

MINUTES

7:30 PM

PRESENT: R. Dodds
C. Ely
D. Haywood
S. McNicol
L. Riggio
M. Syrnick
L. Voronin
K. Kocsis, Alt #2 (8:00 pm)
C. Nusser, Engineer
D. Pierce, Attorney

ABSENT: L. Frank
J. Mathieu
S. Harris, Alt #1

CALL TO ORDER

The meeting was called to order by L. Riggio at 7:38 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. For all members of the Board making commentaries, speak your name in advance of speaking. Your cooperation is appreciated. Due to continuing COVID19 precautions, the Planning Board meeting was a virtual meeting held online. The meeting was hosted on Zoom at the following URL address: <https://zoom.us/j/96081450117?pwd=aDlVaEE0TE5YQVFszUx5SjVwNW00Zz09>.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News on January 21, 2021, and has been posted in the Kingwood Township Municipal Building on January 21, 2021 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

TDR Update – David Roberts

D. Roberts provided an update and status report to the Board on the Transfer of Development Rights (TDR) program. He reviewed the memo he provided to the Board:

Plan Endorsement Process

Process Outline

Listed below are the 10 steps for the Plan Endorsement process. The state has specified timeframes within which it has to respond to submissions by the petitioner. All timeframes are calculated in

calendar days. These timeframes as well as the public participation forums built into the process are highlighted in **bold**.

No.	Action	Timetable
Step 1: Pre-Petition		
a	Petitioner submits letter from Mayor requesting pre-petition meeting along with existing planning documents and a list of same.	Variable
b	OPA and State agencies review documents on preliminary basis. OPA and agencies conduct pre-petition meeting with at least one elected official from the municipality present.	Meeting scheduled within 30 days of submission.
Step 2: Plan Endorsement Citizens' Advisory Committee*		
a	Mayor appoints Advisory Committee by resolution at a public meeting of the governing body** .	Variable
Step 3: Municipal Self Assessment*		
a	Petitioner conducts self-assessment and produces a Municipal Self-Assessment Report including any requests for waivers pursuant to N.J.A.C. 5:85-7.6(a).	Due within one year of pre-petition meeting. See N.J.A.C. 5:85-7.7(d).
b	Petitioner presents findings and conclusions of self-assessment at a public meeting of the governing body** and adopts a resolution to pursue Plan Endorsement.	Variable
Step 4: State Opportunities & Constraints Assessment		
a	OPA, DEP, DOT, NJ Transit, and NJDA conduct opportunities and constraints analyses. OPA produces an Opportunities and Constraints Report for consideration by petitioner during visioning.	Report produced within 45 days of receipt of submission requirements for step 3.
Step 5: Community Visioning*		
a	Petitioner conducts community visioning, adopts Vision Statement, and submits it to OPA. Visioning must include at least three facilitated workshops and at least two public hearings (one before the planning board and one before the governing body)**. OPA will work with the town and/or consultant on the structure of the community visioning process.	Variable
Step 6: Consistency Review***		

a	OPA provides notice of commencement of consistency review of petition with State Plan and provides interested parties an opportunity to request that OPA conduct a public hearing .	Public may request a public hearing within 10 days of OPA posting notice.
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Step 6: Consistency Review***, continued		
b	State agencies conduct consistency review. OPA develops draft MOU and Action Plan, in consultation with municipality, if inconsistencies exist. Action Plan outlines the necessary steps for petitioner to achieve Plan Endorsement, assistance from State agencies, and the benefits available to the municipality upon endorsement.	Consistency review concludes within 90 days of receipt of submission requirements. If petition is inconsistent, Action Plan and MOU provided to petitioner within this period. If found consistent, Recommendation Report is prepared within 60 days of conclusion of consistency review.***
Step 7: Action Plan Implementation		
a	SPC considers draft MOU and Action Plan.	Consideration at earliest feasible time, preferably next regularly scheduled SPC hearing with at least 10 days notice.
b	Petitioner conducts one public hearing** before the Planning Board for recommendation, and one public hearing** before the governing body to authorize execution of MOU and commitment to Action Plan by resolution. Action Plan and MOU may be considered at one joint public hearing** of the two entities.	Resolution passed within 60 days of notice of SPC approval of MOU and Action Plan.
c	OPA issues Certificate of Eligibility.	Issuance within 10 days of receipt of signed MOU and resolution from petitioner.
d	Petitioner works with State, county and regional agencies to complete Action Plan.	Variable, depending on agreed-upon Action Plan timetable.
Step 8: Recommendation Report and Draft Planning & Implementation Agreement (PIA)		
a	OPA produces recommendation report and finalizes a PIA with petitioner.	Report produced within 60 days of completion of Action Plan.
Step 9: State Planning Commission Endorsement		
a	OPA presents Recommendation Report and draft PIA to the Plan Implementation Committee (PIC) of SPC at a public hearing .	Consideration by PIC within 45 days of receipt of Recommendation Report. PIC shall make a recommendation on petition to SPC.
b	SPC considers petition, Recommendation Report, PIA and proposed mapping changes at public hearing .	SPC considers petition at a public hearing within 45 days of receipt of PIC recommendation.
Step 10: Monitoring and Benefits		

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a	Municipality, State and regional agencies (as applicable) follow through on PIA including delivery of benefits to municipality.	Endorsement lasts 10 years.
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*The Executive Director, in consultation with relevant State agencies, may waive Step 2, 3 and/or 5, if a petitioner has met the requirements. The SPC, in consultation with relevant State agencies, may waive any other requirement if the goals of comprehensive planning are being met using alternative means from those outlined in the State Planning Rules and Plan Endorsement Guidelines. See N.J.A.C. 5:85-7.6.

**For public meetings and hearings, petitioner submits proof of notice in the form of affidavit of publication, meeting minutes, summary of public comments and a copy of a certified resolution. Both public meetings and hearings must satisfy the requirements of the State Planning Rules and be consistent with the Open Public Meeting Act, N.J.S.A. 10:4-6.

***OPA may move the petition directly to Step 8 if the review shows that the petition is consistent with the State Plan. In such a case, OPA will produce the recommendation report in place of the draft MOU and Action Plan.

There was a lengthy discussion about the location and process involved between the Board members and D. Roberts.

Alfred Kopp Graphics Permit Application – Block 9, Lot 24 – 887 State Highway 12

A. Kopp was present for the application this evening.

It was moved by R. Dodds, seconded by S. McNicol and carried to approve the **Alfred Kopp Graphics Permit Application – Block 9, Lot 24 – 889 State Highway 12**. All members present voted **AYE** on **ROLL CALL VOTE**.

Del Valley Feed and Farm Supply, LLC Graphics Permit Application – Block 9, Lot 24 – 889 State Route 12

G. DeSapio and J. Fisher were present for the application this evening.

It was moved by R. Dodds, seconded by C. Ely and carried to approve the **Del Valley Feed and Farm Supply, LLC Graphics Permit Application – Block 9, Lot 24 – 889 State Route 12**. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

Del Valley Feed and Farm Supply, LLC, Site Plan Exemption Application – Block 9, Lot 24 – 889 State Route 12 – Hearing

G. DeSapio was present for the hearing this evening. The applicant had applied for a zoning permit for the above property for a retail use. A retail use was permitted in the BP Zone but is a conditional use in the HC Zone. He stated the property has been used for retail uses since 1986. The Zoning Officer has determined that the use of retail would require a conditional use approval. He stated it is an existing non-conforming use.

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D. Pierce stated the Board does not have jurisdiction on the conditional use issue and the Zoning Officer's interpretation. If the applicant contends that the Zoning Officer's determination of conditional use approval is not correct, he would have to apply to the Board of Adjustment. The same would apply for a determination that this was a pre-existing non-conforming use. He stated the Board is determining completeness this evening of the application. The Board cannot consider the conditional use application this evening. It can only determine if it is complete or incomplete. The hearing would be scheduled for next month. The Board can determine if the proposed use satisfies the conditional use criteria but the applicant would still have to appear next month for a hearing.

G. DeSapio requested the Board consider the graphics permit application process at the end of tonight's meeting. He stated the Board should consider this dilemma where someone who has had existing tenants in their building for 34 years is faced with filing an application with the Board of Adjustment to appeal the Zoning Officer's determination that the applicant is required to apply for a conditional use. The applicant then has to come back to this board to put a tenant in the building. It would be different if the applicant intended to make changes to the site.

G. DeSapio stated the applicant will proceed with the site plan exemption application. He stated that the applicant has met the application requirements on the checklist. The last site plan was dated June 11, 1986. The Board of Adjustment confirmed at their meeting that there was no deviation from the previous site plan. He stated all real estate taxes are current. The certification that no changes to the proposed size of the building, except for interior changes, has been submitted. There is a certification in the application that there is no additional water usage except for typical bathroom use. In regard to septic demand, there will be 2 employees and will not create any increased septic demand. There are sufficient off-street parking spaces. Based on the applicant's certification, there are 2 or 3 customers at a time and there are 10 available parking spaces. The applicant estimates that he needs 5. The loading dock is shown on the original site plan for the building. The applicant has met all the conditions for a site plan exemption and approval should be granted.

D. Pierce stated that the first requirement for site plan exemption is that the prior use had received approval and that no deviations have occurred. The requirement intended to encompass sites which had substantial work done. The ordinance at that time did not require them to come before the Board for a change in use. The Board of Adjustment determined that there had been a site plan issued for the entire property. D. Banisch was present at the Board of Adjustment meeting and indicated that there appeared to be a slight difference from the original site plan than what was there today. The buildings along Slacktown Road did not have a roof offset. The Board needs to make a determination in connection with this application that the change was not significant enough to find that there has been an unapproved deviation or the Board could take the position that it is a de minimus issue and no substantial change has been made to the previously approved site plan. D. Banisch's opinion was that it wasn't a consequential deviation.

R. Dodds stated, looking at Google Earth, the property has not changed much since 1995. The sight has been cleaned up dramatically. He has no issue with a change in the roof line.

It was moved by R. Dodds, seconded by M. Synchron and carried to approve the application for a site plan exemption subject to the condition that the applicant obtain approval of the conditional use or a determination from the Board of Adjustment that it is a pre-existing non-conforming use and conditional use approval is not required. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

W. Ingram provided the Board with the following memo on the application:

Site Plan Exemption Application

A site plan exemption application had been requested for the site. Based upon the information provided, if the Board believes this project qualifies for a site plan exemption, then we believe all items from the Site Plan Exemption Checklist have been provided and would recommend the application be deemed complete

It was moved by R. Dodds, seconded by M. Synchronick and carried to approve the application for a site plan exemption subject to the condition that the applicant obtain approval of the conditional use or a determination from the Board of Adjustment that it is a pre-existing non-conforming use and conditional use approval is not required. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

Del Valley Feed and Farm Supply, LLC, Conditional Use Application – Block 9, Lot 24 – 889 State Route 12 – Determination of Completeness;

W. Ingram provided the following memo to the Board for their review:

Conditional Use Application

C. Nusser stated he recommends and supports the waivers for just about everything on the checklist. He stated the Board has enough information to proceed with the application. The checklist is geared more towards a site plan application.

A checklist has also been submitted for a Conditional Use Site Plan Application. We have the following completeness comments on this application:

Combined Preliminary & Final Site Plan Checklist for Conditional Use

Administrative

#4 Electronic Format Submission- No CAD files have been submitted in accordance with Section 132-116. If the board is generally accepting of using the 1986 site plan, we would then support a waiver of this item. Regardless, we would support a waiver request for this item for completeness purposes.

#6 Hydrogeological Report and Pump Testing- No existing well information is provided or any calculations documenting any changes to the well requirements. The application appears to be for a change in tenancy with no change in well requirements. We would support a waiver of this item based on the applicant providing such certification.

#7 Stormwater Management Plan- The application currently proposes no changes to the site and as such, we would support a waiver of this requirement. Should the proposal change, this item may be required in the future.

#9 Certification of D&R Canal Review Zone of Exemption- The application currently proposes no changes to the site and as such, we would support a waiver of this requirement. Should the proposal change, this item may be required in the future.

#11 Submission to County Planning Board – We would support a waiver for completeness purposes but an application to the County should be provided as a condition of any approval.

#12 Submission of Wetlands LOI Application to the NJDEP- NJDEP mapping shows the presence of a stream and wetlands on the property. If no site changes are to occur, the Board may grant a waiver from submission of an LOI however if any site changes are to occur, we would not recommend waiving this item.

#13 Written Requests for Waivers and Variances- No information on waiver requests are provided. The applicant should describe the requested waivers and why they feel the Board should waive the items.

Plan Requirements

#5 Current Survey prepared by Licensed Land Surveyor- The only survey provided is from the 1986 Site Plan. Though it is stated that no changes are proposed, we are not able to ascertain whether any changes to the site have occurred from that site plan in the 35 years since its creation. We would recommend an updated survey occur so the on-site conditions can be verified for compliance.

#11 Names of 200' Property Owners- No property owners list was provided. The applicant should provide this information.

#12 Existing and Proposed Setbacks- The site plan does not depict existing setbacks of the structures. We suggest this information be provided and assume it would be shown on an updated survey.

#16- Existing and Proposed Drainage Facilities within 200'- We would support a waiver request from this item as long as no significant changes are occurring to the site.

#17 Easements, Right-of-ways and utilities within 200' of the site- We would support a waiver request from this item as long as no significant changes are occurring to the site.

#18 Documentation of feasibility of adequate sewage disposal- No information is provided on the septic system- Little to no information exists on the locations of the septic systems on the lot or their conditions. We recommend this be provided.

#20 Existing and Proposed Setbacks- The site plan does not depict existing setbacks of the structures. We suggest this information be provided and assume it would be shown on an updated survey.

#29 Existing and Proposed Signs and their Sizes- the existing sign is shown to remain. The size should be provided to determine compliance for the current sign.

#34 Fire Service Lines, hydrants, fire zones, etc.- No information on fire protection measures are provided. The fire marshal shall be contacted to determine the adequacy of the existing sites' measures.

#42 Constrained Area Maximum Yield Calculation Form- The site is predeveloped and not currently proposed for modification. We would support the waiver request from submission of the form.

#43 Wetlands within 150' of the site- NJDEP mapping shows the presence of a stream and wetlands on the property. If no site changes are to occur, the Board may grant a waiver from delineation however if any site changes are to occur, we would not recommend waiving this item.

#44 Category One Streams and tributaries within 300' of the property- A Category One (C1) stream is present on the property. If any changes are ultimately required for the site, this information will have to be provided.

#45 Depiction of septic systems and wells within 100' of the property- The on-site septs should be located on a plan as well as any immediately adjacent wells and septs. If none exist, a note shall be provided.

In summary, our office recommends waivers be granted for items 4, 6, 7, and 9 of the administrative items and items 16, 17, and 42 of the plan requirements. The requested information as outlined in this letter should

be provided for the remaining items.

It was moved by R. Dodds, seconded by C. Ely and carried to deem the application complete with waivers for completeness purposes set forth in Mr. Ingram's letter of February 9, 2021, except for #5 and #45 which have been provided. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

G. DeSapio stated J. Fisher would like to address the Board. J. Fisher stated he is the current owner of Del Valley Feed and Farm Supply for the past 5 years. It was deemed an essential business and kept open during the pandemic. He has already given his current landlord a date of when he was going to vacate his current location. He didn't think it would take 2 months to get his application approved. He is looking to move his business into the property without losing his customer base. He wants to move his business as quickly as possible to keep it going.

D. Pierce stated this Board does not have the authority to waive the Zoning Officer's determination or the conditional use approval. This Board does not have any enforcement authority. The applicant should try to talk to the Zoning Officer and convince him that the proposed use is a pre-existing non-conforming use and the change in the zoning ordinance does not apply.

R. Dodds stated to J. Fisher that the Zoning Officer is available on Tuesday evening or actually by phone during the week. He suggested he approach him between now and when he has to move out. The Zoning Officer should get back to you fairly quickly. He suggested that G. DeSapio give his legal opinion to the Zoning Officer.

J. Fisher stated he was hoping to move this weekend since it was a three day weekend.

Resolution No. 2021-01 – Delia – Block 12, Lot 33 and Proposed Lot 33.03 – Bulk Variances for Existing Non-Conforming Structures

WHEREAS, the Estate of Samuel M. Delia, Sr. (the "Applicant"), the owner of Block 12, Lot 33 in Kingwood Township (the "Property") filed an application with the Kingwood Township Planning Board (the "Board") for a minor subdivision together with bulk variances to permit: 1) a shared driveway in a Class II Minor Subdivision for a distance of more than 50 feet; 2) accessory buildings in the front yard; and 3) a side yard setback encroachment for a farm equipment shed on Block 12, Lot 33, and proposed Lot 33.03 pursuant to sections 115 and 132 of the Township Code; and

WHEREAS, the Applicant presented the Board with an Affidavit of Publication and other proofs demonstrating compliance with all statutory requirements as to the notice required to be given, as well as all notice requirements of the zoning ordinance of Kingwood Township; 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. Subdivision Application, dated October 11, 2019;

2. Checklist for Subdivisions, dated January 26, 2018;
3. Application For Permit To Construct/Alter An Individual Subsurface Sewage Disposal System, dated August 20, 2018;
4. Metes and bounds descriptions, prepared by David M. Newton, N.J.P.L.S., of Newton Land Surveyor, dated March 13, 2020;
5. Metes and bounds descriptions, prepared by David M. Newton, N.J.P.L.S., of Newton Land Surveyor, dated September 17, 2020;
6. Correspondence from Thomas R. Decker, P.E. of Van Cleef Engineering Associates, LLC to Diane Laudenbach, dated January 5, 2020;
7. Correspondence from David R. Pierce, Esq. of Lindabury, McCormick, Estabrook and Cooper, P.C. to Diane Laudenbach, dated May 18, 2020;
8. Correspondence from Wayne J. Ingram, P.E. of Engineering and Land Planning to Diane Laudenbach, dated May 27, 2020;
9. Correspondence from Wayne J. Ingram, P.E. of Engineering and Land Planning to Diane Laudenbach, dated October 5, 2020;
10. Letter from Jeff Tareila of Jeff Tareila Environmental Consulting to Mickey Delia, dated October 13, 2020;
11. Letter from Gaetano M. DeSapio, Esq. to Diane Laudenbach, dated December 21, 2020;
12. Variance application dated December 20, 2020;
13. Notice of Public Hearing, undated;
14. Affidavit Of Service of Gaetano M. DeSapio, Esq., dated January 12, 2021; and
15. Plat entitled “Minor Subdivision of Land for the Estate of Samuel M. Delia, Sr.”, prepared by David M. Newton, N.J.P.L.S., of Newton Land Surveyor, dated October, 2017, with a last revision date of September 17, 2020 (the “Plat”); and

WHEREAS, a duly noticed public hearing on the application was held on January 14, 2021;
and

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

WHEREAS, the following individuals testified during the hearing, which testimony is part of the record in this matter: Samuel Delia, Jr.; and

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

- Exhibit A-1 Photo of garage and car port (from the south);
- Exhibit A-2 Photo of west side of garage/car port;
- Exhibit A-3 Photo of the garage/car port facing south;
- Exhibit A-4 Building Permit for garage;
- Exhibit A-5 Photo of shed for farm equipment; and
- Exhibit A-6 Photo of shed for farm equipment; and

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

1. The Applicant proposes to subdivide the Property into two separate lots, proposed Lot 33.03 and the remaining lands, Lot 33.
2. The Property has 300 feet of frontage on County Route 519 and a lot area of 48.412 acres.
3. The southerly portion of the frontage is constrained by wetlands and/or open waters and the Applicant desired to bifurcate the proceedings and proceed with the variance portion of the application prior to engaging the engineer and wetland specialist to evaluate the ability to obtain permits from the Department of Environmental Protection to allow the subdivision to proceed.
4. The Property is improved with a single family dwelling, a garage with attached car port and a farm equipment shed.
5. The single family dwelling is located approximately 600 feet from the front of the Property along County Route 519.
6. The garage with attached car port is situated in the front yard of the house, between County Route 519 and the house.
7. Section 132-50 F of the Kingwood Township Code prohibits accessory structures in the front yard.
8. The farm equipment shed is also located in the front yard of the Property.
9. The farm equipment shed is also located only 31.22 feet from the northerly property line of the Property.
10. The Kingwood Township Code requires a side yard setback of 40 feet and a variance is required for the farm equipment shed.
11. Proposed Lot 33.03 would have an area of 41.958 acres and have 249.74 feet of frontage along County Route 519, however, that frontage is not readily usable for access due to the existence of the wetlands and/or open waters along the southern portion of the road frontage.
12. The Applicant proposes a Class II Minor Subdivision with Proposed Lot 33.03 sharing a driveway with Lot 33.
13. Lot 33, the remaining lands, is proposed to have 6.454 acres of land and 50.26 feet of frontage along County Route 519 and is already improved with an existing driveway.
14. The Applicant proposes that Lot 33.03 would share the existing driveway on Lot 33 for a distance of approximately 1,136.73 feet.
15. The Kingwood Township Code, Section 115-3, provides that driveways in a Class II Minor Subdivision may be shared for a maximum distance of 50 feet from the road right of way.
16. Accordingly, the Applicant needs a variance to permit the use of a shared driveway of approximately 600 feet in length.
17. The farm equipment shed is located next to the foundation of an old barn and was originally attached to the barn.

18. The farm equipment shed is used to store a farm tractor and implements and was existing at the time of a prior lot line adjustment.
19. The garage was constructed with appropriate permits and was in existence prior to the prior lot line adjustment.
20. The shed and garage are located over 600 feet from County Route 519 and there are other buildings, including a dwelling, garage and shed located on Lot 33.02 between them and the public road.
21. The shed and garage are, therefore, obscured from view from the public road.
22. The garage and shed are lawfully pre-existing structures.
23. Requiring the Applicant to move or remove the garage and shed would create a hardship.
24. Due to the unique environmental constraints existing along the southern edge of the Property it is highly impractical to require the Applicant to conform with the limitation on the length of a shared driveway in a Class II Minor Subdivision.
25. Without the grant of the variance for the length of a shared driveway the Applicant would not be able to develop that Property in accordance with the zoning ordinance.
26. With the imposition of appropriate conditions with respect to the maintenance of the shared driveway, the grant of the variances will not result in any detriment to the public good as they affect only a specific piece of property.
27. The overall development of the Property with the grant of the variances will still be at a density less than that permitted by the zoning ordinance and, therefore, the variances can be granted without any substantial impairment of the zone plan and zoning ordinance.

WHEREAS, the Board voted, after due deliberation, on a motion properly made and seconded to approve this application for bulk variances to permit: 1) a shared driveway in a Class II Minor Subdivision for a distance of more than 50 feet; 2) accessory buildings in the front yard; and 3) a side yard setback encroachment for a farm equipment shed on Block 12, Lot 33 and proposed Lot 33.03, by a vote of 9 to 0; and it is

THEREFORE RESOLVED on this 14th day of January, 2021, that the foregoing application for bulk variances to permit: 1) a shared driveway in a Class II Minor Subdivision for a distance of 1,136.73 feet; 2) the location of the garage and farm equipment shed in the front yard; and 3) a side yard setback of 31.22 feet for the farm equipment shed on Block 12, Lot 33, and proposed lot 33.03, be, and the same hereby are, granted, subject to the following conditions:

1. Review and approval by the Board's professionals, and recordation, of a common driveway access and maintenance agreement;
2. Receipt of minor subdivision approval for the Property within eight (8) months of the date of this memorializing resolution. The time for satisfaction of this condition shall be automatically extended to be concurrent with any extension of time granted for the prosecution of the subdivision application.
3. Receipt and submission to the Board of all appropriate permits for the development and/or extension of the shared driveway.

4. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing resolution shall not be released to the applicant unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
5. Approval of this application by the Planning Board shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
6. The within approval, and the use of all property subject to the within approval, are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.
7. The Kingwood Township Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from, or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
8. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
9. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the application, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein and agrees to fully comply with and be bound thereby.

It was moved by R. Dodds, seconded by M. Syrnick and carried to adopt **Resolution No. 2021-01 – Delia – Block 12, Lot 33 and Proposed Lot 33.03 – Bulk Variances for Existing Non-Conforming Structures**. All members present voted **AYE** on **ROLL CALL VOTE**, except K. Kocsis, who **ABSTAINED**.

Soil Importation Ordinance – Ordinance No. 19-21-2018 adopted on November 1, 2018 – Chapter 75B

No action was required. It was a response from an inquiry last month.

2021 Budget Request

It was moved by S. McNicol, seconded by C. Ely and carried to request \$23,500 plus the costs associated with the TDR program to be requested for the Board's 2021 operating budget. All members present voted **AYE** on **ROLL CALL VOTE**

Package Submissions

After a brief discussion, the Board decided that submissions would be electronically transmitted to Board members. If any Board member wanted a paper copy, one could be left outside on the drop box due to the municipal building being closed.

Approval of Minutes

It was moved by C. Ely, seconded by R. Dodds and carried to approve the minutes of January 14, 2021 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except L. Voronin and K. Kocsis, who **ABTAINED**.

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

S. McNicol stated it seems a little bit cumbersome for the person that is applying for a graphics permit to be in the process for a year. D. Pierce stated there were other issues with the property and it wasn't the sign that was taking that long. He stated it is a relatively simple process. An applicant submits an application to the Board and it is on the agenda for the next meeting for approval or disapproval.

L. Riggio stated G. DeSapio's comment earlier that the Board should review the whole process around ordinances and appealing to the Board of Adjustment. G. DeSapio thought that the Township's processes are very difficult. He inquired if there was any way to streamline the process.

D. Pierce stated the Municipal Land Use Law provides jurisdiction of certain items to the Board of Adjustment and the Planning Board. There are sometimes when the Planning Board can perform Board of Adjustment functions, such as for a site plan. The Planning Board can grant bulk variances. When there is a use variance before the Board of Adjustment, the Board of Adjustment can grant site plan approval. Appeals from the Zoning Officer have to go to the Board of Adjustment. Conditional use applications have to come to the Planning Board unless they don't meet the conditional use provisions, then they have to apply to the Board of Adjustment for a variance. The problem in this case is that G. DeSapio and his client are frustrated over the site plan for that property because it was approved in 1986. The site plan application at that time wasn't very clear if it really was considered by the Board of Adjustment for the entire property. The applicant was able to prove that the 1986 application was for the entire property and the Board made that determination. He stated the owner of the property could have, prior to the ordinance being changed, applied to the Board of Adjustment before purchasing the property for a determination that the uses were pre-existing non-conforming uses. The applicant is frustrated that they have to deal with this now. Part of the problem with this property is that the ordinances have changed since 1986 and well as site plan requirements.

ADJOURNMENT

It was moved by R. Dodds, seconded by C. Ely and carried to adjourn the meeting at 10:00 pm. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary