

MINUTES

7:30 PM

PRESENT: S. Harris
D. Haywood
J. Mathieu
S. McNicol
M. Syrnick
G. Vitale
L. Voronin
F. Murray, Alt #1
D. Banisch, Planner
A. Fisher, Attorney

ABSENT: A. Russano

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.

NEW AND PENDING MATTERS

New Zoning Officer – J. Fleming

The secretary was requested to reach out to J. Fleming and invite him to the April meeting.

132-4 Lot Depth Definition Correction

D. Haywood had stated at the last meeting the engineer had indicated that he recommended changing the wording in 132-4 by replacing the word “parallel” with “perpendicular”. She stated parallel means something that is next to something else and perpendicular means it intersects it.

S. McNicol stated it was in regard to the Ant Farm subdivision. There was some language that was incorrect in that section. She was not present at the meeting but she had read the minutes.

The secretary was requested to send the correction to 132-4 to the Township Committee for the preparation of an ordinance for introduction.

Special Occasions Events on Preserved Farmland – New Law Passed

D. Haywood stated the Board touched on the subject at the special meeting. D. Banisch had provided an ordinance that was adopted by Alexandria Township dealing with special occasion events on preserved farmland. The ordinance from Alexandria Township seems to be very specific and uncovered a lot of things. She asked if it is something that the Board feels they need to also do. She stated it sounds like the Township should cover itself. The ordinance is very specific and particular. She stated she thinks the Board could use the Alexandria ordinance as a starting point and determine if any changes are needed to it or if it should be adopted as it stands. There are fees also in the Alexandria ordinance. She asked if there were any comments from the Board members.

S. McNicol stated she thought in Alexandria Township it was as a result of the Beneduce Farm and their use of their property. She is not sure if it was a lawsuit. Beneduce's hosts a lot of events at the property. She thinks that the Township should have something in place to deal with the possible issue. She suggested the Township should prepare an ordinance for Kingwood, have it reviewed by the attorney and planner and have a discussion on it from there.

D. Haywood inquired if the Alexandria ordinance meets the Township's needs, needs some tweaking or a major reconstruction.

S. McNicol stated she read through only a couple sections and did not delve through the entire ordinance.

L. Voronin stated that she thinks the Township needs some kind of ordinance because some of these places, like the one that is on Federal Twist Road and Route 29. There are times when there is a lot of traffic, parking, and noise. She stated she thinks that it is something that the Township really needs to deal with and agrees with S. McNicol that it should be go through the planner and attorney.

M. Syrnick stated Kingwood is very aggressive in preserving farms, especially in the section that's kind of adjacent to Alexandria Township. The Township has a lot of preserved farms and people do appreciate the quietness of a preserved farm. If all of these places started having events every weekend with no regulation it will impact the residents. If you read some of the other information in our packet, it references about parking spaces and not adding permanent parking spaces. It also talks about the kind of venues, etc. She thinks the Township needs some type of legislation otherwise it has nothing and it could be massive.

D. Banisch stated he is thinking about how to deal with the issue. He is not sure if the attorney has given it any thought yet but since the legislation references the SADC's adopted Agricultural Management Practices under the Right to Farm Act, it seems that the Township should have an amendment that requires these special events to conform to local ordinance standards, to the extent that the Special Events Agricultural Management Practice permits the Township to regulate. The regulations state in the absence of standards, particularly with respect to parking and circulation then the CADB will just kind of make it up or take the farmer's word for it.

M. Syrnick stated in the provided information signage, setbacks off the road, circulation and traffic were addressed in the On-Farm Direct Marketing.

F. Murray inquired if it will affect a farm owner that has a private event, a wedding for one of their children which may have an attendance of a couple 100 people.

D. Banisch responded that it is an exempt activity and not regulated.

S. McNicol stated she thinks it is more about recurring events such as every weekend or really big gatherings.

M. Syrnick stated the ruling just came out about a month ago where the state is allowing events on preserved farmland, so the Township is trying to be proactive in controlling it before it has issues with people complaining and crowding, etc.

D. Haywood stated she agrees with D. Banisch that the Alexandria ordinance is very comprehensive and the Board was just talking about that before D. Banisch came on that whether it would also apply to Kingwood. Would the Township need to just change Alexandria to Kingwood and use the same format or do we need to do some tweaking for Kingwood itself?

D. Banisch stated the new legislation is a game changer and he has not taken the time yet to analyze Alexandria Township's ordinance to see how it has to be changed to conform to the new law. He stated his suspicion is that some of the stuff in that ordinance is going to have to be set aside but there is quite a bit in it that can remain. Once he goes through their ordinance, he is going to bring it up to Alexandria Township's attention and see what they want to do about it but the Township may end up in a situation where they are just cleaning up that ordinance. Kingwood would then be able to use the same ordinance. He thinks there are a couple of different approaches here, one with his previous suggestion and the other one is a shorter ordinance amendment that just makes sure there is at least something in our code that says those special events have to conform to the standards to the extent they are permitted by the State legislation. He stated the short answer is he thinks some of the stuff in the Alexandria Township ordinance will have to be removed but he cannot be specific this evening. Once he knows the answer to that then he thinks it is a cut and paste job or search and replace job where you replace Alexandria with Kingwood. He stated that ordinance was partially paid for by the county because the county was interested in finding an ordinance that could be used elsewhere in the county for these special events. He stated the new legislation is a bit of a game changer and until he actually compares the legislation to the ordinance and see where that ordinance may overstep state regulations, he can't tell the Board what has to come out of it but he is pretty sure some items will have to be removed.

D. Haywood asked M. Syrnick what her suggestion is to the Board. Should it do a shortened version now to protect the Township or wait for this to be settled and then put something in place?

M. Syrnick stated the Township should work towards putting something in place. She is not sure if doing a shorter version is going to be any quicker than actually amending it according to the new law. She stated by the time the Board decides on a shorter version, it could probably have the complete version done. She stated she did read about having a yearly license and that they have to come to the Township and tell us what they are going to do each year. She thinks the idea of defining it between 25 people or 25 cars and lower and 25 cars and higher for different events may be appropriate. The Township has to protect the farmland. She stated she can see people just suddenly taking our preserved farm and putting in millings for parking areas for their special events. This is something that could get out of control and it is important the Township does something. The Township also needs to support our preserved farmer. This is a way for the farmers with preserved land to make money.

D. Haywood inquired if relating to the parking area would it be something that the Township would see as being impervious?

D. Banisch stated the farmers can use the areas that are farmed for parking but they cannot use it in such a way that it cannot be switched back and used as farmland again. He does not think that it means that they can put down millings, use it as parking and then ten years later take up the millings. He does not think that passes muster under the legislation. He stated it seems to read to him that they can do that in areas of the farm that are actually preserved in addition to using the exception area. The exception area is not as restrictive as the preserved farmland itself so the farmer could use the exception area for parking and they would not be held to that reclamation standard. He does not have the legislation open in front of him right now so he doesn't recall the exact the phraseology that was used in the legislation to describe that issue but it was quite clear in that legislation the areas of the farm can be used. It does not prevent the future use of that land again as farmland. He stated putting down millings or something like that is impervious coverage.

D. Haywood stated it sounds like the Township needs to wait on D. Banisch to go through and compare the Alexandria ordinance to the State's regulations and what needs to be modified.

L. Voronin stated she has a question. If the Township is talking about events on farms and there have been events on farms in Kingwood that weren't preserved, she was wondering, should the Township include all farms and regulate them too. There was one on Fitzer Road and it was a huge music event with a lot of loud music. It was definitely more than 25 people or cars. She is about half mile to a mile away and she heard it at her house. There also was a large amount of traffic. She also inquired what the process was to have a large event on your property.

D. Banisch stated a rain storm came the day of the event, and he remembers driving past that farm the following morning and seeing cars stuck out in the mud, up to their hubcaps and they had to wait until things dried out a little bit before they could tow quite a number of cars out of there. It was massive but he thinks the answer to L. Voronin's question is any farm that is protected under the Right to Farm Act is entitled to the privileges of the Agricultural Management Practice for Direct Marketing Events. He thinks the municipal ordinance should address preserved farms as well as farms that are just simply covered by Right to Farm privileges that are not preserved.

D. Haywood stated she agrees with D. Banisch's comments. She requested it be a continuing item on the agenda every month.

Farmland Preservation Plan

D. Banisch stated there he has a question. Is there a list of target farms? They do not have to be farms that the Agricultural Advisory Committee is in negotiations but a good wish list of farms to be preserved. The SADC got back to him and asked for that list and he would like to respond with a list if it's something that the Agricultural Advisory Committee can provide to him. It would be helpful.

S. McNicol stated they update the list monthly. It is a list of the preserved farms and a running list of their target farms, of which many have had resolutions already prepared. There is also a list of farms on their wish list. She will provide the list to D. Banisch on a monthly basis. She will get the current list to D. Banisch tomorrow. She stated the list does not change all that much but she will make mention at the next meeting that when they update the list with any new farms D. Banisch should be copied.

Conservation Easements and Tax Map

D. Haywood stated L. Voronin had brought up the subject at last month's meeting.

L. Voronin stated that M. Syrnick was going to check to see if it was something that the engineer could perform.

M. Syrnick responded that the Township has a consultant that is a specialist on tax maps but she has not gotten the pricing for that yet. It could be very expensive. She stated that the last time the Township updated the tax maps, it was driven through this board and she stated the cost was approximately \$25,000 - \$30,000. She is not sure if adding conservation easements would be that large of a cost. She stated using a consultant that is a specialist maybe more efficient than using the Township engineer.

S. McNicol stated she thinks it is a pretty intensive process. She stated someone would have to look at the titles or deeds to find the easements. She looked at the Township's tax map today and there are some easements indicated on it but most of the easements are for drainage areas, pipelines, and telephone. She stated as far as anything surrounding the creeks on private property, they really do not exist on the tax map so she thinks it would be a pretty big job. She stated someone would have to spend a lot of time at the county clerk's office going through the deeds. She stated that is how she sees it anyway. She stated, for example, she has an easement on her property and has a Creek running through her property a small bit. She has been on her property for well over 35 years and it was on the deed. The easement is now bigger now that it is a C1 stream tributary. She thinks it is only 30' but should be larger.

D. Haywood stated the Board will follow up next month and if M. Syrnick has more information maybe decide on whether to go forward with it or not.

Kennels

M. Syrnick stated Kingwood adopted legislation where if you wanted a new kennel you would have to apply to the Board of Adjustment for a variance. She stated the bottom line is the Township has a lot of people that are half kennels because it is not easy to get a kennel license. The person would have to go pay to go to the Board of Adjustment and it is a little bit more expensive to get a kennel license. As a result, the Township has a lot of illegal kennels. The subject came up at the Township Committee meeting, so she thought that this was the right board to start thinking about it and just reexamine the Township's Legislation around kennels and does it make sense to having a kennel license. She stated there are pros and cons. If the Township has a standard kennel license, then people have to people have to buy them each year and the Township can go have them inspected, etc. Should the Township continue with what they have, meaning that if you want a kennel license, you have to go before the Board of Adjustment? If the Township knows about illegal kennels, she thinks the Township can still send zoning out there. She is not sure of all the answers and she thought since it came up at the Township Committee it makes sense for the Board to re-examine the issue.

D. Haywood stated she recalls shortly after she moved here that kennels were banned. She is referring to new kennels not pre-existing ones. She thinks she got the last kennel license before they were banned. She stated there might be some history there but she does not know how much is available at this point. She does not know what the impetus was to change the law from being able to obtain a license to restricting them at that point.

M. Syrnick stated she always thought that the Township does not allow new kennel licenses but that is not exactly the case. A person can get a new license but they have to go before the Board of adjustment so it is not like the Township banned kennels. The Township just made it more difficult to get a kennel license. She thinks it was an effort to reduce the number of kennels in Kingwood but she does not know enough information. She is not sure if the way the Township has it right now where you have to go to the Board of Adjustment is the best way to keep it. She was hoping that J. Mathieu could contribute a little bit, but she does not think he's going to be able to this evening. She will try and get more information. The issue came up at the Township Committee meeting last week so she requested the Board allow her to dig a little deeper as to what we can do with the way the law exists. She thought this is the right board to discuss it because they have a little history with it. She does not want to change anything and make it worse.

D. Haywood stated it is a good idea to get more information on the history. She has no idea why the change was made. She just knows it was made. She stated it was like a year after she came here and applied for the license. She then found out she got the last one and the Township was changing the rule. She stated she does not know what the impetus was behind the change. She agrees with M. Syrnick that if the Township has a bunch of illegal kennels then its doing itself a disservice by allowing that to occur because if the Township has laws in place or rules in place, and the Township issues the licenses then the Township does have some control over those rules being followed. Otherwise, there's really no recourse except to just casually find out about something and then say you got to get a license. She knows that having the license, you are subject to a fire inspection, the County Department of Health comes down and does an inspection, so there is a lot to it. She stated having the kennel license will assure that it is clean and that the Township is not doing any disservice to the dogs and that the dogs are well taken care of.

M. Syrnick stated the idea was the concept if the Township allows them, people would come in and apply for a license. She thinks for the cost of a license is maybe is \$30-\$35. She stated they would then be subject to the regulations and inspection, etc. She also stated maybe the way it is okay. She will get information of the way it exists today and what recourse the Township has if they find out someone has a kennel without a license. She will present it at the next meeting with additional information.

L. Voronin had one question before we get off this topic. M. Syrnick stated that the Township was worrying about finding out about illegal kennels. How would you go about doing that?

M. Syrnick stated there are people out there that report their neighbors. There are people on Facebook that have dogs for sale continuously. Kingwood has a problem with animal abuse. The Township seems to have a significant amount compared to the rest of the County. The Township has a very good Animal Control Officer. She wants to get additional information for the next meeting. She just wanted to make sure that this Board was okay with taking a look at it again.

D. Haywood stated it is a good idea. She requested at it be an on-going agenda item until the Board comes to a decision.

EV Charging Stations on Existing Commercial Sites located on Route 12

D. Banisch stated this may be a discussion item because he put it in the reexamination report. There is legislation that allows existing commercial uses to install EV stations and the recommendation in the Re-Examination report was to maybe put an ordinance in place to permit that to occur, provided, though that the parking lot at the commercial use conforms to the Township's standards for a parking lot. The parking lot would have to be conforming with parking stall sizes, circulation, and specified width in the ordinance. The commercial use should also provide the minimum number of handicapped parking spaces required by State law. Under those conditions, when an applicant wants to install an EV station on a commercial lot, it could be reviewed by either the zoning officer or the Township engineer to confirm that those conditions are met and it could be a very simple application process. He thinks with the proliferation of electric cars it should be discussed. He stated he doesn't see too many of them in our township but he is sure they're here. He does see a lot of them in Flemington and between Flemington and points North and South, in other communities where he works. He knows that the highest percentage of electric vehicles are in New York and Hudson County, New Jersey. He thinks that promoting EV stations would be good for the tourism industry in the area. Tourism would just be the one side benefit. He stated all of us are probably familiar to one degree or another with the way this industry is going and the State has set a minimum threshold of EV sales and zero emission standards. He thinks it is something that has got to be addressed. He stated it is here and why not. The Township should just make sure it gets done correctly as it happens and so that was the thinking behind that recommendation and that the Municipal Land Use Law requires for a Re-Examination report that has been amended to require a municipality to examine the issue.

M. Syrnick stated the Township is going to have more and more electric vehicles and she thinks that this would be a look to the future to do something like this and add this. She thinks it is a good idea.

D. Haywood stated taking some action earlier rather than later is to make sure that the Township has the standards in place and that if somebody wants to put one in that they at least need to conform. She asked for any comments from any other members of the Board.

L. Voronin state she agrees and thinks it is a really good idea to look at an ordinance for electric vehicles in the Township's Master Plan.

S. Harris inquired if the State has any regulations in place.

D. Banisch responded that they do and they require connections with any new development. There are certain thresholds within the law itself. He stated for a minimum number of multi-family units, a certain number of EV stations have to be provided or electric vehicle charging ready parking spaces have to be provided by extending the electrical conduit to a parking space for future installation of an actual charging station. In connection with commercial developments, there are standards based on the number of parking spaces in excess of 25 or 50 spaces. There is a requirement that there be a local process that is more of an administrative nature that municipalities have to conform to but he thinks what is missing in the law might be the requirement that they can only be installed in parking facilities that conform to local ordinance standards. He will have to double check but he thinks the law might be silent on that requirement. He stated from the Township's perspective, he thinks it makes sense for two reasons, one is

straightforward public health and safety and the other is the Township might be able to bring some non-conforming parking facilities into compliance by people who are interested in the revenue generation that they can derive from an electric vehicle parking facility on their site.

S. McNicol stated having an ordinance in place will help people rather than people having to figure out what they can and cannot do from the State. She stated ordinances make it pretty clear as to what you can do and can't do. She thinks it is a good idea.

M. Syrnick stated she agrees that with an ordinance it becomes a simple process with the zoning officer and the engineer.

The majority of the Board members were in favor of proceeding with the preparation of the ordinance.

D. Haywood inquired of D. Banisch if there were any templates available from the State.

D. Banisch state he will obtain the State statute and circulate it to the Board and highlight the part that requires the administrative review procedure that identifies the required administrative review procedures. He will double check himself and make sure that there are no stipulations in the statute that the parking facilities have to be conforming to all ordinance requirements. He stated putting together an ordinance should not be too difficult.

F. Murray inquired if it would affect gas stations?

D. Banisch stated the gas station that comes to mind is a pretty cramped set of circumstances, and he seems to remember an application at the Board of Adjustment, where the dimensions of the existing parking spaces and the circulation aisles may not meet the minimum standards in the ordinance. He stated it would affect a gas station with conforming parking facilities that wish to establish EV charging stations. It is basically construct them and allow on-site charging. He stated the response to F. Murray's question is that yes, it would affect the existing fueling stations. There is only one on Route 12. He stated the site has its own set of challenges.

D. Haywood stated the Board will keep this as an item and follow up on it next month.

April Meeting

D. Haywood stated was this where we were going to decide whether we want to continue meeting virtually or meeting in person?

M. Syrnick stated the Board had decided that in April they would decide whether they want to go back in person or keep it virtual.

After a brief discussion, the majority of the Board members decided that they would like to continue with the Zoom meetings and if a need arose to have an in person meeting it would be advertised for that particular meeting. The Board can be a little flexible.

Resolution No. 2023-06 – Block 12, Lot 1 – The Ant Farm – Minor Subdivision

It was moved by S. McNicol, seconded by L. Voronin, and carried to **adopt Resolution No. 2023-06 – Block 12, Lot 1 – The Ant Farm – Minor Subdivision:**

PLANNING BOARD
TOWNSHIP OF KINGWOOD
THE ANT FARM, LLC
Block 12, Lot 1
90 Horseshoe Bend Road, Frenchtown, New Jersey 08825

Resolution No. 2023-06

WHEREAS, The Ant Farm, LLC ("applicant"), has applied to the Planning Board of the Township of Kingwood ("Board") for minor subdivision approval to subdivide an existing lot, located at Block 12, Lot 1 in the municipal tax records and better known as 90 Horseshoe Bend Road in the Township ("property" or "site"), into two conforming lots; and

WHEREAS, a hearing was conducted on this application on February 9, 2023, in compliance with the Open Public Meetings Act ("OPMA") and Municipal Land Use Law ("MLUL"); and

WHEREAS, the Board, after carefully considering the evidence presented by the applicant, any interested parties or members of the public, and its own professionals, has hereby made the following findings of fact and conclusions of law:

FINDINGS

1. All of the application materials and hearing exhibits were made available to the Board and members of the public within the requisite timeframes in advance of the hearing.
2. The application qualified as that of a minor subdivision without the need of variance relief of any type, and thus, public notice was not required pursuant to Section 132-121(B)(2) of the Township's Zoning Ordinance. The hearing took place at real time during the Board's regularly scheduled February 9, 2023, meeting, virtually.
3. The property is a 73.49-acre farm improved with an existing residence and outbuildings in the northwest corner. The lot has frontage along Horseshoe Bend Road and Route 12 and is located in the AR-2 – Agricultural and Single-Family Residential District.
4. The applicant proposes to subdivide the lot into two fully conforming lots, with one lot (Proposed Lot 1) consisting of 14.5 acres and containing all of the existing improvements, and the other lot (Proposed Lot 1.01) to contain the remaining 58.99 acres. The intention is for the lots to fully conform with the AR-2 district's bulk requirements, and no variance relief was requested as part of the application. Proposed Lot 1 is anticipated to be conveyed to the applicant, The Ant Farm, LLC, with the remainder to remain with the original farm owner.
5. Due to the lack of site improvements proposed as part of the application, the applicant requested a number of checklist waivers from the Township's Subdivision Checklist, all of which were either granted in full or will be addressed as conditions of approval with waivers for completeness purposes only. As a result, the Board deemed the application complete and proceeded to hear the application.
6. As part of its application, the applicant submitted the following plans and documents, which the Board considered as part of the record:
 - a. Kingwood Township Subdivision Application, dated April 8, 2022, with associated Subdivision Checklist, cover letter and application rider from counsel dated November 16, 2022, and associated application documents, including ownership disclosure and authorization, escrow agreement, property tax information, correspondence with the tax assessor, and proposed subdivision deeds.
 - b. Plan entitled "Agricultural Subdivision, prepared for the benefit of The Ant Farm, LLC, for Block 12, Lot 1, located in Kingwood Twp., Hunterdon Co., New Jersey" prepared by Stanley M. Norkevich, P.L.S., dated March 27, 2022.

- c. Proof of submission to Hunterdon County Planning Board, dated November 16, 2022, with return comment provided on December 20, 2022.
- d. Proof of submission to the D&R Canal Commission, dated November 16, 2022.
- e. Proof of submission to the Hunterdon County Health Department, dated October 17, 2022, containing soil test data from Kurt Hoffman, P.E.

7. The applicant did not submit any exhibits during the course of the hearing.

8. The Board also received and considered a Technical Review memorandum from Township Engineer Wayne J. Ingram, P.E., P.L.S., P.P., C.M.E., last revised January 3, 2023, and consisting of three (3) pages.

9. Gaetano DeSapio, Esq., entered his appearance on behalf of the applicant. Mr. DeSapio stated that a representative from the applicant was available for questions or comments but argued that the applicant was entitled to minor subdivision approval subject to some stipulations to conditions of approval contained in Mr. Ingram's Technical Review memorandum.

10. Mr. DeSapio confirmed that the intention is to cut the residence and outbuildings off onto their own lot (Proposed Lot 1), with the remainder of the farm to remain on Proposed Lot 1.01. There will be no new structures or disturbances proposed, and the intention was to create two fully conforming lots entitling the applicant to minor subdivision approval. The applicant then stipulated to certain items listed below and acknowledged a few pre-existing bulk nonconformities¹ that are not changing or being surcharged as a result of this application.

11. No members of the public appeared to ask questions or comment on the application.

CONCLUSIONS AND DECISION

12. After reviewing the evidence submitted and testimony presented, the Board, by unanimous vote, confirms that this application meets the criteria for a minor subdivision and finds that the applicant has demonstrated entitlement to minor subdivision approval under N.J.S.A. 40:55D-47 and the Township's Zoning and Subdivision Ordinances.

13. To the extent they are not addressed as conditions of approval, the Board also grants any remaining requests for checklist waivers from the Township's subdivision checklist due to the lack of site disturbance or intended improvements. Such waivers are hereby granted or addressed below as conditions of approval. Thus, subject to the conditions contained herein, the Board finds that the applicant is entitled to minor subdivision approval with the aforesaid waivers and determines that such relief should be GRANTED;

WHEREAS, the Board took action on this application at its meeting on February 9, 2023, and this Resolution constitutes a Resolution of Memorialization of such action taken in accordance with N.J.S.A. 40:55D-10(g);

¹ (A) The existing dwelling is 35.7 feet from Route 12's right-of-way, whereas a 75-foot setback is required for a principal building;
(B) The existing barn is 55 feet from Route 12's right-of-way, whereas a 100-foot setback is required for accessory structures.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Kingwood, on this 9th day of March, 2023, that the application filed by The Ant Farm, LLC, for minor subdivision approval with any applicable waivers, be granted subject to 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 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.
 - l. 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 on Proposed Lot 1.01 or any enlargement of the existing footprint of any present structure on Proposed Lot 1, to also be overseen by the Township Engineer's office; and no building permit shall be issued for those purposes 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;
- 3. 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;
 - 4. 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;
 - 5. The applicant shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the property unless modified by this Resolution;
 - 6. 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;

7. 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
8. 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.
9. Failure to comply with any of the conditions listed above shall render this resolution void.

VOTE TO APPROVE APPLICATION

Motion: J. Mathieu

Second: L. Voronin

In Favor: S. Harris, D. Haywood, J. Mathieu, F. Murray, A. Russano, M. Syrnick, G. Vitale, L. Voronin

Opposed: N/A

All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol who **ABSTAINED** and **J. MATHIEU**, who was **ABSENT**.

It was moved by S. McNicol, seconded by S. Harris and carried to adopt **Resolution No. 2023-07 – Block 12, Lot 33 - Estate of Samuel M. Delia Sr. – Minor Subdivision:**

PLANNING BOARD
TOWNSHIP OF KINGWOOD
ESTATE OF SAMUEL M. DELIA, SR.
Block 12, Lot 33
963 County Road 519, Frenchtown, New Jersey 08825
Resolution No. 2023-07

WHEREAS, representatives from the Estate of Samuel M. Delia, Sr. (jointly "applicant"), have applied to the Planning Board of the Township of Kingwood ("Board") for minor subdivision approval to subdivide an existing lot, located at Block 12, Lot 33 in the municipal tax records and better known as 963 County Road 519 in the Township ("property" or "site"), into two conforming lots, together with relief from a prior condition of variance approval; and

WHEREAS, a hearing was conducted on this application on February 9, 2023, in compliance with the Open Public Meetings Act ("OPMA") and Municipal Land Use Law ("MLUL"); and

WHEREAS, the Board, after carefully considering the evidence presented by the applicant, any interested parties or members of the public, and its own professionals, has hereby made the following findings of fact and conclusions of law:

FINDINGS

1. All of the application materials and hearing exhibits were made available to the Board and members of the public within the requisite timeframes in advance of the hearing.

2. The application qualified as that of a minor subdivision without the need for further variance relief of any type, and thus, public notice was not required pursuant to Section 132-121(B)(2) of the Township's Zoning Ordinance. The hearing took place at real time during the Board's regularly scheduled February 9, 2023, meeting, virtually.

3. The property is a 26.81-acre farm improved with an existing residence, outbuildings, and common drive aisle in the eastern corner. The lot has frontage along Kingwood Road (County Route 519) and is located in the AR-2 – Agricultural and Single-Family Residential District.

4. The applicant proposes to subdivide the lot into two now fully conforming lots, with one lot (Proposed Lot 33) consisting of 4.0 acres and functioning as a flag lot containing the common drive aisle and other existing improvements, and the other lot (Proposed Lot 33.03) to contain the remaining 22.81 acres. The intention is for the lots to conform with the AR-2 district's bulk requirements, and no variance relief was requested as part of the application.

5. The application was subject to Resolution No. 2021-01, which granted the applicant bulk variance relief for: a) a shared driveway on a Class II Minor Subdivision (governing flag lots) for a distance of greater than fifty feet in length; b) accessory buildings in the front-yard; and c) a side-yard setback encroachment for a farm equipment shed. This Resolution required the applicant to return and obtain the ultimate minor subdivision approval within eight months after the passage of the Resolution, which the applicant failed to do. The applicant thus seeks approval of the minor subdivision, now with conforming lots considering the previously granted variance relief, and modification of this condition to eliminate the eight-month time constraint and effectively retroactively grant the minor subdivision approval in line with the relief granted in Resolution No. 2021-01.

6. Due to the lack of site improvements proposed as part of the application, the applicant requested a number of checklist waivers from the Township's Subdivision Checklist, all of which were either granted in full or will be addressed as conditions of approval with waivers for completeness purposes only. As a result, the Board deemed the application complete and proceeded to hear the application.

7. As part of its application, the applicant submitted the following plans and documents, which the Board considered as part of the record:

- a. Letter from the applicant's counsel, dated November 16, 2022, requesting an appearance before the Board;
- b. Plan entitled "Minor Subdivision of Land, for the Estate of Samuel M. Delia, Sr., Lot 33 in Block 12, situated in Kingwood Township, Hunterdon County, New Jersey" prepared by Douglas E. Fine, P.E., dated October 12, 2017, and last revised January 30, 2023.
- c. Correspondence from the applicant's counsel, dated January 30, 2023, responding to the Township's professionals' comments on the application.

8. The applicant did not submit any exhibits during the course of the hearing.

9. The Board also received and considered a Technical Review memorandum from Township Engineer Wayne J. Ingram, P.E., P.L.S., P.P., C.M.E., last revised November 22, 2022, and consisting of five (5) pages. The Board further availed itself of reviewing Resolution No. 2021-01 as it applies to the applicant's request for relief.

10. Gaetano DeSapio, Esq., entered his appearance on behalf of the applicant. Mr. DeSapio stated that a representative from the estate and the applicant's engineer was available for questions or comments but argued that the applicant was entitled to minor subdivision approval subject to some stipulations to conditions of approval contained in Mr. Ingram's Technical Review memorandum.

11. Mr. DeSapio confirmed that the intention is to cut the residence, driveway, and outbuildings off onto their own lot (Proposed Lot 33), with the remainder of the farm to remain on Proposed Lot 33.03. There will be no new structures or disturbances proposed, and the intention was to create two fully conforming lots entitling the applicant to minor subdivision approval, subject to the variances granted back in 2021. Furthermore, the applicant also requested relief from the condition that gave the applicant only eight months to secure subdivision approval after the granting of said variances. The applicant then stipulated to certain items listed below and acknowledged the variances granted as part of Resolution 2021-01. Finally, Mr. DeSapio informed the Board that this subdivision was required in the winding up of the Delia estate.

12. No members of the public appeared to ask questions or comment on the application.

CONCLUSIONS AND DECISION

13. After reviewing the evidence submitted and testimony presented, the Board, by unanimous vote, confirms that this application meets the criteria for a minor subdivision and finds that the applicant has demonstrated entitlement to minor subdivision approval under N.J.S.A. 40:55D-47 and the Township's Zoning and Subdivision Ordinances. The Board also finds reasonable and appropriate the modification of the condition giving the applicant only eight months to secure this minor subdivision approval and eliminates same to reflect that this approval was effectively granted back in 2021.

14. To the extent they are not addressed as conditions of approval, the Board also grants any remaining requests for checklist waivers from the Township's subdivision checklist due to the lack of site disturbance or intended improvements. Such waivers are hereby granted or addressed below as conditions of approval. Thus, subject to the conditions contained herein, the Board finds that the applicant is entitled to minor subdivision approval with the aforesaid waivers and modification of prior condition(s), and determines that such relief should be GRANTED;

WHEREAS, the Board took action on this application at its meeting on February 9, 2023, and this Resolution constitutes a Resolution of Memorialization of such action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Kingwood, on this 9th day of March, 2023, that the application filed by representatives for the Estate of Delia, for minor subdivision approval and modification of a prior condition, together with any applicable waivers, be granted subject to 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's 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's 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 provided 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 on proposed Lot 33.03 or any enlargement of the existing footprint of any present structure on Proposed Lot 33, to also be overseen by the Township Engineer's office; and no building permit shall issue for those purposes until the NJDEP letter of 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.

VOTE TO APPROVE APPLICATION

Motion: A. Russano Second: L. Voronin

In Favor: S. Harris, D. Haywood, J. Mathieu, F. Murray, A. Russano, M. Syrnick, G. Vitale, L. Voronin

Opposed: N/A

All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, who **ABSTAINED**.

Minutes

It was moved by L. Voronin, seconded by S. McNicol, and carried to approve the minutes of February 9, 2023 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol, who **ABSTAINED**.

It was moved by L. Voronin, seconded by F. Murray, and carried to approve the minutes of February 27, 2023 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu and S. McNicol, who **ABSTAINED**.

CORRESPONDENCE

D. Haywood stated Somerset County is the pilot for trying to attract motion pictures within the State. Somerset County had help from the State in obtaining that designation.

G. Vitale stated there is a one-day workshop but you have to register to say you're interested in attending. He thinks it is one of those things where if Hillsborough is on the list, that's not too far from us, that maybe the Township might be interested. He knows that they have done filming in Franklin right next door because there was some series that was filmed there. He stated the Township is going see more and more of it. He thinks someone should register for the workshop so that the Township has the opportunity to learn about it and adopt what ordinances are needed. The Township should facilitate it and make sure it does not get out of control.

D. Haywood stated she agrees with him as far as things not getting out of control. The Township would eventually need to address it but does not think it is ready at this point but the Township may eventually want to put something in place so that the Township has the protections.

M. Syrnick stated she has some thoughts on it. She stated the Township does not have a town center such as Flemington or Hillsborough. She stated any filming that would be done primarily at this point would be done on private property, unless they are just driving down Route 12. She thinks that the EV charging stations, regulating the preserved farms and those couple issues that are front and center should be looked at first. She stated it may be something that can be looked at towards the end of the year or after we have some of these other things in place.

G. Vitale stated in the one correspondence you had to show interest to wanting to take the workshop to learn about whatever it is that they're going to teach you in that one day about what you need to do with police, traffic and fire and all that stuff. He does not think there is any harm in saying that the Township would be interested and it would be just a matter of then, if we do get selected, who from the town goes.

M. Syrnick nominated G. Vitale to attend the workshop.

G. Vitale stated he thinks they said something about the Fire Chief, the police and somebody else but he thinks it is one of those things where you have to show an interest to be put on the list to be given the chance to participate in whatever it is that they are teaching. He stated it sounds like there is no commitment that if you take it and you do not have to change anything but you are learning about what to do to prepare.

D. Haywood stated she agrees it would not hurt to get on the list.

G. Vitale stated he is not sure if he would be the right official to be attending the workshop.

M. Syrnick stated she does not have the bandwidth to do that but maybe A. Russano, who provided all this information, who unfortunately was not able to make it this evening because of a family emergency, may be interested. She will send him an email.

PRIVILEGE OF THE FLOOR

M. Syrnick stated she wanted to thank the board for the special meeting that they had last month for the Scenic Corridor Overlay and the Master Plan Re-Examination. The Township Committee has passed the ordinance that updates the Scenic Corridor Overlay at this past meeting. It is now on the books and she thanked the Board for all the hard work they put into it.

D. Haywood stated she is glad that the Township put it in place and it was something that needed to be done. She agrees with M. Syrnick that it was confusing. It is a lot more comprehensive now and hopefully it will help the people involved.

L. Voronin had a question about cargo containers. She stated she believes that Kingwood has an ordinance that addresses cargo containers on any property. There is a property on Route 519 that is zoned as farmland assessment and they have quite a number of cargo containers on it. She contacted the Ag department and a complaint was made. The County Ag department said that they could maintain 6 cargo containers for storage of hay but she believes that

Kingwood Township says that they only can have one cargo container or a temporary cargo container on the property. Her question is can the Hunterdon County Ag Department override Kingwood Township ordinances?

M. Syrnick stated she would have to defer to the attorney. She has heard several different times through hearsay and different farmers throwing that out, saying that, the County overrules the Township on farms, et cetera but she does not believe that is true. She stated there are some exemptions on farms with the container ordinance but she is not that familiar with the ordinance to know exactly what the specifications are in the ordinance but maybe the attorney can respond.

A. Fisher responded he will have to review it.

L. Voronin stated even if the county did say that they could have six containers, currently, if you look at Google Maps, they must have at least 100 containers there.

M. Syrnick stated there is a form on the website where someone can report that to the zoning officer and he would go and check the situation. M. Syrnick requested L. Voronin email her the address of the property.

L. Voronin stated she already did bring to the attention of the zoning officer about a property on Route 12 next to the liquor store about two months ago and she has not heard anything back about it.

M. Syrnick suggested she send it to the new zoning officer. He is pretty proactive.

S. McNicol stated while we are talking about a zoning issue there is a property on Route 12. The old BMW barn somebody put a new roof on it and it looks like they are storing Port-A-Johns on the property. She inquired if it is a permitted use. She inquired if that is something that would have to go to the zoning officer as well. She inquired if anyone else has seen it. There are about 30 or 40 of them stored on the property.

D. Banisch stated it is not a permitted use in the Scenic Corridor Overlay zone and may well be a zoning violation.

S. McNicol stated she will bring it to the attention of the zoning officer.

ADJOURNMENT

It was moved by S. McNicol, seconded by L. Voronin, and carried to adjourn the meeting at 8:34 PM. All members present voted **AYE**.

Respectfully submitted.

Diane Laudenbach, Secretary