

**Kingston Planning Board  
Public Hearing  
July 19, 2011**

The Chairman called the meeting to order at 6:30 PM. There were no challenges to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman	Ernie Landry
Glenn Coppelman, Vice Chair	Jay Alberts
Peter Broderick (BOS rep.)	
Adam Pope (joined the meeting in progress)	
Richard St. Hilaire, alternate (joined the meeting in progress)	

Members absent: Mark Heitz, BOS rep.; Dan Mastroianni

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer, Ellen Faulconer, Administrative Assistant

Mr. Broderick will be replacing Mr. Heitz for this evening's meeting.

**Board Business**

Mr. Wilson noted that the Bond amount for Mr. Early's gravel pit had been established by Mr. Quintal, per the Board's request.

**MM&S to require Mr. Early to post a \$28,500 bond for his gravel pit.** (Motion by Mr. Alberts, second by Mr. Coppelman) **PUNA**

**ACTION ITEM: Ms. Faulconer to send a letter to Mr. Early re: the gravel pit bond.**

**Correspondence:**

**MM&S to authorize Mr. Wilson to sign the RPC contract for \$23,320 and forward to the BOS for their signature.** (Motion by Mr. Alberts, second by Mr. Coppelman) **PUNA**

<Board note: Mr. Pope joined the meeting at this time.>

- Letter was read from Joan Livesey regarding a proposed business at 34 Church Street. Mr. Coppelman stated that the Board had recently asked an owner to come to speak to the Board for a similar use to make sure the limitations on the site were understood; he continued that this use sounded different from past uses and thought the Board would want to speak with her. Mr. Wilson agreed and added that it sounded like there might be

a variance in the proposed hours; Mr. Alberts also agreed that it would be good to hear from her.

**MM&S to invite Ms. Livesey in to meet with the Board at the next meeting.** (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

- Memo regarding 4 Gravel Road; Ms. Faulconer and Mr. Greenwood reviewed information from Mr. St. Hilaire regarding a formal inquiry from Plaistow regarding the activity on that site. Mr. Wilson confirmed that material is being moved; he suggested tabling this discussion pending Mr. St. Hilaire's arrival.
- Town and City magazine; an article re: condos from this issue was distributed to the Board for their information.
- Air Permit notification/comment period for a plant on Roadstone Drive was received.

**ACTION ITEM: Mr. Greenwood will review the Air Permit paperwork and return with a recommendation for the Board.**

**ACTION ITEM: Ms. Faulconer to make a copy of the Air Permit paperwork for Mr. Alberts.**

- Driveway permit on Rte. 107
- REDC 2011 Strategic CEDS CD was received. Mr. Coppelman noted that a copy of the plan was also available on their web site.
- Community Announcement re: Mortgage Assistance.

**Northland Forest Products, Inc./Oppenheimer  
10 Depot Road  
Tax Map U10-34, U9-31, U9-29**

The applicant explained the Lot Line Adjustment proposed on the submission; he stated his belief that the Oppenheimer's intend to keep it under current use. Mr. Greenwood reviewed his comments, confirming that the plan looked good to him. He explained that it corrected a problem presented years ago regarding a previous boundary line adjustment that had not been recorded; State subdivision approval was still pending and should be a condition of approval; topography and wetland information isn't needed for this plan but should be formally waived by the Board. Mr. Greenwood explained that having that was taking a conservative approach but it was a note on the plan with his assumption that the applicant's engineer had done that submission. The applicant will confirm with his engineer.

**MM&S to approve the waiver request for not requiring topo. or wetland information for this plan.** (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

Carl Oppenheimer stated that his intention is to keep the property in Current Use with no intention for development.

**MM&S to approve the lot line adjustment as presented, subject to receipt of State subdivision approval; deadline for compliance due within 90 days.** (Motion by Mr. Coppelman, second by Mr. Landry). **PUNA**

**Lefevre/Ingalls**  
**76 and 78 Hunt Road**  
**Tax Map R6 Lot 10-4, 10-14**

Mr. Lavelle distributed an updated plan from the original submission; he explained the proposal done to separate the land and move 8.3 acres from LeFevre to Ingalls so Lot 10-4 now becomes 4 acres and the Ingalls area increases to 23.31 acres; sheet 2 shows the new lot line with the easement for the future roadway; sheet 3 shows the property lines at the rear parcel. Mr. Lavelle noted that he had received the Town's Engineer's review letter; each of Mr. Quintal's comments had been addressed on the new submission. Mr. Greenwood spoke with Attorney Loughlin and although the lot Ingalls' lot was a non-conforming lot, the activity before the Board in this application did not increase the non-conformity. Mr. Lavelle stated that this proposal gives an access that didn't currently exist to the back parcel of land. Mr. Wilson stated that he needed to make the statement at this point that there would probably be a condition of approval regarding any possible legal action; based on previous review with the applicant. Mr. Greenwood agreed that this would be up to the Board during the review. Mr. Wilson advised that the deed language is an issue between the 2 parties. Mr. Greenwood added that the Board's keeping with that comment is consistent with its legal advice and previous Board discussion. Mr. Lavelle confirmed for Mr. Coppelman that State subdivision approval had not been obtained at this point and would obviously need to be a condition of approval. Mr. Wilson re-iterated that any approval would be conditional upon the State subdivision approval and the deed issue being worked out. Mr. Quintal stated that his concerns appeared to have been addressed. There was not public comment at this time.

**MM&S to approve the lot line adjustment as proposed conditional upon receipt of the State Subdivision approval within 90 days. Additionally, the Board is aware of a legal dispute with the deed; if there is no legal action brought within 45 days, it is no longer an action of interest for the Board.** (Motion by Mr. Coppelman, second by Mr. Alberts)

Further discussion on the motion: Mr. Alberts was not sure the language regarding the deed was needed as there was the ability to challenge by law, but since Attorney Loughlin asked to include it, he'll agree to the language. Mr. Broderick expressed concern that the Board was somehow getting involved in what is essentially a contractual dispute; he asked to clarify that this action actually kept the Town out of the dispute and was not, in essence, negating a previous agreement between the landowners. Mr. Wilson confirmed that this action was not to negate the deed but to not get involved in the dispute. The appeal period was discussed; the Board consensus was to keep the 45 days stated in the motion.

**Vote on the Motion: PUNA**

Mr. Lavelle noted that the restrictions on the deed speak to single family dwelling. Mr. Wilson re-iterated that Board is not getting involved in that possible legal matter.

**Solar Hills Estate Subdivision**  
**76 and 78 Hunt Road**  
**Tax Map R6 Lots 10-4, 14**

Mr. Lavelle stated that due to the conditional approval of the Lot Line Adjustment that just occurred, the property involved is now just Lot R6-14. He reviewed the plan with the revised cul-de-sac. He said that per the discussion with the Road Agent, he amended the 150 foot radius cul-de-sac to 100 ft; asked the Board to waive the 1,000 foot road limit to allow the road to continue to the Conant property in the future; the access to the Town parcel is shown on the plan.

Mr. Lavelle stated that he had received Mr. Quintal's review of the proposal and there is nothing that can't be addressed. Mr. Lavelle asked that the Board approve two waiver requests; for the cul-de-sac radius and road length. Mr. Lavelle explained that the subdivision will be serviced by sprinkler systems eliminating the road length issue. Mr. Wilson said that the proposal was for an eight lot subdivision and it appeared that there were frontage issues for the lots. Mr. Lavelle said that they were going to put restrictions on the lots without frontage that they would not be buildable until the roadway was completed. Mr. Greenwood explained that, from the Town's perspective, the Planning Board cannot create a lot that does not meet the Town's ordinance; the Planning Board could not create that type of lot; he added that an additional waiver from the 8 lot minimum requirement to the 6 lot proposal would be needed. Mr. Wilson discussed the possible issues with there only being 4 sellable lots if the last two lots would be having restrictions of possible subdivision. Mr. Alberts stated that it was a similar issue addressed by the Board with a previous review that the Board did not allow due to the lack of frontage on a public road. Mr. Wilson said that the applicant could come back with a 6 lot subdivision and request waivers for the road length, number of lots, and cul-de-sac radius. Mr. Greenwood reviewed his 10 comments; Mr. Lavelle confirmed that the issues could be addressed and added to the plan; he can return with a plan for 6 lots with Mr. Quintal's comments addressed.  
<Board note: Mr. St. Hilaire arrived at this time.>

Mr. Coppelman asked Mr. St. Hilaire if he was okay with the cul-de-sac reduction. Mr. St. Hilaire stated that he was not happy with it but it makes sense for this proposal. Ms. Faulconer stated that the road name needs to be addressed with the Police Chief for "911" issues.

Dan Bartley, 72 Hunt Road, asked when the applicant was going to show a plan that showed the driveways and house locations. Mr. Wilson stated that the driveway locations should be shown on the next submitted plan. The building location, buildable area, permitting process was discussed. Mr. Bartley explained that the subdivision regulations say that the building locations should be shown on the plan.

Ron Conant asked by the cul-de-sac that was proposed was not "slid" down further on the plan to include frontage for the last two lots. Mr. Lavelle explained that it had to do with getting an Alteration of Terrain permit; he stated that getting that added more time to the process and they were trying to keep under the requirement to avoid having to get that permit. He added that the plans will show the Right-of-way to the Conant property.

Mr. Greenwood confirmed that there is a statement in the “driveways” that the design criteria should show the most likely placement of the house, in proximity to the driveway. He clarified that having it on the plan did not necessarily mean it would stay there. Mr. Lavelle said that these items would most likely appear on the next plan. Mr. Lavelle asked about the Board accepting the waivers this evening. Mr. Greenwood reminded the Board that prior to voting on waivers, jurisdiction should be invoked. The Board was not ready to accept jurisdiction due to the required changes in the plan.

**MM&S to continue the Solar Hills Subdivision review to August 16<sup>th</sup> at 7:30 PM.** (Motion by Mr. Alberts, second by Mr. Pope). **PUNA**

### **Board Business, continued**

- June 21<sup>st</sup> minutes were tabled until the next meeting.
- Mr. St. Hilaire will be asking to go into non-public session; this will be addressed as the last Board action this evening.

### **Accessory Apartments Ordinance**

Mr. Wilson reminded the Board that the changes proposed dealt with allowing the use in the Rural Residential zone. Mr. Pope thought there needed to be additional language that was more specific regarding the allowed use in the zone, similar to other articles. Mr. Middlemiss explained how the ordinance and original language and its intent and restrictions came about. Mr. Wilson suggested adding another paragraph clarifying the allowed zones; agreed upon by Board consensus.

**ACTION ITEM: Ms. Faulconer to add paragraph “D” in Accessory Apartments, clarifying the use in the zones and move to the Public Hearing for the 2012 warrant.**

### **Site Plan and Subdivision Regulations Amendment Conditional Approval**

The Board reviewed the proposal to add language specifying length of time to comply with conditional approvals.

**MM&S to accept site plan and subdivision changes as presented.** (Motion by Mr. Alberts, second by Mr. Coppelman) **PUNA**

### **Board Business, continued**

- Mr. Coppelman asked about Mr. Lepage’s condition of approval; Ms. Faulconer stated that she had not received information regarding the condition of confirming that the lighting fixtures complied with the Dark Skies Ordinance. Mr. Coppelman suggested that, based on his research, they did not meet the ordinance.

**ACTION ITEM: Ms. Faulconer to bring pending items to the Board for their monthly review.**

- Mr. Wilson returned to the 4 Granite Road discussion. Mr. St. Hilaire asked to go into non-public session to discuss a possible legal matter.

**MM&S to go into non-public session to discuss a legal issue.** (Motion by Mr. Coppelman, second by Mr. Alberts) A roll-call vote was taken: Mr. Coppelman – yes; Mr. Landry-yes; Mr. Pope –yes; Mr. Wilson –yes; Mr. Broderick –yes; Mr. Alberts – yes. **Motion carried unanimously.**

**MM&S to come out of non-public session.** (Motion by Mr. Coppelman, second by Mr. Alberts) A roll-call vote was taken: Mr. Coppelman – yes; Mr. Landry-yes; Mr. Pope –yes; Mr. Wilson –yes; Mr. Broderick –yes; Mr. Alberts – yes. **Motion carried unanimously.**

The Board discussed activity on 4 Granite Road. No actions were taken during the non-public session.

**ACTION ITEM: Ms. Faulconer to contact Mr. Greer about allowing Mr. Quintal onto the property to review compliance with Town ordinances regarding excavation.**

- Next week's agenda was discussed including the meeting following the Board meeting for the Article 22 Land sub-committee. Mr. Wilson asked Ms. Faulconer if she had contacted the property owner. Ms. Faulconer stated that she had tried to contact Ms. Petts with no success; she had asked Mr. Alberts for assistance with this. Mr. Alberts stated that he had forwarded Ms. Faulconer's request; she had received no response.

**ACTION ITEM: Mr. Alberts will continue assisting Ms. Faulconer in contacting Ms. Petts.**

**MM&S to adjourn at 8:25.** (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**