

## MINUTES

7:30 PM

**PRESENT:** S. Harris  
D. Haywood  
J. Mathieu (8:03 PM)  
A. Russano  
M. Syrnick  
L. Voronin  
F. Murray, Alt 1  
D. Banisch, Planner  
C. Sobieski, Attorney

**ABSENT:** S. McNicol  
G. Vitale

## 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. The 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

### Special Occasions Events on Preserved Farmland – Draft Ordinance

D. Haywood inquired if everyone on the Board had a chance to review it. She was disappointed that S. McNicol could not be present as she was looking for input from the Open Space/Ag Committee (OS/Ag).

M. Syrnick inquired if A. Russano could comment on the subject as she understands from L. Riggio's report, the OS/Ag had a lot of discussion from the farmers on the ordinance.

A. Russano stated that about two months ago, the Planning Board was discussing this topic and was then asked if he could bring it over to the other side. It was discussed and widely debated. He stated what came about was that both the OS/Ag agreed that the way this reads it is very detailed and it could use some refining. He stated they believed that it is too detailed for Kingwood Township as it currently reads.

D. Banisch stated his understanding of the reaction was that they wanted something a little bit more mainstream and something not quite as regulatory in nature but something that still acknowledged the need for special events but without quite as much bureaucracy or policy as the draft includes. He has not had any direct communication with OS/Ag to know exactly where they want to see emphasis added and what they would like to see taken out. He would have to have some direction from them to proceed.

A. Russano stated that C. Sobieski provided E. Amwell's ordinance to the Planning Board.

C. Sobieski stated when he initially saw it years ago, it was very wordy so he is not surprised by the reaction that it might be a little overkill but he offered that if the Board wanted any help, he would be willing.

A. Russano stated OS/Ag tabled it for further discussion next month. He stated the SADC has on their website a full application for anyone that wants to do a Special Event. The application is 15 pages and requires a map which adds another six pages to it. It is a very detailed application. He stated OS/Ag will be discussing it next month.

D. Haywood inquired if after their review would they be able to provide more direction because what A. Russano stated before was that it was somewhat ambiguous, too bureaucratic, and too detailed for Kingwood. She stated D. Banisch would need more direction of where if anything needs to be toned down and/or where anything needs to be included. She inquired if A. Russano thinks a determination could come out of the OS/Ag next meeting.

M. Syrnick stated if the County has an application for preserved farms and farmland will the Township have a say on the regulations or will they overrule the Township.

D. Banisch stated the State regulations control the activities on preserved farms. He said the Special Events ordinance does address the situations that are not regulated by the SADC regulations. The application process that has been promulgated in the SADC regulations applies to preserved farms and supersedes anything that a municipality can do.

D. Haywood inquired if that means the ordinance would be superseded.

D. Banisch stated the ordinance would regulate special events on non-preserved farmland.

D. Haywood stated the matter should be placed on next month's agenda and by that time the Board will receive some feedback from OS/Ag.

M. Syrnick stated that the topic came about for special events on preserved farms. She stated regular farms have been in the Township for a very long time. She inquired if there was anything that the Township restricts on farms. She stated the Township has had farmers for as long as Kingwood has been incorporated. She inquired what is in place that restricted them from having special events before this discussion.

D. Banisch stated he doesn't remember if the Township has any licensing or use provisions to allow for them to have public events. He will have to check. He stated he believes that the religious revivals on a large farm was done by special use permit approved by the Township Committee but he would have to go back and research the matter. He stated as far as zoning regulations or licensing requirements he doesn't know if there is anything specifically that applies to allowing a one time, recurring or seasonal special events on farms to accommodate

large public gatherings, have music and generate noise. He doesn't think those things are actually permitted by local regulations currently.

M. Syrnick agreed with D. Banisch and stated that the Township does have regulations for licensing of food trucks and certain other things. She stated originally the ordinance was going down the path of special events on preserved farms. She inquired does the Township want to allow events anywhere in the Township that has a farm.

D. Banisch stated it is a policy question and the ordinance is written in such a way that it anticipates agritourism and anticipates that people who may not have farms and may simply have large lots in a lovely rural setting. He stated the ordinance anticipates they may want to have an occasional special event to generate some additional income for the household. He commented the ordinance may go too far for what the Township has in mind for it.

C. Sobieski stated he thinks the question or issue is whether or not the Township has an existing special event requirements because if there is nothing on the books, it is essentially a free-for-all. He stated he understands that the ordinance would no longer make it a free-for-all but create some regulations that would narrow the scope of what events could be permitted. He remembers a farm that was down the street from him that would have a big party with a few thousand people in attendance once every summer. He stated it got out of hand. He inquired if that was what Kingwood is trying to prevent.

D. Banisch stated as a licensing procedure the ordinance attempts to give the property owner the ability to put down on paper where the parking would occur, where the activity would take place and describe the activity. It would apply to special events that would generate traffic greater than 50 vehicles. It would provide checks and balances. The application would not put them through a formal site plan review with the level of scrutiny of the Planning Board. It puts in some parameters for future events. Someone who would want to do something big would have to get a special events license. The license could be renewed annually without out changing the application. If there were any public nuisance problems, there would be no guarantee that the license would be renewed. The application would not be impeding the activity in the form of Planning Board site plan approval. It would keep those activities as a land owner privilege but give the Township the ability to oversee it.

C. Sobieski stated it would put in some kind of parameters but not make it too onerous.

D. Banisch stated based on the comments he got the sense that it was overkill as it was very detailed.

C. Sobieski recommended that simultaneously with the preparation of the ordinance the permit application also be included. The Board may find that it can have a permit application that is only three or four pages long.

D. Banisch stated he thinks it landed at the Planning Board because of their expertise with site plans for proposed commercial activity. They were the more appropriate Board to come up with some standards for special events.

D. Haywood inquired of D. Banisch if the SADC has a process in place and an application, the Township has to make sure that its document isn't contradictory to that application even if it only applies to preserved land.

D. Banisch stated possibly the Planning Board should review the regulations for the SADC requirements for events on preserved farms. He stated there is some overlap between the two and a comparison between the two would be a good idea.

D. Haywood requested the secretary to send the link to the Board members and requested that they review it before next month's meeting.

### **Farmland Preservation Plan**

D. Banisch reported that they are still working through the target farm list and it should be completed by next week with an accurate list of target farms. It will then be ready for submission to the SADC.

### **Farm Stand Memo**

S. Harris commented, in Section 1C, that lighting is not allowed for a farm stand. He is suggesting that it permit limited lighting. He stated some stands are at the top of a dark driveway with someone coming home from work to stop and get eggs and there are ditches on both sides of the driveway. He stated it should be up to the homeowner to put up lighting for safety.

D. Banisch suggested the wording that any lighting for a farm stand shall not create any visual distractions to traffic.

A. Russano stated he spoke with OS/Ag and the majority if not unanimously wanted to have the 75% requirement to be reduced to 51%. The lower percentage would be consistent with the State guidelines as well. OS/Ag felt that 75% is too high and may restrict some of the Township's farmers who are trying to make ends meet and make a few dollars. It may hurt them in the long run.

D. Haywood stated the whole idea of a farm stand is to sell off their land. She feels that it should be 100%. She inquired why the members felt it was too high.

A. Russano stated according to the State guidelines it is 51% and 51% is something easier to obtain rather than 75%. He stated 51% is the minimum.

D. Haywood stated the 51% is for a farm market and not a farm stand.

A. Russano stated the ordinance provides for 51% for a farm stand and 75% for a farm market.

D. Banisch stated it is just the opposite. He read from the email he sent earlier this evening:

*FARM STAND – An unmanned, non-permanent, roadside accessory structure, not more than 200 sq. ft. in area, from which farm products are sold. At least 75% of the products sold shall be grown on the farm or the land where the farm stand is located and sold by the owner of the land upon which the farm stand is located. A farm stand is open to the air, may be covered with a roof, and may be a table, a cabinet, a cart, an open shed or trailer, or a wagon on wheels. A farm stand may be located on a farm or residential lot provided that the products sold are produced or grown on the lot where the farm stand is located.*

D. Banisch stated a farm market shall not exceed 5,000 sq ft with a standard of 51%. A farm stand is an informal 200 sq ft. The ordinance is referring directly to what is grown on the property. There may be some supplemental items from an outside source that would be sold with the product such as jams or jellies.

M. Syrnick stated the idea behind the farm stand, which is allowed throughout the Township, is that if you have chickens or produce you can put up a stand at the end of a driveway. She can't imagine having these stands throughout the Township selling anything and everything. The 51% for a farm market is because it is not a stand at the end of the driveway.

S. Harris inquired where would firewood fall into the regulations. Some people sell it but it is not necessarily from their land.

D. Banisch inquired if the Board and Township Committee are in favor of someone bringing in firewood to someone's farm stand and selling it. He stated there are a couple of different ways to look at it. He asked if the Township would want to encourage that much roadside activity, but cutting into the Mayor's point about people who are engaged in this kind of activity to help make ends meet. He thinks it is a policy question.

M. Syrnick stated she wouldn't have any objection to someone having firewood at the end of a driveway.

D. Banisch stated he doesn't know exactly, in the Board members' views is being complicated by the 75% standard in the ordinance.

S. Harris stated he is not sure if the 51% would make it with firewood.

D. Haywood stated she has mixed feelings and bringing in things to sell is making it more of a farm market than a stand. She agrees that selling firewood by either getting it from your land or importing it you might not even meet the 51%.

F. Murray inquired if you are getting it all from your land how do you count those sales.

D. Banisch stated it meets the definition of a farm stand.

D. Haywood stated she doesn't know if the Board has a consensus. She is leaning towards the 75%.

D. Banisch inquired who is going to police the regulations. He inquired if the Zoning Officer is going to look at what you are doing at your farm stand.

C. Sobieski stated he would have to figure where each single product on your stand comes from and how will you track its origin.

D. Haywood stated if no one is going to police it unless there is a complaint the person would have to prove that the percentage comes from their land.

C. Sobieski stated it is a quasi-criminal proceeding when it goes to municipal court and it would be the Township's responsibility to prove beyond a reasonable doubt that the person is not complying with the regulations.

J. Mathieu entered the meeting at 8:03 PM.

M. Syrnick stated she is not big on over regulation but thinks that farm markets should be regulated and farm stands at the end of driveways she doesn't find offensive.

D. Haywood stated there should be some regulation. She stated the only open issue is whether the 51% or the 75% should be used for farm stands.

A. Russano stated the only issue was the percentages. He stated previously C. Sobieski had brought something from E. Amwell. It seems as if they have 51% for both. He stated tying it into what is being discussed about policing it and should the Township have something on the books to limit its residents from making a few extra dollars to help out their family.

C. Sobieski stated the percentage for E. Amwell is 51%.

D. Banisch stated read from E. Amwell's ordinance:

***FARM STAND***

*A structure, either permanent or portable (e.g. wagon), located on a farm and in conjunction with a farm use for the purpose of selling farm produce of which a substantial portion (greater than 50%) of the products for sale are grown on the property, open only nine months per year and subject to the following restrictions.....*

*(4) Outside sale or display areas shall not exceed 1/2 the structure coverage of the farm stand or 500 square feet, whichever is greater and is subject to the same setback and parking requirements of the farm stand.*

M. Syrnick stated a farm market is related to a farm and the Board is indicating 51%. The farm stands could be in front of a house and not related to a farm. It is a farm stand and may sell backyard tomatoes, etc. She doesn't know if the Board is saying that restricting a 200 sq ft farm stand by saying it has to be 75% is cutting any income from any farmers.

D. Haywood agreed with M. Syrnick's comment.

M. Syrnick inquired if what the OS/Ag was envisioning is that the Board was restricting actual farmers versus a little stand at the end of the driveway.

A. Russano responded OS/Ag is looking at things where they're a group of farmers who farm 100% most of the time on their property but they are also looking out for those individuals who wish to begin farming and may also want to start something up on their property that they are not currently farming. They don't want to limit what someone may want to do in the Township who is trying to go that extra mile and make a few dollars especially with the current climate. He stated everyone's hardship is different than someone else's. They didn't want to impose any additional modifications or special level that someone needed to attain as opposed to someone else. They wanted to keep it fair across the Board.

D. Haywood stated she doesn't disagree with A. Russano's comments but isn't it asking a lot to have a farm stand sell their produce and bring in other things to sell. She inquired if it has to be settled tonight.

A. Russano stated it is for discussion this evening.

D. Haywood inquired if the Board would like to decide this evening or defer it to next month.

A. Russano stated there may be more members in attendance next month. He stated everyone has some valid points.

D. Haywood stated she would like a little more clarity with OS/Ag as to why they feel that 75% is too high. If their only reasoning is consistency, she does not feel it is a valid reason. There is a difference between a market and a stand and it is not unreasonable to require more to come from the owner's property as opposed to it being brought in to sell. She requested A. Russano bring it up to OS/Ag at their next meeting.

L. Voronin inquired if you grow cucumbers and make pickles are there any requirements for the owner to go through the Board of Health to be able to sell pickles or any other items you cook from the produce you produce.

S. Harris stated it has been changed that you can have home kitchens and sell the products produced in them but he is not sure of the regulations.

C. Sobieski stated he is not familiar but thinks the County Health Department only gets involved in establishments like restaurants.

D. Laudenbach indicated that Retail Food Licenses are required even for pre-packaged goods.

D. Haywood stated the topic will be deferred to next month when there will be more members in attendance. The discussion of the percentage can be decided at next month's meeting.

### **Minutes**

It was moved by L. Voronin, seconded by S. Harris and carried to adopt the minutes of September 14, 2023 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, A. Russano and F. Murray, who **ABSTAINED**.

### **CORRESPONDENCE**

D. Haywood reviewed as per the agenda.

### **PRIVILEGE OF THE FLOOR**

L. Voronin informed the Board that the Environmental Commission will meet at the proposed recycling center on Route 12.

D. Banisch stated it is scheduled for October 18<sup>th</sup> at 3:00 PM. J. Hansen will also be present.

D. Haywood inquired if the Board would be getting an update.

D. Banisch stated it is a Board of Adjustment application and he is not sure that the Board should be talking about an application before another Board.



C. Sobieski stated he advises against it. The applicant is going to the Board of Adjustment for a use variance.

J. Mathieu inquired if they are going to need a site plan review.

D. Banisch stated it would unfold before the Board of Adjustment. He was not sure if they were submitting a bifurcated application. If the Board of Adjustment grants the use variance, they will retain jurisdiction over the site plan and it will not come before the Planning Board.

D. Banisch stated the regulation for Special Events has been published in the register but has not yet been codified.

L. Voronin inquired that the Environmental Commission is discussing the proposed recycling center on Route 12 and if that was permissible since he had stated it can't be discussed at the Planning Board.

D. Banisch responded the Environmental Commission received a copy of the application and under their function and responsibilities as the Environmental Commission they are allowed to review an application, discuss it and prepare a comment letter.

C. Sobieski stated it is within the scope of the Environmental Commission's powers to offer recommendations and review their application. He stated it is different between the Zoning Board and the Planning Board because a different board would have jurisdiction over the matter and an argument could be made that if it was discussed at the Planning Board and somehow it gets to the Planning Board later on in the process that the Board has already prejudiced the application by discussing it. The Board shouldn't talk about it in too much depth. It will avoid any kind of legal consequences.

## **ADJOURNMENT**

It was moved by S. Harris, seconded by A. Russano, and carried to adjourn the meeting at 8:17 PM. All members present voted **AYE**.

**Respectfully submitted,**

**Diane Laudенbach, Secretary**