

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
July 07, 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, John Mathieu, Cynthia Ostergaard, Leslie Bella (Alternate #1), David Frank (Alternate #2).

ABSENT: None

OTHER: David Pierce, Attorney, Kelley O'Such 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 and asked Mr. Abdulkareem to tell the Board what he proposes to do with his property.

Mr. Abdulkareem began by saying the Checklist that is posted on the screen is the first checklist that he completed himself, but he did send in a more current one completed by the engineer. He talked about his proposed greenhouse. It is an agriculture farm where they live and work, running a garden center and they need a greenhouse to house their tropicals over the winter. The greenhouse location is right outside the garden center for easy access to the greenhouse, but the problem is it is located only 14 feet from the property line and that is why he is here to obtain a variance.

P. Lubitz said it is relatively simple, it is just a matter of setbacks. He asked if we have a copy of the most recent checklist.

The BOA Secretary replied that she has a copy of the most recent checklist that was emailed from the Engineer which she received today, July 14, 2021.

P. Lubitz noted that Kelley O'Such is filling in for Wayne Ingram, Twp. Engineer, who will be late to the meeting. He asked if Kelley has the most recent checklist.

K. O'Such said he does not have a copy of the most up-to-date checklist but the one he does have one dated 6-3-21 and copies of submitted documents that were submitted with the checklist dated 6-3-21 in support of the application.

Mr. Abdulkareem said the email sent today to the BOA Secretary, Wayne Ingram and Cynthia (Keller) as an attempt to make sure everyone had a copy of it. He had a conversation with the Twp. Engineer about the checklist document and Wayne suggested that he hire an engineer to help him complete the document. He did not think that it would not get to the Board and that was his mistake. He can send it to anyone who needs access to it.

P. Lubitz asked the BOA Secretary to email the checklist to D. Pierce so he can post it on the Zoom screen. The Chairman said he wants to make sure that the applicant understands that we want to work with him to move the application forward but by sending in the documents on the day of the meeting doesn't give the professionals time to review them.

Laith Abdulkareem said he understands that but there are so many people he has been talking to and how to do this and talking to Wayne, he thought that was the proper path but now he knows.

P. Lubitz said it is a complicated process not something for a layman to do but to do it properly is important for Laith and for the Board. We have your best interest at heart.

D. Pierce posted the most recent checklist dated 7-12-21.

K. O'Such reviewed the documents that were submitted. He stated that the first item is the checklist dated June 3rd. The checklist asks for a site plan or engineered drawing prepared by a licensed professional and signed. At the time they prepared their completeness letter they did not have any engineered drawings or survey drawings. They only had a Google image with a sketch of where the proposed greenhouse was going to be located with a rough dimension to a property line that was not properly surveyed. They would need an engineer prepare the drawing and sign it and provide the information the Board would need to review. Prior to yesterday's email they did not have the information. What is shown on the screen now has been provided by Van Cleef Engineers, the applicant's engineer however, it is marked as a draft plan and has not been signed or sealed. He could go point by point on the checklist, but they need a signed drawing from the professional who can provide guidance to the applicant. That is where we are at with the applicant now.

Laith Abdulkareem commented on this. When he first started this process in early June, he spoke to the BOA Secretary, and he said he did not have any drawings and he did not know how to fill out the checklist. He did not know any of the process. He attempted to do it just so he did not miss the July meeting. He did not have an engineer or a lawyer, he had no survey, no greenhouse drawings from the architect, but he took the Google photo just to show the Board something to start the process. His understanding was that this was OK to get the process started. He submitted sample drawings from the architect because he can't get the actual drawings until he signs a contract. It is an expensive greenhouse about \$170,000 and to sign a contract and then find out he can't get his approval. He is trying to figure out how to save money on this process. He has spent about \$12,000 so far for the architect, the engineer, and the township fees. The draft drawings were sent in by his request, so the Board has something to look at.

P. Lubitz asked K. O'Such when Wayne Ingram will come in. K. O'Such said that Wayne texted he will be late. P. Lubitz then said let's go ahead and go through the checklist one by one so he will have some guidance on what steps he will need to take to get his approval.

K. O'Such went through the checklist items one by one.

Laith Abdulkareem asked if the draft plan from Van Cleef sufficient. K. O'Such technically this plan would be acceptable, but it still needs to be signed and sealed but there are some details that they need to provide.

Laith asked if the only thing needed on this plan was the sign and seal from Van Cleef. Kelley O'Such said there are some details such as topography changes that needs to be added. Mr. Abdulkareem asked if he will have a written detail of what still needs to be done or does Mr. Ingram talk to Van Cleef about the details? K. O'Such explained that everything goes through you to your professional.

D. Pierce stated that item 1 is the drawing and all items through item 10 are all items that should be on the drawing.

Laith Abdulkareem said all these points, items 1 through item 10 that he does not have any comments next to on the checklist are OK or not OK and should be on the drawing.

P. Lubitz said that we have not had the time to thoroughly review the drawing to comment on the items as being OK or not OK.

The BOA Secretary explained to Mr. Abdulkareem that once Wayne Ingram has had an opportunity to review the plan, he will send him a letter of review of Determination of Completeness with all the items that are incomplete, items that are OK and then you can share that letter with Van Cleef Engineers.

P. Lubitz asked if there were any other items that might be problematic. K. O'Such said that one thing hasn't been addressed is the idea that this "development" per the ordinance that a Site Plan should be provided in addition to the variance. It will not change anything on the development plan, but the application may have to be adjusted to include the site plan. The ordinance defines development as any type of structure being constructed on a property that is not a residence.

Laith asked what the difference between the site plan is and what he provided. K. O'Such said not much but it is in the way it is defined, and Van Cleef knows what the difference is.

D. Pierce explained that the site plan has its own checklist and application form and yes, he will need a site plan approval. He doesn't anticipate any issues with the site plan because he is not changing anything in the operation just simply proposing to put up a greenhouse which part of his operations. There is no change to parking or anything like that. Laith asked if he really needs to have a site plan. D. Pierce said yes, he must have it. Laith asked if the document he provided does not count as a site plan and a variance plan? D. Pierce explained the drawing will be modified or have additional sheets or the checklist may have additional items to be provided. You may have a waiver for some of the items. For example, Van Cleef indicated on item 17 a partial waiver. It is not unusual for the engineers to work together, and Van Cleef would reach out to Wayne Ingram. K. O'Such said that Van Cleef has to reach out to him not the other way around.

P. Lubitz asked if the Site Plan Application and Checklist are on the Township website. The BOA Secretary said it is listed under the Planning Board on the website. D. Pierce said that Site Plan Approval is usually done by the Planning Board but in this instance the BOA can do both.

Laith was not understanding where he gets the site plan documents. P. Lubitz explained to Laith that he needs an application for the site plan, go to the township website to download the forms but the site plan hearing will be done by the BOA at the same variance hearing.

K. O'Such said that Van Cleef is on the right track with the overall variance plan but there are additional details that they will have to provide from the checklist but as an applicant he can ask for a waiver with an explanation or justification as to why a waiver is being asked. You are on the right track, but we are not there yet.

What they received back in June is an application filed for the 200' list but we don't have the actual certified list from the tax assessor. Laith said he filled out the application but has not received the list yet. Kelley said we need the actual list from David Gill. P. Lubitz mentioned that David Gill works part time, but you can find his hours on the website.

K. O'Such said if the Board deems this application incomplete now, it will be incomplete subject to providing the additional documentation, you provide the additional information until the then you will have a complete application and then we go forward with the public hearing and site plan all in one meeting. The 200' list is important because you have to provide certified notices to all your neighbors. Laith asked if that was something he does? Yes, said K. O'Such. The BOA Secretary reminded Laith he received a list of all the BOA procedures back in June explaining all the BOA procedures including the 200' list. Laith said he thought that when he applied for the 200' list the township notified the neighbors.

D Pierce said we don't have enough information now and haven't had time to review the Van Cleef plan to state what elements need to be provided. We can't approve it conditionally complete. K. O'Such agreed.

P. Lubitz said hopefully there will be enough time for Wayne to review it and give his comments on it and any additional items that need to be submitted, to give to Mr. Abdulkareem in enough time to remediate the deficiencies and with enough time to give the professionals enough time to review the remediated information and have a packet that the Board can vote on at the next meeting. That means that these issues are time sensitive. The next meeting will be August 11th.

P. Lubitz asked if the Board had any questions. J. Mathieu asked is there a way the applicant can get a 200' list from the township. D. Pierce said that he gets that list from the tax assessor which the applicant has applied but he has not yet received that list. A. Russano reminded the Board that David Gill has a direct email if that would expedite the process.

D. Pierce said that on page 4 of the application form that was submitted there is an Affidavit of Application and Affidavit of Ownership, and they need to be notarized. Laith must have them notarized and resubmitted. Can he email it, or does it have to be a hardcopy? The BOA Secretary needs the hard copy with the actual raised notary stamp on it which can be dropped off at the Municipal Building and he can email one to the BOA Secretary. There are items on the Site Plan form that need to be notarized as well.

P. Lubitz asked for any final comments. No noted. He asked for a motion to deem the application incomplete.

J. Mathieu made the first motion, seconded by A. Russano to deem the application incomplete.

P. Lubitz asked for a Roll-Call Vote:

P. Lubitz: **Yes**
J. Laudenbach: **Yes**
M. Haring: **Yes**
A. Russano: **Yes**
D. Hewitt: **Yes**
J. Mathieu: **Yes**
C. Ostergaard: **Yes**

P. Lubitz thanked Mr. Abdulkareem and looked forward to seeing him in August. He also thanked Kelley O'Such and David Pierce for their guidance during the hearing.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any additions or corrections to the June 9, 2021 BOA Meeting Minutes. None noted. He asked for a motion. It was moved by M. Haring, seconded by J. Mathieu to approve the Meeting Minutes of June 9, 2021.

P. Lubitz asked for a Roll-Call Vote:

P. Lubitz: **Yes**
J. Laudenbach: **Yes**
M. Haring: **Yes**
A. Russano: **Yes**
D. Hewitt: **Yes**
J. Mathieu: **Yes**
C. Ostergaard: **Abstain**

CORRESPONDENCE

Zoning Reports – The Chairman asked if there was a Zoning Report for today's meeting. The BOA Secretary noted that she did not receive one to distribute to the Board.

Planning Board Agenda - The Chairman asked if there were any comments or questions about the Planning Board Agenda. There were no comments or questions about the June 13, 2021 Planning Board Agenda. The Chairman noted that on the Agenda that the Planning Board was working on the Ordinance for the new BOA Fee Schedule. The BOA Secretary made the comment that when she received the Resolution for the Fee Schedule the Bulk Variance fees were incorrect. The \$250 fee for each additional bulk variance was omitted so she asked the Municipal Clerk to ask for an amendment.

The Chairman asked if anyone had any comments on the Planning Board Agenda or Planning Board meeting Minutes. He asked J. Mathieu if there was anything going on with the Planning Board and he said it has been very quiet. Nothing going on.

P. Lubitz then stated that the Governor signed a bill that places solar installations on non-preserved farms, and he forwarded it to someone who understands this better than he does. D. Pierce said he has not had time to read it. P. Lubitz said we may see more solar installations

on farmland which is a concern in the Township. Kingwood has been preemptive in preserving farmland at the same time encouraging renewable energy sources.

PRIVILEGE OF THE FLOOR:

No public present so no comments from the public. Any final comments? C. Ostergaard asked if there were any updates on the Tubing Company. P. Lubitz said it doesn't look like Delaware River Tubing has been operating this year, and Great Bear River Tubing has been operating in a limited capacity out of the Coley property under an agreement with the DP (Division of Parks). The parking on the Coley property is for Great Bear. The DP has created another parking lot near the Kingwood border. The Fairview Rd. parking is for Great Bear but the other parking lot is for anyone who is using the river.

C. Ostergaard asked if there was any feedback from the Pennsylvania side of the river about the rock mitigation. P. Lubitz said Tinicum Township had their meeting yesterday and they issued a letter expressing their concern. They will get their PA Congressman involved since federal money is going to be paying for it.

ADJOURNMENT:

P. Lubitz asked for a motion to adjourn. It was moved by M. Haring, seconded by J. Mathieu to adjourn the meeting at 8:17 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