

JANUARY 12, 2017

MINUTES

7:30 PM

PRESENT: R. Dodds
D. Haywood
P. Lubitz
J. Mathieu
S. McNicol
L. Riggio
J. Strasser
M. Syrnick
L. Voronin, Alt 1
C. Ely, Alt 2
T. Decker, Engineer
D. Pierce, Attorney

ABSENT:

CALL TO ORDER

The meeting was called to order by D. Laudенbach at 7:34 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 December 15, 2016, and has been posted in the Kingwood Township Municipal Building on January 9, 2017 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Re-Organization:

M. Syrnick was nominated as Chairperson for 2017 by J. Mathieu, seconded by J. Strasser.

It was moved by R. Dodds, seconded by J. Strasser and carried to close the nomination. All members present voted **AYE** on **ROLL CALL VOTE**.

J. Mathieu was nominated as Vice Chairperson for 2017 by R. Dodds, seconded by J. Strasser.

It was moved by P. Lubitz, seconded by M. Synchron and carried to close the nominations. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, who **ABSTAINED**.

It was moved by J. Mathieu, seconded by L. Riggio and carried to appoint Lindabury, McCormick and Estabrook, D. Pierce, as attorney for 2017. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by L. Riggio, seconded by J. Strasser and carried to appoint Van Cleef Engineering, T. Decker, as engineer for 2017. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by J. Mathieu, seconded by L. Riggio and carried to appoint Banisch & Associates, D. Banisch, as planner for 2017. All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by R. Dodds, seconded by P. Lubitz and carried to approve the following meeting dates:

February 9, 2017	July 13, 2017
March 9, 2017	August 10, 2017
April 13, 2017	September 14, 2017
May 11, 2017	October 12, 2017
June 8, 2017	November 9, 2017
	December 14, 2017

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

It was moved by R. Dodds, seconded by L. Riggio and carried to designate the Hunterdon County Democrat as the official newspaper with the Courier News as alternate of the Kingwood Township Planning Board. All members present voted **AYE** on **ROLL CALL VOTE**.

Block 17, Lot 8 – Accurate Waste – Route 12 – Site Plan Hearing

D. Pierce reviewed the affidavit of service and stated the applicant has met the notice requirements and the Board has jurisdiction and can open the hearing.

G. DeSapio stated the applicant is here this evening for preliminary and final site plan approval in connection with the Accurate Waste site on Route 12. It has been a long application process. The application started out with one intent of expanding the outdoor storage area but a determination by the Delaware Raritan Canal Commission (DRCC) that it fell under their jurisdiction would have required some extensive work and expense on behalf of the applicant that he had decided not to go through with the expansion. Two additional items came up since that time. When the applicant had purchased the site there was an older fuel storage tank immediately adjacent to the building. He updated and upgraded the tank with a state of the art tank in the same octagon shape as the old tank but the fire and construction officials have indicated that it is too close to the building. He is here this evening for approval to relocate the tank. He cannot obtain the necessary building permits to close out the siting of the tank until he has site plan approval for the tank. The applicant installed, in the front of the building and adjacent to the building two cargo containers. It was convenient for him to cut a hole in the wall and to work directly into the containers so you didn't have to walk outside. The applicant is requesting permission to leave the cargo containers there permanently.

D. Pierce swore in the applicant, Charles Peter Hunkele and his engineer, Steven Risse.

G. DeSapio requested the Board accept S. Risse as an engineering expert.

T. Decker vouched for S. Risse's expertise.

T. Decker provided the Board with the following memo:

Our office is in receipt of the plan titled "Amended Site Plan, Accurate Waste Systems, Inc." dated December 6, 2016. The plan provides clarification regarding the following improvements.

1. The previously proposed expansion to the equipment storage area has been removed from the plan due to stormwater management concerns raised by the Delaware Raritan Canal Commission.
2. Proposed containers are shown on the plan adjacent to the existing one story steel frame building.
3. The 10,000 gallon fuel tank is proposed to be relocated from adjacent to the building to a concrete pad 62.1 feet from the building. The tank has secondary containment and surrounded by 4 foot tall concrete filled steel bollards.

Based on our review we offer the following comments:

1. Applicant is to have a "Spill Kit" onsite and readily accessible for any potential spills at the tank during fueling or fuel delivery.
2. Our office is in receipt of correspondence from NJDOT dated January 5, 2017 advising that a driveway access permit may be required. Any approval of the Amended Site Plan should be conditioned upon NJDOT approval or non-jurisdictional determination.
3. Applicant should provide testimony regarding the sanitary waste disposal on the site and permitting with the Hunterdon County Health Department.
4. Applicant should provide testimony regarding the status of previously issued violations from the construction official.

C. Hunkele testified the application before the Board this evening is to obtain approval for the location of the 10,000 fuel tank as shown on the submitted site plan. He testified that when he replaced the old tank, which didn't meet the code requirements, it was foolish on his part. He testified that they shouldn't have done it. He testified that one of the cargo containers serves as a place to keep a computer and phone, with some area to keep the paperwork for the drivers and deliveries. The other container is used for the storage of parts. He testified the containers are steel seal and boxes which are used for the shipment of goods from country to country by ocean. They are located immediately adjacent to the building. One he located near an existing door and cut a door in the side of the container. He is requesting the Board grant permission to keep those two containers as permanent additions to the building. He is agreeable to have on site a spill kit which is readily accessible. He testified that the spill kit is a plastic barrel with an easily removable lid, which contains booms, absorption pads, speedy dry and anything you would need if a spill should occur. He stated emergency responders have these spill kits. He testified that he would not be altering the driveway and he will be contacting the NJDOT to see if anything is required in response to T. Decker's memo #2.

In response to #4 of T. Decker's memo G. DeSapio stated the applicant had prepared a written report dated November 29, 2016 which attached copies of the violation notices from the construction official. He inquired if

the Board would accept testimony that all of the violations were resolved except for the oil tank. The Board responded that they would like copies of the violations and permits.

P. Lubitz inquired of D. Pierce if he was able to participate in this evening's proceedings. He stated he had participated when the application first came before the Board. He inquired if there was anything he had missed that would prevent him from participating tonight.

D. Pierce stated all of the proceedings so far have been for completeness. Tonight is the first time the matter is being heard.

G. DeSapio circulated to the Board a copy of a letter dated 11/29/2016, where some information was provided to the Board for the completeness review of the application.

C. Hunkele testified the letter contained the specification details and cut sheets of the proposed 10,000 fuel oil storage tank. He testified that in August of 2016 the construction official issued a list of violations and it is the one being provided to the Board. He began addressing the violations in August of 2016 and completed 20 of the 28 violations within a few days of the notice. He discussed the violations with both the fire official and the construction official. The location of the fuel tank is one of the violations. He reached an agreement with the fire official to empty the tank and disconnect the power source until the issue is resolved, which has been completed. Another issue was that they did not have a welding permit for the torches. The fire official would not issue a welding permit until all the other issues were resolved. It is still an open issue. Another issue was the sanitary facilities, which is still unresolved. Another item was that he did not have an emergency shut off for the fuel tank, didn't post operating instructions, post no smoking sign, installation of a fire extinguisher, post emergency procedures in a certain proximity to the tank, the welding torches were not secured with a safety chain and install warning signs. None of the signage could be installed until he had obtained site plan approval for the tank. The fire extinguishers had been expired. He has hired a firm to come in and inspect on an annual basis. He has arranged to store the spare welding tanks in a separate area and they have been secured with a safety chain. He has arranged to store the spare propane tank outside of the building in an area he picked. He has applied for the welding permit, which is a 1F06 welding permit but the fire official will not grant one until the issues of the site plan have been resolved. Some of the other violations which have been corrected were a switch cover missing on one of the light switches, extension cord was used to plug in a computer, one of the outlets had a multiple plug adapter, a switch plate was missing in the garage ceiling, repaired and replaced the heater vent pipe connection, replaced the existing Exit light with an LED Exit light, mounted a fire extinguisher by the front door, installed blanks in the electric service panel, installed ground rods, provided the MSDS sheets for the diesel trucks, install NFPA 701 signs, mark a drum "Used Oil", well pump wires were exposed and install a truss sign on the outside of the building.

P. Lubitz inquired when C. Hunkele moved into the building. C. Hunkele responded several years ago. He testified that he replaced the tank after being in the building two years. His insurance company had done an inspection.

P. Lubitz inquired if C. Hunkele remembered when he came before the Board the first time and stated that he had been in business for a long time. He inquired if C. Hunkele had fire extinguishers in his other business location and if they were inspected. C. Hunkele testified that he hadn't hired a company for this location.

R. Dodds stated, based on the comments this evening, the new tank was put in the same location as the old tank and no permit was obtained for the siting of the tank.

C. Hunkele stated no violations were issued for the installation of the cargo containers adjacent to the buildings.

P. Lubitz stated cargo containers are not a permitted use in that zone or anywhere in the Township. D. Pierce read the following from the ordinance:

Except as otherwise provided below, no cargo container shall be permitted in any zoning district. Notwithstanding the foregoing prohibition, cargo containers situated on lots in the AR-2 Zone and utilized for the storage of agricultural supplies or equipment as of the date of adoption of this amendment may continue to be used for such purpose provided that the owner thereof complies with each and every condition set forth below:

(a) The owner of the property must register the existence of the cargo containers with the Zoning Officer within 90 days of the date of adoption of this amendment. Thereafter, any unregistered cargo container is not permitted;

P. Lubitz stated the Township does permit for a limited amount of time to have a container for construction.

G. DeSapio stated the applicant is requesting approval to make these cargo containers a permanent part of the building.

J. Mathieu commented he doesn't think the Planning Board could approve the use of cargo containers as part of a building. There seems to be some discussion as to whether or not that qualifies as a structure to a building as a permanent use.

P. Lubitz stated when the Planning Board discussed the original use of the property, it only discussed the parking of trucks. There was a discussion if containers would be on the property. He stated there seems to have been more than trucks located on the property.

C. Hunkele testified that his firm provides services to waste water treatment plants and they rent liquid storage tanks, which are called frac tanks. The frac tanks are given to their customers until they make repairs so the plant will continue to operate. They may also have to do some repair work on their digester tanks.

P. Lubitz stated he would like to state that the applicant has a total disregard for any permitting in the Township. He stated the only reason the applicant is before this Board is because the zoning officer filed a complaint. He made an application several years ago and didn't complete it.

M. Syrnick inquired if he obtained the permits for the installation of the heater blocks.

P. Lubitz inquired if the applicant had installed the tank and other items without permits.

G. DeSapio responded the applicant did install the tank and other items without permits. He doesn't think there is evidence of the intent to flagrantly violate the zoning ordinance. The fire inspection results were not things anyone typically thinks about when operating a warehouse building. The applicant did not deliberately intend to have two missing switch plats. The applicant did fail to get a permit for the replacement of the existing tank. Whether he should have known to obtain one or not, the applicant is before the Board to resolve the problem.

P. Lubitz stated two years after the fact.

G. DeSapio stated the application has been pending for that long. They had hoped to get approval to expand the parking area. The original resolution provided for the following:

1. *The Applicant proposes to store 17 tankers, trailers and tractors at the site together with a dredge and several frac tanks.*
2. *The Applicant will store all other vehicles and equipment inside the existing building.*

P. Lubitz stated he stands corrected on those items.

C. Hunkele stated when he came to town the previous owner did not keep the site as nice as he does. There was a lot of impervious coverage on the property. When he came before the Board originally he corrected the existing violations at that time and cleaned up the property. He installed the landscaping that was requested. He stated in no way, shape or form did he try to circumvent and not comply with the Township. When he started the process, he had spoken with R. Dodds and was told to make application to the Planning Board. They received notice that the application was under the jurisdiction of the Delaware Raritan Cana Commission (DRCC). The DRCC never returned their call or responded to their correspondence for six months. He shouldn't have waited for their approval.

G. DeSapio stated, as a result of the events, they are where they are at this point. The fuel oil tank has to be hooked up and installed and the location has to be approved. After they receive approval from the Planning Board, they will go back to the fire official and construction official and obtain the required permits.

C. Hunkele stated he has been in contact with the fire official and informed him that he is trying to get the matter resolved. He is trying to do the right thing and not be a bad corporate resident.

G. DeSapio stated, in regard to the containers, they are requesting approval for them to be considered as an addition to the building, if the building department says they are structurally correct. All the Board is approving is the fact of an addition. If the building department states that the boxes are not structurally correct, they will be removed. The applicant is not asking for you to approve them as containers but as an addition to the building as configured. The applicant will apply to the building official and request a permit for the containers. If the building official states they cannot be used as a permanent addition, he will remove them. They would be an addition to the building and would be assessed accordingly.

D. Pierce stated the Township has an ordinance that prohibits cargo containers except in certain circumstances. One of the primary purposes of the ordinance when it was adopted was to eliminate the eyesore of a cargo container. The ordinance does not deal with it in the way the applicant is proposing. If the Board was to take the position that attaching them to a building, making them part of the structure and changing their outward appearance, such as roofing or paneling, would remove them from being classified as cargo containers and more as a structure. He stated part of the definition of cargo containers is that they are used primarily for storage.

J. Strasser inquired if the applicant wants the cargo containers to be permanent it is beyond the approval of the Planning Board. A permanent structure needs a footing and foundation and be attached to the building.

D. Pierce stated the issuance of a building permit rests with the building official. The Planning Board would have to determine that the cargo containers are not permitted and the applicant would have to apply to the Board of Adjustment.

P. Lubitz stated if the Planning Board determines that they aren't a permitted use, between now and when the applicant goes before the Board of Adjustment, the applicant should be fined for a violation of the Township ordinances for a non-permitted use.

C. Hunkele stated in regard to the 20' containers at least two are set up with heaters, lights and pumps. They use them when they are out working in cold temperatures. They had stored them at the northern facility but have brought them to this facility. They have never been stored here but have been rented.

P. Lubitz stated the property should not have had any unapproved containers.

D. Pierce stated if the container is portable it is not in the definition of a container.

M. Syrnick stated the discussion pertains to the adding of the containers to the building as an addition.

T. Decker stated that is why he inquired if the containers were attached to the building. He is not sure if it is now not considered a container since it is attached to the building. If it is not attached to the building and still could be utilized as a cargo container, the ordinance would prohibit it. It is a fine line. If it is attached, it would require the appropriate ingress/egress and zoning approval.

P. Lubitz stated the Township has had several years of experience with the applicant and has no faith that there is an intention to comply unless forced to with the Township's requirements. There were 28 violations over a several year period. It was pretty much an open application for two years. No action was taken by the applicant. The Board hasn't yet discussed the sanitary facilities. The applicant did not have any intention of coming to the Board until he was caught by the Township's zoning official. The Township welcomed the applicant to our Township. This was not the first time he has gone through this schoolmarm lecture. He didn't expect the applicant to be back here under the same circumstances but it was the applicant's fault. Fool me once shame on you, fool me twice shame on me. The Township will not be shamed twice.

C. Hunkele stated P. Lubitz's comments were unfair. The only time he came back to the Board was to get expanded parking. The sanitary facilities were addressed when he came before the Board originally. The County has informed him that he can't have the holding tank for the sanitary facilities. He has arranged to have soil testing done this month so a septic system can be installed.

S. Risse testified they reviewed the issue of the sanitary facilities in August of 2016. He had not received any indication that there was an issue with the holding tank.

G. DeSapio stated when the applicant came in for a completeness review about a year ago in the fall, the applicant was informed that the construction official was going to issue a number of violations. The formal complaints were resolved within 8 to 10 days of being issued.

P. Lubitz asked if the holding tank was on the site plan when the applicant originally came before the Board.

S. Risse responded he didn't think it was.

T. Decker inquired about the timing.

G. DeSapio responded he received an email from the then current Construction Official dated September 8, 2015. He read the items from the Construction Official's original email, which indicated the violations. The applicant applied in August or September of 2015. The applicant was aware that there were concerns. The application and the violations from the Construction Official were two things that happened simultaneously. He worked with the Construction Official and tried to resolve the issues with the DRCC. It took them nine months to have them agree to schedule a meeting with the applicant. After the meeting, the applicant decided it was not worth the energy, effort and expense to proceed with the parking lot expansion. It was then resolved to come back before the Board and work on the site plan. The original resolution permitted the use of port-o-johns. When C. Hunkele occupied the building he found an existing toilet which discharged into a holding tank.

C. Hunkele testified that he vacuum tested the tank to determine if there were any leaks or if the tank's integrity had been compromised. Since 2015 he has had a port-a-john on the property and utilized the toilet.

S. Risse spoke with the DEP and requested the continued use of the holding tank. They would not approve a holding tank unless an applicant can prove they have no ability to support a septic system on the site. They have scheduled the testing for January 22 and 23.

C. Hunkele stated all the work, through the Hunterdon County Health Department, the DRCC and the NJDEP, were funded by him. He has spent tens of thousands of dollars on applications and plans. He inquired how many masters can he serve. The DRCC stated they were in charge. He should have come to Board. He was not trying to cheap out and do something on the sneak.

J. Mathieu inquired how large was the holding tank. C. Hunkele responded 1,000 gallons. He assumed it was a pre-existing condition. C. Hunkele stated the Township had given him permission to have the port-a-johns.

J. Mathieu stated he was not using the port-a-johns but was using the toilet. He didn't have permission to use the toilet. S. Risse had stated that the only way the applicant would be able to use the holding tank was if they could demonstrate that they couldn't put in a septic system.

C. Hunkele responded that he has scheduled the soil logs and as a result someone is going to come up with a design that will be functional.

J. Mathieu stated the applicant is now aware that he cannot use the toilet and must use the port-a-johns. He inquired why A. Krewsun, the state fire official, came to his property. Most of what he has seen is pro-forma.

C. Hunkele stated it was a routine inspection.

J. Mathieu stated the issue is the eight outstanding violations that are connected to the tank.

C. Hunkele agreed.

S. McNicol inquired of the applicant that he has men working in the building and they are working on trucks all day. They are working on brake fluid and various things. She stated accidents can happen. She inquired what was the situation for general washing, after they have used the toilet facilities. Where is the sink and does it flow into the holding tank?

C. Hunkele stated it does flow into the holding tank.

C. Hunkele stated he can have delivered tomorrow a facility that will have a toilet facility and hand washing provision.

S. McNicol stated OSHA requires that employees are provided with a washing facility in case of an accident.

C. Hunkele stated none of them are required on any facility that he owns. The only fluid they have on the property is a diesel exhaust fluid and a 55 gallon drum of windshield washer fluid.

S. McNicol expressed her concern that she sees that there are lights on in the building and the worker's safety is important. She inquired how they clean up.

C. Hunkele responded they don't do heavy repairs at the facility. All the heavy repairs go to outside garages. It is not economical to do the repairs in-house.

S. McNicol inquired if they have running not water in the facility.

C. Hunkele responded yes.

R. Dodds inquired if they are floor drains in the building.

C. Hunkele responded no.

J. Mathieu stated the Board needs to separate out what they can and cannot approve. He stated the applicant has some violations and based on what he has heard this evening, he may have been aware of them and not responded to them.

P. Hunkele stated that is absolutely untrue. He drove down to the municipal building as soon as he heard about the violations.

J. Mathieu stated the Board has to get a grip on this and separate out the substantial issues.

P. Lubitz stated the violations do not seem pro-forma. There was a 10,000 gallon fuel tank next to a building where there was large truck traffic. He has just about reached his point that he can act in good faith believing that the things we are going to ask to be done are going to get done. Based on the prior approval, the port-a-johns should have been on the site the next day.

J. Mathieu stated the eight violations pertain to the tank. A fire official may pick up on some items, such as switch plates and extension cords. It is not unusual to see that reflected by an inspection. What is unusual is the fuel and septic tanks. There are three issues the fuel tank, septic tank and containers. Those are the three center issues. The rest of the issues can be done through code enforcement.

M. Syrnick stated it seems that it was a circular problem.

P. Lubitz stated they are a non-permitted use, as per the Board's attorney.

D. Pierce stated the two relatively easy aspects are the sanitary waste facility and the fuel tank. They will have to comply with all the requirements in order to get their permits to use that tank. They know that they have no right to use the holding tank. As a condition of any approval the applicant will be required to use a port-a-john and a portable wash station, a deadline will be imposed for the testing of the septic, design and installation. The applicant would not be permitted to use port-a-johns forever. The third complex issue are the cargo containers. They began life as a cargo container and fit within the definition of a cargo container in the ordinance. They were not contemplated in the design of the ordinance. Affixed to and part of another structure on the property would require interpretation. It would require testimony. Also what would be required, under the building code, to permanently affix them to the existing structure would have to be provided.

P. Lubitz stated the applicant was not permitted to install an addition to the building.

D. Pierce stated there is one way to resolve the container issue and it would be to determine that it is not a permitted use and they would have to apply to the Board of Adjustment. The Board can deal with the fuel tank and sanitary waste.

G. DeSapio is in agreement that he would like to get the fuel tank resolved so that the fire violations can be resolved. There is already a port-a-john in the building. He offered to the Board that if they wanted a representation from C. Hunkele that he will stop using the toilet and utilize the port-a-john instead.

P. Hunkele stated he would discontinue the use of the toilet which discharges into the holding tank. He will bring in an event trailer which contains a washroom. It will be at the site by 9 am January 13th. He will let the sanitary system complete the journey it started with the soil logs which have already been scheduled.

G. DeSapio stated the applicant agrees to a deadline for doing the testing but he cannot agree that approval will be given. The applicant has approval for this site to utilize a port-a-john but it doesn't mean that they wouldn't want a better long term solution. They will perform the necessary testing and if they cannot get the approval for the installation of a septic system, they will continue using the port-a-johns.

D. Pierce stated the Board has the ability to alter the conditions of the original approval and avoid in perpetuity the use of the port-a-johns on the site if the Board is so inclined. His goal is to suggest deadlines as a mechanism for the Board to see that there is continuing activity and progress made to the solution. It demonstrates good faith showing due diligence.

G. DeSapio stated it is their position that if they cannot get a permit for the septic system despite their best efforts the Board cannot say you cannot use the building.

C. Hunkele stated he knows his neighbor put in a new septic system so it is reasonable to assume that he will be able to have a system installed.

P. Lubitz stated that have been a number of instances where the County Health Department sends an applicant to the local Board of Health to consider an alternative type of septic system where you couldn't meet the usual standards. Generally the Board of Health was liberal in granting relief.

G. DeSapio stated hopefully the issues of the fuel tank and sanitary facilities have been resolved this evening. He is requesting that the applicant be permitted to go another month without obtaining permits for the containers.

R. Dodds stated the fuel tank and sanitary facilities can be decided this evening. The containers will need to be held until the Board's professionals can review the situation. He stated another piece of good faith would be for the applicant to remove the toilets and plug the outlet to the holding tank.

C. Hunkele was in agreement to remove the toilet and put a plate over the pipe.

G. DeSapio stated the rest of the plumbing can stay.

R. Dodds stated with the curtailing the use of the holding tank the Board can move forward this evening.

G. DeSapio stated the fuel tank does not have any present violations since it has been emptied.

C. Hunkele stated he has informed the fire official that he was on the next Planning Board agenda and all the engineering for the tank had been provided to the Board. He had paid a fine for the violation, fix what he could fix since the violation had to be closed within a certain time frame.

M. Syrnick stated the tank is not being used and the applicant cannot do anything until we grant him site plan approval. She stated R. Dodds is suggesting the Board defer the approval of the containers.

P. Lubitz stated the containers are not a permitted use. They have been in violation for two years and should be removed. If the applicant wants to have the containers, he will have to come back to the Board with a plan.

D. Pierce stated that is the way he would interpret the ordinance. Containers are permitted in very limited circumstances. They needed to have been in existence and utilized for agricultural supplies and equipment with the adoption of the ordinance in 2010. If you had one in existence and was used to store agricultural supplies and equipment you had ninety days to get a permit.

G. DeSapio stated the applicant cannot get a building permit for the containers to be part of the structure until they obtain approval for the addition to the building. If the Construction Official denies the building permit for the containers, the applicant will not utilize the containers as additions. He may construct another type of addition.

P. Lubitz stated the structure is too close to the manhole cover which is not permitted by ordinance.

R. Dodds stated it is an application for the construction department. If the zoning officer gives approval for the containers, he does not need to come back to the Planning Board.

P. Lubitz stated that there are two current violations with the placement of the containers. One is that it is not a permitted use and the other is the distance from the manhole cover.

R. Dodds stated he is in agreement that the containers are in violation and they may need to leave.

P. Lubitz stated he would be satisfied if the two containers were removed from the property.

C. Hunkele asked if the Board would be satisfied if he emptied the 45' container and put his parts in the empty 1/3 of his building and move the container to the other side of the building until he obtains zoning approval.

P. Lubitz stated that would be a reasonable compromise but that the applicant is aware that any alteration he makes to his property will require a permit. The applicant should make sure before any alterations are done he sees the zoning officer or construction official.

M. Syrnick inquired if P. Lubitz would be in agreement if he moves the 45' container closer to the manhole cover.

P. Lubitz stated he is trying to come up with a compromise. The 20' container has to be removed.

G. DeSapio was leery to move them from one place to another on the property. He is asking the Board for approval for the fuel tank this evening.

D. Pierce stated the application can be broken down into phases.

G. DeSapio stated if the Board grants approval for the fuel tank tonight, the applicant will apply for the appropriate permits. The applicant agrees to stop using the holding tank, removing the toilet and caps the pipe. As far as the containers, the applicant will seek to get a zoning permit for the addition and inquire of the Construction Official as to whether or not the containers can be utilized as an addition.

It was moved by R. Dodds, seconded by P. Lubitz and carried to approve this application for preliminary and final site plan approval, Phase 1, consisting of the installation of a 10,000 gallon above ground fuel storage tank and the resolution of sanitary sewage disposal on Block 17, Lot 8 in Kingwood Township subject to the conditions set forth below:

1. The Applicant shall at all times maintain a Spill Kit on-site for the aboveground fuel storage tank.
2. No storage of fuel in the above ground fuel storage tank shall occur unless and until the Applicant has received all necessary state and local permits and approvals, including, without limitation, construction and fire code approvals and/or permits.
3. The Applicant shall obtain and provide to the Board approval from the New Jersey Department of Transportation or a determination from the New Jersey Department of Transportation that it is not exercising jurisdiction in connection with this site plan, Phase 1.
4. The Applicant shall immediately discontinue use of the holding tank for sanitary sewage and shall not initiate any new use thereof unless and until it receives approval for such use from either the Hunterdon County Department of Health or the NJDEP.
5. The Applicant shall submit Plans revised to show and/or include:
 - a. All required on-site fuel tank signs and their location;
 - b. Cut sheets for the fuel tank that show the shutoff switch; and
 - c. The location of, and signage for, the emergency fuel shutoff switch.
6. The existing toilet and wash sink shall be removed and the pipes plugged not later than January 21, 2017.
7. The Applicant shall cause a Port-a-John and a portable event trailer with washroom to be brought to the Property not later than January 13, 2017.
8. The soil testing required for the development of a septic system design shall be completed not later than February 28, 2017.

9. The Applicant shall receive approval for a proposed septic system design or submit proof of an application for approval of an alternate system by May 31, 2017.
10. The Applicant shall complete the installation of a septic system or alternate sanitary sewage disposal system within three (3) months after receipt of approval for such system from the Hunterdon County Board of Health or NJDEP and shall promptly thereafter remove the Porta-John and event trailer from the Property.
11. The cargo container located in the Northwest corner of the Property and used to store tires shall be removed.
12. All conditions of the prior site plan approval as set forth and contained in the Memorializing Resolution dated December 12, 2013 are not superseded by this approval unless specifically so stated in this resolution and shall remain in full force and effect.
13. The Applicant shall pay the applicable preliminary and final site plan application fees.
14. 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.
 In the event that the calculation to be performed under the growth share ordinance determines that there is no growth share obligation associated with the proposed development, then the development fee ordinance shall be applicable. The development fee ordinance requires a developer, pursuant to 132-13 of the Kingwood Township Code, 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, if any, 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.
15. 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. This memorializing resolution shall not be released to the applicant unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
16. Approval of this application by the Planning Board shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
17. 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

- approvals(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.
18. The Kingwood Township 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.
 19. 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.
 20. 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 application, 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**.

G. DeSapio respectfully requested Phase II be placed on the agenda for February.

M. Syrnick announced the matter is postponed until the February 9, 2017 meeting without further notice.

P. Lubitz stated he has the same problem the Board has dealt with in the past with the project actually getting completed. He would like to see a deadline in place if the project should be approved. D. Pierce responded it can be done as a condition of approval.

S. McNicol suggested to the applicant that it almost appears that his business is successful and he needs storage for his tires that it might be a good thought of putting on an addition on the building. She stated do it the right way and get rid of the containers.

C. Hunkele agreed with S. McNicol's statement but it may be a matter of cash flow at this time. He stated an addition might require review by the DRCC and he doesn't want to deal with the DRCC.

SASI – Email from D. Pierce

D. Pierce reported that Franklin Township granted the waiver for SASI to not perform an aquifer test on the condition that they provide all the input data Kingwood has requested. The modeling has shown that there will be an effect on neighboring wells. The modeling provided the information on the aquifer. The aquifer test would show if there was an impact and the modeling shows that there will be an impact. The estimated cost of the aquifer test is about \$80k. There was a discussion on what kind of monitoring would be required. A board member made an excellent point of what if SASI does this and goes out of business. It didn't convince one more board member.

D. Pierce stated Franklin's ordinance language states if it fails the aquifer test, they would need to reduce the water demand or demonstrate to the Board's satisfaction that the effects would be mitigated. The modeling was adequate to demonstrate what the ordinance required. They will be providing the Township with the modeling data and we can provide a report to them. The Township's report will only affect what they will be using as

mitigation. The Township could ask them to reconsider the waiver or can argue the reason to deny the application in its entirety. L. Voronin would have to testify. The Board would have to weigh the expert testimony and rely on what they say.

L. Voronin stated SASI agreed to put \$15k into an escrow.

S. McNicol thanked L. Voronin, D. Pierce and D. Kratzer for all their hard work. She stated she appreciated their efforts and all the people who participated.

The professionals were requested to leave the meeting at 9:49 PM.

2017 Budget Request

It was moved by R. Dodds, seconded by J. Mathieu and carried to request \$35,000 for their 2017 Other Expense budget. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz, who **ABSTAINED**.

Approval of Minutes

It was moved by L. Riggio, seconded by R. Dodds and carried to approve the minutes of December 8, 2016 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz and S. McNicol.

CORRESPONDENCE

NJ Planner – November-December 2016

PRIVILEGE OF THE FLOOR

C. Ely stated the one thing that hit him tonight was that Kingwood not requiring a Continued Certificate of Occupancy.

P. Lubitz stated the problems the applicant had this evening were his own making.

ADJOURNMENT

It was moved by R. Dodds, seconded by L. Riggio and carried to adjourn the meeting at 9:59 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary