

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
August 11, 2021
7:30 PM**

CALL TO ORDER

A regular meeting of the Kingwood Township Board of Adjustment (BOA) was called to order at 7:30 pm by Phillip Lubitz, Chairman.

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.

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 January 21, 2021, and Courier News on January 21, 2021. Copies of the notice were also posted in the Kingwood Township Municipal Building on January 21, 2021. The Board of Adjustment proceedings close at 10:30 pm.

ROLL CALL:

PRESENT: Phillip Lubitz – Chairman, James Laudenbach – Vice Chairman, Mary Lou Haring, Andrew Russano, David Hewitt, David Frank (Alternate #2).

ABSENT: John Mathieu, Cynthia Ostergaard, Leslie Bella

OTHER: David Pierce, Attorney, John Hansen in for Wayne Ingram

NEW AND PENDING BUSINESS:

Determination of Completeness for the following:

- **Block 35, Lot 6** – Laith Abdulkareem – 343 County Road 519 – Non-Use Variance

P. Lubitz said the first order of business is Laith Abdulkareem with a continuation of his Determination of Completeness and asked him if he had seen the most recent Letter of Completion from Wayne Ingram. He asked if he had any comments on the items in the letter.

Mr. Abdulkareem answered he had and had no comments. He said he spoke to his engineer and as of now we have no comments.

The Completeness Review Letter is as follows:

August 6, 2021

Karen Radcliffe, Board Secretary
Kingwood Township Board of Adjustment
Township of Kingwood
599 Oak Grove Road

Frenchtown, NJ, 08825

Re: Completeness Review #2

Abdulkareem Variance Application

Block 35, Lot 6

Kingwood Township, Hunterdon County, New Jersey

E&LP File # KT-21003-05

Dear Ms. Radcliffe:

The application submitted is for a "c" variance related to the construction of a greenhouse on the subject property. The exact nature of the variance is difficult to ascertain. The property has previous approvals under Resolution 2001-10 for site plan approval of a 5,000 SF farm market as well as a 2005 Use Variance approval to sell wine and package goods from the farm market. Documentation in support of the application consists of the following:

1. Aerial Snapshot, unsigned and undated
2. Application Form
3. Copies of 2001 and 2005 Resolutions of Approval and supporting documents from the Township Board files
4. Title Policy dated May 12, 2020
5. Greenhouse Architectural Drawings prepared by A&A Engineering dated 7/6/2021
6. Plan of Survey prepared by Stanley Norkevich, PLS dated 5/26/1999
7. Variance Checklist (updated 7/30/21)
8. 200' Property Owners List
9. Proof of Payment of Taxes
10. Variance Plan prepared by Van Cleef Engineering dated 7/30/21

Completeness Review:

We have reviewed the application versus the Variance Application Checklist and have found the following item to be incomplete or requiring of a submission waiver:

16. Contours on property and within 10' – topography is provided in the vicinity of the proposed greenhouse and a partial waiver has been requested. We support the waiver request given the size of the property in relation to the project.

17. Existing and Proposed Drainage features on property and within 200' – A partial waiver has been requested and features are shown in the vicinity of the proposed greenhouse. We support the waiver request.

27. Location of Refuse and Garbage Disposal – The location is not provided on the plan. We support a completeness waiver noting that the information should be provided on any future plan revisions.

28. *Screening Provisions for Outdoor Equipment*- the item is marked not applicable. We support the waiver request but testimony will need to be provided on if equipment is stored outside which would require screening.

29. *Existing and Proposed Exterior Lighting*- The item is marked not applicable and no lighting is proposed. We support the waiver for completeness purposes however the applicant must testify to the hours of operation and as to existing lighting to justify a lack of proposed lighting during the public hearing.

30. *Existing and Proposed Signs and their Sizes*- The item is marked as not applicable and no signs are proposed. We would support the waiver request since no new signage is proposed.

31. *Location and dimensions of sidewalks*- The item is marked not applicable and no sidewalks are proposed. We would support the waiver request for completeness purpose however testimony will be required in the public hearing to justify no walkways to the greenhouse including its intended purpose. Buildings for public occupation would require ADA accessibility.

32. *Screening, Landscaping and Fencing*- The item is marked not applicable and no landscaping is proposed. A setbacks variance is being requested which may affect an adjacent property. It will be the applicants burden to justify the variance and provide any mitigative measures. We would recommend screening and landscaping be provided but would support a waiver request to allow the applicant to discuss their intentions and the visibility of the structure so that the Board can make an informed decision on the need for such screening.

36. *Fire Protection Measures*- The item is marked not applicable. We would support the waiver request but recommend the plans be provided to the fire chief for review and comment prior to the public hearing.

40. *Soil Erosion and Sediment Control Plan*- The item is marked as not applicable presumably as the applicant does not believe that 5,000 SF of disturbance will occur. We would support the waiver request but the plans should be revised to include a delineation of the disturbance area to document compliance or a plan will be required.

41. *Stormwater Management Calculations*- The item is marked not applicable and no measures are proposed. The project itself appears to be below the threshold for stormwater management however measures may become necessary as part of D&R Canal Commission review or during the course of technical review. We would support the waiver for completeness purposes.

43. *County Planning Board Application*- The subject property fronts on County Route 519. The application at this time is for a variance and a Site Plan application may be required if approved. The plans should be submitted to the County for review. We would support a completeness waiver but submission would be a condition of any approval.

44. *D&R Canal Review*- The property is located in Zone B of the D&R Canal Commission review zones. Application would be required as a condition of approval and we would support a completeness waiver. We note that while the project may be "minor" the cumulative nature of improvements may require "major" project review from D&R Canal.

46. *Stormwater Management Plan*- The item is marked not applicable and no measures are proposed. The project itself appears to be below the threshold for stormwater management however measures may become necessary as part of D&R Canal

Commission review or during the course of technical review. We would support the

waiver for completeness purposes.

Based on the information provided, we would support the required completeness waivers noting that additional information is likely to be required at or subsequent to the public hearing on the application. We trust the above comments will be useful in the consideration of this application. If you have any questions regarding this report, please do not hesitate to contact me at (908) 238 - 0544.

Sincerely,

A handwritten signature in blue ink, appearing to read 'WJ Ingram', is positioned above the typed name.

Wayne J. Ingram, P.E., P.L.S., P.P., C.M.E.
Township Engineer

cc: Laith Abdulkareem, Applicant
Pamela Mathews, PE, PLS

Mr. Abdulkareem stated that one of the points is about the landscaping already in place. P. Lubitz said that is item #32. Screening landscaping and fencing. The plan shows a tree line that wraps around the front of the property to the side of the property. Will that tree line screen the entirety of the proposed greenhouse?

L. Abdulkaareem said the photos he submitted showed the landscaping.

P. Lubitz said he could not open the photos. He asked if any of the other members could open the photos.

Andrew Russano said he could not open the photos either, but he did a drive-by the property to look at the location. It looks like the tree line is adequate that it is high enough, but he doesn't know what Wayne's or John's interpretation of it should be.

P. Lubitz asked if they were deciduous trees or evergreen trees. Mr. Abdulkareem answered they were evergreen trees – arborvitae trees that grow about a foot every season.

J. Hansen said their position is that they could do a waiver of landscaping for the purpose of completion and if additional landscaping is necessary the board could ask for it.

P. Lubitz asked about item #43 the County Planning Board Application. J. Hansen stated that for properties on a county road requires review and approval by the County however it could be waived for completeness purposes, but the applicant may have to come back to the BOA if the County raises any issues.

P. Lubitz said he understands that Mr. Abdulkarrem has already contacted the DRCC. Mr. Abdulkaareem said he has submitted his application and paid the fees.

J. Hansen they support the waivers as stated in the letter. There are eight waivers, and they are for items #27, 29, 31, 32, 41, 43, 44 & 46. They had a question about the previous site plan approvals for the property and was confused as to why a site plan approval was not needed for this application since a new structure is being added to the property. Perhaps Mr. Pierce has addressed this.

D. Pierce said they have not completely addressed this. The applicant has not proposed any other changes to the existing site plan other than the construction of the proposed greenhouse. The Board could review the prior site plans, but he doesn't think it is necessary. The applicant is not changing anything that would affect the previous site plan approvals so those would continue to be in effect.

P. Lubitz said they mentioned site plan approval at the last meeting, and we could deal with the site plan at the Public Hearing. Are we going to deal with the site plan or not?

D. Pierce said yes. What the board would be doing is addressing the variance request for the side yard setback and granting site plan approval for this structure and this structure only.

L. Abdulkaareem said he understood that the survey would act as a site plan but if he needs another drawing, he will ask his engineer for it.

D. Pierce explained what they mean by site plan. It is not a new document. Site plan has several meanings. Site plan means the drawing from your engineer that was submitted but the site plan approval deals not just with the physical layout of the greenhouse on the property but also other things such as lighting, hours of operation, signage. Site plan approval encompasses all of that and the site plan is the drawing to show all that.

L. Abdulkaareem asked where does he get that? D. Pierce said that is one of the approvals that he is applying for.

P. Lubitz said the checklist for site plans will direct him to what is supposed to be shown on the drawing. D. Pierce concurred and said that Van Cleef will discuss all that with Wayne Ingram of all the things that will be shown on the drawing.

L. Abdulkaareem asked if the architect of the greenhouse is the person who would provide the information such as lighting, exit signs.

J. Hansen said normally the architect and engineer work together but, in this case, there may be a justification for a waiver for some of the site plan items. That would depend on whether the board moves only on the variance application and the site plan application comes later.

D. Pierce said the Completion Letter only addresses the variance application checklist. The site plan checklist should have most of the same information as the variance checklist. Because the applicant is working on a time restriction, his suggestion is to deem it complete for the variance application and deem it conditionally complete for the site plan application subject to the applicant working with John and Wayne to provide any additional information with respect to the site plan application and submitted 10 days prior to the next meeting.

J. Hansen said if the board is comfortable with that they will move in that direction.

P. Lubitz asked for a motion to move in that direction. It was moved by A. Russano, seconded by M. Haring to deem the variance application complete and conditionally complete for the site plan application.

P. Lubitz asked if there were any questions by the board.

M. Haring asked why was the location shown on the plan and not another location on the property's 27 acres?

D. Pierce said that would be addressed during the Public Hearing.

A question was posed by A. Russano. Does the greenhouse have only an agricultural use or will it be used for other purposes in the future?

D. Pierce said that also would be addressed at the Public Hearing.

P. Lubitz asked for a motion with the waivers.

D. Pierce said it would be granting waivers for completeness items #27, 29, 31, 32, 41, 43, 44 & 46 and any other waivers as stated in the Completeness Review Letter. It is deemed complete for variance application purposes and conditionally complete for the site plan.

P. Lubitz asked for a Roll-Call Vote:

P. Lubitz: **Yes**
J. Laudenbach: **Yes**
M. Haring: **Yes**
A. Russano: **Yes**
D. Hewitt: **Yes**
D. Frank: **Yes**

P. Lubitz said the “ayes” have it and asked if Mr. Abdulkaarem was able to get his 200’ list. Mr. Abdulkaarem said yes. The Chairman thanked Mr. Abdulkaarem and would see him soon. J. Hansen left the meeting also.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any additions or corrections to the July 14, 2021, BOA Meeting Minutes. None noted. He asked for a motion. It was moved by M. Haring, seconded by A. Russano to approve the Meeting Minutes of July 14, 2021.

P. Lubitz asked for a Roll-Call Vote:

P. Lubitz: **Yes**
J. Laudenbach: **Yes**
M. Haring: **Yes**
A. Russano: **Yes**
D. Hewitt: **Yes**
D. Frank **Yes**

CORRESPONDENCE

Zoning Reports – The Chairman asked if Zoning Officer could get the Zoning Report to the Board a little bit sooner. He also asked about the Description column being completed. The BOA Secretary noted that she would remind Mr. Bonin again about the Description column and a timelier submission.

Planning Board Minutes - The Chairman said they were the most interesting he has read in a while. The Planning Board was discussing about an ordinance about the BOA Fees. He asked if the concerns about the correction to the ordinance was resolved. The BOA Secretary has not heard but would follow up with the Municipal Clerk.

One of the items in the Planning Board Minutes talks about all the towns in the state have a deadline to approve or deny marijuana businesses. Kingwood Township is initially prohibiting the marijuana businesses. Kingwood is reluctant to approve marijuana businesses in the township until the state makes regulations to adopt recreational marijuana business. All towns are allowed to retroactively to approve it.

D. Pierce said if the town did not act to prohibit the uses of marijuana it could not do so for the next five years. Since the towns do not know what the regulations will be they will prohibit them now but they can amend the ordinance for uses or subsets of uses as they deem appropriate.

P. Lubitz said the Planning Board had a discussion about the township's Master Plan about what is proposed and adopted, what was not adopted, the historical element which they have not had previously. It is a very complete discussion about the Master Plan and where it will be going.

P. Lubitz said there was nothing remarkable about the Planning Board Agenda.

PRIVILEGE OF THE FLOOR:

No public present so no comments from the public. Any final comments from the Board?
None noted.

ADJOURNMENT:

P. Lubitz asked for a motion to adjourn. It was moved by M. Haring, seconded by D. Hewitt to adjourn the meeting at 8:00 pm. All members present voted **AYE**.

All meeting votes were unanimous with a vote of 5:0 with a sustained quorum. There were no controverted issues and there was no conflict of interest for any of the Board members in attendance.

Respectfully submitted,

Karen Radcliffe

Karen Radcliffe
BOA Secretary