

MINUTES

7:30 PM

PRESENT: T. Ciacciarelli
C. Ely
D. Haywood
L. Riggio
S. Harris, Alt #1
K. Kocsis, Alt #2
W. Ingram, Engineer
D. Pierce, Attorney

ABSENT: L. Frank
J. Mathieu
S. McNicol
M. Syrnick
L. Voronin

CALL TO ORDER

The meeting was called to order L. Riggio at 7:30 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. To ensure everyone's safety, please keep your mask on during the meeting and adhere to social distancing. Any comments from the board members who are not seated on the dais or public must be made through the microphone provided at the podium.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News on July 30, 2020, and has been posted in the Kingwood Township Municipal Building on July 30, 2020 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Farmland Preservation Element of Master Plan

L. Schmid, Open Space Coordinator, called in to the meeting. She stated the Board received a rough copy of the existing Farmland Preservation Element. The Element needs to be updated so the Township can continue to get a green light on farmland preservation projects. She has begun to make some changes in red and blue ink. She also indicated that the Planning Board will only have to look at the planning sections of the Element. She is requesting that the Board members review the Element and provide comments to the Ag Committee for their September meeting. The Township will have to have input from D. Banisch, Planner, to see if there were any statutory changes that need to be made to the Element.

T. Ciacciarelli indicated that the Township Committee will be contacting D. Banisch.

L. Schmid stated, by the September meeting, the Board should have some more information. She stated some of the items that may need updating are how the Township intends to deal with farmland preservation, how will

it be funded to cover the Township's costs, grants, bond issue, etc. She provided her contact info to the Board members.

Block 12, Lot 33 – Delia – 955 County Road 519 – Determination of Completeness

G. DeSapio, attorney in Frenchtown, stated he was here on behalf of the Delia estate. The application is for a one lot minor subdivision. The farm is in an estate since S. Delia passed away. There are five heirs. In order to accommodate the distribution of the estate and to maintain the integrity of the farm and remaining land, the applicants propose to subdivide the house and sell it. The remaining lands would remain as a single farm unit where there would be an agreement between the remaining heirs as to ownership. There is no proposal to develop the remaining lands. The application does not propose any new construction or disturbances on the lot to be created or on the remaining lands. He stated, once the Board gets to the hearing on the application, they will find that there is no detriment to any aspect of the environment. The applicant would like to address the completeness determination this evening. He stated there has been a limited wetlands delineation performed to deal with the areas surrounding the house. The applicant is requesting a waiver to do a complete delineation of the 43 remaining acres of the property. It is the applicant's position that it is not necessary since there is no proposal to do any construction. The plat shows the building envelope as required by the Township ordinance and it has been determined not to be in the wetlands. The applicant does not have a lot of money to delineate the entire wetlands on the property. They would like to ask for a waiver and would be willing to incorporate it into the deed of the remaining lands that if any development is proposed on the remaining lands, they will have to comply with all applicable requirements with wetlands delineation on the lot or in the area of the proposed construction. He stated present this evening is S. Delia Jr, executor, D. Newton, design engineer and J. Tareila, environmental consultant.

D. Pierce stated according to W. Ingram's review letter, a number of variances are required. He stated no variance applications have been submitted.

G. DeSapio stated when reviewing W. Ingram's letter he understood that once the application was complete and a hearing schedule, they would notice a hearing on the variance at the same time. The applicants are prepared to file a variance application.

D. Pierce stated he understands G. DeSapio's position but it is his advice to the Board is that the Board does not have a complete application. The applicant would have to submit a variance application along with the appropriate application and escrow fees in order for their application to be deemed complete. Also, W. Ingram's letter of May 27th indicates that the applicant was to submit a written description addressing the items which were waived for completeness. The Board has not received that written description.

G. DeSapio stated he was not sure what the Board was looking for in that written description. He stated the applicant's statement is that there will be no development on the remaining 43 acres. There is no proposed land disturbance and that the Board waive any requirement for a wetlands study on the 43 acre property where there is no proposed improvements. He inquired if that is what the Board is requiring in writing. D. Pierce responded he would have to go back and look at the items that were waived for completeness.

G. DeSapio stated when the application was first submitted, T. Decker, former Township Engineer, reviewed the submission. T. Decker wrote two review letters on the previous drawings. The applicant revised their drawings based on T. Decker's two review letters. W. Ingram did a completeness review of the new drawings. The applicant thought they were before the Board this evening for a completeness review on the new drawings.

D. Pierce stated the applicant is here for a completeness review on the application. W. Ingram's review of the application and plat list a number of items, which begin on page 4 of his plan review, that need to be revised on the plat:

Plan Review

1. The following revisions shall be made to "List of Property Owners Within 200 Ft":
 - a. Add "BLOCK 12, LOT 58"
 - b. Add "BLOCK 19, LOT 3.03"
 - c. Revise "BLOCK LOT, LOT 33.01" to read "BLOCK 12, LOT 33.01"
2. The plan shall also be revised to show the acreage of right of way that exists within the Common Drive Easement and adjust the area of the Common Drive Easement accordingly.
3. Soils testing forms dated August 30, 2018 and signed by Douglas Fine, P.E. were reviewed, and the following comments are noted:
 - a. The soil suitability classification for each profile pit shall be added to the plan.
 - b. On page 2 of Form 3f, Pit-Bailing Test Data, the value for Final Depth to Impermeable Stratum (Dstratum) appears to be mistakenly reported as 5.0 ft and should be revised to 8.0 ft.
 - c. Construction of any future subsurface sewage disposal system is conditioned upon review and approval of soil suitability testing by the Hunterdon County Health Department.
4. The flood hazard area for Copper Creek shall be labeled on the plan. Plan note #19 accurately states that FEMA flood insurance rate map (FIRM) panel 34019C0219F depicts the entire subject area to be within Zone X, Area of Minimal Flood Hazard. However, Copper Creek is a regulated water for which a flood hazard area exists. [N.J.A.C. 7:13-2.3]
5. The 150 foot riparian zone shall be labeled on the plan for Copper Creek. [N.J.A.C. 7:13- 4.1(c)]
6. The 150 foot riparian zone shall be labeled on the plan for the unnamed stream running along the southern segment of Lot 33 remaining. [N.J.A.C. 7:13-4.1(c)]
7. A site specific partial wetlands delineation has been provided. However, per Ordinance §115-6.4, a site wide wetlands delineation is required to depict freshwater wetlands on and within 150 feet of the property. Unless a wetlands professional can certify that there are no wetlands on or within 150 ft of the property, a waiver is required.
8. The 150 foot transition area shall be labeled on the plan for freshwater wetlands on and within 150 feet of the subject property. [N.J.A.C. 7:7A-3.3(d)] As currently depicted on the plan, a waiver is required.
9. Per Ordinance §115-6.5, a Conservation Easement shall be defined, or language shall be recorded on the plan to provide notice of development restrictions applicable to the protected areas noted in Items 4 through 8 above. As currently depicted on the plan, a waiver is required.
10. Location and details of conservation easement markers shall be added to the plan. No conservation easement markers are shown on the plan, a waiver is required.
11. Due to site development restrictions created by the riparian zone and wetland transition areas noted

in Items 6 through 8 above, it remains unclear how driveway access will be created for Lot 33 Remaining. Any approval for minor subdivision shall be conditioned upon obtaining all necessary NJDEP permits for adding driveway access within the riparian zone and wetlands transition areas. All required permits shall be obtained prior to filing of deeds.

12. Constrained area calculations shall be performed, and the Constrained Area
13. Maximum Tract Yield Calculation Form shall be added to the plan in accordance with Kingwood Township Ordinance §132-30F(4).
14. A list of all threatened and endangered species present on the property shall be added to the plan. The New Jersey Landscape Project documents existence of Habitat Rank 3 on the property.
15. The provisions outlined in Ordinance §112-7G(3) regarding construction of a common driveway within the common drive easement shall be added to the plan.
16. Construction of future improvements on Lot 33 Remaining and within the common drive easement will likely create a net increase of impervious area greater than ¼ acre. Plans and future deeds for both lots shall require the submission of a stormwater management design prior to issuance of building permits.
17. Proposed lot numbers shall be revised such that Lot 33 Remaining refers to the lot with existing improvements. New Lot 33.03 shall refer to the proposed vacant lot.
18. The subdivision plat shall include indications of all monuments to be set in accordance with the Title Recordation Act, including monuments along the new right-of-way of County Route 519.
19. Surveyor certifications per the Title Recordation Act shall be provided and signed by the surveyor of record.
20. The subdivision is subject to review and approval by the Hunterdon County Planning Board. Copies of approvals shall be provided to our office prior to final sign-off.

G. DeSapio inquired if the plat had to be revised before it could be determined to be complete.

D. Pierce stated if the Board desires it can determine the application complete if the revised drawings were submitted 14 days before the meeting.

W. Ingram stated in terms of completeness the applicant has the need for an application for variances. The one that mainly stands out is related to the size of the lot and not having the constrained areas mapped. Without the areas being mapped, he is not sure the lot meets the standards. The issues are the existing conditions, the issue of the flag lot and the easement in the constrained areas. Those are the only issues affecting the compliance of the lot. The rest of it can be done as part of completeness.

G. DeSapio suggested rather than writing a letter the applicant submit revised drawings moving the driveway.

D. Pierce stated if that is the applicant's position, it would be simple enough for the applicant to submit with the variance application a letter of how they are going to address the situation. D. Pierce read the following from the November 14, 2019 motion waiving for completeness purposes only: *Applicant's engineer will submit a written report to the Township before the hearing on December 12, 2019.* He stated the applicant is requesting the Board's professionals to interpret the new map that it has been satisfied. He requested that the applicant write a letter to the Board.

G. DeSapio inquired, regarding the comment in W. Ingram's review letter, that he would need more information to determine whether the size of the flag lot complies with the ordinance. W. Ingram responded based on the calculations from the Township, the body of the lot is four acres and without having the transition area subtracted out he is not sure it meets with the minimum.

G. DeSapio was agreeable.

D. Pierce requested it be submitted prior to the meeting so the Board and engineer have time to review it.

G. DeSapio stated the applicants are requesting a waiver altogether for the requirement of a delineation of the wetlands and conservation areas on the remaining lands. They are seeking a waiver tonight for completeness. The applicants will make a presentation at the hearing that it should not be required based on the nature of the application.

D. Pierce stated it is his impression, that at a minimum, the Board needs to see what the constrained areas are on the proposed Lot 33.03.

W. Ingram stated, given the size of the main lot, his focus is that proposed Lot 33.03 meets the minimum 4 acre requirement.

G. DeSapio stated the applicant will submit a report or plan showing what the constrained areas are on the new lot. The big issue which concerns the estate is that the Board is requesting a complete wetlands delineation.

W. Ingram stated the Township has ordinance requirements and in order to determine if the application complies with the ordinance or if it will require variances, it needs to be provided with the requested information. The applicant has met the intent and received completeness but it is up to the applicant to discuss with the Board to see if the Board is comfortable with that decision.

G. DeSapio stated that the applicant will make a presentation on the variance and subdivision. He stated the remaining lands are large enough, no disturbance is proposed so they shouldn't have to do a wetlands delineation on the remaining lands until someone is going to build on it.

D. Newton inquired what kind of transition area the engineer is looking for short of an LOI from the DEP. W. Ingram responded he is looking for the reasoning behind the delineation. The applicant is taking the risk with mapping it and showing what you believe it is.

G. DeSapio requested that most of the items require labeling. The applicant will submit a revised plat.

D. Pierce stated the next meeting is September 10th and the revised documentation would have to be supplied at least 21 days in advance of that date. The applicant may be better off waiting until October.

G. DeSapio stated he will let the Secretary know if the applicant can make the September date.

It was moved by C. Ely, seconded by T. Ciacciarelli to deem the application conditionally complete subject to the submission of a variance application and appropriate application and escrow fees, a written explanation of completeness waivers and submission of documentation to demonstrate the extent of the constrained areas on

proposed Lot 33.03 not less than 21 days before the hearing. All members present voted **AYE** on **ROLL CALL VOTE**.

T. Ciacciarelli recused himself from the following matter.

Block 28, Lot 18 – Pine Brook Farm – 2790 Daniel Bray Highway – Agricultural Subdivision

D. Pierce stated this is a property which the Township has contracted to purchase 59.77 acres for open space and parkland. The Township will be utilizing State and County funds for the purchase price. As part of the contract, the Township is required to apply for an agricultural subdivision. Under the Municipal Land Use Law (MLUL), an agricultural subdivision does not require approval from the Board. In this case the remaining lands, which are improved with one dwelling and a barn, will contain 21 acres. The parcel that is being subdivided will contain 59.77 acres and become part of Kingwood's Open Space Inventory. It is a matter of reviewing and granting the application a determination of an agricultural subdivision. The property is contiguous to Horseshoe Bend Park. He stated the Township approved a resolution to sign the contract and Green Acres has given a verbal final sign-off on the plat. He is waiting for their written approval.

It was moved by C. Ely, seconded by K. Kocsis and carried to grant the application a determination of an agricultural subdivision. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolution No. 2020 – 01 Block 28, Lot 18 – Pine Brook Farm – 2790 Daniel Bray Highway – Agricultural Subdivision

RESOLUTION NO. 2020 – 01

**MEMORIALIZING RESOLUTION
FOR
KINGWOOD TOWNSHIP PLANNING BOARD
GRANTING AGRICULTURAL SUBDIVISION DESIGNATION
KINGWOD TOWNSHIP
BLOCK 28, LOT 18 AND PROPOSED LOT 18.01**

WHEREAS, Kingwood Township filed an application with the Kingwood Township Planning Board for determination that a proposed subdivision of Tax Block 28, Tax Lot 18, and proposed Lot 18.01 in the Township of Kingwood is an agricultural subdivision, pursuant to section 115-4 of the Township Code; and

WHEREAS, said application was determined to be complete and the Planning Board professionals have reviewed the application and the plat submitted therewith, and have made their recommendations to the Board; and

WHEREAS, the Planning Board considered the application at its meeting on August 13, 2020; and

WHEREAS, the Board found that each of the proposed lots would each contain five (5) acres or more, no new roads would be necessary, that proposed Lot 18.01 will not be used as a building lot, but

as open and recreational space, and that Lot 18, the remaining lands is already improved with a residential dwelling; and

WHEREAS, the Board voted after due deliberation, on a motion properly made and seconded, to determine that the subdivision proposed was an agricultural subdivision, by a vote of 5 to 0; it is

THEREFORE RESOLVED on this 13th day of August, 2020 that the foregoing application for designation as an agricultural subdivision be, and the same hereby is, approved.

Moved:	ELY
Seconded:	KOCSIS
Those in Favor:	ELY, HAYWOOD, RIGGIO, HARRIS, KOCSIS
Those Opposed:	NONE
Abstained:	NONE
Absent:	FRANK, MATHIEU, MCNICOL, SYRNICK, VORONIN
Ineligible:	CIACCIARELLI

It was moved by D. Haywood, seconded by C. Ely and carried to adopt **Resolution No. 2020-01 – Block 28, Lot 18 & 18.01 – Grant Agricultural Subdivision Designation**. All members present voted **AYE** on **ROLL CALL VOTE**.

Draft Ordinance Amending Chapter 132 – Solar

D. Pierce stated he had included all the items previously discussed by the Board. He received input from W. Ingram regarding the specifications for the structures of the inverters, etc.

It was moved by D. Haywood, seconded by C. Ely and carried to forward the draft ordinance to the Township Committee for consideration for introduction and adoption. All members present voted **AYE** on **ROLL CALL VOTE**.

Zoning Officer – Email – Barn Structures, Definitions, Graphics & Site Plan Exemptions

The Board received the following from the Zoning/Code Enforcement Official, G. Bonin:

1. I have had applications for barn structures on properties that do not have a principal residence upon it. The ordinance states that you cannot have an accessory structure without a principal residence, but it is conceivable that someone could be farming a parcel while not living on it and need a place to store equipment or livestock.

D. Pierce stated he had a discussion with Deputy Mayor R. Dodds yesterday and the issue is that under the accessory structure ordinance you cannot construct an accessory structure prior to the building of a principal structure, such as building a horse barn on a property which does not have a house on it. There was some apparent concern that it might be a violation of the ordinances. One of the principal uses in the AR-2 zone is farming and agriculture. With farming and agriculture uses, a barn is a principal structure. He stated there is no problem with someone building a barn on a property that is more than 5 acres.

2. There is no definition in the township code for 'warehousing' or 'miniwarehousing' although they are permitted in some zones. It would be helpful to have some type of definition to differentiate between regular warehousing and mini-warehousing (if such a difference exists).

D. Pierce stated the above requires the Board to consider whether there should be any definitions for warehousing and mini-warehousing. He would go by the standard definition in the Webster's dictionary for warehousing. D. Banisch may have a suggestion. D. Pierce suggested it might be reviewed when the Township does their next Master Plan review.

3. Sometime ago the sign ordinance was amended to eliminate the 'sample' type of graphics. This left the business to only have to conform to the graphics ordinance on size, placement, etc. But the applicant still has to go before the Planning Board for a sign review. If an application conforms to the ordinances why do they have to be approved by the board? This would seem to be an extra burden upon local businesses. I do understand that it is a review by the board to ensure certain standards are maintained, but those standards of sample graphics have been removed.

The Board agreed that they would like to see all applications for graphics.

4. Similar to item #3, if a business takes over an existing location and is going to conform to an already approved site plan, they still have to apply for a site plan exemption. If an applicant can produce an approved site plan and show conformity, why should they be burdened to apply to the board for an exemption? Again, I understand the need to maintain control over businesses in the community but one would think a review or a conforming site plan could be done administratively.

D. Pierce stated the site plan ordinance was amended to try again to address issues that were decades old in terms of businesses operating without site plans. It is somewhat of a burden but the Township created the site plan exemption provision to make it less of a burden. Board members were in agreement that site plan exemptions should come before the Board.

Accessory Structures – Farmland Preserved properties

M Syrnick requested the above be listed on the agenda. The matter was carried over to the September meeting.

Declaration of Encumbrance and ROSI Certification

While dealing with COVID-19, the Township Committee requested he sign the above document. He stated that he promised to bring it before the Board. The matter was carried over to the September meeting.

Minutes

It was moved by T. Ciacciarelli, seconded by C. Ely and carried to approve the March 12, 2020 meeting minutes and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

CORRESPONDENCE

Email from C. Keller – ANJEC Survey – D. Haywood inquired if anyone responded to the survey.

Borough of Frenchtown – Ordinance No. 852.

PRIVILEGE OF THE FLOOR

T. Ciacciarelli inquired if the Board would like to continue in an in-person format rather than a Zoom format. Board members stated they were fine with the in-person unless COVID-19 cases increase.

K. Kocsis recused herself from her position on the Board for the following discussion.

R. Kocsis was present and indicated to the Board he is considering an agricultural subdivision of his property. He preserved his farm five years ago and there are several exception areas. He would like to move forward with subdividing the property for estate planning purposes.

D. Pierce responded he would file an application with the Planning Board and submit a written request for waivers from most of the checklist items since they wouldn't be applicable.

ADJOURNMENT

It was moved by C. Ely, seconded by T. Ciacciarelli and carried to adjourn the meeting at 8:31 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary