

MINUTES

7:30 PM

PRESENT: S. Harris
D. Haywood
J. Mathieu
A. Russano
M. Syrnick
G. Vitale
L. Voronin
F. Murray, Alt # 1
D. Banisch, Planner (8:00 PM)
M. Flynn, Attorney
W. Ingram, Engineer

ABSENT: S. McNicol

CALL TO ORDER

The meeting was called to order by D. Haywood 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. 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.

OATH OF OFFICE

The Board attorney administered the oath to:

Geffrey Vitale

NEW AND PENDING MATTERS

The Ant Farm, LLC – Minor Subdivision – Public Hearing

It was moved by J. Mathieu, seconded by L. Voronin, and carried to open the public hearing on **The Ant Farm, LLC – Minor Subdivision**. All members voted **AYE**.

G. DeSapio, attorney, with an office in Milford, New Jersey is appearing for the applicant. One of the principals of the LLC is a member of the Pierce family and one or more of them are in attendance. The

application is a subdivision for the purpose of cutting the residences and farm buildings off of the lot. His clients are going to be operating on the new lot and the remaining lands will be retained by the current owners for farming purposes. There are no new structures being proposed on either of the lots. He is hoping that this subdivision will proceed well. The applicant has the engineer's letter of December 12, 2022, which has been reviewed. The comments require a revision to the plan which the applicant agrees to add. Perhaps the Board can incorporate them as a condition of approval. There are two things that the applicant needs to address which can be a condition of approval:

3e. The lot width is defined as the shortest horizontal distance between the front lot line and line drawn parallel to the front lot line through the midpoint of the rear lot line. Please show compliance on the plan. A variance may be required. The applicant was not able to have Mr. Norkevich provide the exact dimensions for this evening and are requesting it be made a condition of approval. If the dimensions are not in accordance with the ordinance, the applicant will apply to the Board for a variance.

10. NJDOT approval of the subdivision or letter of no interest shall be provided prior to signing the deed. The applicant is agreement to provide and request it to be a condition of approval.

W. Ingram stated he had spoken with G. DeSapio and the applicant intends to comply with all his comments in his review letter. The plan will be revised to be in compliance with the ordinance. The main two items were the ones G. DeSapio discussed above. There seems to be a slight error in the ordinance in the description of the lot width:

The shortest horizontal distance between the front lot line and a line drawn parallel to the front lot line through the midpoint of the rear lot line. For corner lots, lots fronting on a Class II common driveway, and lots abutting lands used or capable of use for a flag stem with fifty-foot frontage, lot depth shall be measured from each lot line fronting on a public street, on a Class II common driveway, and abutting lands used or capable of use for a flag stem with fifty-foot frontage

The word *parallel* should be perpendicular.

It appears that the application will be compliant or very close. The applicant is not requesting a variance and are presumably meeting the requirements or they will return for relief. It is more than likely compliant but cannot say 100%. The applicant has agreed to obtaining DOT approval. The only remaining items is:

14. The Board shall require, for the protection of environmentally sensitive areas, either by 1) the creation and recordation of a conservation easement for or 2) the inclusion of language in the deeds and/or plat recorded to perfect the subdivision providing notice of restrictions applicable to all lands within or comprising freshwater wetlands, freshwater wetland buffers and/or transition areas, stream corridors, stream riparian buffers and Category One stream buffers on the property (the "protected area"), including the remaining lands, which is the subject of the subdivision application in accordance with §115-6.5.A. The applicant is requesting an exception from §115-6.5. We have no objection to the exception being sought as long as the board imposes a condition that the applicant shall provide a letter of Interpretation and a flood hazard area verification from NJDEP and shall comply with §115-6.5 prior to submitting a zoning permit for any construction within the proposed lots. Our offices will review any construction application for NJDEP Compliance.

The applicant has asked for a waiver for the conservation easements. He can understand their concern with obtaining the permits but not on a large lot when there is not going to be any work. It is an expensive project.

Verification would be completed if and when they apply for any type of building permit. The Board can waive that requirement.

D. Haywood asked for any questions from the Board members.

J. Mathieu expressed his concern about the correction in the ordinance.

D. Haywood stated it will be listed on the agenda for next month's meeting.

D. Haywood called for any comments from the public.

It was moved by J. Mathieu, seconded by L. Voronin and carried to approve the applications with the following conditions:

1. Any and all outstanding taxes and escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);
2. The applicant shall comply with the recommendations contained in the Township's Engineer's Technical Review Memorandum, unless otherwise amended by testimony at the hearing, as follows:
 - a. Zoning Review:
 - i. Route 12 is higher hierarchy than Horseshoe Bend Road and shall be used to determine the frontages, the lot width, and the lot depth. The zoning schedule shall be revised to depict the correct lot frontage, lot width, and lot depth.
 - ii. The barn is 55 feet from Route 12's proposed right-of-way where the front-yard setback for an accessory structure is 100 feet. The applicant shall revise the zoning schedule as it states that the front-yard setback for accessory structures is 289.8ft.
 - iii. All accessory farm buildings shall have a minimum distance to the side line, the rear lot line, and other buildings of 50 feet, plus 10 additional feet for each 1,000 square feet of gross area within the building in accordance with 132-30(F)(2). The subdivision plan shall be revised to add dimensions between the buildings and building and side and rear properties and identify any additional variances. The zoning schedule shall be revised in accordance with this requirement. Should the applicant discover the need for a variance when adding this requirement, the applicant shall return to the Board to request (c) bulk variance relief.
 - iv. The lot depth is defined as the shortest horizontal distance between the front lot line and line drawn parallel to the front lot line through the midpoint of the rear lot line. The applicant shall show compliance on the plan. Should the applicant discover the need for a variance when adding this requirement, the applicant shall return to the Board to request (c) bulk variance relief.

- v. The zoning schedule shall be revised per schedule of lot and building requirements for the AR-2 district only. The applicant shall remove any requirement associated with minor subdivision Class I.
- b. The proposed Township right-of-way dedication shall be circumscribed by metes and bounds. Metes and bounds descriptions along with a closure report shall be submitted for review and approval. The deed of dedication shall be subject to the review and approval of the Township Attorney.
- c. Parcel's metes and bounds descriptions along with a closure report shall be submitted for review and approval.
- d. The location of the soil logs and basin flood test shall be shown on the plans.
- e. The soil classification for each profile shall be added to the plans.
- f. The plan shall be revised to show the existing septic system.
- g. The plan shall be revised to show the existing well. Compliance with the Township's well testing ordinance is required in the future should a new well be proposed for the vacant lot.
- h. NJDOT approval of the subdivision or letter of no interest shall be provided prior to signing the deed.
- i. NJDOT to approve the metes and bounds description for the proposed right-of-way on Route 12.
- j. For access on Proposed Lot 1.01: NJDOT permit will be required if access is from Route 12 and a Township of Kingwood Driveway Opening Permit will be required if access is on Horseshoe Bend Road. This condition will be applicable if and when the applicant seeks to install access to Proposed Lot 1.01.
- k. Any future activities within the C1 streams or stream buffers must adhere to NJDEP rules, same shall apply to any wetlands or wetlands transition areas.
- 1. Although the Board waived the creation of a conservation easement as a condition of approval as required by Ordinance Section 115-6.5, the applicant shall provide a letter of interpretation and a flood hazard area verification from DEP and comply with Section 115-6.5 prior to submitting an application for a zoning permit for any future construction within the proposed lots, to also be overseen by the Township Engineer's office; and no building permit shall issue for any improvement until the NJDEP letter of interpretation and flood hazard area verification from NJDEP are issued, conservation easement(s) are provided for review and approval by the Township Engineer and Township Attorney, recorded by the County and filed with the Township Engineer and Township Clerk in digital GIS format;
- 2. The applicant shall comply with, and be responsible for, any costs associated with any and all Federal, State, County, and local ordinances, codes, rules, and regulations, with regard to all aspects of the property, including stormwater management, Affordable Housing compliance, and such applicable laws and codes;
- 3. The applicant shall post all required performance guarantees, engineering, maintenance, and inspection fees as may be applicable and required pursuant to the MLUL. These amounts shall be calculated by the Board Engineer;

4. The applicant shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the property unless modified by this Resolution;
5. All representations, commitments, and agreements made by the applicant or its representatives at the hearing in this matter or contained in any document, sketch, plat, or submission delivered to the Board at any time prior to this approval, including notes contained in original or revised submissions, will be considered as conditions of approval of this application for development and are hereby incorporated into this Resolution by reference;
6. The aforementioned approval shall be subject to all requirements, conditions, restrictions, and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein; and
7. The aforementioned approval shall be subject to all State, County, and Township statutes, ordinances, rules, and regulations affecting development in the Township, County, and State.
8. Failure to comply with any of the conditions listed above shall render this resolution void.

All members voted **AYE** on **ROLL CALL VOTE**.

Delia – Minor Subdivision – Public Hearing

G. DeSapio, attorney, with an office in Milford, NJ, was present for the application this evening. He offered the following letter in response to the engineer's review letter of November 22, 2022:

This letter is written in anticipation of the applicant making a presentation to the Board at its meeting of February 9. It is written to: 1.) set forth the applicant's position in regard to questions set forth by the Board's engineer in his letter of November 22, 2022; and, 2) to present the applicant's written request for waivers in connection with certain items.

When evaluating the applicant's requests for waivers it is important for the Board to understand the reason for this subdivision request. The subdivision is not sought because of any present intention to build an additional home on the remaining lands. The owner of the property died in July 2013. The heirs are attempting to settle the estate and in order to do so need to subdivide the existing home from the farmland. The large parcel (41.95 acres) of remaining lands will continue to be used for farming.

The below presentation makes reference to the page numbers in Mr. Ingram's 11/22/22 letter for convenience in review:

Page 3: a. *The variance to which Mr. Ingram refers was already obtained by the applicant. It was formally granted by the Planning Board in a resolution dated February 11, 2021.*

Page 3: la. *The soil suitability results will be added to the plan.*

Page 4: lb. *This "error" in the reporting of the results will be corrected and revised results submitted.*

Page 4: le. *This condition will be inserted in the deed submitted for approval by the Board.*

Page 4: 2. *The flood hazard area for the area of the actual subdivision will be labelled on the plan. It should not be required for that area of Copper Creek which lies a distance from the area of the actual*

subdivision of the house. The applicant requests a waiver from performing such delineation at this time since the area of the remaining lands is close to 42 acres and there is no present proposal to build on those lands. A formal delineation can be performed in the future when the specific use of an area is proposed.

Page 4: 3. *A waiver is requested for this full delineation since the area of the remaining lands is close to 42 acres, will continue to be used for farming and there is no present proposal to build on those lands. A formal delineation can be performed in the future when the specific use of an area is proposed.*

Page 4: 4. *A waiver is requested at this time since the applicant has requested a waiver for the referenced items in 3 and 4.*

Page 4: 5. *A waiver is requested for the setting of markers since the area of the remaining lands is close to 42 acres, will continue to be used for farming and there is no present proposal to build on those lands. A formal delineation of conservation areas can be performed in the future when the specific use of an area is proposed.*

Page 4: 6. *The revised plan resulted in the driveway being moved out of the riparian zone and wetlands transition area. Therefore, this requirement should no longer be applicable.*

Page 4: 7. *The applicant is obtaining a statement from its consultant in regard to threatened and endanger species.*

Page 4: 8. *This will be added to the plan.*

Page 4: 9. *A reference to stormwater requirements will be included in the deeds.*

Page 5: 10. *These monuments will be included to the extent necessary.*

Page 5: 11. *These certifications will be included if not already on the plan.*

Page 5: 12. *The County Planning Board has provided approval.*

G. DeSapio stated the applicant is requesting some waivers. The property is owned by an estate and is a very large farm. The purpose of the subdivision is to be able to settle the estate between six beneficiaries. The application is cutting off the house and making arrangements to the remaining lands ownership by one or more beneficiaries. There is no intent to develop the remaining lands. The estate cannot be settled unless the house is carved off from the property. The applicant is requesting a waiver on the larger remaining parcel to not complete the conservation easement and wetlands studies. The applicant does not propose to do any development of the property. The study will require an expense that the heirs cannot afford and because they have no plans to develop the farmland.

W. Ingram stated G. DeSapio is correct in that the prior variances were approved and the conditions addressed at that time. The applicant indicated the location of the flood plain relating to the new driveway and stream on the lot. The flood plain will not impact the project. In regard to conservation easements and the placing of monuments, the applicant is requesting a waiver. Even though the new proposed lot will have frontage, it is contained within a regulated area. By doing this common easement, the applicant is providing the easement with no DEP restrictions. Number 6 is addressed with the relocation of the driveway. Number 7 dates back to the original application requesting a list of all threatened and endangered species. He has discussed it with their professional and the only way the applicant can obtain the list is through the Natural Heritage Search which is taking approximately six months to obtain. Since the Township is not requiring an LOI, adding the list of the threatened and endangered species would not add anything to the application. The applicant is assuming the

maximum buffer on the wetlands and even if the Township would have that information, it would not change the compliance of the application. The Board can consider a waiver of the requirement. The applicant is requesting a waiver of the delineation of the conservation easements and a delineation of the entire property. The applicant is agreeing to all of the remaining comments.

D. Haywood asked if there were any questions from any of the Board members.

F. Murray inquired if the one lot will become six lots. G. DeSapio responded the application will enable the house to be dealt with to resolve the estate. The remaining lands are not to be divided and will stay as one piece.

D. Haywood asked for any questions, concerns, or comments from the Board. She then asked for any comments from the public. No response was heard.

It was moved by A. Russano, seconded by L. Voronin to approve the application with the following conditions:

1. Any and all outstanding taxes and escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);

2. All conditions of approval contained Resolution 2021-01 remain in full force and effect and are incorporated by reference as if set forth fully herein, with the exception of Condition 2, which is hereby eliminated reflecting the Board granting of minor subdivision approval outside of the eight-month deadline and effectively granting it pursuant to the previous approval of the requested variance relief.

3. The applicant shall comply with the recommendations contained in the Township's Engineer Technical Review Memorandum, unless otherwise amended by testimony at the hearing, as follows:

a. Soils testing, dated August 30, 2018, from Douglas Fine, P.E.:

i. The soil suitability classification for each profile pit shall be added to the plans.

ii. 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.

iii. Construction of any future subsurface sewage disposal system is conditioned upon review and approval of soil suitability testing by the Hunterdon County Health Department.

b. The flood hazard area for the actual subdivision will be labelled on the plan. A formal delineation for the Copper Creek area shall be performed prior to any future construction.

- c. The provisions outlined in Section 112-7(G)(3) regarding construction of a common driveway within the common drive easement shall be added to the plan.
- d. Construction of future improvements on Lot 33.03 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, and thus, a reference to the stormwater requirements shall be included in any subdivision deed.
- e. 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.
- f. Surveyor certifications per the Title Recordation Act shall be provide and signed by the surveyor of record.
- g. The subdivision is subject to review and approval by the Hunterdon County Planning Board. Copies of approvals shall be provided prior to final sign-off on the plans.
- h. Although the Board waived the creation of a conservation easement as a condition of approval as required by Ordinance Section 115-6.5, the applicant shall provide a letter of interpretation and a flood hazard area verification from DEP and comply with Section 115-6.5 prior to submitting an application for a zoning permit for any future construction within the proposed lots, to also be overseen by the Township Engineer's office; and no building permit shall be issued for any improvement until the NJDEP letter if interpretation and flood hazard area verification from NJDEP are issued and conservation easement(s) are provided for review and approval by the Township Engineer and Township Attorney, recorded by the County and filed with the Township Engineer and Township Clerk in digital GIS format;
- 4. The applicant shall comply with, and be responsible for, any costs associated with any and all Federal, State, County, and local ordinances, codes, rules, and regulations, with regard to all aspects of the property, including stormwater management, Affordable Housing compliance, and such applicable laws and codes;
- 5. The applicant shall post all required performance guarantees, engineering, maintenance, and inspection fees as may be applicable and required pursuant to the MLUL. These amounts shall be calculated by the Board Engineer;
- 6. The applicant shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the property unless modified by this Resolution;
- 7. All representations, commitments, and agreements made by the applicant or its representatives at the hearing in this matter or contained in any document, sketch, plat, or submission delivered to the Board at any time prior to this approval, including notes contained in original or revised submissions, will be considered as conditions of approval of this application for development and are hereby incorporated into this Resolution by reference;
- 8. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein; and

9. The aforementioned approval shall be subject to all State, County, and Township statutes, ordinances, rules, and regulations affecting development in the Township, County, and State.

10. Failure to comply with any of the conditions listed above shall render this resolution void.

All members present voted **AYE** on **ROLL CALL VOTE**.

G. DeSapio thanked the Board for their patience and was appreciative of their courtesies.

Wildgen – Planned Water Usage Changes

M. Syrnick stated the email asked the Board if they have any planned changes in use for that particular site. The Board is not aware of any development applications that will result in any planned changes in the aquifer.

The secretary was requested to respond to the email.

Farmland Preservation Plan Element (FPP) – Draft

D. Banisch stated he has prepared the update to the FPP and submitted to the State Agricultural Development Committee (SADC) on January 16, 2023. The next step is for the SADC to conduct a review and provide any comments they may have to the Township. Prior to the Board proceeding to a public hearing, the Board should wait to see if the SADC has any comments. If they do, their comments can be addressed at one time. He proposes that the Board wait for the SADC comments to see if any revisions are necessary and then present it to the Board.

D. Haywood inquired if the Board would like to discuss any items. She has not read through it all and did have some questions.

F. Murray inquired about the SADC. D. Banisch responded it stands for the State Agriculture Development Committee. It is the State agency that provides funding to municipalities as a mechanism for farmland preservation. With the adoption of the FPP, it qualifies Kingwood Township to receive Planning Incentive Grant funds for farmland preservation. With larger farms which will require larger expenditures, the preservation typically involves participation from the County. A direct State purchase does not require a municipal contribution.

A. Russano stated D. Banisch was present at the Open Space/Ag meeting. The Board reviewed it at that meeting. D. Banisch reviewed it with the Board members and responded to their questions. The Board agreed that since the SADC will review it within 30-60 days it would continue to be on their monthly agenda.

D. Haywood requested it be placed as a recurring agenda item for the Planning Board.

D. Banisch stated the Open Space/Ag members had some questions and comments on the FPP. There were also some additional comments on the status of pending farmland preservation projects. One additional comment was that there is a Soil Conservation District program for farmers to receive funding for certain types of activities that protect the environment.

D. Haywood stated it is currently being reviewed by the Planning Board, Open Space/Ag and SADC.

M. Syrnick stated she appreciates all the different boards reviewing it. She stated the Township is pro-farmland preservation and the FPP is an important document. She thanked D. Banisch for all his hard work. There were a lot of edits and updates that resulted in the final document.

D. Haywood also thanked D. Banisch.

Resolution No. 2023-01 – Resolution Setting the Meeting Dates for the Township of Kingwood Planning Board for the Calendar Year 2023

**RESOLUTION SETTING THE MEETING DATES FOR THE TOWNSHIP OF KINGWOOD
PLANNING BOARD FOR CALENDAR YEAR 2023
DECIDED: JANUARY 12, 2023
MEMORIALIZED: FEBRUARY 9, 2023**

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-6 et. seq., requires that public bodies provide adequate notice of meetings.

THEREFORE, BE IT RESOLVED, by the Township of Kingwood Planning Board that during the calendar year 2023, meetings shall be held by the Township of Kingwood to discuss or act upon official business at 7:30 p.m. prevailing time, via virtual software as listed below, as follows:

1. Regular Meetings of the Township of Kingwood Planning Board for the year 2023 will be held on the following dates, at 7:30 p.m. prevailing time, via virtual software at the link listed below, on the following dates:

February 9, 2023
March 9, 2023
April 13, 2023
May 11, 2023
June 8, 2023
July 13, 2023
August 10, 2023
September 14, 2023
October 12, 2023
November 9, 2023
December 14, 2023

2. Meetings can be accessed by ZOOM, as follows, by dialing in via telephone at the number below or accessing via the below web-based link. All meetings are being held virtually at the below ZOOM links until further notice, and participation can only occur via the Board's below-chosen web-based software:

Zoom Meeting Information

<https://dvrhs.zoom.us/j/86110307855>

Meeting ID: 861 1030 7855
One tap mobile

+19292056099,86110307855# US (New York)

Dial by your location
+1 929 205 6099 US (New York)
Meeting ID: 861 1030 7855

3. Notice is hereby given that an executive (closed) session may be convened at any of the herein referenced Board meetings.
4. In the event a change to this schedule is necessary due to anticipated lack of quorum, holiday, or discretion of the Board, further notice will be provided.
5. Certified copies of this resolution shall be mailed to the Township's official newspapers and posted on the bulletin board outside the office of the Township Clerk and filed in the Office of the Administrator.
6. A copy of this resolution shall be sent to any interested person who has requested that they be sent copies of notices pursuant to N.J.S.A. 10:4-19, and who has paid the required fee.

It was moved by M. Syrnick, seconded by A. Russano, and carried to adopt **Resolution No. 2023-01 Resolution Setting the Meeting Dates for the Township of Kingwood Planning Board for the Calendar Year 2023**. All members present voted **AYE** on **ROLL CALL VOTE**, except **J. Mathieu**, who was **ABSENT** for this matter.

Resolution No. 2023-02 – Resolution Designating the Official Newspapers for the Publication of Advertisements and all Notices Required by Law to be Published by the Township of Kingwood Planning Board for the Year 2023

RESOLUTION DESIGNATING THE OFFICIAL NEWSPAPERS FOR THE PUBLICATION OF ADVERTISEMENTS AND ALL NOTICES REQUIRED BY LAW TO BE PUBLISHED BY THE TOWNSHIP OF KINGWOOD PLANNING BOARD FOR THE YEAR 2023

DECIDED: JANUARY 12, 2023

MEMORIALIZED: FEBRUARY 9, 2023

WHEREAS, the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., provides that certain notices required by its terms are to be published in the official newspaper of the municipality; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., requires that notification be given of meetings of public bodies as therein defined and, in the manner, therein set forth; and

WHEREAS, the Township of Kingwood has by resolution selected the official newspapers of the Township for publication of legal notices.

THEREFORE, BE IT RESOLVED, by the Township of Kingwood Planning Board that pursuant to N.J.S.A. 40:53-1, the Hunterdon County Democrat and Courier News are hereby designated as the official newspapers for all advertisements and all notices required by law to be published for the Calendar Year 2023.

It was moved by A. Russano, seconded by F. Murray, and carried to adopt **Resolution No. 2023-02 – Resolution Designating the Official Newspapers for the Publication of Advertisements and all Notices Required by Law to be Published by the Township of Kingwood Planning Board for the Year 2023**. All members present voted **AYE** on **ROLL CALL VOTE**, except **J. Mathieu**, who was **ABSENT** for this matter.

Resolution No. 2023-03 – Memorializing Resolution of the Planning Board of the Township of Kingwood Appointment Board Professionals for the 2023 Calendar Year

**MEMORIALIZING RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF
KINGWOOD APPOINTING BOARD PROFESSIONALS FOR THE 2023 CALENDAR YEAR
DECIDED: JANUARY 12, 2023
MEMORIALIZED: FEBRUARY 9, 2023**

WHEREAS, there exists a need for the Planning Board to employ and contract for professional services for the year 2023; and

WHEREAS, the Planning Board desires to employ and contract with certain professionals for the purposes of carrying out their respective duties; and

WHEREAS, the Township of Kingwood desired to undertake a process for awarding contracts for professional services for all professional positions to be filled by the Township and the Township's subsidiary boards pursuant to N.J.S.A. 19:44A-20.5 on an annual basis, or when needed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Kingwood, County of Hunterdon, State of New Jersey, that the Board does hereby appoint the following professionals for the 2023 Calendar Year:

1. **BOARD ATTORNEY** – Matthew R. Flynn, Esq., of Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A., 56 E. Main St, Suite 301, Somerville, NJ 08876
2. **BOARD ENGINEER** – Wayne Ingram, P.E., of Engineering & Land Planning Associates, Inc., 140 W. Main Street, High Bridge, NJ 08829
3. **BOARD PROFESSIONAL PLANNER** – David Banisch, P.P., of Banisch Associates, Inc., 111 Main Street, Flemington, NJ 08822

BE IT FURTHER RESOLVED, that this Resolution shall go into effect upon adoption and according to law; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be published in the Township's official newspaper(s) as required by law within 10 days of the date of its passage.

It was moved by A. Russano, seconded by S. Harris, and carried to adopt **Resolution No. 2023-03 Memorializing Resolution of the Planning Board of the Township of Kingwood Appointment Board**

Professionals for the 2023 Calendar Year. All members present voted **AYE** on **ROLL CALL VOTE**, except **J. Mathieu**, who was **ABSENT** for this matter.

Proposed Ordinance 5-2023 – An Ordinance of the Township of Kingwood, County of Hunterdon, State of New Jersey Amending the Code of the Township of Kingwood, Chapter 132, Zoning, Article 1, General Provisions Regarding Definitions, Article II Zoning Districts, Map; Boundaries, and Article III District Regulations Regarding the Applicability of Permitted Uses Identified in Section 132-41, The Route 12 Scenic Corridor Overlay (SCO) Zone as Pertains to the Village Commercial 1 and 2 Zones, The Highway Commercial Zone, the Professions Office/Residential Zone, The Business Park Zone and the Agricultural Residential Zone, and Amending the Permitted Uses Within the Route 12 Scenic Corridor Overlay Zone.

After a lengthy discussion, M. Flynn informed the Board that the correct procedural process would be to hold the public hearing and adoption on the Re-Examination Report first and then determine that the above ordinance is not inconsistent with the Master Plan. The Board changed some of the uses along Route 12 in the proposed ordinance. The Township Committee wants to have the above ordinance adopted at their March meeting. The Board has scheduled a special meeting on Monday, February 27th @ 7:30 pm to hold the public hearing on the Re-Examination Report.

M. Syrnick stated the Township Committee introduced the ordinance. The ordinance was confusing and very narrow. It was adopted with the intention of someday the Board would have to re-examine it for the permitted uses.

D. Banisch stated to refresh some of the Board members' memories or for those who were not around, when the Township Committee adopted its Fair Share & Housing Element, a Re-Exam Report was done which recommended the changes. There are two separate issues. One is to have the procedural elements put in place with the redesign or change in the zoning classifications by adding the new uses. The other piece is the Master Plan consistency review. Technically the Board could do the Master Plan consistency review this evening. M. Flynn's recommendation for the Re-Exam report is a prudent one and one the Board should follow.

M. Flynn agreed with D. Banisch's comments. The danger in the Board stating an ordinance is consistent with the Master Plan which changes the zoning classifications, poses a risk for a challenge of the ordinance in court to be successfully. The Re-Exam report will indicate the changes and once the Board votes on the Re-Exam Report and the Board determines that it is appropriate to add these changes then it does not have an issue with finding it consistent with the Master Plan. The risk of not doing it that way may permit a developer who argues they were or were not subject to the existing ordinance could lead to an overturning of the ordinance by the fact that the Township Committee or Planning Board did not do their due diligence. There are governing bodies that are passing ordinances restricting warehousing. All of them are going to court. There are developers who purchased property within the last year or two attempting to overturn the ordinance. The goal is to make sure that the Board and the Township Committee do it correctly to best withstand any developer's challenge. His review of the MLUL (Municipal Land Use Law) pertaining to the change of classification of a zone should be accompanied by a Re-Exam Report. It is the safest way to go.

The Board members thanked the professionals for their input.

Approval of Minutes

It was moved by S. Harris, seconded by G. Vitale, and carried to approve the January 12, 2023 – Re-Org Meeting Minutes. All members present voted **AYE** on **ROLL CALL VOTE**, except **J. Mathieu**, who was **ABSENT** for this matter.

It was moved by M. Syrnick, seconded by A. Russano, and carried to approve the January 12, 2023 Meeting Minutes with the following change to Page 2:

Replace: L. Voronin stated the EC thought that the DEP had deemed that there was no problem at the site or they had completed the remediation.

With: L. Voronin stated that the EC discussed the issues and she thought that the problem was remediated. Sandy, correct me if this is wrong.

All members present voted **AYE** on **ROLL CALL VOTE**, except **J. Mathieu**, who was **ABSENT** for this matter.

Special Meeting – February 27, 2023 @ 7:30 PM

D. Haywood asked if there were any comments about the Special Meeting on February 27th at 7:30 PM.

CORRESPONDENCE

NJPO – 2022 November/December Planner;
Delaware Township – Master Plan Notice – Public Hearing;

G. Vitale stated a piece of the correspondence talked about Netflix buying a property in the Monmouth area for a production studio. With the agricultural aspect of the Township, is there anything that could be done to utilize the scenic view to entice movie production in the area. Are there any restrictions for any type of film crew activity? Is there anything that would encourage or discourage it? Does the Township have anything that would explicitly prohibit or permit filming? Would there be a lot of red tape someone would have to go through to be able to film in the Township?

D. Banisch inquired how does the Township notify them and let them know that the Township has this bucolic rural setting that may lend itself for any production for that type of setting. When a use it not specifically permitted it is prohibited. Filming a movie might be a use that may require a special use permit by the Township Committee. From what little he knows about the film industry, crews can be pretty big and be a big production. If G. Vitale is asking how to promote the Township, he would think that the Township Committee would have to undertake a campaign for a location that might work for the film industry.

G. Vitale stated he knows of a show that is filmed in Franklin. Should the Township allow the use and indicate the conditions of the use? D. Banisch responded it is for the Township Committee to discuss.

A. Russano stated that M. Saluk, Director of Hunterdon Economic Development, has an inventory of what offerings each municipality has available. If someone is looking to utilize 2,000 acres, he would reach out to the Township Committee to see if it is something that can be done and if they would entertain it. It is being promoted. There was a survey that was distributed to inquire about what types of lands and vistas we have in Kingwood. If someone would contact him, he would reach out to the Township.

G. Vitale stated that what he was hearing is that the use is not restricted and someone could come in to film in the Township.

M. Flynn stated he is familiar with the filming of a horror movie. The municipality only required a hold harmless agreement. The hold harmless agreement provided that the municipality will not be responsible for maintenance of the middle of the woods. He cannot imagine that the Zoning Officer would cite a property owner who allowed a film crew on it. There is no action needed by the Planning Board.

Special Occasions Events on Preserved Farmland – New Law Passed

M. Syrnick stated Governor Murphy passed into law the Special Occasions Event Bill. She stated any preserved farm can hold events, such as weddings, bands, concerts, etc.

D. Banisch inquired if limitations can be set.

M. Syrnick stated the Township has all this preserved farmland which is beautiful and bucolic. When the solar farm was built on Muddy Run, the residents in the area complained about the noise in the morning. The law provides that all preserved farms may have special events or concerts.

A. Russano stated the Open Space/Ag Committees spoke about it the other evening. One of the requirements is that the preserved farm must have an income of \$10,000 in horticultural or agricultural products. He stated Beneduces would qualify. The law opens it up to 26 additional events a year hosting with 6 having 250 people or more. They can hold events of 500-1000 people.

M. Syrnick stated farmers need money and it is a way for farmers to make an income. She does not know if the Township can adopt any checks or balances on the events. It might be something the Board may want to review.

D. Haywood stated the Township should be able to enact some conditions.

S. Harris stated the email indicates that in part the event will have to comply with location regulations.

D. Banish stated his firm developed a special occasion event ordinance for Alexandria Township. The summary references the Agricultural Management Practices adopted by the SADC. If the Township has standards on where these events can take place and on parking, signage, and waste management, they are required to conform to the local requirements. He is not sure who would be the administrative authority, possibly the County Agriculture Development Board. He will share the ordinance his firm developed for Alexandria Township for special event occasions. The purpose is to strike a balance with the municipality as well as addressing the farmer's needs. The 26 events calculate to one weekend half of the year or 2 events per weekend a quarter of the year over and above the events permitted under the Right to Farm protection. He will review the entire law as the email was a summary of it. The Board may want to deal with this sometime this year.

D. Haywood stated the matter should be placed on the agenda for next month.

D. Haywood inquired if anyone from M. Flynn's firm attended the siting warehouse seminar.

M. Flynn stated one of the attorneys from his firm did attend. The seminar was consistent with the guidance that was handed down from the State Planning Commission regarding warehouse siting and additional burdens on traffic, noise, and air. He invited the Board members to check out that guidance. It is a 30-page document. The State cannot do any central planning but provided some tools for municipalities in the guidance document to protect themselves against warehousing and additional burdens. Municipalities that have warehouses are trying to distinguish the type of warehouses. One type of warehouse may be a storage facility and another one a last-mile fulfillment center that goes directly to the consumer. Some warehouses can be up to 500,000 to 600,000 sq ft for the last-mile classification. There are different definitions that warehouses can fall under in their use. Some interact with the consumer in the supply chain. It will be the responsibility of the municipalities to regulate.

D. Haywood stated the Board should look into it. There are two buildings in Sayreville that will contain 2,000,000 sq ft of warehousing. There is a lot of opposition to the warehouse and the damage that will be done. The residents were not happy. She is aware of the area they are siting it and the roads will not handle the traffic issues.

D. Banisch stated M. Flynn made a point but first of all, Kingwood Township is the lowest in population density in the State and Sayreville and other places where you see the warehouses popping up have a very high population density. The last-mile facility means that they can reach 50,000 people without having to travel over too many miles and make the last mile of distribution. The storage facilities, which tend to show up at intersections of interstates, store merchandise in the buildings for a period of time, such as a furniture store. They have a large warehouse so the purchasers can have the product in a day or two. In both of those cases, Kingwood is a low priority target.

D. Haywood stated it makes sense. The Sayreville area has grown from 45,000 now from 15,000 years ago. There are more and more buildings opening up in the area. It is also not far from Route 9.

D. Banisch stated you can reach Monmouth, Middlesex, and Union counties pretty easy from Sayreville.

Borough of Frenchtown – Notice of Adoption of Land Use Ordinance;
Borough of Califon – Notice of Public Hearing – Flood Damage Ordinance;
goHunterdon – Winter Newsletter;

PRIVILEGE OF THE FLOOR

L. Voronin stated the Environmental Commission (EC) is working on compiling a list of properties in the Township that contain conservation easements. They found that there is not a list. She stated she was thinking when they are reviewing site plans are they looking or checking that there's conservation easements on any of these properties because there is no list. How does the Board know there are or are not any?

D. Banisch stated the checklist requires the applicant to identify any conservation easements.

W. Ingram stated that the Township requires that it be shown on the plat. The conservation easement can be picked up in a title report but they do not have a list to check it against.

D. Banisch inquired if the Township was requiring the filing of all of their subdivisions in a GIS format or is it still dwelling on paper.

In response to L. Voronin's question, W. Ingram stated the applicant is required to provide a "pdf" of the final plat and his firm is working with the tax assessor to the extent that they are shown on the tax maps.

D. Banisch stated the electronic filing might help the other Boards to follow it more easily. The Board may want to amend the checklist.

L. Voronin stated if there is no list of these easements and no one is aware of them a construction permit could be issued without knowing the location of any easement.

W. Ingram stated the construction official should be receiving a document indicating what the applicant would like to build and if the surveyor does his job and pulls the records, it should be noted on the change of title and should be plotted. It is not a foolproof way but it is commonly how it is handled.

L. Voronin stated the Township should start compiling a list so that when the Board approves a site plan, the plat should indicate an easement on the property and that they are not building in the conservation easement area.

M. Syrnick stated should it be added to the checklist.

L. Voronin stated a list of the easements should be always maintained.

D. Banisch stated the Township needs some GIS management services provided by the Township engineer. Once you have it compiled you will have it all in one place. With the filings going forward it would build that electronic basis.

D. Haywood inquired who would be responsible for maintaining the list.

D. Banisch stated it is an engineering function of the Township engineer. The two applications approved tonight, as a condition of approval, granted subdivisions and the Board deferred the filing of that information until such time as future development occurs. Technically the enforcement should be in the control of the Zoning Officer.

W. Ingram stated some Townships have a tax map maintenance fee. His firm puts it into their system. It is generally the Zoning Officer's responsibility to review the files, resolution of approval and conditions prior to issuing a permit.

D. Haywood inquired of M. Syrnick and A. Russano if it was something that the Township can find the funds to take on the project.

A. Russano stated he spoke with the new Zoning Officer on Tuesday and he will be coming on and introducing himself at the March Planning Board meeting.

M. Syrnick stated the Township does not provide in its budget for a tax map update. The Committee spoke about it last year. The maps had been updated but contained some errors and mistakes. The Township was

discussing hiring someone to go through it properly. She will reach out to the tax assessor and speak with her about an updated tax map review. She does not have enough information at this time.

A. Russano stated all of the tax assessors have been working with the County GIS to update the mapping. The tax assessors are updating their documents and maps. He is not sure if this will benefit Kingwood.

L. Voronin stated she would like to keep this discussion current and have it placed on the agenda so she will remember to discuss it after M. Syrnick checks into updating the tax map. She did notice some places that have conservation easements are not indicated on the tax maps.

M. Syrnick stated she will speak with the tax assessor about the type of review she was discussing, such as what does it include.

A. Russano stated that G. Bonin officially put in his resignation and it was accepted at the February 2nd Township Committee meeting. The new Zoning Officer, John Fleming, has been approved. G. Bonin's last day will be at the end of the month. J. Fleming will be introducing himself to the Board of Adjustment and Planning Board.

M. Syrnick stated two or three meetings ago, the Board secretary brought up the issue of applications going to the zoning officer prior to applying to the Boards. There was some discussion that the Zoning Officer might not have time. The Board may want to revisit it with the new Zoning Officer. It may save the applicant some time if he can let them know the appropriate board for their application. The Board may want to talk about it next month after meeting the new Zoning Officer.

ADJOURNMENT

It was moved by A. Russano, seconded by J. Mathieu, and carried to adjourn the meeting at 9:02 pm. All members present voted **AYE**.

Respectfully submitted,

Diane Laudенbach, Secretary