

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
January 13, 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 Karen Radcliffe, BOA Secretary.

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 07, 2021 and Courier News on January 07, 2021. Copies of the notice were also posted in the Kingwood Township Municipal Building on December 18, 2020. 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, John Mathieu, Cynthia Ostergaard, Leslie Bella (Alternate #1) and Chris Kascik (Alternate #2).

ABSENT: David Hewitt

OTHER: David Pierce, Attorney, Wayne Ingram, Engineer, David Banisch, Planner

NEW AND PENDING BUSINESS:

Swearing In of Re-Appointed and New Members:

David Pierce swore in the following for the year 2021: Phillip Lubitz, Leslie Bella, Chris Kascik.

Re-Organization:

Nomination of Chairman

The Board of Adjustment Secretary called for nominations for Chairman. Phil Lubitz was nominated as Chairperson for 2021 by J. Mathieu, seconded by L. Bella.

It was moved by M. Haring, seconded by J. Mathieu and carried to close the nomination for Chairman. All members present voted **AYE** on **ROLL CALL VOTE**.

Nomination of Vice-Chairman

P. Lubitz called for nominations for Vice-Chairperson.

James Laudenbach was nominated as Vice-Chairperson for 2021 by M. Haring, seconded by J. Mathieu.

It was moved by M. Haring, seconded by L. Bella and carried to close the nomination for Vice-Chairman. All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment of Engineer

It was moved by J. Mathieu, seconded by J. Laudenbach to appoint Wayne Ingram of Engineering & Land Planning Associates, Inc. (E&LP) as Township Engineer for 2021. All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment of Planner

It was moved by J. Mathieu, seconded by L. Bella to appoint David Banisch of Banisch and Associates as Planner for 2021. All members present voted **AYE** on **ROLL CALL VOTE**.

Established Meeting Dates:

February 10, 2020	May 12, 2020	August 11, 2020	November 10, 2020
March 10, 2020	June 09, 2020	September 08, 2020	December 08, 2020
April 14, 2020	July 14, 2020	October 13, 2020	

It was moved by M.L. Haring, seconded by C. Kascik and carried to approve the meeting dates as set forth on the agenda (second Wednesday of each month at 7:30pm).

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

Established Official Newspapers

It was moved by C. Kascik, seconded by J. Laudenbach and carried to designate the Hunterdon County Democrat and the Courier News as the official newspapers, with the Express Times as alternate, of the Kingwood Township Board of Adjustment. All members present voted **AYE** on **ROLL CALL VOTE**.

Continuation of Determination of Completeness Hearing for the following:

Block 17, Lot 14.02 – Jileya Cudjoe – 463 Barbertown-Pt. Breeze Rd. – Expansion of Non-Conforming Use.

P. Lubitz asked Wayne Ingram if there were any responses from the applicant in reference to the engineer's review letter.

Mr. Ingram said he received an additional packet of documents that satisfied most of the original review comments and there were some that he believed could be waived. He prepared a new completeness review letter. Most items centered around the same things which is a grading plan and soil erosion plan. Based on the septic design it is clear that they are over 5,000 S.F. of disturbance. We have a checklist requirement for a grading plan and soil erosion plan, and it is something they will have to get if the application were approved from the County. Grading is somewhat minimal and they will have to put it on a future plan. Anything they are proposing may not affect grading because the lot is extremely flat. He has no objection to waiving it because it is a variance issue. There are no drainage issues so waive that.

The Completeness Review Letter from Wayne J. Ingram, P.E., P.L.S., P.P., C.M.E. Township Engineer is as follows:

Re: Completeness & Technical Review #2 Cudjoe Variance Block 17, Lot 14.02 Kingwood Township, Hunterdon County, New Jersey E&LP File # KT-20003-04

Dear Ms. Radcliffe:

The application submitted is described as being for the expansion of a non-conforming use to allow additions to the existing 2-family structure. Documentation in support of the application consists of the following:

1. Application for Variance dated October 28, 2020
2. Plan titled "Addition/Renovation at: 463 Barbertown Road, Flemington, NJ" prepared by Brommer Architects dated 9/24/2020 and revised through 10/16/2020
3. Site Plan prepared by Brommer Architects dated 12/28/20
4. Septic Design Plans and Applications prepared by Kurt Hoffman, PE dated 7/20/20
5. Location Survey and Partial Topographic Survey prepared by Patrick Fatton, PLS dated 6/28/20
6. Township of Kingwood Checklist for Variance Applications
7. Tax Payment Summary
8. Completeness Response Letter prepared by Jilyea Cudjoe dated 12/9/20

Project Summary:

The property contains an existing two-family home on the 2.0-acre lot in a top and bottom configuration. Additions are proposed to the rear and side of the structure on both floors. A replacement septic system is proposed for the property as well. The bedroom count is not proposed to change based upon the septic design plans. Application has been made for a D2 variance for the expansion of the non-conforming use. The property is bound to the north and west by a vacant lot owned by the Township and to the east by a vacant parcel.

Completeness Review:

The following items are incomplete. Waivers were granted for some of the below items at the last Board of Adjustment Meeting. Additional comments have been provided based upon the most recent submission.

#16 Contours and topography covering the property and within 10 feet- Partial site topography is provided; however, it does not extend around the structure. No overlap or complete site topography is provided. This item may be waived for completeness, since the grading around the structure appears to be minimal in nature and the project does not appear to affect overall site drainage and the engineer has certified that the septic installation will not affect adjacent properties as part of the installation, which is overseen by the County Health Department.

#17 Existing and proposed drainage facilities on tract and within 200'- no facilities appear to be present on the lot based upon the site survey however no information beyond the site boundaries is provided. We recommend this item be waived.

#18 Location and type of existing and proposed easement, right-of-ways, and utility structures within 200' – no such features appear to be present on the lot based upon the site survey. We recommend this item be waived.

#21 Location of existing and proposed structures with grade elevations- no proposed grade information is provided for the proposed structure. The topography is relatively flat and no significant grade changes appear to be required. This item may be waived for completeness,

since a soil erosion plan and application will have to be made to address any necessary grading.

#22 Distance from the property line to the nearest intersection- no intersection distance if provided on the plan or survey. We recommend this item be waived given the lots location to an intersection.

#36 Lot Grading Plans- This item is marked as possibly being required by the Board but may be waived at the Board's discretion. This item may be waived for completeness, since a soil erosion plan and application will have to be made to address any necessary grading.

#38 Soil Erosion & Sediment Control Plan- Based on the septic system design, between the septic and the addition, the lot will exceed 5,000 SF of disturbance. A soil erosion plan and application to the County Soil Conservation District will be required. We would support waiving the item for completeness purposes only.

#40 Certification from Tax Collector- the tax statement provided appears to indicate there is a balance of \$9.12 on the taxes required. Though the outstanding balance is quite small, this item remains outstanding.

#42 Certification as to D&R Canal Review Zone or exemption- the property is located within Zone B. It appears the project will be exempt as a minor project; however, proof of exemption will be required. This item may be waived for completeness purposes.

Technical Review

1. The AR-2 zone requires a 40' side yard setback for principal structures under the "single family detached" use category. Though the proposal is for a two-family home, the board should evaluate whether a side yard variance is also required since the home will be 35.2' from the side property line and the nonconformity will be expanded in that direction. All other bulk requirements appear to be conforming.

2. The septic design indicates the presence of wetlands but provides no location for them or their associated transition area. At a minimum, a wetlands professional should provide an assessment and confirmation letter that none of the improvements associated with the addition are located within a wetland or wetland transition area or either an NJDEP Letter of Interpretation or wetlands permit should be obtained.

3. The disturbance on the lot will exceed 5,000 SF and a County Soil Conservation Permit will be required. We recommend the permit be obtained and the plans and permit be provided to our office for review.

4. A "D-2" variance is required for the expansion of a non-conforming use (the two-family dwelling) on the property. Under NJSA 40:55D-70(d)2, the applicant must demonstrate that there are special reasons to support granting the variance in this particular case and that the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

5. A "C" variance may be required for the side yard of 35.2 feet which is below the 40-foot requirement for a single-family use. NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property. The second criteria involves the C(2) or flexible "C" or variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

6. Any approval will be subject to outside approval or exemption by all applicable agencies including County Planning Board, County Soil Conservation, NJDEP, D&R Canal Commission, etc. Copies of all approvals shall be forwarded to our office for review.

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

cc: Jileya Cudjoe, Applicant
William Edelston, Esq.
Barry Bromme

Completeness Review Discussion:

Mr. Ingram proposed waiving Items 16, 17, 18, 21, 22, 36, 38 and 42 in totality and deem the application complete. The major issue is wetlands near the septic and pockets of standing water within feet of the house. He recommends a wetland expert to inspect the site and any necessary permits. This doesn't affect the completeness of the application, but it may affect their project.

The Chairman asked if a permit was required from the County. Mr. Ingram said it was from the State, the NJDEP for the wetlands near the home. There is no actual location of the wetlands on the plan but just a note that there are wetlands.

There were no other comments or questions from the Board.

P. Lubitz asked for a motion to grant waivers for Items 16, 17, 18, 21, 22, 36, 38 and 42 in totality and deem the application complete. It was moved by J. Mathieu, seconded by M. Haring and carried to deem the application complete. All members present voted **AYE** on **ROLL CALL VOTE**.

The date of the public hearing will be February 10, 2021.

Block 9, Lot 24 – Kingwood Home Improvement, Andrea Little – 887 Rt. 12 – Appeal of Zoning Officer's Denial

D. Pierce announced that he has looked over their proof of service and proof of publication and satisfied those requirements and the Board may open the public hearing.

The Chairman asked for a motion to open the Public Hearing. A motion was made by C. Kascik, seconded by A. Russano. All members present voted **AYE** on **ROLL CALL VOTE** to open the Public Hearing.

Guy DeSapio, attorney acting on behalf of Kingwood Home Improvement, LLC began his presentation regarding this application.

Mr. DeSapio: A long time ago in June 11, 1986, the Board of Adjustment approved a site plan for this property. A copy of this site plan was submitted as part of this application.

David Banisch just joined the meeting at 8:00pm.

Mr. DeSapio put up a photo of the site plan in question. The testimony will show that there are existing 2 residential buildings and 3 other commercial structures with various businesses rentals in them. In April the new tenant proposed to be in the second building went to the township Zoning Officer to find out if he needs any approvals. The Zoning Officer said no unless he intends to make changes to the inside or outside of the building, but if he wants a sign on the exterior, he will need zoning approval. When the tenant went to get sign approval, he couldn't get an approval because the Zoning Officer stated the tenant needed to submit a site plan. In December of 2020 Mr. DeSapio wrote to the Zoning Officer and stated that there was site plan from 1986 band that should suffice as the site plan for the property. The Zoning Office said that the 1986 site plan only showed two buildings and not the building in question. Mr. DeSapio disagreed and said that the existing site plan covers the entire property and therefore there was no need for a new site plan. What he is appealing tonight is the determination of the Zoning Officer and the existing site plan covers the entire premises. Unless the owner makes changes to the site, there is no need for a new site plan.

Mr. DeSapio marks the Exhibits in evidence.

Exhibit A-1 – State of NJ's definition of site plans

Exhibit A-2 – Township's definition of site plans

He continued: The township's definition is almost identical in wording to the state's definition. Mr. DeSapio's argument is when you make this interpretation, it is common sense that the twp. would not allow to build one building to be shown without showing the rest of the property. On the site plan itself, you can see are the two buildings that require a variance, but also other buildings are shown on the property as well as parking, electrical and driveways and the existing uses of those buildings.

Exhibit A-3 was introduced:

Exhibit A-3 – 1986 Meeting Minutes of the Board of Adjustments

When they considered the site plan in 1986, there was a checklist at the time, and it is similar to what is used today.

He introduced Exhibit A-4 – Zoning Ordinance from Kingwood Township which shows the checklist which is the same used in 1986 with the amendment made in 1999 which added items #33 & #34. The requirements for the site plan include proposed uses of land and buildings on the whole property.

Mr. DeSapio calls his first witness, Ms. Andrea Little. David Pierce swore in Ms. Little.

Mr. DeSapio began his questions (in Bold) followed by Ms. Little's responses (in Italic):

Who is the Owner of this property?

- *Kingwood Home Improvement is owned John Albanese is the owner and I am the manager of the property.*

The address of the property is 887 Rt. 12, Block 9, Lot 24 in Kingwood, correct?

- *That is correct.*

Please describe for the Board what buildings and uses are on the property.

- *We have 883 Rt. 12 which is a single-family one-story family home; 885 Rt. 12 which is a 2-story family home; 887 Rt. 12 which the block and lot number are dedicated to and that is a single unit that is commercial; 889 Rt. 12 which is A & B units with Zero Surge in 889A and vacant in 889B; and then there is 17 Slacktown Road which is the back building set up for 3 commercial rental units and the fields behind them.*

Who is Mr. Al Kopp?

- *He is a carpenter who is in 887 Rt. 12 single structure building on Rt. 12.*

Looking at the screen, which building is 887 Rt. 12?

- *The long building to the left is 889 Rt. 12 and the building to the right is 887 Rt. 12.*

And is Mr. Kopp in 887?

- *Yes, that is correct?*

Prior to moving in did Mr. Kopp do any due diligence to satisfy township zoning requirements?

- *Yes. In March of 2020 I reached out to Mr. Bonin asking about the opportunity to have Mr. Kopp move in. Mr. Kopp also reached out to Mr. Bonin and received approvals by multiple emails due to COVID since they couldn't go in the municipal building. He received approvals as long as he didn't change the exterior/interior of the space.*

On the screen is part of your application and has been marked for record for the Board and what is that?

- *That is the thread of conversation between Mr. Kopp and Greg Bonin. Al Kopp asked if he needed and permits or approvals to move his woodworking business into 887 Rt. 12. The answer was as long as he did not make any changes to the exterior or interior, he did not need any permits. If he added an exterior sign, he would need zoning approval.*

At that time was there any mention by Mr. Bonin or any other township official that he needed a site plan?

- *No there was not.*

Did this issue come up at a subsequent date?

- *Al Kopp applied for a sign permit on May 12, 2020 and there was an approval but that was taken back in early June and he was told he needed a site plan.*

Is that what is on the screen now and is part of the application package?

- *Yes.*

Did you make an investigation with the township to obtain a copy of the existing site plan?

- *Yes, I made an OPRA request to find out what documents were on file and that this site plan was one of the documents.*

How long has Kingwood Home Improvement owned the property?

- *Since 2010.*

During the course of your ownership has Kingwood Home Improvement applied for any permits to do any work on the property?

- *Yes, we did a tremendous amount of work on the property and buildings such as new roof, siding, new power and electrical and septic and 887 the exterior was completely renovated and turned into beautiful building. It has been a labor of love to resurrect this space.*

Did you have a list of the permits for the property?

- *Yes, I have in my possession, but with COVID I couldn't go into the building to get them all.*

At the time you obtained these permits did anyone ask you for a site plan?

- *No.*

Who or what is Window World?

- *They are in 889B but they went out of business in 2020 and left the building. They worked on windows and stored windows and parts. They were there from 2010 until 2020.*

I have Planning Board Meeting Minutes from March 10, 2011 but not on the screen. We will talk about them without seeing them. Are you aware that Window World appeared before the Planning Board about a permit for a sign?

- *Yes I was at that meeting.*

Mr. DeSapio will submit these Planning Board March 10, 2011 Meeting Minutes as Exhibit A-6.

Did the Planning Board grant approval for that sign permit?

- *Yes, and that sign structure is still there today.*

Did they object that the sign permit could not be issued because there was no site plan for the property?

- *No there was no objection.*

P. Lubitz asked if there was a site plan for the Window World? Mr. DeSapio said that there was a site plan. Mr. Lubitz said that we have already established that there was a 1986 site plan for Window World.

Mr. DeSapio put the site plan back up on the screen.

In what building was Window World located?

- *Window World was in 889 Rt. 12. Far left building.*

P. Lubitz said the Window World site plan does exist and it is germane to what we are discussing today. There is no dispute that the 1986 site plan covered the Window World building.

Mr. DeSapio said that is what they want clarified. D. Pierce said identify which building applications were made in 1986. Mr. DeSapio said that the 1986 variance were for the 17 Slacktown Road buildings at the top of the site plan.

- *883, 885, 887 & 889 were not part of the variance, but they were on the 1986 site plan.*

Mr. DeSapio marked on the site plan the street number of all buildings on the site plan.

Did Mr. Bonin indicate that this site plan is only good for 17 Slacktown Road and not the other buildings?

- Yes.

Do you want the Board to determine that this site plan is valid for all the buildings on the property?

- *Yes, for all the buildings on the entire property. When it was brought to the Board of Adjustment it was for the back buildings on Slacktown Road specific. In 2014 the same thing happened when we asked for a sign.*

When Window World went to the Planning Board on March 10, 2011 it was for building 889?

- *Yes and it was approved by the Planning Board. In 2014 when we requested for a sign for building 887 it was granted. No sign was put in but it was the same situation. We had no ask.*

When you said in 2014 what application was made then?

- *In end of 2013 we requested permission for Stone Fabricator Services to move into 887 Rt. 12 and that was granted and all permits that you see are for the renovations for Porter Little's Stone Fabricator Services to move in there. He was in there from 2014 until 2020.*

Mr. DeSapio marks the 2014 application #072-13 as Exhibit A-7 and is accompanied by a couple of drawings.

Was that granted by the township to make improvements to 887 Rt. 12 that the woodworker is in?

- *Yes it was.*

Did it have to go before any particular board at that time?

- *No*

Mr. DeSapio said he had no more questions for this witness and asked Ms. Little if she had any questions? She did not have any questions.

Deliberations:

P. Lubitz asked Ms. Little who was the tenant in 887 before the woodworker?

- *It was the Stone Fabricator from 2013-2020. He was an artisan who worked on stone with water, cutting and polishing. Prior to 2013 it was vacant.*

Lubitz asked the Board if they had any questions. C. Ostergaard asked of the stone fabricator had a sign on the building.

- *No, he did not request a sign. He was told if he wanted a sign he would have to go through the process. Mr. Kopp's sign would be a flush sign on the building not something on the road, no lights, just a small sign that says Al Kopp Carpentry.*

How big is the sign?

- *It is on the permit and complies with the ordinance requirements and received by Greg Bonin on May 12th.*
-

Mr. DeSapio stated whether it is Mr. Kopp or any other tenant, they are prepared to comply with the ordinance requirements to get the sign permit from the Planning Board. They are there to assure that there is a site plan for the property before going before the Planning Board. They understand that if there are any future changes to the property that it would require a new site plan. They want a determination that this old 1986 site plan is a site plan for the entire

property. Something to be argued is that Mr. Salzberg made an application in 1986 and prepared site plan in good faith that showed the entire site. If they go through all that even though it was a long time ago only to be told that they have to do the site plan again, they shouldn't have to do it.

M. Haring said she had no questions but stated that if the Board demanded a new site plan it would look like the 1986 site plan.

C. Kascik agreed. He stated the 1986 plan still carries over to today. We are not dropping a WalMart on Rt. 12. It is a small mom & pop business, and we should be encouraging the business and shouldn't be killing them with regulations. The intent was there.

Andrew Russano asked if the site plan needed to be put in the new owner's name.

D. Pierce said no, the site plan approval runs with the property. He said he wanted to make a few observations. First, during all the prior permits stated during Ms. Little's testimony, there was a different site plan ordinance in effect, and which was amended in December 2017 to address concerns about the uses on properties and changes in uses without obtaining site plan approvals. That provides an exemption from the site plan requirement for changes in use if there is an existing site plan in effect. He was asked by Mr. Bonin to review this. Several things the Board has not seen but will be submitted as part of the application. In 1986 the original application was for a variance to renovate a single-story wood frame and masonry structure for the repair wood pallets and wholesale of lumber. The resolution to approve the site plan indicates that Mr. Salzberg has made application for site plan approval in connection with pallet repair and warehouse uses. In his review he said that it was strictly for repair of pallets. Mr. DeSapio presented additional evidence has made an argument from the 1986 meeting minutes that the existing site plan is for the entire property. It is up to the Board to plan on this matter.

P. Lubitz said that Mr. DeSapio made a convincing argument that there were a number of permits for the buildings on the property without the need for a site plan. That is because the ordinance changed after 2017. Were any of those permits after 2017? D. Pierce said the only permits after 2017 were for a septic repair and that is not a change but a repair to an existing portion of the property. All the other permits were prior to 2017 and did not require a site plan.

P. Lubitz said he seconds what Chris Kascik said about promoting small business especially to be renting the buildings during this COVID time and the sign is attached to the building. He said he thinks they all could agree that Ms. Little has gone through much expense for such a small sign for the building. What other things would the owner have to do to show a new site plan?

D. Pierce said they would have to show a new site plan only if there were any deviations from the existing site plan approval. P. Lubitz said they could not put in a truck lot or a restaurant under the existing site plan. D. Pierce said if it is a permitted use they could. P. Lubitz said if we don't rule it is a complete site plan and they wanted to change the nature of the business then they would have to have a new site plan correct? D. Pierce said yes.

Mr. DeSapio made a comment that if there was a proposed use where there was exterior storage for trucks or whatever which is not shown on the existing site plan then they would come in with a new site plan. If it was a restaurant, if it was a permitted use under the ordinance, there would be an initial evaluation of parking. If there was a change that needed more parking, then we would come in with a new site plan. If the type of use is similar to what

is there now with small intensity uses and they get an approval and a site plan exemption because there is a site plan.

D. Banisch commented that they wouldn't be entitled to a site plan exemption if there was a deviation. There was a site plan approval in 1986. There are slight differences with the original 1986 site plan and what is there today. On the 17 Slacktown buildings there is no roof offset on the site plan shown on the 1986 but it is today. The Planning Board may make a comment when you go for the sign permit. It is not big stuff.

J. Mathieu said you were originally asking for a sign permit correct? Mr. DeSapio said we are to go before the Planning Board for the sign, but we are trying to pre-empt the need for a site plan before going to the Planning Board. J. Mathieu said he is astounded that they are spending so much time on a sign permit.

Mr. DeSapio said if they go the rent out 889 and they want a sign, then this would head off the Planning Board question of a site plan. And that the 1986 site plan covers all the buildings on the property.

P. Lubitz said he is willing to punt this to the Planning Board and let them grant an exemption for something that would be an existing use in these buildings. The interest for the township is for the property to be earning revenue. He feels that what was presented does constitute a site plan.

J. Mathieu concurs.

M. Haring said she totally agrees. What was presented in 1986 shows all the buildings are there, nothing has changed, and the uses are permitted and would like the Board to agree that the site plan from 1986 is still current.

C. Osteragaard is inclined to agree that the 1986 site plan looks the same as it does today.

J. Laudenbach agrees with what that.

L. Bella agrees it is essentially the same.

Andrew Russano said he agrees based on the information presented.

P. Lubitz said that the Board can use their discretion and rule that it is within acceptable bounds.

D. Pierce said the motion is to reverse the Zoning Officer's determination and to determine that there is an existing site plan applicable for the entire property.

J. Mathieu made the first motion, it was seconded by C. Kascik to reverse the Zoning Officer's determination and to determine that there is an existing site plan for the entire property. All members present voted **AYE** on **ROLL CALL VOTE**.

Mr. DeSapio and Ms. Little thanked the Board for their courtesies and left the meeting.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any additions or corrections to the December 09, 2020 Meeting Minutes. None noted. It was moved by J. Mathieu, seconded by A. Russano to approve the Meeting Minutes of December 09, 2020. All members present voted **AYE** on **ROLL CALL VOTE** except **C. Ostergaard** who **ABSTAINED**.

CORRESPONDENCE

The chairman said the Farmland Preservation Program letter doesn't really apply to what the Board does so he will skip over that.

He went on to the Notice of Affidavit of the Processor and asked if the Board needed an Executive Session. D. Pierce said no there is nothing for the Board to do. Mr. Maurer has appealed the Board's decision on the interpretation of the ordinance for Airbnb's in the Byram Colony. Mr. Maurer has sued both the Board and the Township. The insurance company has appointed Gephardt and Kieffer to represent the Township. There is nothing for the Board to do at this point.

P. Lubitz went on to discuss the rest of the correspondence and reports. There were the Zoning Reports and there was not a lot of activity in December. There are the Planning Board Meeting Minutes for August and October. He asked D. Pierce if he was correct in stating that the 2017 Ordinance that we were discussing tonight were discussed in the Planning Board meetings? D. Pierce didn't remember anything specifically. P. Lubitz went to say there has been so much discussion about the 2017 ordinance. He remembered that it was to address the properties that had no site plan and where there was a significant change in use of the buildings. There are some situations where it is a minor situation and becomes a costly endeavor for the property owner for a simple thing. For instance, if tonight we had said the site plan was not valid, thousands of dollars would have been spent for a simple sign on a building.

D. Banisch said he has no comments on that other than that there may have been some confusion between the township and the applicant. The site plan exemption was available to them. They know that will be going through the process from time to time when there is a change in use. He has no comments on the 2017 ordinance.

J. Mathieu has no comments on the 2017 ordinance, and he has no comments on the Planning Board. It has been a long time since they had a meeting.

P. Lubitz said it looks like there was an application for a smaller solar project. D. Pierce said it wasn't an application as it was for informational. P. Lubitz asked has an ordinance been adopted an ordinance for smaller solar? There was an existing ordinance they did adopt, and an amendment have been made for larger scale solar projects. There are no incentives now to develop smaller solar projects as there are for the larger ones.

PRIVILEGE OF THE FLOOR:

No public present so no comments from the public.

ADJOURNMENT:

P. Lubitz asked for final comments from the Board. J. Mathieu thanked P. Lubitz for being Chairman again. The Chairman thanked the Board. He likes to think of Abraham Lincoln

when he said government for the people by the people and that the Board is what government is all about.

M. Haring commented she has 28 years in government. Then Chairman wished everyone a Happy New Year and asked for a motion to adjourn.

It was moved by M. L. Haring, seconded the motion by C. Ostergarrd and carried to adjourn the meeting at 9:11 PM. All members present voted **AYE**.

Respectfully submitted,

Karen Radcliffe
BOA Secretary