

7:30 PM

MINUTES

PRESENT: **R. Dodds**
 C. Ely
 J. Mathieu
 L. Riggio
 M. Syrnick
 L. Voronin
 D. Pierce, Attorney

ABSENT: **L. Frank**
 D. Haywood
 S. McNicol
 S. Harris, Alt #1
 K. Kocsis, Alt #2

CALL TO ORDER

The meeting was called to order by L. Riggio 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 at the following URL address:
<https://zoom.us/j/96081450117?pwd=aDIVaEE0TE5YQVFsZUx5SjVwNW00Zz09>.

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

Business Park (BP) Zone – Draft Ordinance Language

D. Pierce had provided to the Board for their review draft language for the BP Zone.

L. Riggio stated at the previous meeting permitting micro-breweries in the BP Zone was discussed.

R. Dodds stated it also expanded the permitted principal uses in #1 and provided a more expansive definition.

C. Ely inquired if micro distilleries were also a permitted use.

D. Pierce stated if the facility is limited to 5000 barrels per year it will create a limitation on their water consumption for production. The State's limitation for micro-breweries is 5000 barrels per year. R. Dodds had sent to D. Pierce the regulations on water withdrawals and basically water allocation permitting is not required unless you withdraw more than 100,000 gallons per day.

R. Dodds stated 5000 barrels are 155,000 gallons of beer.

J. Mathieu stated the Board will also need to look at the actual use of the water for the end product. There is a lot of water usage that has nothing to do with a brewery or distillery.

C. Ely stated the condensers are also cooled with running water.

D. Pierce stated cooling water is not necessarily consumption.

J. Mathieu stated an energy use equation would have to be done to get the water back to a temperature for manufacturing.

R. Dodds stated he has done some research and the water required for clean up is two gallons for every one gallon of beer. Even if it was twice the 155,000 gallons, it is still over a year period and would be less than the permitted amount necessary to require a water allocation permit.

C. Ely stated the water required in a food processing plant for sanitation is incredible. He thinks the amount of water will be tremendous.

R. Dodds stated the Township should limit them to the State's regulations.

L. Voronin commented if the Township put a value in the requirements would that imply that the applicant would be able to get that quantity of water. D. Pierce responded it would not.

R. Dodds stated a good well in Kingwood does about ten gallons per minute but there are some exceptional wells. They would use 14,000 gallons per day but it would be limited by the well they drilled and their yield.

L. Riggio was concerned with applying the State's idea as opposed to putting an actual number in the ordinance.

C. Ely stated the Board should stay with the State's regulations.

J. Mathieu stated he is very concerned about Kingwood and the argillite shale. The available water may not be able to be compared with the State's figure. He wants to make sure that uses that are being proposed are consistent with the Township's ordinances to protect the ground water.

R. Dodds stated the Board can reference NJAC 7:19, the Water Allocation Permit Rule and some data about the Township's well ordinance.

D. Pierce stated there is no issue with referencing it. It is probably a good idea to reference so that someone coming in with a water intensive use is put on notice. He stated whether or not they can get that type of yield from the groundwater will not limit their ability to do the use. They could bring in an outside water supply.

R. Dodds stated the limit on the barrels per year will be the greatest factor.

M. Syrnick stated the discussion has been focused on micro-breweries. How can the Township put a limit on one business and not other ones, such as a wholesale greenhouse, grocery stores, etc.? She stated there is a little too much focus on micro-breweries and not other high water uses.

R. Dodds stated the Water Allocation Permit does not apply to agricultural or horticultural purposes. They have limitless access to water. He commented you cannot say to someone that if the State is not willing to put a water limit on your use, it is not a permitted use. How would the Township compute the number?

J. Mathieu stated it is fairly easy. The Board can ask the applicant how much water they are going to use a day. The Township should make sure that they are not adopting a State wide standard that may not be applicable to Kingwood.

R. Dodds inquired how does the Township comes up with the number. Does the well ordinance permit the Township to come up with a number?

J. Mathieu responded the applicant has to come up with the number. The ordinance does not look at individual water users. All water uses need to be consistent with the Township's well ordinance.

D. Pierce stated the biggest issue in terms of regulating water use is the well ordinance. It is under the Board of Health's jurisdiction and not the Planning Board's jurisdiction. There were limitations in the well ordinance that required an applicant to perform an aquifer study for any uses that increased their water consumption over a certain amount. He stated with the amended ordinance he is not sure if those requirements have been changed. D. Pierce will review the current ordinance to see if those requirements have changed.

D. Pierce stated the Board should, with the addition of the expanded definitions of permitted uses, think about any uses they do not want to see in the zone. He did reference Section 132-6, Prohibited Uses. Does the Board want to see any new auto body shops, kennels or cannabis businesses in the zone? The proposed definition of principal uses can be very broad and allow a lot of different uses. He doesn't expect the Board to have an answer tonight but they should think about it for the next meeting. Is there any use the Board might find objectional?

J. Mathieu stated the approach used here is appropriate. Could the ordinance be crafted so that the Board and Township reserve the right to examine a use that is not prohibited? D. Pierce stated the Township could not do that as it would be too vague. J. Mathieu suggested the Board review it fairly carefully rather than trying to go through 700 permitted uses.

R. Dodds stated the well ordinance references NJAC 7:10 and has a table of water uses by type. It doesn't reference breweries and doesn't reference other uses. The table provides the Township's requirements such as peak load, etc. The peak load is as described in the NJ regulations. Before enacting any use requirements, the Township has to have the science behind their requirements.

J. Mathieu stated the EPA has industry standards for some uses but he isn't sure their limitations.

C. Ely suggested going to some of the local breweries in Stockton or Milford and find out how much water they use. They are metered so they would know exactly.

C. Ely chaired the meeting at this time as L. Riggio lost his connection.

R. Dodds stated the Board will have to do a more in-depth review in the newly proposed uses in Section 1. If there is a use the Board would not like to be permitted in the zone, it should be discussed next month.

D. Pierce will review the well ordinance to see if the limitations are still in effect.

M. Syrnick stated the changes don't affect any commercial buildings or major subdivisions, only single-family development.

J. Mathieu asked L. Voronin to have the Environmental Commission (EC) also look into it.

L. Voronin stated the new well ordinance is on the EC webpage. She stated the Board of Health (BOH) changed it quite a bit. Some of the changes were the number of wells to be monitored but she doesn't remember exactly. The EC developed a table of the changes and it is posted on the Township's website under EC.

R. Dodds read from the well ordinance which deals with both residential and commercial development. The well ordinance talks about peak demand rates.

L. Riggio was able to rejoin the meeting and assume the position of Chairperson.

Highway Commercial (HC) Zone

R. Dodds inquired if the different zones are really that different.

M. Syrnick stated that the Township is not that big and it is interesting to see the permitted uses on one side and not on the other side of the road.

D. Pierce stated the big question is in the Business Park (BP) zone laboratories, research and manufacturing operations are permitted uses. Those are the most intensive and offensive types of uses. Other than those uses, he agrees with R. Dodds and M. Syrnick, what is the real difference.

R. Dodds stated you have Integrated Clinical Systems in the HC Zone. D. Pierce responded it is considered an office. R. Dodds stated the facility does do a certain amount of research there and he doesn't see it as a permitted use in the zone.

M. Syrnick stated in the BP Zone retail uses are not permitted. The Business Park wanted to put in a gun range and sell supplies. You have a brewery that wants to sell their product.

J. Mathieu stated when Fastenal came before the Board, they were retail and wholesale. It might be something that D. Banisch can review and offer some guidance. He stated there are probably other Townships that are struggling with the same thing.

R. Dodds stated due to budget constraints it may have to be postponed until next year.

M. Syrnick stated a veterinary office is permitted on one side and a veterinary hospital on the other side.

D. Pierce responded the veterinary office is a permitted use in the Professional Office/Residential District (PO/R).

R. Dodds stated he would be in favor of D. Banisch reviewing it and making the HC zone more in line with the BP zone.

D. Pierce stated the review of the zones would not qualify as an appropriate Re-Examination report. There is a lot more that goes into the report.

The Board discussed the availability of funding. The Board requested the secretary contact D. Banisch and request a proposal for his review of all the commercial zones.

R. Dodds stated the zones are the VC1, VC2, BP, POR and HC zones.

S. McNicol – Stream Corridor Ordinance (ANJEC)

S. McNicol was not able to make the meeting tonight. The matter is carried over to next month's agenda.

Approval of Minutes

L. Voronin stated the minutes do not reflect that D. Pierce made a statement that he didn't think it was appropriate that the Board should be discussing the well ordinance at the Planning Board meeting. She would like that added into the minutes.

R. Dodds read the following section from the minutes:

D. Pierce stated it is an important discussion but it is really not this Board's jurisdiction. It is under the jurisdiction of the BOH. The Planning Board can discuss the subject until 2025 but it is the BOH that will need to be convinced and take action.

D. Pierce does not recall stating that it wasn't appropriate for the Board to be discussing the well ordinance. It doesn't sound like something he would say. His point was accurately reflected in the minutes. It is the BOH that adopts those ordinances and the Planning Board does not have the power to adopt an ordinance pertaining to wells.

L. Voronin stated the Board was having a discussion on the well ordinance and its changes. She stated D. Pierce made the comment that the Board couldn't discuss it. She read a statement from the March 14, 2006 made by a former Township Committee member:

S. Zdepski responded the Board of Health writes the ordinance. The intention this evening is for the Board of Health to forward the Well Water Ordinance to the Planning Board for their suggestions since the Planning Board is more intricately involved with the development of the Township. After the Planning Board has reviewed the Ordinance, they will send it back to the Board of Health for comments or suggestions or the Board of Health will introduce and adopt the Planning Board's changes to the Ordinance.

L. Riggio stated the Board is talking about the meeting minutes. Are there any modifications to the minutes?

L. Riggio asked what the other Board members think.

J. Mathieu stated the BOH is the original board of jurisdiction and is the only board that has the ability to draft an ordinance.

D. Pierce stated the BOH does not have to present their ordinances to the Township Committee (TC) for adoption.

J. Mathieu stated the Planning Board can give advice or whatever and he agrees with L. Voronin it is worth the discussion.

L. Riggio stated the Board will be discussing it but the question is whether the Board is approving the minutes. He inquired if the minutes were wrong.

J. Mathieu stated the discussion needs to come up outside of the Board's approval of the minutes.

L. Voronin stated that the meeting minutes do not reflect what D. Pierce actually said.

L. Riggio stated he does not remember D. Pierce saying the Board could not discuss the well ordinance.

R. Dodds stated he does not remember it being said and he thought the minutes were accurate. The minutes gave the general gist of what was said. He doesn't remember him saying to the Board to stop talking.

L. Voronin stated that D. Pierce said it wasn't appropriate for the Planning Board to be discussing the well ordinance. That was her issue with the minutes.

D. Pierce stated the Board can table the minutes until next month and check the recording of the meeting. He stated it can be made available to anyone who wants it.

The approval of the meeting minutes was tabled until the October meeting.

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

L. Voronin stated the point she would like to make is that in the past the Planning Board has always been invited to discuss any changes that might be made to the well ordinance. She is bringing to the Board's attention the joint meeting of March 14, 2006 and former TC member S. Zdepski's comments:

S. Zdepski responded the Board of Health writes the ordinance. The intention this evening is for the Board of Health to forward the Well Water Ordinance to the Planning Board for their suggestions since the Planning Board is more intricately involved with the development of the Township. After the Planning Board has reviewed the Ordinance, they will send it back to the Board of Health for comments or suggestions or the Board of Health will introduce and adopt the Planning Board's changes to the Ordinance.

L. Voronin stated there were major changes to the well ordinance and no one was given any courtesy or email to inform them that there were substantial changes to the well ordinance. She wanted to be assured that the Planning Board members were really aware of what the changes are to the well ordinance. There is a really great summary written by the EC. The Board members can go to the Township's website, EC section. The EC executive summary is posted there. They have been trying to meet with the BOH and it has been postponed three time. It's maybe scheduled for September 22nd. If the members would be willing to read the memo and attend the meeting that would be really good. The Planning Board members have a substantial involvement with the changes to the well ordinance.

J. Mathieu stated he is aware of some of what is going on with the well ordinance. The ordinance was written in 1996. He has spoken with a member of the TC and expressed his displeasure. He agrees that it needs to be examined and he is not comfortable with where the well ordinance went. He understands that the Board of Health has the responsibility of writing the ordinance. The EC should have had some input somewhere along the way. It is something that the Planning Board should have had some input as they have in the past. He thinks L. Voronin's point is well taken. Something has to be done. He stated it needs to be reviewed.

L. Riggio asked if there were any other comments.

R. Dodds stated L. Voronin has a very good point. The EC wrote an excellent memo.

L. Voronin stated when they have the meeting with the BOH, D. Kratzer will be giving a presentation on the changes to the well ordinance and provide a lot of background as to why the Township needs a well ordinance. There has been more information that has been compiled and it will be a very informative meeting. She will send out an email when the day is firmed up. The BOH meeting will be in person at the municipal building on September 22nd. She will send out an email to the Planning Board members and provide the link to the EC documents on the changes to the well ordinance.

C. Ely chaired the meeting at this time as L. Riggio's connection was lost.

R. Dodds inquired if a Bed and Breakfast would be allowed on a farm.

D. Pierce responded it is a permitted use in the VR-2 Zone, which is located in the Barbertown area.

R. Dodds stated it is one of those things people ask about in the Township. He stated what someone does in their own home as long as it is not overloading their septic system is a private issue. He thinks this is a good case in point as to why wouldn't the Township want that use. The Township should be accommodating in a regulatory fashion. He is referencing a use like the Wolverton Inn.

C. Ely stated if he has an Airbnb it is the same as if he has a house full of family members. He doesn't see an Airbnb as an issue for anyone in the Township. If a house was built with "x" amount of bedrooms and the septic was designed for the amount of bedrooms, what is the difference.

J. Mathieu stated septic systems are designed and approved for a certain number of bedrooms.

C. Ely stated if he has a 5-bedroom home and a family of 10 children, 2 in each bedroom, what is the difference between an Airbnb or a Bed and Breakfast.

J. Mathieu stated who will enforce it. The State very carefully regulates Bed and Breakfasts. There are no regulations for an Airbnb. The Township has to be careful. People are renting out spaces to pitch tents. He is the last person who wants government control but it may be necessary.

R. Dodds he is not talking about an Airbnb but someone who wants to have a Bed and Breakfast. The only area in the Township where it is permitted is in the VR-2 zone.

J. Mathieu stated there is a Bed and Breakfast on Route 519 that advertises they have a Bed and Breakfast. It is not new ground.

R. Dodds stated what is permitted and what is being done are two different things. The zone is a tiny area in Barbertown. One chunk of the zone is solar fields and a barn across the street from the solar field.

J. Mathieu stated the Board should not deal with the issue until they have to deal with it.

C. Ely stated he would like to argue that he has a house with 5 bedrooms and why can't he run a Bed and Breakfast and be legal.

J. Mathieu stated he could but Bed and Breakfasts are regulated by the State.

D. Pierce stated the Township could issue him violations for operating a Bed and Breakfast in the AR2 zone. It is only a permitted use in the VR-2 zone.

R. Dodds inquired if someone wanted to legitimately come in for a Bed and Breakfast in a zone other than VR-2 what would they need to do. J. Mathieu responded they would have to apply to the Board of Adjustment. He stated the VR-2 zone is Barbertown.

J. Mathieu stated it goes back to when the Township was dealing with hamlets and Barbertown was classified as a hamlet so that it has some commercial capabilities.

D. Pierce stated Bed and Breakfasts are permitted as conditional uses in the VR-1 zone.

M. Syrnick stated with a Bed and Breakfast the occupancy is determined by the amount of bedrooms in the home. She feels better about a Bed and Breakfast than an event center which could have 100 people coming for events. The event center would make an impact to the neighbors and roads but a 5 bedroom home having 3 or 4 bedrooms rented would have less of an impact.

J. Mathieu stated Delaware Township has ordinances because he has dealt with it in Delaware Township.

M. Syrnick stated the farm behind her wanted to be an event center in Delaware Township. The approval was for a limited number of events per year.

R. Dodds inquired about BlackShed on Route 519.

D. Pierce responded there is an application before the Board of Adjustment. They have applied for a bulk variance to put up a greenhouse. They advertise on their website as an event venue and they haven't been granted any approvals for that use. It is not a permitted use in the zone. There are specific limitations under the Agricultural Management Practices that exclude weddings from farm markets. It is an issue this Board should consider seriously on what parameters it would like to see regarding event venues.

ADJOURNMENT

It was moved by R. Dodds, seconded by L. Voronin and carried to adjourn the meeting at 8:44 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary