

MINUTES

PRESENT: S. Harris
D. Haywood (7:57 PM)
J. Mathieu
S. McNicol
M. Syrnick
G. Vitale
L. Voronin
F. Murray, Alt #1
D. Banisch, Planner
K. Michko, Attorney

ABSENT: A. Russano

CALL TO ORDER

The meeting was called to order by J. Mathieu at 7:31 PM.

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. Due to continuing COVID19 precautions, the Planning Board meeting is a virtual meeting held online. The meeting is hosted on Zoom with the link posted on the Township website.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News on January 20, 2023, and has been posted in the Kingwood Township Municipal Building on January 20, 2023 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Special Occasions Events on Preserved Farmland – New Law Passed

S. McNicol stated the Open Space/Ag Board discussed it at their last meeting. She doesn't have the minutes of that meeting and she doesn't want to say anything incorrectly. She does know that there were some comments made at the meeting regarding the matter.

The matter was tabled until the June meeting.

EV Charging Stations on Existing Commercial Sites located on Route 12

D. Banisch reviewed his memo with the Board:

Attached, please find the first draft of an Electric Vehicle Supply and Service Equipment (EVSE - Electric Vehicle Charging Stations) for your review and comment. This is the NJDCA Model Ordinance that complies with the State law the governor recently signed into law that requires electric vehicle charging stations and make-ready charging stations for new development above certain thresholds, and allows the installation of

electric vehicle charging stations at existing parking spaces without site plan approval. These standards would be added to the Zoning Ordinance at Section 132-62, which is currently "Reserved".

See Section C. Permits and approvals, subsection 1 that states that "... the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70."

In this draft of the ordinance, the Zoning Officer is the local official identified as responsible for reviewing and approving applications to install EVSE or Make-Ready parking spaces. The installation is subject to electrical subcode official inspections, but it is the Zoning Officer that would accept applications, and inspect the installation to ensure that it complies with the standards for how the electric vehicle charging station complies with ordinance requirements such as (1) placement of the charger in such a way that it does not interfere with safe pedestrian movement around the charger(s) and (2) placement of required signs and paint striping. The Zoning Officer would also be responsible for any enforcement action that may arise.

The Board may want to consider recommending that the Township Committee consider identifying fines that are less than the maximum penalty fine provision that is currently found in the ordinance at Section 1-15, and identified in the draft ordinance, which provides for the following.

§ 1-15 Maximum penalty; repeat offenses.

A.

Maximum penalty.

(1)

For violation of any provision of the Code of the Township of Kingwood or any amendments, modifications, revisions or additions thereto or any other ordinance of the Township of Kingwood, unless a specific penalty is otherwise provided in connection with the provision violated, the maximum penalty upon conviction of the violation shall be by one or more of the following: imprisonment in the county jail or in any place provided by the Township for the detention of prisoners, for a term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days (N.J.S.A. 40:49-5).

The Board may or may not agree that this seems like a pretty severe fine for parking in an electric vehicle parking space and not being connected to the charger. Of course, the Court ultimately determines what level of fine is actually imposed. However, the Board may want to recommend a flat \$50, or \$100 fine and have that potential fine amount posted on a sign at the charging station.

D. Banisch stated the legislation makes it mandatory for the provision of these facilities for certain new developments and automatically permits EV charging stations as permitted uses. The draft ordinance raises a couple of questions. He stated most of the ordinance is mandatory and can't be altered. There are requirements under the law that are specifically required by the law. There are a couple of things that need to be determined by the municipality.

D. Banisch stated that since the ordinance, as he has drafted, will be added to the zoning ordinance it makes sense that the zoning officer should be responsible for any of applications, include insuring that that the installation is placed in such a way that it does not interfere with any pedestrian traffic, appropriate signage per the law and to the extent any enforcement action. The ordinance identifies requirements that vehicles cannot be parked in the EV charging stations unless they are connected to the charger and there is a fine goes along with it

or a suggestion that there be a penalty with violating that requirement of the law. The model ordinance suggested a reference to regular fines that the municipality authorizes whenever there are violations in the ordinance but those fines are pretty severe. He inquired how does the Board want to recommend it to the Township Committee. Should there be a flat fee for the offense of parking in a EV charging space without being connected such as \$50.00 or \$100.00 so there is actually something identified in the ordinance. There will be an electrical inspection done by the SubCode official for the appropriate installation. In reference to compliance, he is referencing the general placement of EV charging station.

After some discussion it was decided that the Zoning Officer should be responsible for the enforcement of the EV ordinance.

D. Banisch stated the Board could recommend to the Township Committee a penalty other than the general provisions in the ordinance.

The Board discussed the above options and decided that the fines were excessive. The consensus was a fine of \$50.00 or \$100.00 per violation.

D. Banisch stated that the judge will decide the appropriate fine if the ordinance were silent but if the ordinance specifically identifies the fine, it gives the court guidance when they are dealing with a violation.

D. Banisch stated the ordinance refers to the municipal police department monitoring the spaces to identify if there are violations of non-electric vehicles parked or standing in the EV station. He substituted the New Jersey State Police but he doesn't see them continuing any monitoring of the spaces. It is not a big deal in the long run. The ordinance establishes what the requirements are at the time of site plan approval of non-residential or major subdivisions. He stated EV charging stations have to be provided according to the law and the stations are permitted accessory uses and the Township cannot require an applicant to obtain a variance. He stated the Board should review his suggestions and have a discussion next month.

M. Syrnick stated she noticed in the ordinance a provision for municipally owned EV charging stations and the fee. The Environmental Commission is looking at a grant. She is not sure how a section could be added to require a person utilizing the EV station to pay the Township a fee.

D. Banisch responded that he left that section blank. He agrees with M. Syrnick that before a municipality can decide where they want one, i.e. municipal building, park, it can be held in abeyance until such time as the Township wants to move forward.

J. Mathieu stated Kingwood Township and other municipalities would go into the business of fueling cars by creating EV charging stations for people to pull into and plug in, similar to gas stations.

D. Banisch stated some municipalities, busier than Kingwood, who have more visitors to their municipal building see a charging station as a convenience. He stated the park is the most likely spot that residents might be using when they come for a visit, walk or recreational activity. He stated the park gets pretty busy. He stated eventually the EV will become a mode of travel. In response to J. Mathieu's comment, D. Banisch stated it is not so much that the Township is going into the business of it but seeing the opportunity to provide that service for the public and being able to at least break even.

J. Mathieu inquired if Kingwood would take bids for someone to install the EV charging stations or put it in through its tax base.

D. Banisch responded it can go either way but it is for the Township Committee to decide if they would like to solicit proposals from suppliers. The suppliers would pay the municipality for the opportunity to install them in public places. The Township could go that route or install the stations themselves.

M. Syrnick stated the Environmental Commission had looked at obtaining grant money to put in one station. The Township could then put a meter on the station rather than the Township paying to charge someone's car. The Township does not have anything in place so she doesn't think it is appropriate to discuss the fees at this time but possibly in the future when the need increases because there are more EV cars. It is something that could be done down the road.

L. Voronin stated she has been checking into purchasing an EV and it could take up to six hours to charge a battery, depending on how much the battery has been rundown. She also stated that some car companies that make EV's are offering to install an outlet outside your house. She inquired if it would be an EV station and how would it be regulated or is it regulated. She stated if you leave the car plugged in for a long time after it has been charged it could catch fire.

J. Mathieu stated that the future is not electric or gasoline cars. It is fuel cell cars. He stated there will probably come a day when the Township will wonder why they ever did all of this because fuel cell is the future. He stated Toyota has them on the market in California. He stated he knows that everyone is all charged up about electric cars but this is not the future. He stated electric cars will be around for awhile with the government's input but is it not the future. The future is already here. He stated Toyota created the Prius and they are on the frontline of energy conservation. Toyota is now selling the Toyota Mirag, which is their fuel cell car. He stated the Board members could Google it. It is marketed with a beautiful presentation similar to going to a dealership to buy a car. He stated the price is \$49,000, which seems expensive but that is what a good electric car goes for today. He stated it is probably 10 years away from actual practicality in terms of fueling it because it runs on hydrogen. It is not an internal combustion vehicle. It takes hydrogen and through a series of plates converts the hydrogen into electric and the end product out of the tail pipes is water and oxygen. He stated he will not vote for the ordinance.

M. Syrnick stated the ordinance is coming from the State and at the last Planning Board meeting it was discussed that either the Township puts something in to be proactive or just let it be governed by the State.

J. Mathieu stated let it be governed by the State. He stated let them do it as they are proposing it. There isn't much that the Township can do but as he understood correctly, after 5 units are construction, they are required to have one station. There is a formula for the EV stations. It is not fair to ask a developer to install the stations that will be gone in ten years. He doesn't see how the government got involved. If the Township is going to put one at the park, why don't they put in a gas station for the people that drive gas cars.

S. McNicol and L. Voronin stated J. Mathieu had a good point.

S. McNicol stated there are starting to be a lot of fires recorded from electric bikes and vehicles. She understands that the fires are very difficult to put out when it does catch fire. She stated it is extremely difficult to put out the batteries. They basically have to let the vehicle burn out.

D. Haywood entered the meeting at 7:57 PM.

S. McNicol stated she doesn't know the exact number but it takes much more water to try to extinguish an EV car fire. The materials for the battery are mined in developing countries. She has felt the same way as J. Mathieu about hydrogen powered vehicles. She stated the infrastructure has to be put in place. She stated the exhaust is water and oxygen and you can't lose.

J. Mathieu stated someone can purchase a Toyota fuel cell car. It is here and now. With the hydrogen vehicles, a fueling station will be needed. He doesn't have a problem with an EV but inquired where in Kingwood will the chargers be installed. There are two charging stations in Stockton and he has never seen a car in front of them. They are 60 amp charges so they charge in 2.5 hours. He stated there are safety concerns and with the Township getting involved. If the Township installs a charging station and someone is sitting in their care for 2.5 – 3 hours, somebody could come up with a gun and rob them. The Township may be liable since it installed the chargers. There is a lot of consideration when you get into public participation in the marketplace and maintenance of the charging stations.

S. McNicol inquired if the Township would be responsible for the maintenance of the charging stations. She stated someone will have to handle it and it should be left to businesses.

M. Syrnick inquired if the Board feels it should be ignored and not have input in the ordinance. The ordinance is saying that if there are so many parking spaces some of them should be EV spaces. Does the Board want to table the ordinance? She doesn't want to waste anyone's time.

J. Mathieu stated he is expressing his own personal opinions, nothing more or less. He is fine with a motion.

M. Syrnick inquired if the Board would like a chance to review the draft ordinance and discuss it next month.

J. Mathieu stated he has no problem reviewing it.

D. Banisch stated through legislation in Trenton and Washington it is a classic case of a government supported industry. He stated to J. Mathieu that what he was saying about fuel cell cars is great news. He always hoped that hydrogen would be our savior. He doesn't know how they capture or deliver it to be consumable. It will take a lot of lobbying and government legislation to really encourage the industry to take off.

Standards for Conditions of Approval

There was no discussion.

Farmland Preservation Plan

D. Banisch stated it was on hold and he hoped that the SADC would be taking some action this month or next. He gave an update last month. The Township is in a holding pattern. He explained that the Township has \$1million dollars available. He doesn't anticipate any response before their May meeting. The approval is not in the way of Kingwood getting any money.

S. McNicol stated the Township is pursuing some properties. It has been slow going lately but there has been some movement. The Township does want to move to spend the funds. The Township is waiting for the other government entities to move on the plan.

Memo from J. Fleming

L. Voronin stated she couldn't find it in the meeting package.

M. Syrnick stated she wasn't sure the Board received one. She stated J. Fleming was on the call last month and brought up a lot of good points, such as expiration dates on some projects, etc. She stated the Board seemed excited about the different points brought up by J. Fleming. She is not sure that he had the time to summarize his suggestions. It can be listed on next month agenda.

April 13, 2023 Minutes

It was moved by S. McNicol, seconded by S. Harris and carried to approve the minutes of April 13, 2023 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except L. Voronin, who **ABSTAINED**.

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

L. Voronin inquired if the attorney had a chance to check to see if the County Ag Board supersedes Kingwood Township's land use regulations in regard to the number of cargo containers that can be on a property. Kingwood only allows one container per property.

K. Michko stated she will follow up with A. Fisher.

J. Mathieu stated, correct him if he is wrong, but the Township only allows one.

M. Syrnick stated she knows that there is a difference between residential and farm properties but she is not sure what the ordinance says about farms. She inquired if the County Ag board supersedes the Township's ordinance. There are two farmers who have more than their share of containers on their properties.

S. McNicol stated the Township's ordinance provides for one on a farm. The farmer went to the County Ag Board and received permission to have six. There was a letter sent several years ago to the Zoning Officer. She is not sure of the number of containers that are currently on the property. The property is farmland assessed. She stated the property may be dismantling tractor trailers. They received permission from the County Ag Board to have six containers because they were hay farmers and needed a place to store their hay. It looks to her that a lot of those trailers appear to be empty.

J. Mathieu stated the Township attorney should write a letter to the County Ag Board and inquire what authority permitted them to supersede the Township ordinance permitting one container.

S. McNicol stated the County Ag Board never checked with the Township and she is not sure that RTFA supersedes every ordinance. She has asked for the information at the last two meetings.

K. Michko stated she will move on it.

L. Voronin requested the attorney also inquire if the County Ag Board follows up on the properties regarding how many trailers are on the property. Since the County Ag Board permitted the trailers shouldn't it be their responsibility to follow up.

J. Mathieu stated he can remember when this first came up, about 20 years ago. It was determined that properties could have one. The reason for the one was so that farmers could store their feed so that mice, rats and other foragers could not get to the feed. There was a committee that was formed, of which he was a member, that decided it would be permissible to have one trailer. He stated the County Ag Board should be written to inquiring where they get the authority to grant the additional trailers. He stated it is a municipal issue and not a County one.

S. McNicol stated the containers are the ones that come off the giant ships and the ones you see on Route 78.

D. Banisch inquired what kind of agricultural activity is being conducted on the site.

L. Voronin stated she noticed a lot of trailers from looking at the Google Map.

J. Mathieu stated if the Township attorney looks at the ordinance, they will find, many years ago, that the Township addressed the issues and there is an ordinance that specifies who can have a container and how many are permitted.

M. Syrnick stated the question is if the County Ag Board supersedes the Township.

J. Mathieu responded he doesn't think they do.

M. Syrnick agrees with J. Mathieu but the owner was waiving a letter sent to the Township that the County provided him with permission, which doesn't seem right. The Township has an ordinance in place regulating containers.

S. McNicol clarified that it is the County Ag Board and not the County Commissioners who were responsible for granting the approval.

M. Syrnick inquired if it came under RTFA.

S. McNicol stated she doesn't know.

J. Mathieu stated the Township attorney should write a letter requesting the information of who, what, where and how because as far as he knows it has never changed permitting one container on a farm property.

L. Voronin stated the property is Block 19, Lot 4, 978 County Road 519 owned by C. Agulis.

S. McNicol stated it is the old RDR property.

J. Mathieu asked if the Zoning Officer should go out and check the property.

L. Voronin stated the property is farmland assessed. She stated she provided the information to M. Syrnick and thought she forwarded it to the Zoning Officer.

M. Syrnick stated she gave him the information but she doesn't know what the result was as she has not talked to him about it. She did forward him the information on Block 6, Lot 21 with the port-a-johns.

L. Voronin also inquired about the property next to the liquor store.

M. Syrnick stated all the favorites were sent to him and he is going around to different people. She stated some people have called the Mayor. She stated the Zoning Officer is very professional with a nice touch. He starts by requesting the people to come in, talk to him and review their site plan. The properties discussed were forwarded to him.

J. Mathieu stated J. Fleming is a good guy and he has known him for several years. He does have a nice way about him.

M. Syrnick stated J. Fleming has been in zoning for 30 years.

J. Mathieu stated he may have known him before he was involved in zoning. He is happy the Township has him.

ADJOURNMENT

It was moved by S. McNicol, seconded by S. Harris and carried to adjourn the meeting at 8:21 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary