

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
February 10, 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 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, Andrew Russano, David Hewitt, John Mathieu, Cynthia Ostergaard, Leslie Bella (Alternate #1)

ABSENT: MaryLou Haring, Chris Kascik

OTHER: David Pierce, Attorney

NEW AND PENDING BUSINESS:

Resolution Hearing for the following:

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

**MEMORIALIZING RESOLUTION 2021-02

FOR

KINGWOOD TOWNSHIP BOARD OF ADJUSTMENT

KINGWOOD HOME IMPROVEMENT LLC

APPEAL OF ZONING OFFICER’S DETERMINATION

BLOCK 9, LOT 24**

WHEREAS, Kingwood Home Improvement LLC (the “Applicant”), owner of Block 9, Lot 24 in Kingwood Township (the “Property”) submitted an appeal of the Zoning Officer’s determination that no site plan for the entirety of the Property existed; and

WHEREAS, the application was declared to be complete; and

WHEREAS, the following documents were submitted with regard to the application, are on file with the board, and are part of the record in this matter:

1. Application Form, dated December 22, 2020, with
 - a. Document titled “Kingwood Township Board of Adjustment Appeal
From Zoning Officer’s Determination;
 - b. Text message from Gregory Bonin to Al Kopp, dated April 7, 2020;
 - c. Zoning Permit denial, dated May 12, 2020;
 - d. Email message from Gregory Bonin to Andrea Little, dated June 9, 2020;
 - e. Letter from Gaetano M. DeSapio, Esq. to Gregory Bonin, dated December 3, 2020;
 - f. Kingwood Township Board Of Adjustment Resolution “In The Matter Of The Variance Application Of Hyman Salzburg”, dated June 11, 1986;
 - g. Email message from Gregory Bonin to Gaetano DeSapio, Esq, dated December 15, 2020;
 - h. Elevation with Floor Plan drawing;

- i. Affidavit of Ownership;
2. Checklist for Variance Application, dated December 22, 2020;
3. Tax records dated December 21, 2020;
4. Ownership Disclosure, dated December 22, 2020;
5. Escrow Agreement, dated December 21, 2020;
6. Letter from Gaetano M. DeSapio, Esq. to Karen Radcliffe, dated December 22, 2020;
7. Site Plan prepared by Stanley Michael Norkevich, N.J.P.L.S., dated April 24, 1986; and

WHEREAS, a public hearing on the application was held on January 13, 2021; and

WHEREAS, the Applicant was represented at the public hearing by Gaetano M. DeSapio, Esq.; and

WHEREAS, the following individuals testified during the hearing, which testimony is part of the record in this matter:

Andrea Little; and

WHEREAS, the following exhibits were marked and entered into evidence at the public hearing:

Exhibit A-1 Definition of Site Plan from the Municipal Land Use Law, 40:55D-7;

Exhibit A-2 Definition of Site Plan from the Kingwood Township Code, Section 132-4;

Exhibit A-3 Minutes of the April 9, 1986 meeting of the Kingwood Township Board of Adjustment;

Exhibit A-4 Kingwood Township Code, Section 132-110G;

Exhibit A-5 List of Permits Obtained for the Subject Property;

Exhibit A-6 Minutes of the Kingwood Township Planning Board meeting of March 10, 2011 for the sign permit for Window World;

Exhibit A-7 Permit No. 072-13 issued by the construction official for improvements to the building designated as #887 Route 12;

Exhibit B-1 Application for Variance for renovation of a portion of a one story wood frame and masonry structure for use in the retail and wholesale sale of lumber and the repair of wood pallets, dated March 31, 1986; and

Exhibit B-2 Affidavit of Publication from Thomas Cashman of the Delaware Valley News, dated March 20, 1986; and

WHEREAS, from the testimony and proofs presented, the Board makes the following findings of fact:

1. The Property fronts on State Highway Route 12, Old Route 12 and Slacktown Road.
2. The Applicant has owned the Property since 2010.
3. The Property is improved with the following structures:
 - a. A single-family dwelling designated as 883 Route 12;

- b. A two story single family dwelling designated as 885 Route 12;
 - c. A commercial building designated as 887 Route 12;
 - d. A commercial building designated as 889A and 889B Route 12 with spaces for two separate tenants; and
 - e. A commercial building designated as 17 Slacktown Road A, B and C with spaces for three separate tenants.
- 4. The Applicant proposed to rent 887 Route 12 to Al Kopp, a carpenter.
 - 5. In or about March, 2020 Mr. Kopp reached out to the Kingwood Zoning Officer who indicated to Mr. Kopp that as long as there were no interior or exterior changes he would receive the necessary zoning approval and that any proposed sign would require zoning approval.
 - 6. Mr. Kopp then applied for a sign permit on or about May 12, 2020 and was informed by the Zoning Officer that he needed a site plan
 - 7. The zoning office then issued a denial of a zoning permit stating that a site plan for the entire property did not exist and that one was needed.
 - 8. The Applicant appeals the Zoning Officer's determination that a site plan for the entire property does not exist.
 - 9. The Property was the subject of an application before this board relating to 17 Slacktown Road in 1986.

10. The minutes of the Board from the April 9, 1986 meeting indicate that a review of the site plan was performed and that the site plan addressed all of the uses and buildings on the Property.
11. The site plan for the entire Property was approved in 1986.
12. The Applicant also presented various proofs of additional building permits issued after 1986 and before 2017 for the Property without the need for a site plan approval.
13. The site plan ordinance was revised on 2017 to make presentation of a valid site plan without unapproved changes a requirement for the issuance of a zoning permit for any change in use.

WHEREAS, the Board voted, after due deliberation, on a motion properly made and seconded to reverse the Zoning Officer's decision and to determine that a valid Site Plan for the entirety of Block 9, Lot 24 exists, by a vote of 7 to 0; it is.

THEREFORE, RESOLVED on this 13th day of January, 2021, that the Zoning Officer's decision that a valid Site Plan does not exist for the entirety of Block 9, Lot 24 is hereby reversed.

MOVED: MATHIEU

SECONDED: KASCIK

THOSE IN FAVOR: HARING, LAUDENBACH, LUBITZ,
MATHIEU, OSTERGAARD, RUSSANO,
KASCIK

THOSE OPPOSED: NONE

ABSTAINED: NONE

ABSENT: HEWITT

INELIGIBLE: NONE

The within memorializing resolution was adopted on the 10th day of February, 2021, by the following vote of those Board members who voted in favor of the approval:

<u>Members</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Ineligible</u>
HARING				X	
HEWITT			X		
LAUDENBACH	X				
LUBITZ	X				
MATHIEU	X				
OSTERGAARD*	X				
RUSSANO	X				
KASCIK				X	
BELLA	X				

Note: C. Ostergaard confirmed all her votes by email to the Board Secretary as the Board could not hear her vote during the Zoom meeting.

Resolution Hearing for the following:

Kingwood Township Annual Report

**RESOLUTION 2021-01
KINGWOOD TOWNSHIP BOARD OF ADJUSTMENT
REPORT ON VARIANCE APPLICATIONS - 2020**

WHEREAS the Municipal Land Use Law, N.J.S.A. 40:55D-70.1, requires that each Board of Adjustment review, on an annual basis, its decisions on variance applications and appeals and prepare and adopt by resolution a report describing its findings on zoning ordinance provisions and recommendations, if any, for amendments or revisions to the zoning ordinance and forward that report to the Township Committee; and

WHEREAS the Board of Adjustment, in the calendar year 2020 reviewed and acted on one application and/or appeal; and

WHEREAS at a meeting held on January 13, 2021 the Board of Adjustment reviewed a report on the two applications and/or appeals presented in calendar year 2020; it is now therefore

RESOLVED, on the 13th day of January, 2021 by the Kingwood

Township Board of Adjustment that the report entitled: Report on Variance Applications – 2020 be, and the same hereby is, adopted and that a copy of said report be forwarded to the Kingwood Township Committee.

REPORT ON VARIANCE APPLICATIONS - 2020 KINGWOOD TOWNSHIP BOARD OF ADJUSTMENT

The Kingwood Township Board of Adjustment reviewed and acted upon one application and/or appeal during 2020. Each application is discussed below individually.

TADD SIANO - BLOCK 30, LOT 2

This was an application for a use variance to allow the creation of an accessory apartment for a family member above an existing detached garage. Because the zoning ordinance was amended in connection with the settlement of the affordable housing litigation, accessory apartments must be restricted to affordable housing units and the variance was denied.

Recommendations:

1. The Township Committee should examine the zoning ordinance and affordable housing settlement agreement to determine if it is possible to make any change to the zoning ordinance to permit non-affordable housing accessory apartments for family members which are subject to restrictions as to sunseting and transferability.
2. In follow up to an application that was decided in 2019, the Township Committee should investigate ordinance revisions to regulate runoff and/or erosion potential to the Delaware River for all developments with less than 5000 square feet of disturbance since those developments are not subject to county soil erosion and sediment control jurisdiction.

P. Lubitz asked for a motion for approval.

It was moved by J. Mathieu, seconded by J. Laudenschach and carried to approve the Kingwood Township Annual Report Memorializing Resolution 2021-01. All members present voted **AYE** on **ROLL CALL VOTE** to approve the Resolution.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any additions or corrections to the January 13, 2021 Meeting Minutes. None noted. It was moved by J. Mathieu, seconded by A. Russano to approve the Meeting Minutes of January 13, 2021. All members present voted **AYE** on **ROLL CALL VOTE** except **J. Laudenbach** and **D. Hewitt** who **ABSTAINED**.

CORRESPONDENCE

There were no January Zoning Reports submitted for this meeting.

The Chairman asked if there was any discussion or comments for the Planning Board items. None noted.

PRIVILEGE OF THE FLOOR:

No public present so no comments from the public.

ADJOURNMENT:

P. Lubitz asked for a motion to adjourn. It was moved by J. Mathieu, seconded by C. Ostergaard to adjourn the meeting at 7:42pm. All members present voted **AYE**.

Respectfully submitted,

Karen Radcliffe
BOA Secretary