

**KINGWOOD TOWNSHIP
BOARD OF ADJUSTMENT
MINUTES
July 14, 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. 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 Laudenschlager – Vice Chairman, David Hewitt, John Mathieu, Cynthia Ostergaard, Paymon Jelvani (Alternate #1).

ABSENT: Leslie Bella, David Frank

OTHERS: Matthew Flynn, Attorney, Kelly O'Such (in for John Hansen)

NEW AND PENDING BUSINESS:

Public Hearing for the following:

- **Block 24, Lot 1.01- Marinelli Brother Acquisitions, LLC** – Preliminary & Final Site Plan, C1 Non-Use Variance (Hardship) & C2 Non-Use Variance (Benefits vs. Detriments).

Determination of Completeness for the following:

- **Block 12, Lot 11, Q100 – 1076 Rt. 12, LLC** c/o Richard Lewandowski – Preliminary & Final Site Plan, C1 Non-Use Variance (Hardship), C2 Non-Use Variance (Benefits vs. Detriments & D1 Use Variance in a District Restricted Against Such Use of Principal Structure. A Class B and Class C Recycling Facility.

P. Lubitz announced that the Board will not be hearing either of the two applications this evening, There will be an opportunity for anyone to speak at the Privilege of the Floor at the end of the meeting. It would be best if we did not comment on business before the Board this month.

He continued. The first order of business is the Marinelli Brothers and he understands that they are asking for a continuance of their hearing until next month.

M. Flynn agreed and said that they did notice for this month; their notice was in order as was their Affidavit of Service. The Board would have jurisdiction to hear the application and they asked to carry to the August meeting

on August 9, 2023. They have asked that the Board continue it with no further notice. This meeting serves as their notice and will be appearing before the Board at next month's meeting, August 9th at 7:00pm on Zoom.

P. Lubitz asked if the Board needed to take a vote on that.

M. Flynn said no that it could be done through the Chairman. P. Lubitz then stated that we'll just continue it until next month.

P. Lubitz said next on the agenda was a Determination of Completeness for Block 12, Lot 11 – 1076 Rt. 12, LLC. John Hansen has been in touch with the applicant. They agree there are some missing pieces to make this application complete. So again, we do not have a complete application. Since it is incomplete, do we have to vote on it?

M. Flynn said yes Mr. Chairman. The vote would be to adopt John Hansen's letter and deem the application incomplete as currently submitted. P. Lubitz asked for a motion.

The Chairman asked for a motion. It was moved by J. Mathieu seconded by D. Hewitt to deem the application incomplete as currently submitted. The Chairman asked for a discussion on the motion. None noted. He then asked for a Roll-Call Vote:

Roll Call Vote:

- P. Lubitz **Yes**
- J. Laudenschach **Yes**
- D. Hewitt **Yes**
- J. Mathieu **Yes**
- C. Ostergaard **Yes**
- L. Bella **Absent**
- D. Frank **Absent**
- P. Jelvani **Yes**

The motion passes and the application is deemed incomplete.

APPROVAL OF MINUTES:

P. Lubitz asked if there were any questions or comments, additions or corrections to the May 10, 2023 BOA Meeting Minutes. None noted. The Chairman asked for a motion to approve the Meeting Minutes. It was moved by J. Laudenschach, D. Hewitt seconded the motion to approve the Meeting Minutes of May 10, 2023.

P. Lubitz asked for a Roll-Call Vote:

Roll Call Vote:

- P. Lubitz **Yes**
- J. Laudenschach **Yes**
- D. Hewitt **Yes**
- J. Mathieu **Yes**
- C. Ostergaard **Yes**
- L. Bella **Absent**
- D. Frank **Absent**
- P. Jelvani **Yes**

CORRESPONDENCE/REPORTS:

Next on the Agenda are the Reports. P. Lubitz said he did not see the Zoning Report. The BOA Secretary said she did not receive one. The Chairman said next were the Planning Board Minutes of April 13th and Planning Board Agendas for May 11, 2023 & June 8, 2023. Is there anything that caught your eye or if John or Matt do you want to comment? None noted.

PRIVILEGE OF THE FLOOR:

The Chairman said now we have the Privilege of the Floor and we have some public with us. We will not discuss the applications that are before the Board. There will be time at the next meeting.

J. Mathieu asked if he could make a suggestion and that was to explain what a Completeness Hearing is and why you made that request.

M. Flynn explained that there is an application before the Board tonight. The Board conducts what is called a Completeness Hearing which is just determining whether the Board has enough information to even proceed with the application. When an application comes into the Board Secretary, the Board has 45 days to make a determination on whether or not the application is sufficiently complete to hear or whether or not it's going to be deemed incomplete. Our Engineer reviewed the materials for the application this evening and determined that there were a number of outstanding items that had to be provided. The Board concurred with that assessment and deemed the application incomplete. As a result, it means the Board is not in the process of hearing the application. The application has not even been set up for Board review or approval or disapproval yet. The reason the Board does the Completeness Hearing is just to allow the Board to follow the process along from when the application first comes in.

Now, it is an administrative function and no public requirement. I have advised the Chairman to limit the Privilege of the Floor to non-agenda items at this time. There will be ample opportunity for everyone in the audience to ask questions and comments in line with the Municipal Land Use Law. Once they submit more information, it will be back in front of us for a follow-up Completeness.

P. Lubitz said there will be a public hearing at which we take testimony from the applicants as well as the public prior to the Board voting in favor of or in opposition of the project. We are now taking public comment.

Priscilla Hayes introduced herself as a newly appointed member of the Township Environmental Commission and stated it is empowered under a state statute and set up by ordinance. Our function is to assist the town government with environmental issues and to give insight or questions we have in as timely a manner as possible.

P. Lubitz thanked P. Hayes for that and said she would be given ample notice of our meeting.

P. Lubitz then stated that he was talking to a citizen, and they said many of the documents for 1076 RT. 12, LLC are not on our website such as the site plan and such. He asked the BOA Secretary if the documents were posted.

The Secretary stated that everything that was submitted was posted. It was the same drop box that everyone got and it was posted to the website. It is all up there. They can also come into the office where there are hard copies if they want to look at those.

P. Lubitz reminded everyone that the Municipal Building is now closed on Friday's. He then asked if there were any other comments from the public.

A citizen named Joe Egidio had two questions. The first was why the meeting is still on Zoom as opposed to in person. P. Lubitz said the meeting has been on Zoom for quite some time. J. Egidio asked if they would be back in person at some point. P. Lubitz said we haven't made that decision.

J. Egidio asked his second question. He was reading up on the Class B recycle facility and he sees that they (the applicant) also want a Class C facility. Is the Board familiar with that? He did not have the time to look that up. P. Lubitz said it would be best to hold off on that until the hearing. He could look it up on Google.

Another citizen, Rick Covert said he jumped online to see about the wood processing plant. That has been delayed. P. Lubitz said yes, their application was incomplete. R. Covert asked when the next meeting would be. The reply was August 9th. The BOA always meets the second Wednesday of the month at 7:00pm.

J. Mathieu asked a procedural question that has nothing to do with the applications. If an application whatever it is, whoever it is, whenever it is, it is required to be submitted 10 days before a hearing. Is it 10 business days or 10 calendar days?

M. Flynn said it is 10 business days not counting weekends. But the reason they (the applicant) couldn't move forward is they had a problem with the Fourth of July holiday and submitting their application on time. J. Mathieu said he thought it was that but just wanted to verify it.

ADJOURNMENT:

P. Lubitz asked for a motion to adjourn. J. Mathieu made a motion, seconded by J. Laudenbach to adjourn the meeting. All members present voted **AYE**. The meeting ended at 7:19 pm.

All meeting votes were unanimous with a vote of 6:0 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