

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
March 08, 2023
7:00 PM**

CALL TO ORDER

A regular meeting of the Kingwood Township Board of Adjustment (BOA) was called to order at 7:00 pm by the Chairman, Phil Lubitz.

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 and Courier News on December 22, 2022. Copies of the notice were also posted in the Kingwood Township Municipal Building on December 22, 2022. The Board of Adjustment proceedings close at 10:30 pm.

ROLL CALL:

PRESENT: Phil Lubitz – Chairman, James Laudenbach – Vice Chairman, David Hewitt, John Mathieu, Cynthia Ostergaard, Leslie Bella, David Frank, Paymon Jelvani (Alternate #1).

ABSENT: None

OTHERS: Matthew Flynn, Attorney, Kelley O'Such, Engineer in for Wayne Ingram

NEW AND PENDING BUSINESS:

Determination of Completeness Hearing for the following:

- **Block 22, Lot 16.10 – Anthony Giuliani – 14 Pemberton Road** - Building of one-story accessory storage structure- Setback and distance between buildings variances.

The first order of business is the Determination of Completeness Hearing. The Chairman went over Wayne Ingram's Technical Review letter and waivers for Items 23, 40 & 44 from the previous Completeness Hearing in October 2022 (see attached Technical Review letter at end of Meeting Minutes). All outstanding documents have been submitted. It was Mr. Ingram's recommendation that the application be deemed complete. P. Lubitz asked the Board if there were any comments or questions about the Completeness of the application. None noted so he asked for a motion to deem the application complete. A motion was made by J. Mathieu, seconded by C. Ostergaard. The Chairman asked for a Roll Call Vote.

Roll Call Vote:

P. Lubitz	Yes
J. Laudenbach	Yes
D. Hewitt	Yes
J. Mathieu	Yes
C. Ostergaard	Yes
L. Bella	Yes
D. Frank	Yes
P. Jelvani	Alternate #1 does not vote due to a full quorum.

Public Hearing for the following:

- **Block 22, Lot 16.10 – Anthony Giuliani – 14 Pemberton Road** - Building of one-story accessory storage structure- Setback and distance between buildings variances.

P. Lubitz said the next order of business is the Public Hearing. He asked for a motion to open the Public hearing. A motion was made by J. Laudenbach, seconded by L. Bella. A Roll Call was taken to open the Public Hearing.

Roll Call Vote:

P. Lubitz	Yes
J. Laudenbach	Yes
D. Hewitt	Yes
J. Mathieu	Yes
C. Ostergaard	Yes
L. Bella	Yes
D. Frank	Yes
P. Jelvani	Alternate #1 does not vote due to a full quorum.

M. Flynn, Attorney swore in the applicant, Anthony Giuliani.

P. Lubitz asked Mr. Giuliani to describe his project and state why he is before the Board this evening.

Anthony Giuliani said the project is to construct an accessory structure, looking for two variances - the distance from the house and distance from the side set back. After consulting with his engineer, this is the best place to locate the structure. There are a lot of constraints with his property based off of features that are there – a small creek, the septic placement, considerable conservation easement and wetlands so this is the ideal location. And it would reduce the impervious coverage.

P. Lubitz said he looked at the application and it says it is a one-story building but looking at the plans it looks like a two-story building.

Mr. Giuliani said there is an unfinished attic space and he does not know if that counts as a second story.

P. Lubitz asked if the height of the building was under 35ft. and Anthony Giuliani said it was only 25ft.

The Chairman asked the attorney about the type of variance. The application says it is a C2 variance, but he thinks a C1 might work as well and if he had a comment on that.

M. Flynn said that it would be the owner's choice of how he wants to present it to the Board. Based on his testimony, the constraints on the property, it is a flag lot, there is a significant conservation easement to the rear of the existing home and to the rear east side is the existing septic field. So if he wants to put a garage on this property he is constrained to this particular location, therefore necessitating the variances and it is a C1 hardship test as opposed to a C2 variance. It is up to the applicant.

Anthony Giuliani said the C1 variance would be more appropriate.

P. Lubitz said they would go through the Technical Review and asked if he had considered other locations on the property.

Anthony Giuliani said yes. If you face the house, a consideration was to the left but there are approximately 35 trees that would have to be removed, there was drainage from the conservation easement which would require significant engineering, and addition of a driveway to the garage which would cause significant impervious coverage in addition to be too close to the septic field and the well.

P. Lubitz asked what the building is to be used for. Anthony Giuliani said it would be for storage. He has quite a bit of property and his neighbor is a relative and he takes care of their property as well. He is looking to store a Kubota with a plow, he maintains the plowing of the driveways, and he is a beekeeper and has beekeeping equipment. The main purpose is agricultural storage.

P. Lubitz asked he has given any thought to landscaping. Anthony Giuliani said he discussed with his neighbor prior to starting the project and he had no problems with it. Perhaps down the road if needed they will discuss it again but it wasn't required at this time.

A silt fence was recommended by the Engineer and around the conservation easement and around the neighbor. Anthony Giuliani said he had no problem with that.

P. Lubitz said there was a date missing from the plans and it should be updated. A foundation location survey should be required to show the garage is located at the proper setbacks. Mr. Giuliani said it would be provided. P. Lubitz asked if he had any contact with the Soil Conservation District and the D&R Canal Commission. Mr. Giuliani asked to defer to his engineer.

M. Flynn swore in Radim Kucera, Engineer. He had previously came before the Board so the Board accepted his credentials.

R. Kucera said as far as the Soil Conservation District the total disturbance of land is below 5,000 s.f., about half, they are exempt and for the D&R Canal Commission, it is considered a minor project by definition therefore they are exempt. K. O'Such asked him to update the plan to illustrate that they are below the 5,000s.f. Mr. Kucera said it is a required item by the Township Engineer and it will be done.

P. Lubitz asked K. O'Such if he had any questions or comments. K. O'Such said that there was certification in regard to the storm water management. Basically the overall subdivision was designed recently and the applicant's engineer provided a letter certifying that the new impervious was designed under the old subdivision so no new storm water design was required for this new structure.

P. Lubitz asked the Board if they had any questions for Mr. Giuliani or Mr. Kucera.

D. Frank said the drawings show the height at 30 feet high but earlier you said it was 25ft. Which is correct? Mr. Giuliani said the architect has the height at 25 ft. D. Frank also asked if the garage could be shifted to the west to give more property line relief? Mr. Giuliani said it would put it directly behind his house which would reduce his backyard and it would also increase the driveway.

K. O'Such said he was looking at the drawings for clarification on the height of the building. The drawing shows the height to the ridge line is 28 feet. Which is correct? 28 feet or 25 feet? 28 feet is the correct height said Anthony Giuliani.

C. Ostergaard asked if there would be electricity to the building? Mr. Giuliani said yes, there will be powered garage doors and outlets. How about access to the pole where the electrical will be coming from? It will be trenched underground from the pole to the garage.

K. O'Such asked if there was any water and sanitary going to the garage. There is no water or bathrooms in the garage.

M. Flynn asked the applicant to confirm the precise distance from the house and from the lot lines?

R. Kucera confirmed that it was 10 ft. from the westerly property line the side yard and 10.67 ft. from the main building.

P. Lubitz said item 9 on the report that a foundation location survey should be required. M. Flynn said he has items 6 through 10 as conditions.

J. Laudendbach asked since it is so close to the lot line has any screening been considered? R. Kucera said that has been addressed with the neighbor and no screening or landscaping was required at this time. P. Lubitz said we should consider and future new neighbors.

R. Kucera said that the property line is naturally screened with trees that follows a ditch. It completely screens that side of the property.

P. Lubitz asked what type of trees are there? Anthony Giuliani said there are maple trees, ash trees, walnut trees and a ditch with natural grass. P. Lubitz asked the Board if they were OK with that and what they required the past for other projects.

J. Laudendbach said if the neighbor is on board with that, then it is OK.

C. Ostergaard asked would the ash trees come down at some point? Anthony Giuliani said that they may die off naturally or if they become a hazard he would have to take them down.

P. Lubitz asked the Public for any comments. No public present so the Chairman asked for a motion to close the Public Hearing. A motion was made by J. Mathieu, seconded by D. Hewitt. All members present voted **AYE** to close the Public Hearing.

P. Lubitz said there are no objections to the plan proposed by Mr. Giuliani with several conditions. He asked for a motion to accept the plan.

J. Mathieu made the first motion, seconded by C. Ostergaard to accept with the conditions being brought forth by the attorney.

M. Flynn read off the conditions as follows: provide the limit of disturbance on a revised plan to show that it is below the 5,000 s.f. threshold for the County, a temporary silt fence around construction, a revised date on the plan, foundation location survey and standard conditions such as any outside agency approval, C1 variance for the 10 foot side yard where 30 feet is required and 10.67 feet from the existing dwelling where 20 feet is required.

P. Lubitz asked for a Roll Call Vote.

Roll Call Vote:

P. Lubitz	Yes
J. Laudendbach	Yes
D. Hewitt	Yes
J. Mathieu	Yes
C. Ostergaard	Yes
L. Bella	Yes
D. Frank	Yes
P. Jelvani	Alternate #1 does not vote due to a full quorum.

The application is approved. Congratulation Mr. Giuliani.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any questions or comments, additions or corrections to the February 8, 2023 BOA Meeting Minutes. D. Frank said that he “couldn’t launch his boat because the lot was full of cars” not that he didn’t have a launch permit. The Chairman asked for a motion to approve the meeting minutes with corrections.

It was moved by L. Bella seconded by D. Frank to approve the Meeting Minutes of February 8, 2023 with corrections.

P. Lubitz asked for a Roll-Call Vote:

Roll Call Vote:

P. Lubitz	Abstain
J. Laudenbach	Yes
D. Hewitt	Yes
J. Mathieu	Yes
C. Ostergaard	Abstain
L. Bella	Yes
D. Frank	Yes
P. Jelvani	Alternate #1 does not vote due to a full quorum.

CORRESPONDENCE/REPORTS:

The Chairman reviewed the February Zoning Report and commented that there was nothing remarkable going on with that.

P. Lubitz moved on to the Planning Board Agenda. He asked John Mathieu what is the Ant Farm? Can you give us a brief description of what that is?

J. Mathieu said does not know what that is. P. Lubitz asked the attorney, M. Flynn if he knew.

M. Flynn said it is a nice name for the LLC but both subdivisions were just large farm properties where they subdivided off the existing buildings from the rest of the lots. Very uncomplicated subdivision. Just a cool name for the subdivision.

Another thing the PB is dealing with Rt. 12. J. Mathieu said that it is an ongoing thing.

C. Ostergaard asked if there were any updates from last meeting to this meeting on the Green Acres property on Rt. 29 with the parking lot situation?

Not to his knowledge said the Chairman. J. Mathieu said it is ongoing. It is top of mind and discussions are going on with the mayor. There are a lot of issues there and in his opinion, it is very inappropriate.

P. Lubitz said a letter is being drafted now to go to the leadership of Parks. C. Ostergaard asked what is the zoning there? P. Lubitz said it is zoned by the state, so they supersede the township zoning.

J. Mathieu said that was correct and they are not required to come before the PB. When they did an addition to the school years ago they were not required to come before the PB but as a courtesy they did. The state has complied with every single thing as far as land use – the grading, the drainage along Rt. 29. They never came before the PB. There are a lot of issues that need to be resolved and it is well under way.

P. Lubitz said early in the process, the Acting Director of Parks offered to come to an open meeting of the township, but it was not taken up by the mayor at that time.

P. Lubitz asked for any other comments. None noted.

ADJOURNMENT

P. Lubitz asked for a motion to adjourn.

J. Laudenbach made the first motion and seconded by J. Mathieu to adjourn the meeting. All members present voted **AYE**. The meeting ended at 7:35pm.

All meeting votes were unanimous with a vote of 7:0 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
BOA Secretary