

MINUTES

7:30 PM

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

ABSENT: L. Voronin

CALL TO ORDER

The meeting was called to order by Chair 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 – John Fleming

The matter was tabled until later in the evening when J. Fleming calls in to the meeting.

Special Occasions Events on Preserved Farmland

D. Haywood stated after reviewing it she found it to be slightly confusing because she is not that well versed with all the whys and wherefores.

S. McNicol stated the Open Space and Ag Committee discussed it at their meeting. The group did not see the Alexandria ordinance. There was some discussion and a lot of people spoke up. There was a discussion about the activities that could take place on preserved farms, the traffic, noise, and hours of operation. Some of the people like the quiet in this area and some spoke about events that were going on near their homes and around Strimples Mill and that they were not thrilled about what was happening on the property.

D. Haywood inquired if the concerns were about the activity itself or comments about whether it was disturbing or whether they were okay with it.

S. McNicol responded, with the one property that was mentioned, the people were unhappy about it. They did say that they spoke to the operators of the property and requested it be toned down a bit and it was. She stated it sounds like it was resolved somewhat. She reviewed the Alexandria ordinance herself, not in absolute detail, but thought they have a really good ordinance. She stated she did not have the minutes from the meeting since it was just discussed so she may not have addressed all of the comments.

A. Russano stated that S. McNicol's recollection was correct from the meeting. He stated another thing that came up was Revelation Generation. It was something that was discussed years ago. It is on topic and is on everyone's mind. The Open Space and Ag Committee requested this topic to be placed on the agenda so that it stays at the forefront like it is here at the Planning Board

D. Banisch stated he did not hear D. Haywood's complete question as his connection was lost. He stated what Alexandria Township attempted to do was to create a licensing provision to get some control on the situation. He stated he thinks what is needed is a comparison of the Alexandria Township ordinance to the statutory requirements. The regulations are being imposed by the State so that the Board can see the degree to which they may be able to vary any of the provisions of the statute. The statute identifies something like a maximum of 26 events if the commercial farm is generating income in excess of \$100,000 a year. He stated that is a big operation. The State is thinking this is a big commercial farm that is at least generating that much in revenue each year. The smaller farms had a smaller or more limited number of special events they could hold on an annual basis. He could not tell the Board the difference between the statutory requirements and the Alexandria Township requirements tonight.

D. Haywood inquired how much latitude does the Township have with tweaking the Alexandria ordinance.

D. Banisch responded that is the input the Board needs from him by the preparation of an analysis. He will be providing a memo to the Board. The Board cannot adopt anything that contravenes the provisions of the statute. If the statute is silent on certain requirements the Township may want to impose, they may be able to add it to the ordinance.

D. Haywood inquired if D. Banisch could have it for the Board for next month.

D. Banisch responded he will have it for the Board for the May meeting.

D. Haywood stated the Board was referencing the Alexandria Township ordinance and the fact that they may need to do some tweaking to make sure that it complies. Possibly Kingwood could almost clone it or adapt it to the Township's needs. She stated the Board can continue this item as an agenda item but the Board may be limited until something happens with the Alexandria ordinance. Even if the Alexandria ordinance is not adopted, the Board can review it and see how well it meets the Township's needs.

D. Banisch stated Alexandria has not directed him to undertake the same comparison so he can simply split his time between the two Townships so that it does not generate a lot of cost to Kingwood.

D. Haywood stated that would be appreciated. She stated she is not sure if that is something the Township needs to get to immediately, but she thinks it is something that if the State and County are looking at it, the Township should look into it also. The Township is being encouraged to promote tourism and she thinks this falls into that category. The Township also needs to make sure it is protecting itself. She stated, in terms of the Open Space & Ag Committee, they need to be brought into this as well. The Committee has the opportunity to take a look and have them give the Board their input on it and see if they feel that it is something that they can support or not, or if they feel that it needs to be tweaked a little more.

S. McNicol will send the Alexandria ordinance to the Open Space & Ag Committee and invite them to the May meeting. She stated it would be good to have people from the Ag Committee in particular but both groups may be at the Board's May meeting to hear D. Banisch's presentation.

J. Mathieu stated he has never seen the draft ordinance from Alexandria. He inquired if it was sent to the Board members. J. Mathieu stated maybe this is a good time to mention it but on the Board of Adjustment the Board members get everything every month emailed to them. He stated the only thing he sees every month from the Planning Board is the date and time of the meeting. He inquired why he only gets the meeting reminder each month. He does not receive the agenda or any other items.

M. Syrnick stated she would like to address it. She stated the Board decided a couple years ago to do it this way and it is not just a recent thing. The Board has literally been going to the website and downloading the package before the meeting. She is not sure what he is asking or if he is requesting it to be emailed to him directly.

J. Mathieu stated he is getting everything from the Board of Adjustment to the point of if somebody makes a change on an application, they get it. The Board gets emails constantly updating them on the status of applications and what the Board is doing. With the Planning Board there is nothing as far as he is concerned. He stated others may be getting stuff but he is not receiving anything. He stated the only thing he receives is the one e-mail a month from the Planning Board telling him when the meeting is scheduled. If someone wants to go to the website and dig out the agenda and minutes and everything, he does not have time to do it. It is not the way it works.

D. Haywood stated that is the process that was put in place. She stated she was not told about it but that the members of the Board had agreed to it. She does not have an objection to it. The one objection she does have is that once the information goes out there, if you do not take it and save it for yourself, it disappears so she would say the Alexandria information is no longer available. She may be wrong, and it is out there somewhere but she does not know where it is. The other comment would be she never knows when everything is settled out there. She gets the notice of the meeting because someone said they wanted to have notice that there is a Planning Board meeting a week ahead of time which does her no good because she has it in her calendar. She stated what would be helpful to her is knowing if the Board has a specific date or time frame from the time of the meeting when everything is available and there will be no more updates so she can go to the website and download the information. She usually has gotten it a week ahead of time and then there were changes and she has to go back and look at what are all the changes or are if there any changes. She stated there is no date on the documents so she cannot really tell if there are any revisions. The information that everything is final would be helpful information to her. She does not mind going and getting the information from the website.

D. Laudenbach responded the package is loaded when the Board gets their meeting reminder. The professionals do not always provide the information timely to be posted on the Friday before the meeting. This month the Township Committee introduced an ordinance that required Planning Board review. The information was not provided to her until after the Township Committee meeting on the 6th.

D. Haywood stated she is not looking for it a week in advance but is looking for either a notification that says it is all up to date and if something comes in late, sending an email that says it was updated. She stated she would like to see an email indicating that the final package is in place for you, please download it. She stated she was scrambling today to go through everything because she does not want to do it any earlier than Tuesday. She is not sure how this can be resolved so that the Board members have all the information, or the Board members can know precisely that they have received the latest information.

J. Mathieu stated all he can say is at the Board of Adjustment they knew. He stated there is a remarkable, unbelievable difference between the information flow from the secretary to the members of the Board of Adjustment and what the Planning Board receives. It is 100% from the Board of Adjustment and 5% from the Planning Board. Previously when the Board had written packets it had everything.

M. Syrnick stated she would like to make a comment on the subject. It sounds like J. Mathieu and/or everybody here is very angry. She stated, honestly, this has been working this way and maybe some members do not remember voting on it but the Board has really been working this way for about a year. She would suggest the members not be angry about it

but suggest what the changes are or what they want because this is really the first time anyone is complaining about it. She stated the Board has been doing this since it decided not to mail out the packages anymore. She stated D. Haywood would like an email for the meeting and when the package is final and if something should come in late, the Board members receive an email notification. The Board would know they could go out there and if something should come in late just an e-mail notification that says XYZ's been updated and the members can go out and get it.

S. McNicol stated she would like to make a suggestion. The Open Space & Ag and Environmental Commission secretary sends an email with their packet. She lists all of the items that are in the packet so the email comes in as a reminder and has all the information for the meeting. Her email includes the title of all of the items that will be in the packet. It works out pretty nicely. She stated it seems to draw your attention to the items. If the secretary feels that its too much, then maybe just attaching the agenda to the email and the Board members can hunt for it on the website.

D. Haywood stated the agenda is on the website so she is not sure how much value would be added to have it included with the reminder email. She stated she took exception to being called angry because she is not angry. She has been trying to work with the current process and those were her feelings. She stated previously the Board received an email that had all the meeting items attached. Now the Board members do not have anything attached to their email except a notice that says there is a meeting, which is not helpful to her as a member of the Board but it is something that gives her a trigger to know that she can go to the website and view the documents. Getting notification that everything is on the website would be the most important thing that would make her life a little easier and then receiving notification that there was an update so that it can be pulled would limit the waste of her time.

D. Laudenbach stated she was requested by a Board member and it was discussed at a meeting that there should only be one package and not several emails for a meeting. The Board members have to decide what they want done for the meeting. There are too many different hands giving her direction at this point. She needs direction from the members. Some of the packages are too large to send out in an email, which was an original complaint because not everyone could download it.

J. Mathieu stated he concurs with D. Haywood's analysis of the situation.

A. Russano stated everyone's points are valid here with the information. He stated there are social or networking issues with the size of the packages being sent out. He also heard that some of the members were not receiving the documents. He also heard that the information is on the site. He stated it may be the perfect time for the Board to discuss it as new business and get some ideas which may help under Privilege of the Floor. The Board can put together a plan and see how the distribution can be improved. The Board can then give the secretary direction. The Board should discuss what the members are experiencing. The Board can find out what everyone is looking for in the distribution of their package. The Board has some members who actually attend these meetings by calls because of networking issues. As an example, he asks for things to be printed out for him and he picks them up at the office because he likes to see it, touch it, and feel it in his hands and it is something he has always incorporated. He suggests the Board discuss it later in the meeting. He does not want to break up the discussion but he has a message from J. Fleming that he is on the meeting.

New Zoning Officer – John Fleming

J. Fleming introduced himself. He stated he has to do some catching up with the system the Township utilizes for zoning. He stated he has been doing zoning work for over 35 years so he kind of understands municipal land use. He just needs to get into the swing of things in Kingwood. He provided his cell number to the Board members if they need to contact him. He stated if a Board member sees something or has a concern, he has no issue with them reaching out to him. He stated when too much time goes by the issues fester so he would like to address things as they come up. He asked if the Board had any questions for him.

D. Haywood thanked him for his cell number. She opened the discussion to the Board members for any comments or questions.

M. Syrnick stated the agenda contains a discussion on kennels. Some time ago the Township decided to limit the number of dog kennel licenses. In order to obtain a kennel license, an applicant has to go to the Board of Adjustment. She inquired if the Township is aware of someone operating a kennel that has not gone through the Board of Adjustment for approval is that a zoning violation.

J. Fleming stated it is but he wanted to talk to the Board about illegal businesses. There are two scenarios when you tell someone they are in violation: Scenario #1: One they apologize and ask what they need to do to fix the issue and that is what happens more often than not; Scenario #2: Take me to court. He has to prepare everything as if he is going to court. In order to win in court, he has to prove they are running a business out of the property. To prove they are running a business out of the property, he looks to see if they have a yellow page advertisement, flyers, an internet presence, and Facebook where they refer to themselves as a kennel. Some breeders may breed as a hobby from time to time and they may actually sell the puppies in order to keep the pick of the litter but that does not mean they are a business. It is important that when any business is brought up that the Township has some kind of supporting documentation or information that it is truly a business.

M. Syrnick stated that the Township will need proof of a business. She thanked J. Fleming for his comments.

J. Fleming stated that is not just for kennels, that's for everyone that's doing a business in a residential zone, which is where he finds the most impact on the neighborhood.

J. Mathieu stated he knows J. Fleming from about 30 years ago. He is a good guy and he thinks he is competent.

A. Russano stated J. Fleming has come to the Township and has been here about two months now. He puts in a lot more hours than are being requested of him. He has quite a few things on his plate. He has been proactive. He has seen him first hand, when he comes to the office on Tuesday nights, interacting with the Township's residents. He is fair but firm across the Board. He has been doing a really nice job and he welcomes him to Kingwood Township.

S. McNicol stated a month or so ago the Township approved a driveway on a property. The landowner agreed to place the driveway in a certain area for future subdivision of land. She inquired who would follow up to make sure that the driveway has been placed correctly.

J. Fleming stated it is an excellent question and it is his major request that when the Board approves something it puts it in the resolution as a condition. He stated it is imperative moving forward that the Township assigns those conditions to someone so no one can say, I thought it was the planner or it was the engineer. There should be a condition that number one is the responsibility of the engineer, the planner, or the zoning officer, or whomever. Every resolution that the Township has should be in a position where if there are seven conditions, eventually all those conditions are marked as completed. That way you know that the resolution has been done and there is nothing that is going to fall through the cracks. He is sure it has happened in the Township where a resolution that is 15-20 years old and the Township realizes that condition four and five were never addressed. His request to the Board is that if you assign a driveway condition it is assigned to him. His other point is that until all the conditions are met and checked off, the escrow should not be released. That is the Township's stick. The carrot is releasing the escrow funds. So basically, if the Township is in a position where there's outstanding conditions that is when the Township does not release the money. The Township releases the money only after those conditions are met. And if more money is needed to meet those conditions, the Township gets that money so that the resolution is now complete.

S. McNicol thanked him and was not sure if the Township has been doing that and was always curious with the follow up. She was never satisfied that all the things have been addressed and the Board does not receive any updates. She inquired if that is how it is being done now.

M. Syrnick stated traditionally in the past the Township's engineers played a role in addressing compliance at least in any of the developments. She stated that is an excellent question but she does not know the answer.

J. Mathieu stated if it is new construction in a development or whatever, his understanding is that it is the Construction Official who allows people to move in or whatever. He stated it is the responsibility of the Township Construction Official, who coordinates with the subs, such as plumbing, electrical, and fire. The Construction Official is the actual sign off that everything has been done according to the plans. He does not know exactly what this particular thing is that S. McNicol was talking about in terms of the driveway or whatever. It becomes a different issue where he does not even know if the Zoning Officer gets involved. He stated it is a good question. He seems to think that J. Fleming's suggestion might be a good one that if somebody comes in and they are in for an application to do something with a driveway that it comes to the Planning Board rather than the Board of Adjustment. It may be wise to do exactly what J. Fleming said to have some oversight mentioned as a result of the actual approval, so the Township knows. He stated the Board should keep in mind that when there is a subdivision, the building permit is handled by the Construction Official. The Construction Official is concerned about the house being built to the specs that were provided and everything has been received. The approval by the Construction Official does not cover if there were curbs required on the street, a second layer of asphalt on the street, a detention basin and a release of the easements filed and so on and so on. The Construction Official is fine for the specific lot but there are a lot of times things that come before the Planning Board that are beyond one individual lot, major subdivision, or Class II.

M. Syrnick stated the project that S. McNicol was referring to is a couple years old. She stated basically there was a person that applied for a subdivision. In order to get the third lot in the back, he had to install a driveway for the flag lot. There is no development going on at this point but the Environmental Commission and some people had input of where to place the driveway so that it avoids wetlands, etc. The fact is that there isn't a house going in that back lot now. She stated she would think when they ever made application to put a house in that driveway would have to be inspected.

J. Fleming inquired if there were specifications for the width of the driveway, did it have to be paved, could it be gravel, are there curves, and is drainage required. He stated all of that stuff has to be played out in the resolution. The other thing is when you do a subdivision, the applicant is saying they have an immediate need to develop this land and therefore open-ended lots at the end of a flag lot are not advisable. He stated they should be told that this is valid for a year, two years, five years, whatever it is so that 20 years from now, when the whole environment changes, this person is not coming back to you with something that nobody knows anything about. He stated there is a situation right now where there were six individual lots that were apparently subdivided 30-40 years ago, and now they are trying to market this property as six lots. He is saying it needs to be recertified. Specifically, there are wetlands on the property that did not exist 40 years ago. There are no buffers indicated on the plat so to have something that's open-ended that never closes is dangerous to the community in general.

J. Mathieu stated he agrees with J. Fleming. He inquired if an applicant comes before the Board, in any one of these situations that has been described and wants to pull the trigger on building a house or whatever, doesn't he or she have to get a zoning permit approval first before they can go to the construction official to get all of the permits that they need to build.

J. Fleming responded yes, but only if he is dealing with something that's pretty black and white, such as a conforming lot on a public road. He can figure out the setbacks and can issue that permit relatively easy. His problem is on lots that exist that have limited frontage or no frontage on the public roads and were part of an agreement made years and years ago. Is it valid? In the last 10-15 years there was Hurricane Sandy. There have been changes to the buffers and the definition of wetlands, streams, corridors and so on. He inquired if it is it really fair to allow someone on a lot, that was subdivided 30 years ago, to just come in under the rules of 30 years ago or does the Township put them to current rules.

J. Mathieu commented that's an interesting question because that triggers what commonly is called a grandfathered lot. He inquired how long are a soil log and septic system permit valid. His understanding is that there is only so much time that you have from the time you perc and soil log the property before you have to do it again if the regulations have changed.

J. Fleming stated that is correct. One of his requests prior to the issuance of a zoning permit is issued to the applicant is proof of an unexpired septic approval. If they provide an unexpired septic approval, he will sign off on it or they have to go back to the Board of Health and get it recertified or put in a new design.

J. Mathieu stated he thinks that J. Fleming is well qualified to be the Township's Zoning Officer and he agrees with him that the Township definitely should have point people for whatever is necessary to ensure that they go forward and have the adequate protections that are in concert with the existing zoning laws.

A. Russano stated he agrees with J. Mathieu.

J. Fleming stated he looks forward to work with the Board. If a subcommittee is formed to talk about procedures, he would be willing to sit on it and offer some suggestions.

D. Banisch introduced himself to J. Fleming and introduced A. Fisher, Board attorney. He stated this is a big issue and may merit a little bit more discussion. He prefaced his comments by saying that the Board commonly tries to be as accommodating as possible to someone who wants to get moving right away. J. Fleming's point about the conditions and assigning responsibility in each of the conditions that are enumerated in the Board's approval is a really good one and an important one. He stated it calls to mind whether or not there should be a standard list of conditions that the Board should prepare and attach to every approval. There would have to be specific permission granted to deviate from any of those conditions. As an example, no construction permit shall be issued or there shall be no land disturbance or clearing prior to the issuance of a zoning permit. The zoning permit is conditioned upon the satisfaction of each of the other conditions in the resolution of approval to the extent that they are conditions that apply prior to construction. He stated this is a problem that commonly arises, particularly where the Board recognizes that an applicant wants to get moving and is sympathetic with, but pieces begin to kind of fall out by granting permission to proceed with something before the other pieces are all put together. He stated, in other words, all the other conditions of the approval are satisfied. He raised the question because A. Fisher is on the line and he is sure he has some experience with this very issue. He inquired how can all this stuff be coordinated and streamlined in such a way that that it works where the Zoning Officer isn't held up or are caught in a situation where the Board is specifically authorizing activity to take place that really shouldn't proceed ahead of satisfying some of the other conditions of the approval.

A. Fisher responded the way he usually does it and his Boards have had success doing it is just having each of the professionals with any responsibility over the conditions in the resolution issue a memo when it's complete and that goes to the Zoning Officer and Construction Official and that keeps everything in writing. It is then in the file and makes it clear.

D. Banisch inquired if A. Fisher has any other clients where there are a standard set of conditions such as one for example that says something like no construction permit shall be issued prior to the issuance of a zoning permit or does he enumerate the conditions that have to be satisfied in order for the Zoning Officer to issue a zoning permit.

A. Fisher responded the conditions indicate that no zoning permit shall be issued until all of the conditions have been met. He stated there is a certification or a memo from the professionals that are involved that at all conditions have been satisfactorily met and they can proceed.

J. Mathieu stated, his understanding in the municipalities that he is worked in, is that when you go to the Zoning Officer to get a zoning permit, which is required in many municipalities, the Zoning Officer looks at the block and lot number and all the things that may be applicable to that lot and that is a green light. He approves that the applicant has enough frontage, 200 feet in Kingwood and whatever. He stated it is the entry to the whole process and the Zoning Officer is the gatekeeper. He stated from that point on, if he or she issues a zoning permit, they are essentially and theoretically off the hook, unless they are not really paying attention to what is going on. Once the application comes before the Planning Board or a Board of Adjustment, that is when the whole thing is picked apart by all the professionals. He doesn't want to see the Board thinking that the Township's Zoning Officer or any Zoning Officer is supposed to do 90% of the work that's going to go to the Planning Board or the Board of Adjustment or whatever entity he or she has to go to.

J. Fleming agreed with J. Mathieu's statements. He stated all Zoning Board applications should be because he rejected a permit. No applicant should ever go directly to the Zoning Board. It is an application that he has discussed and he has disagreed. The applicant should go to the Board for an appeal or a use variance. He stated a lot of times you will see if someone is doing a subdivision, they will go directly to the Planning Board. He just wants to make sure that he is the loop. He is actually less involved in Planning Board applications than he is with the Zoning Board. He is involved in the Planning Board to a degree but as long as he is in the loop with the Planning Board, he is happy because there are no surprises.

J. Mathieu stated as he understood the conversation that he just heard that the Zoning Officer is supposed to do a lot more than just take an eyeball on it and decide whether it's in his wheelhouse to approve a zoning permit. If he does not feel comfortable granting approval, by law, he can say "I'm sorry, it's got to go to the Board of Adjustment or the Planning Board or whatever Board it is to make that determination."

J. Fleming stated he is okay with that comment.

J. Mathieu stated the classic example is a landlocked property that wants to do something and they don't have road frontage. The Township learned that many, many years ago, when the Township had their Class III's and they were actually on private roads and did not have frontage. It was discovered which was legally correct that if you were on one of those Class III's and you wanted to do something that required a zoning permit, you went to the Zoning Officer. The Zoning Officer was routinely approving them and under the MLUL which dealt with this issue and not in a local zoning ordinance, it was not permissible. He stated there are all these little things here and he just wanted the Board to understand they cannot just easily say the Zoning Officer should do this or whatever. He stated this is something that if the Township wants to really get a control of it, it is all across the Board. He stated it's not just the Zoning Officer or the Zoning Officer doesn't do this and this other individual does that or whatever. He can tell the Board right now there is a major violation in Kingwood Township. The applicant just slipped through the radar where a person was allowed to build 3 houses on property and the guy has got a business going on with heavy equipment and sheds and everything. He does not know if he ever came before the Board but he doubts it. He stated that is the type of thing where the Zoning Officer gets involved. It is an enforcement issue. He stated he means that the Board has to understand how all this works.

J. Fleming explained to the Board where his authority is and is not. His authority is to approve single family and two-family development and expansions. He knows that two families are not allowed. If it's a limited commercial use he can approve it but in general commercial uses should go to the Planning Board and/or Zoning Board. His ability to approve applications is limited to those areas. He can approve minor commercial uses, like signs but any commercial use that is beyond such as a larger expansion should be a Planning Board or Zoning Board application and any development on a property that has more than two units needs to be a Zoning Board application on a private lane. He stated all development, with the exception of limited development on a private lane, should go before the Zoning Board, mainly because those Class III roads are usually too narrow. He inquired if they have the ability to get a fire engine in and out, do they need water to be added to that area for fire suppression. He stated those are the kind of questions that determine that he should not be issuing permits to build a house on a private lane. It should be limited as a Zoning Board application so the Zoning Board can review.

J. Mathieu stated that J. Fleming is absolutely 100% correct.

A. Russano stated he is going to speak for himself. He stated that is why the Board is so blessed to have A. Fisher, D. Banisch and J. Fleming because they are the subject matter experts who provide the Board with guidance or provide him and everyone else on this Board guidance. He stated it is so imperative and so important for all of the members. He stated this is great information and knows the discussion can go on for a long time. He is grateful for everyone's input on this as well as the input from D. Banisch, A. Fisher, J. Fleming, and J. Mathieu. It was great information all the way around.

D. Haywood stated J. Fleming stated a number of things this evening and requested he itemize those and send them to the secretary. She stated she heard a lot of things this evening that may need to be tightened up and she doesn't want to

see them fall through the cracks. She took some notes but not sure that she captured everything. She would like J. Fleming to provide a memo letting the Board know what he sees as deficiencies.

J. Fleming agreed.

The Board members thanked J. Fleming for his attendance this evening.

D. Haywood stated it sounds like that there are things that are missing as J. Fleming pointed out. She stated she took some notes and with the information J. Fleming is going to provide there may be some things the Board may need to address. She stated identifying who is doing what and making sure that the Board includes it in the resolution so that it does not fall through the cracks is important.

A. Russano concurred with D. Haywood.

M. Syrnick stated J. Fleming brought up a tremendous number of points and was very professional. She stated the Board needs to keep in mind that they have the meeting recorded and the minutes should indicate the discussion in case any of the Board members missed some of the points. She stated she thinks the Township needs to implement some more standards going forward.

D. Haywood inquired how would standards be defined. She does not think it needs to be an ongoing item but thinks the Board needs to make sure it is being addressed by someone. Should it be a subcommittee of the Board or the Board itself?

M. Syrnick responded she is not sure of the correct response. The Board has their attorney and planner on the call for their meetings. She suggested for the next application that comes before the Board, the Board should take the professionals advice and assign the satisfaction approval of the conditions. The Board could also develop a subcommittee to create the rules or standard conditions of approval. She is not sure how to address subdivisions with an expiration date. J. Fleming's comment about a subdivision approved 30 years ago was valid. The Board should rely on their professionals for advice.

J. Mathieu stated some of the approvals are required statutorily. He stated there are things in the MLUL that are not in the Township's zoning ordinance and vice versa. He has been a member since 1988 and the Township did have two acre lots and the Township went through a whole bunch of different things. He thinks the Board is doing a pretty good job of handling it. He stated there are so many regulations that can suddenly pop-up and probably would not be able to be handled with a sub-committee.

M. Syrnick stated she was referring to how the Board would implement any new procedures. The professionals will determine the regulations and standards. She stated for the next approval, the Board will have a better understanding of how they are going to proceed. The Board will be better educated. She did not suggest that the subcommittee would develop the standards. The Board may have to rely on their professionals to improve its processes.

A. Russano asked D. Banisch if he has ever experienced this in another municipality.

D. Banisch stated he has seen standard conditions. He stated a public hearing on an application has extensive discussion and there are a number of conditions that the Board and the applicant have agreed to, and it's time to make a decision and the Board turns their attention to A. Fisher. The Board requests A. Fisher to read off the conditions of the approval and then the Board will vote on those conditions. A. Fisher will come back next month and there will be a resolution of approval that reduces each of those conditions in writing and they are going to be the way A. Fisher understood them. He is not suggesting for a moment that A. Fisher did not understand the conditions clearly but to avoid situations where conditions actually do not clearly reflect everyone's understanding of what they thought they were approving in that moment. When A. Fisher reads his summary of those conditions, some Boards actually authorized their attorney to prepare a resolution of approval and they hold the hearing open to the following month. The resolution gets circulated

before the next meeting and the Board has a chance to read the resolution, each of the conditions and may actually change those conditions at the meeting. The Board does not always have to make the decision and take the vote on the night that they think they are concluding the hearing. The Board can ask A. Fisher to prepare a resolution favorable to the applicant, including all the conditions that were discussed, and then before you actually vote on that application the Board can see the resolution in their hands. This process takes some of the mystery out of it because the Board gets a chance to read the conditions. It is a refining of the approval. Possibly it can be implemented for the next application. If the Board is going to make a policy change, it is a good discussion when there isn't an applicant sitting at the table expecting a vote and approval executed conventionally where A. Fisher reads the conditions, the Board votes and it receives the resolution the next month. He stated it seems to work much more smoothly in the one municipality that does implement the above process. He inquired if A. Fisher sees any issues with the process.

A. Fisher stated he has seen the process before but none of his other Board clients do it that way. The only thing he can caution is that people may have a change of heart about the application in the month between and then for reasons not associated with the conditions do not approve it. He stated it can be done. He has seen in other municipalities where the Board members voted down the resolution that was granted previously. He would like to caution the Board members not to just have a change of heart about the overall application once the Board authorizes the preparation of the resolution if it is unrelated to the resolution itself and conditions.

D. Banisch stated that what the attorney is saying is a very important legal point. He stated he thinks that the attorney is nicely saying a very important legal point here, which is what do you mean members. The conditions were read back to the Board and all agreed while they were all sitting here with a voice vote. There weren't any questions and now suddenly the memorializing resolution is reopened in a future hearing when it is supposed to be adopted. The Board took a voice vote to direct the attorney to prepare the memorializing resolution. He doesn't suggest it for every minor subdivision that comes before the Board but possibly some of the bigger ones. D. Banisch stated he understands the point A. Fisher is making. He stated the Board makes the motion to authorize the attorney to prepare a resolution favorable to the applicant and everyone thinks that the Board is saying they are approving the application. He stated in fact there isn't a majority of the Board members who are willing to approve it. A straw poll should be conducted at the time the hearing seems to be nearing conclusion so that everyone gets to look at one another and agree that those are the conditions. He uses straw polls at Board of Adjustment hearings on "D" variances when things aren't looking quite clear.

A. Fisher stated he has no issue with straw polling.

M. Syrnick stated she has a suggestion for the Board members. She requested it be placed on next month's agenda and the Board review the memo that J. Fleming is sending to the members. It will give the Board a month to think about the matter and see if they would like to continue it. She is a believer in continual improvement and this sounds like something that can be an improvement. It will also give the members time to think about it.

D. Haywood stated she agrees with M. Syrnick and requested the secretary place the item on the agenda for the May meeting listing it as standards for conditions of approval. She is hoping that everyone would be able to contribute to the discussion. She stated the one thing she picked up from J. Fleming was when the Board does the resolution, and the Board has a condition that the resolution should include an ownership of who is responsible for making sure that this item gets taken care of and that is something they can just do right now. The Board should consider having a template of standard conditions. It should be added as part of the discussion. She does not want to have another subcommittee but thinks the Board can make the changes at their meetings. She does not think it is going to be very convoluted. She does like D. Banisch's suggestion about looking at the resolution and looking to make sure that the conditions are appropriate. She doesn't think the Board has had any problems in the past, but she could understand there may have been some issues along the way. She has not been on the Board as long as J. Mathieu but has been for approximately 20 years. She

does remember that some of the meetings went past midnight and some of the convoluted things that the Board was doing when the Board had major subdivisions.

M. Syrnick stated the Board received excellent information this evening and she appreciates the Board talking about it.

D. Haywood stated this was an excellent discussion and brought up several good points.

Farmland Preservation Plan

D. Banisch stated he spoke with T. Anderson at the SADC and he stated they are still in the review process so they don't have any comments to send back to the Township. D. Banisch stated that T. Anderson has conducted his review and it is on someone else's desk. The plan is now awaiting a second review. The Township should be receiving some comments pretty soon.

D. Banisch stated the Board should know that the Township has \$1,000,000 in the bank. The County has updated their Farmland Preservation Plan. It will be published soon. The SADC has approved it. The Township does not have any shortage of money in their account.

S. McNicol stated the problem is that the Township has not found any landowners interested in preserving their property. She would love to see some movement as the Township has some big properties that she would like to see preserved. She has asked J. Middleton to provide the Township with a weekly report of her efforts.

D. Banisch stated the money sits in the SADC bank and if there is no movement, they may tell you they want to allocate that money elsewhere. He had a municipality in Somerset County who was confronted with that situation and it turns out they did not have any candidates and had lost hope of moving any more farms through the process so they allowed the funds to be turned back to the State. The program works with the Township getting an annual allocation and if it needs more money because there is a big ticket farm item then there is an additional \$500,000 that the Township can compete for beyond their annual allocation. Possibly the Township should try to contact people again reminding them of the program and its existence. The funds are currently available but the longer the funds remain available and unspent, the less likely that those monies will be there in the future. He said it could be as simple as sending out a standard form letter that goes out to all of the target farms.

D. Banisch stated the State is having difficulties with municipalities moving the money because the complaint they are getting from the municipalities is that the easement values are not high enough.

S. McNicol stated the Township just had a large farm that turned over after many, many years. It is a preserved farm and it went overnight. It was a very well-maintained farm but it was sold in three months. There are other pieces around the Township that are not preserved and they are not moving so it just goes to show you that a well-maintained preserved farm can be sold and sold for a very nice amount of money.

J. Mathieu inquired if there are some farms that are in limbo meaning they have gotten into the program and the State is dragging their feet or there is some kind of bureaucratic thing going on.

S. McNicol stated there are some problems here and there but generally no. They are moving through the State program and the State direct program fairly quickly. She stated communicating with the people and getting the landowners on Board seems to be the issue.

A. Russano stated he completely agrees.

S. McNicol stated the Township has adopted resolutions for supporting the preservation but at the moment it is not going anywhere.

A. Russano stated the Township is adding to their target list. There are different block and lots that are coming up and there are contacts being made but it is a very slow process to make those contacts. Some of the properties are owned by an LLC. The Open Space & Ag Committee is doing a nice job and their due diligence. It is on the agenda of the Committee on a continual basis.

D. Haywood stated she remembers when she was on the Committee it was done monthly.

Conservation Easements & Tax Maps

D. Haywood stated that at last month's meeting M. Syrnick was going to take a look into whether it was something the Township could accomplish or would it be to cost prohibitive.

M. Syrnick stated it would be an expensive project. The Township is updating the properties as they are sold or reassessed. The cost is probably about \$30,000 - \$40,000. She does not see how it can be accomplished in this year's budget.

D. Haywood inquired if the Township can make sure that these things are captured and the records updated without going back and trying to do it retroactively.

M. Syrnick stated she does not see any issue with the recording going forward but adding all of the conservation easements at this time would be a special project and very expensive.

Kennels

D. Haywood stated M. Syrnick was going to obtain additional information.

M. Syrnick stated J. Fleming discussed what can be done with illegal businesses. There has been discussion that people feel that there are breeders that are breeding dogs, selling them and operating kennels without proper licensing.

D. Haywood stated that she was breeding for a while and had a kennel license. She would breed a litter maybe once every two years or three years. She would breed to keep a certain puppy and then place the other puppies. She got a kennel license because she felt she needed one but she has let the license lapse because she is no longer breeding but she wouldn't consider herself an active breeder by having a lot of females and having puppies all the time. Is that what they are discussing or just the occasional breeder that J. Fleming was saying he wouldn't consider a business?

M. Syrnick stated there are a couple of incidents in the Township where they have illegal kennels. She inquired if it makes sense to allow kennel licenses again where someone who wants a kennel comes in and gets a license. With the license they would be monitored, inspected by the State and have to comply with certain regulations. She suggested that it be listed for this Board as they have a little history of the kennels and why the ordinance was changed that if you want a kennel you have to apply to the Board of Adjustment for a variance. According to J. Fleming if a property is operating as a kennel and they don't have a kennel license some proof is needed such as advertising in the Yellow Pages or basically online that you are continuously breeding and selling dogs in order for the Zoning Officer to go in and investigate but short of that there isn't anything the Township can do if there is no proof. It is just hearsay.

D. Haywood inquired what brought this about that the Township is no longer issuing kennel licenses. She doesn't know the history.

J. Mathieu stated when A. DeSapio was chairperson, there were two things that had a moratorium placed on them, one was body shops and the other was kennels. The body shops were springing up everywhere. Kennels at that time were deemed a public nuisance. There were residents who were upset with all the barking at night. He thinks the one that triggered it was on Tumble Falls Road. He is not sure if there are new kennels in Kingwood. He stated a breeder is different than a kennel. He doesn't remember Canine Kennels on Route 12 coming before the Planning Board and he doesn't think they are a kennel.

M. Syrnick stated the issue wasn't new kennels but people operating kennels illegally. Based on the discussion this evening, if the Township has proof of a business, they can send the Zoning Officer. The discussion was does it make sense to permit the issuance of licenses for new kennels without the person having to go to the Board of Adjustment.

S. McNicol state the Township has at least five operating legal kennels which is a high ratio. She doesn't know the history but she could see why it had to be stopped but if there is a problem, the Township may want to license breeders.

D. Banisch read the definition from Section 57-9 of the Township Ordinance:

Any establishment wherein or whereon the business of Boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

S. McNicol stated the Township may need a separate license for dog breeding that doesn't require an inspection necessarily. There was a situation where one woman had all those dogs, approximately 200.

M. Syrnick stated the question came up, due to abuse, about home breeders. Kingwood has a high incident of animal abuse which is higher than any other municipality in the County. Her thought was that if you had a license you would have to be inspected. The intent of the question was how does the Township control people who are breeding dogs. When there is an abuse situation there is no oversight. The County will not go in and inspect the facilities to make sure the dogs are kept in a good healthy manner.

D. Haywood inquired if you allow people to obtain licenses without going to the Board of Adjustment would that make a difference in that case, or would people just ignore it and not have a license because they are subject to inspections.

S. McNicol stated if it is prohibited, it cannot expand. The Township already has a few in the area.

D. Banisch stated the ordinance has a provision that the license can be revoked by the Township Committee on the recommendation of the New Jersey Department of Health, County Health Officer, and the Board of Health for failing to comply with the rules and regulations of the State of New Jersey Department of Health or the Board of Health of the Township. It doesn't have a mandatory annual inspection requirements or designee who will conduct that inspection.

A. Russano stated two weeks ago one of the Township's kennels was inspected and received a satisfactory inspection from the health department which allowed them to go forward and get their kennel license renewed.

M. Syrnick asked if the Board members were satisfied with the current status of the ability to obtain a kennel license or would like to see something different.

A result of a poll of the Board members was a majority would like it to remain as it is, with one member abstaining.

D. Haywood requested the item be removed from the agenda.

EV Charging Stations on Existing Commercial Sites Located on Route 12

D. Banisch stated there was a State model ordinance that was prepared by the Department of Community Affairs. The State law makes it mandatory that municipalities permit electric vehicle charging stations as a permitted accessory use in all zones and existing commercial establishments like gas stations or other retail establishments. They are automatically permitted to be installed as long as the installation does not violate any bulk setback requirements. D. Banisch read the following sections from the model ordinance:

- a. the proposed installation does not violate bulk requirements applicable to the property or the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment or other existing building.
- b. all other conditions of prior approvals for the gasoline service station, the existing retail

establishment, or any other existing building continue to be met; and

- c. the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L. 1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.

The model ordinance sets all the standards required for new development on a going forward basis. They generally apply to residential developments and approvals of garages and parking lots. They prescribe how many electric vehicle charging stations have to be provided based on the number of dwelling units that are being approved. The State model ordinance makes it short work for the Township to adopt an ordinance. The only section that the Township would be able to tailor is Section F.

A. Russano thanked D. Banisch. He stated he understands that the Environmental Commission is looking to obtain a grant to get some type of charging station in the community. It is another important topic and the way of the future.

D. Haywood stated she didn't look at it in detail but as she understands there are no standardized charging stations.

J. Mathieu discussed the different types of circuits required for charging vehicles. He stated for a car you would need a 60 AMP circuit and he doesn't think there are too many properties in Kingwood that would have the ability for that type of service. Most of the residences would have a 20 AMP circuit which would take about 24 hours to charge a vehicle. He stated a quick charge would take about 2.5 hours. He stated if the State is going to start, like with COAH or other items, requiring a certain number of chargers, it becomes problematic. If cars go all electric a plaza along an interstate highway would have to actually have about 200-260 charging stations. He stated he wouldn't spend a lot of time on this ordinance.

D. Banisch stated he thinks the ordinance is acceptable in its current form. It is mostly a fill in the blanks. He doesn't find it objectionable. The only section that the Township can tinker with is Subsection F.

D. Haywood asked D. Banisch if he thinks that the ordinance as it is written is something that the Township could live with knowing Kingwood and knowing he's been the planner for the Township for a long time or does he feel that since the Township does have to allow this that it needs to be tweaked for the Township.

D. Banisch stated the logical place is a restaurant where you would be spending some time.

A. Russano stated he agrees with D. Banisch that probably a restaurant along Route 12 might be interested and possibly the school as well as the Business Park. Since the Township does not have anything on the books currently, it should as this is the future.

J. Mathieu stated there are two charging stations at the Stockton Inn put in by the previous owner. The only thing he would suggest is to make sure that the installation is appropriately inspected.

D. Banisch stated the model ordinance permits the charging stations as permitted accessory uses. The Township cannot prohibit them, and it can't require site plan approval. He stated some municipalities may prohibit them. As part of a new development of 5 dwelling units or more, 1 charging station must be provided. The numbers increase based on the size of the development. He stated every charging station counts as 2 parking spaces but can only reduce 10% of your parking requirement. One charging station must be installed and 15% set aside for make ready spaces within a time frame to put them in service. It does have real world site plan implications. He does not see any harm in adopting the model ordinance.

J. Mathieu questioned about handicapped spaces and the required number for the same number of dwelling units.

D. Banisch responded that you have to have over a certain limit of units to require handicapped spaces. There is a standard but it is not onerous but he can't tell you this evening.

D. Haywood stated it makes sense to have the ordinance on the Township's books.

J. Mathieu stated the response to why the State is doing this is due to politics. It is a political card to carry. The model ordinance leads the way.

D. Haywood stated she does think the whole thing is political because there is a movement to go with renewable energy and the State is well committed to go with renewable energy. She read that the State is talking about making emission standards higher and higher or harder and harder to encourage people to get electric vehicles. The thing which would be better than charging stations is the ability to change out the battery similar to filling up your tank with gas.

D. Banisch stated Tesla tried that out and think they had some difficulty with that process.

J. Mathieu inquired if anyone knew how much electric vehicles weigh. He said they are tanks and beat the roads up. He thinks there are a lot of hidden costs to the landowners. There are also reports of hackers accessing your information through the chargers.

D. Haywood stated the Board was going too off track. She asked if there was any objection to getting something on the books.

D. Banisch stated only Subsection F can have comments.

D. Haywood asked comments for Subsection F be provided to D. Banisch within the next week so that it can be incorporated into the draft ordinance.

Proposed Ordinance No. 7-2023

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 I, GENERAL PROVISIONS, SECTION 132-4, DEFINITIONS, TO REFLECT A CHANGE TO THE DEFINITION OF LOT DEPTH AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

It was moved by J. Mathieu, seconded by A. Russano, and carried to determine that proposed **Ordinance No. 7-2023** is not inconsistent with the Master Plan. All members present voted **AYE** on **ROLL CALL VOTE**, except F. Murray, who was **ABSENT**.

Minutes

It was moved by S. McNicol, seconded by S. Harris, and carried to approve the minutes of March 9, 2023, with the following change:

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~~ illegal kennels because it is not easy to get a kennel license.

All members present voted **AYE** on **ROLL CALL VOTE**, except A. Russano, who **ABSTAINED**, and F. Murray, who was **ABSENT**.

CORRESPONDENCE

D. Haywood reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

D. Haywood commented on the previous discussion regarding the distribution of the package. How does the Board want the package delivered? What do they want in the package? Do they want a meeting reminder or when the complete package is up to date and ready to download? She stated she would like to see a notice that the entire package is available for download and notification when there are updates.

D. Laudenbach stated that she could add a date to the end of a document to indicate it is a new document.

D. Haywood stated that would be fine but asked if anyone has any other requirements that they would like to see. She agreed that the packages are large as attachments to emails and sometimes were not able to be downloaded.

J. Mathieu questioned where he would locate the meeting package.

A. Russano asked that the screen be shared and a step-by-step demonstration was done on how to access the current Planning Board meeting package.

M. Syrnick stated last year one of the Board's, possibly the Open Space or Environmental Commission asked why they couldn't have their packages on the website to download like the Planning Board.

J. Mathieu stated he never knew any of this was around. He has never seen anything that was posted on the link for the Planning Board package. He stated the Board of Adjustment had a meeting last night and he probably received 10 different emails with attachments. He went out and physically inspected two of the properties.

S. Harris asked if it would be possible to say that everything would be updated a week before the meeting and then if any adjustments were made, an email can be sent out to let everyone know that a change has been made.

D. Laudenbach responded that can be done but, in the past, she was requested to send out only one-email per meeting package. There is no issue to sending out more than one email.

D. Haywood suggested that the package is available on the website the Friday before the meeting. If that time frame does not work, the Board can tweak it.

D. Laudenbach responded that when the meeting reminder goes out to the Board members, the package, as she has it, is also loaded to the website.

S. McNicol asked A. Fisher if he had any information on the cargo containers and if the county is allowed to supersede the Township's ordinance, which only allows one container on the farm.

A. Fisher has not had a chance to review the matter.

ADJOURNMENT

It was moved by M. Syrnick, seconded by S. McNicol, and carried to adjourn the meeting at 10:03 PM. All members present vote **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary