

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT**

**MINUTES
April 11, 2018
7:30 PM**

CALL TO ORDER

The meeting was called to order at 7:31

PRESENT:

P. Lubitz
O. Hooley
M.L. Haring
J. Laudenbach
D. Hewitt
J. Mathieu
C. Ostergaard

ABSENT:

D. Pierce, Attorney
T. Decker, Engineer

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.

Adequate notice of this meeting was provided in accordance with the Open Public Meetings Act by publication of the notice in the Hunterdon County Democrat on February 22, 2018 and Courier News on February 19, 2018 also by telefaxing copies of the notice to the Express Times on February 26, 2018. Copies of the notice were also posted in the Kingwood Township Municipal Building on February 16, 2018. The Board of Adjustment proceedings close at 10:30 pm.

New Business:

P. Lubitz announced the hearing of Locktown Veterinary Services & Blue Mountain Partners.

D. Pierce stated he has reviewed the proof of service and publications confirming the applicant has satisfied the requirements of the Municipal Land Use Laws allowing the board to open the hearing.

It was moved by J. Mathieu, seconded D. Hewitt and carried to open the hearing of Locktown Veterinary Services & Blue Mountain Partners LLC as stated above. **All in favor voted AYE.**

Attorney Erica Edwards introduced herself and her client. Explained that they are before the Board tonight to ask for site plan approval. Two witnesses present this evening were announced, Mr. Anthony Mecca, VP Blue Mountain Partners LLC & Mr. Antoine Hajjar, Engineer. Ms. Edwards asked the board how they would like her to begin this hearing since the Board has already heard a great amount of information regarding this situation from the prior application for use variance approval.

P. Lubitz asked the Board for their opinion.

All members agreed sufficient information was previously heard.

D. Pierce suggested for the record Mr. Mecca be sworn in and affirm the previous testimony given.

All members agreed.

D. Pierce swore in Mr. Mecca as suggested.

Attorney Erica Edwards asked Mr. Mecca to affirm the previous testimony stating the fact that Blue Mountain Partners have not made any changes to this site and that Mr. Mecca would be available throughout the hearing to address any questions.

Attorney Erica Edwards announced Antoine Hajjar, Engineer of Land Solutions Engineering, LLC. and asked if the Board would like to begin with a full presentation or if it was acceptable to begin with T. Decker's review letter.

The Board agreed to begin with the issues listed in T. Decker's review letter.

Mr. Antoine Hajjar, Engineer was sworn in and qualifications were announced.

Attorney Erica Edwards asked the Board if they were in agreement with excepting Mr. Antoine Hajjar as a qualified engineer.

The Board agreed.

Mr. Hajjar began with item #14 as suggested by the Attorney. Item #14 was read aloud.

"Item 14 Certification as to D & R Canal Review Zone or that property is exempt. *According to the NJDEP GeoWeb database, the site is located in the DRCC Review Zone B. **A waiver for completeness purposes is***

***recommended.** Applicant may need to obtain a non-applicability determination as a condition of any approval granted by the Board."*

Mr. Hajjar responded that an application was submitted to the DRRC on March 8, 2018 but they have not yet responded.

T. Decker confirmed this statement and suggested this be a condition of approval.

Attorney Erica Edwards asked the board if they had any questions regarding this response.

Mr. Hajjar continued by reading aloud item #19 and responded by explaining although there are wetlands on this site; this area will not be encroached upon.

"Item 19 Depiction of freshwater wetlands within 150 feet of the property. NJDEP GeoWeb database indicate extensive wetlands on the site. **A waiver for completeness purposes is recommended.** Applicant shall provide testimony at the public hearing regarding wetlands or buffers in the vicinity of the proposed improvements."

P. Lubitz asked if the wetlands were shown on the site plans and asked if this has to be approved by the DEP.

Mr. Hajjar confirmed the wetlands are not currently shown on the site plans.

D. Pierce explained the testimony has or will show that the applicant will not add any additional structures or impervious coverage to the site, just moving it.

T. Decker stated the limits of the disturbances are within areas already disturbed such as landscaped areas and detention basins dating back to 1990.

P. Lubitz recalled DEP regulations changing in 1986.

Mr. Hajjar continued by explaining again that only areas previously disturbed will be touched. Item #20 was read aloud.

"Item 20 Documentation of feasibility of an adequate method of sewage disposal & reserve site. **Condition #2 of the variance approval requires confirmation from the Hunterdon County Health Department that the existing septic system is adequate for the proposed veterinary hospital. Proof of submission to the Hunterdon County Health Department shall be provided."**

Mr. Hajjar confirmed a letter was sent to the Hunterdon County Health Department and a phone call today confirmed approval.
Item #41 was read aloud.

“Item 41 Location of natural features to be preserved, including conservation easements. ***Since the original site plan’s approval, the Township has adopted Ordinance §132-111.1 requiring the creation and recordation of conservation easements for environmentally sensitive areas including freshwater wetlands, wetlands buffers, riparian buffers and Category One streams. The Muddy Run, a Category One Stream transverses the site as do freshwater wetlands. The Board should determine the applicability of the Ordinance §132-111.1 to the proposed application.***”

Mr. Hajjar once again stated that no additions to structures or changes would be done to concern this.

J. Mathieu asked if the site is currently in conformance with regulations.

T. Decker responded by referencing an ordinance adopted by the Planning Board several years ago for conservation easements to encompass environmental sensitive areas. This ordinance came into effect after these improvements were installed. So tonight’s question is about the applicability of that ordinance for this application.

D. Pierce stated that in his opinion the applicant should be in compliance with this ordinance. It could be made a condition of approval so not hold up this process.

Mr. Hajjar expressed concern because of the need to access antennas within the conservation easement.

D. Pierce disagreed and stated the ordinance and conservation easement provide exception for activities that are permitted by DEP in the wetlands and that would include maintenance of pre-existing structure requiring markers around the easement.

P. Lubitz stated that any new site plan should include the delineation of wetlands.

Attorney Erica Edwards noted that because the prior property owner performed unapproved deviation to the site plan they would now do not qualify for site plan exemption which was our initial intent by going to the Planning Board first in 2017. At that time it became apparent that there had been changes made by the prior owner.

D. Pierce stated that you didn't qualify for the exemption and had to come before the board for a use variance to have the vet hospital be put into the site. A change of use triggers a site plan review.

Attorney Erica Edwards argued that this particular requirement does not apply to this application. Concern was expressed about the expense of perusing this application.

P. Lubitz spoke for the Board and stated that the Board's opinion has been welcoming but compliance with all ordinances is expected. The actual expense was questioned.

Attorney Erica Edwards stated the expense would be considerable for a property this size and the applicant may not be willing to invest further.

P. Lubitz suggested going before the Delaware Raritan Canal Commission.

Mr. Hajjar asked if a certified environmental person or a letter of interpretation could delineate this.

T. Decker explained a wetlands expert would delineate a map and it would be sent to the DEP, it would then be verified and determine what the established buffer areas are depending on the wetlands classification. Application fees to the DEP are calculated by the total acreage so it can be significant.

P. Lubitz asked D. Pierce what would it take to satisfy the ordinance.

D. Pierce explained it requires the interpretation issued by DEP. They are the agency that determines the nature and extent of buffer areas.

P. Lubitz stated that even if the applicant was to go before the Delaware Raritan Canal Commission they would still be required to apply to the DEP.

Attorney Erica Edwards respectfully asked the Board for a short break to consult her client and engineer.

D. Pierce added that if the applicant has any intention to put any other use on the property the same situation will apply.

Attorney Erica Edwards stated that the applicant has no intention to further develop the property.

P. Lubitz suggested that the Board move forward with other agenda items while the applicant takes a short break.

P. Lubitz announced the next item of business was the approval of the January 10, 2018 meeting minutes and asked for any additions or corrections.

None noted

It was moved by J. Mathieu and seconded by D. Hewitt and carried to approve the January 10, 2018 meeting minutes as submitted. **On roll call to vote.**

Abstain: C. Ostergaard, P. Lubitz

Absent:

Aye: J. Mathieu, D. Hewitt, J. Laudenbach, M.L. Haring, O. Hooley

P. Lubitz introduced Greg Bodin, new zoning officer.

Correspondences were reviewed and discussed.

OPEN TO THE PUBLIC:

None present

Attorney Erica Edwards returned and explained that the applicant is taking a step back since they were certain the ordinance would not apply to this application. Additional thought and research will need to be done and other company members will need to give input, especially from the cost perspective. It was requested to adjourn this meeting until the May meeting if possible.

D. Pierce asked if they are comfortable with adjourning to May 9th or June.

Attorney Erica Edwards confirmed May 9th would be appropriate.

It was moved by J. Mathieu and seconded by D. Hewitt and carried to continue the hearing at the May 9th, 2018 meeting. **On roll call to vote.**

Abstain:

Absent:

**Aye: J. Mathieu, D. Hewitt, J. Laudenbach, M.L. Haring, O. Hooley,
C. Ostergaard, P. Lubitz**

D. Pierce announced the application is adjourned until the May 9th meeting without the need to further notice.

P. Lubitz reminded the Board to fill out the financial disclosure forms.

P. Lubitz asked for a motion to move to **Executive Session**.

It was moved by J. Mathieu and seconded by M.L. Haring and carried to approve moving into Executive Session.

All in favor voted AYE.

Returned to regular session at 8:20

ADJOURNMENT:

The meeting was adjourned with a motion by M.L. Haring, seconded and carried by J. Laudenbach. **All in favor**. The meeting was adjourned at 8:25.

Respectfully submitted,

Kris Boxwell, Secretary