before the Board of Adjustment could cost approximately \$1500.

The Board discussed the different types of sheds and the definition of a shed.

M. Syrnick requested T. Decker locate existing ordinances for municipalities similar to Kingwood.

Approval Minutes

It was moved by R. Dodds, seconded by L. Riggio and carried to approve the minutes of April 13, 2017 and place on file. All members present voted **AYE**, except J. Mathieu, J. Strasser and C. Ely, who **ABSTAINED**.

CORRESPONDENCE

The New Jersey Planner – March/April 2017

PRIVILEGE OF THE FLOOR

S. McNicol stated the Environmental Commission has expressed a concern about soil being brought into the Township from unknown sources. The soil could be contaminated and the Township has no recourse since it has no regulations on its books.

The Board briefly discussed and the secretary was requested to locate sample ordinances from different municipalities.

D. Pierce stated the Township can have as many ordinances on its books but unless they have someone enforcing it all the time and paying attention 24/7 they are not going to eliminate the possibility. He stated that residential and farm properties are not subject to site plan approval. Commercial properties are the only ones subject to site plan approval.

P. Lubitz stated it is a quantity issue. Would the Township want to enforce the importation of any quantify of soil? The Township would have to think of a permit fee that is high enough to have someone come out and check the soil but not too high that someone would not get a permit.

R. Dodds stated there should be a volume cut-off over a certain period of time.

T. Decker stated, reading from their website, that the Hunterdon County Soil Conservation District requires a permit for any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single family dwelling units, (2) for the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes.

R. Dodds asked the Board secretary to obtain some model ordinances regarding to soil importation onto properties.

ADJOURNMENT

It was moved by R. Dodds, seconded by P. Lubitz and carried to adjourn the meeting at 8:55 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary