

**Kingston Planning Board
Public Hearing
October 18, 2011**

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

Members in attendance:

Richard Wilson, Chairman Adam Pope
Ernie Landry Jay Alberts
Ellen Faulconer, Alternate (Admin. Asst)

Absent: Mark Heitz, BOS rep.; Glenn Coppelman, Rich St. Hilaire, Alternate

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer; Larry Middlemiss, Health Officer

Board Business

**Scott DeLucia
Cars “R” Us
72 Rte. 125**

Mr. Wilson explained that Mr. DeLucia had received a letter from the Planning Board asking to meet with Mr. DeLucia about coming into compliance with his approved site plan. Mr. Wilson reviewed the letter, site plan and current conditions of non-compliance including cars not parked on paved surface, cars parking in the entrance and State ROW, wetland setbacks. Mr. DeLucia noted that he was not the only car lot owner with cars parked in the wetland areas; he stated that he could name several that had this same issue. Mr. Wilson added that there were also cars parked in the fire lanes on Mr. DeLucia’s property; there was a limit to the number of cars allowed on the site if the plan was paved as shown; he re-iterated that Mr. DeLucia needed to comply with the existing approval. Mr. DeLucia stated that the previous owner had agreed to additional paving on the site but hadn’t done it prior to his purchase of the property. Mr. Wilson explained that the cars needed to be on a paved surface; there was no parking on the grassed areas; Mr. DeLucia would lose approximately 40 display spaces by not parking where the pavement ended. Ms. Faulconer explained the site approval process. Mr. Wilson suggested reviewing the approved site plan with Mr. DeLucia on the property to show where cars should and should not be parked and review other issues not in compliance with the approved plan.

ACTION ITEM: Mr. Alberts and Mr. Wilson will meet Mr. DeLucia at the site on Friday, October 21st at 10:30; Ms. Faulconer to invite the Building Inspector and Health Officer to join them at that time.

Correspondence:

- Letters from Fire Department and Sad Café received; will be reviewed during the public hearing for the Sad Café.
- Zoning deadline dates received from RPC

ACTION ITEM: Ms. Faulconer to scan zoning deadline dates and send to Board members.

- CEDS information reviewed; no action by the Board.
- Letter received re: RPC dues.
- Report/recommendations from Danna Truslow for Groundwater Withdrawal for Diamond Oaks; Mr. Wilson, Mr. Landry and Mr. Greenwood will be at the hearing.
- DES announcement re: National prescription take-back day on Oct. 29th.
- EPA draft proposal for Groundwater Management Zone at Ottati-Goss site; Mr. Wilson explained that this would need to be recommended by the Board to go forward on the next ballot.

ACTION ITEM: Ms. Faulconer to contact EPA representatives to come in to speak with the Board and explain the proposal.

- Letter to Mr. Daher regarding the numbering of the buildings on his site.
- Bond list from Financial Officer.
- Mr. LePage has asked for the return of his bond; Ms. Faulconer explained that there was not currently a construction/development bond in place; Mr. Quintal had not been asked to go to the site; Mr. Greenwood suggested having Mr. Quintal review the site and have his fee taken from the existing bond.

ACTION ITEM: Ms. Faulconer to discuss the bond issue with Mr. LePage and ask if he would leave the existing bond in place while the site is completed and engineering reviews to continue being paid from the bond.

**Sad Café
Steppingstone Music Opportunities, Inc.
3 New Boston Road
Tax Map R19-10**

Mr. Wilson opened the hearing and read a letter from the Sad Café asking for a continuance to November 2011 as two of the Board members were out-of-town and unavailable. He also read a letter received from the Fire Department stating that there may be a requirement of a sprinkler system; a copy of that letter was given to the applicant, Ruth Kay. Ms. Kay stated that they had expected that a sprinkler system would be required.

MM&S to continue the Sad Café hearing to November 15th at 7:00. (Motion by Mr. Landry, second by Mr. Alberts) **Motion passed unanimously, 4-0.**

Recreation Zoning Discussion

Revised drafts were distributed to the Board. Mr. Alberts introduced Jeff Gleason from Camp Lincoln. Mr. Alberts told the Board that some changes were made due to the conference call with Attorney Loughlin, himself, Mr. Greenwood, Mr. Landry and Ms. Faulconer. He said that Attorney Loughlin did not find there was a “spot zoning” concern; he felt it was the Board acknowledging an existing activity and addressing it appropriately. The Board discussed pros and cons of an overlay zone; how new camps might be dealt with in the zone. Mr. Alberts explained that Attorney Loughlin didn’t think the zone should include establishing areas for new camps as the zone was basically dealing with existing conditions. Mr. Greenwood added that Attorney Loughlin questioned how often a new camp was created; Mr. Greenwood was still concerned that there are large parcels that could be used as a recreation area. Mr. Landry stated that this is an opportunity to recognize that the camps are already there but the dilemma is to allow additional camps that might not fit with the characteristics of the zoning; he added that the point was to deal with “what is” not “what will be”. Mr. Landry also noted that the Board was waiting for an impact build-out analysis to be done; Mr. Alberts agreed that this was another issue that needed to be answered. Mr. Greenwood said that a build-out analysis was being done. Mr. Alberts added the initial point was to try to take care of areas that exist and may not want to muddy the waters.

The Board continued its discussion which included possible zones that might be applicable and where it shouldn’t be allowed, overlay possibilities, 20 acre requirements, special exceptions requiring ZBA approval. Mr. Pope suggested reviewing the Town maps and existing parcels. Mr. Alberts stated that he doesn’t think looking at other zones is what he wants to do at this point. Mr. Wilson questioned creating a zone that keeps other parcels illegal. Mr. Greenwood said that he thought that it is legitimate to create a zone for existing camps and maybe create areas for other camps in other zones; he added that he was not in favor of allowing it in the Single Family Zone; he thinks the Board should take the year to discuss this secondary issue and deal with the issue at hand which is focusing on the fixing the initial issue and then seeing if there is the interest for expanding out for future proposed camps. Mr. Wilson agreed that the Board should deal with existing camps now and plan on future issues for next year.

Mr. Alberts explained that Attorney Loughlin cautioned that there should not be a distinction between profit and non-profit in any zoning proposal; he noted that language to include teen/adult camps suggested by Mr. Pope. Mr. Wilson asked about concerns by the camp not needing ZBA action. He stated that, as an example, Camp Lincoln has a terrible traffic situation with Camp in session; the Boy Scout camp has some of the same issues; he is concerned that there shouldn’t be increased activity without the Board reviewing traffic issues for the site.

Jeff Gleason noted that Camp Lincoln was looking for expansion of winter programming; the intent is not to get more activity in the summer but to expand into the winter.

Mr. Landry said that he has less clarity about this issue; as written, there would be no limitations of building size; total structure coverage shall not exceed 60% which he felt was a huge amount of coverage; the proposed 35 ft. high building could allow a two-story building that could have sleeping areas and a dining hall; he would like to know the potential unintended coverage. Mr.

Wilson added that any property in the Aquifer could change the coverage issues. Mr. Albert explained that the 60% coverage was a number put in looking for guidance from the Board members.

Mr. Wilson opened the discussion up to the public. Lynn Merrill asked for a copy of the proposal stating that she would save comments until after she read it. Mr. Alberts explained that the concept was based on utilizing concepts from Innovative Zoning. Mr. Alberts confirmed that the intent was to allow uses year-round regardless of previous approvals but they would still need to come to the Planning Board for approval.

Mr. Greenwood re-iterated that RPC would be doing a build-out for the parcel.

Mr. Quintal suggested that the Board would need to clarify the lot coverage in conjunction with the setbacks and the buffers; if those are excluded, it adds to the open space. Mr. Wilson agreed the Board should look at this; he questioned if there were other points the Board wanted to review. Mr. Greenwood said that the build-out needed to be done first prior to any further discussion.

ACTION ITEM: Mr. Alberts will meet with Mr. Greenwood and continue the discussion; he will contact the property owners about the proposal; Ms. Faulconer can email the proposal to the property owners if requested.

Board Business, continued

Correspondence:

- Copies of letters sent to Mr. LePage and Mr. Early regarding compliance issues; both to be given appointments for consistency.
- RPC announcement of GACIT hearings
- Mr. Greenwood's review fees returned to be given to Financial Officer
- Dealer Plate request form from the State for Mark Porter; signed by Mr. Wilson to be forwarded to the BOS.

Minutes from the September 20th meeting were reviewed; Ms. Faulconer said that there was a correction on page 6, paragraph 2: should be "30 to 39" instead of "30 to 30".

MM&S to accept the September 20th minutes as corrected. (Motion by Mr. Alberts, second by Mr. Pope) **Motion passes unanimously, 4-0.**

Robert Geoffrey, Expedited Site Plan:

Mr. Geoffrey was not at the meeting; he had provided the necessary copies of the previously approved plan showing the change he was requesting. Mr. Greenwood agreed that a site must be in compliance in order to approve an expedited plan. Mr. Wilson read comments from the BOS that there had been issues on the site; comments from the Building Inspector noting items not in compliance including a shed, trailer and occupied RV.

ACTION ITEM: Ms. Faulconer to invite Mr. Geoffrey in to speak with the Board for the next meeting.

Large Groundwater Withdrawal at Diamond Oaks:

Mr. Wilson announced the public hearing for the Large Groundwater Withdrawal permit for Diamond Oaks that was being held on Wednesday and encouraged the public to attend. Mr. Wilson wondered what the percentage was that was being used for irrigation. Mr. Greenwood added that there was a wide protective well radius that would be reviewed.

Mr. Alberts discussed the hazards associated with water usage at the Ottati-Goss hazardous waste site which included carcinogens and arsenic; he wondered the impact it would have on Country Pond. Mr. Wilson said the reports show the water to be within acceptable limits due to information from the monitoring wells.

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

Mr. Wilson opened the hearing; he stated that Ms. Faulconer will be a voting member for the remainder of the meeting. Mr. Greenwood stated that he had not prepared any additional comments as updated plans had not been submitted.

Mr. Lavalley distributed new plans to the Board members with changes addressing engineering issues.

Mr. Wilson reviewed the three waiver requests: size of cul-de-sac, 1000 ft. limitation on the road length, 6 lots instead of the 8 lot requirement. Mr. Lavalley read a letter from Dave Conant regarding his intent to develop his abutting property. Mr. Lavalley stated the intention to eventually subdivide into 8 lots, but the current plan shows a 6 lot subdivision; he added that the newly submitted plan addresses comments from Mr. Quintal and the last meeting. He was unable to attend the site walk and doesn't know if any issues came out of that. He re-stated the intention to "phase" the subdivision with the eventual intention of creating 8 lots although the plan currently shows 6 lots. He would like the cul-de-sac radius waiver and road length waiver addressed at this meeting. Mr. Quintal agreed that the cul-de-sac and 1,000 ft. waiver were okay with himself and Mr. St. Hilaire; there were issues with the nature of the cul-de-sac. Mr. Lavalley explained that, due to economic reasons, they didn't want to develop all the lots.

The site walk was reviewed; Mr. Wilson noted that Mr. Alberts, Mr. Pope and Mr. Landry attended for the Board. Mr. Alberts said there were no outstanding issues; there was the need to clarify an issue of a slope regarding a transfer of dirt. Mr. Landry added that there was a concern with site distances coming out of the road stating that if it was adequate then it would “just” be adequate. Mr. Wilson asked if it had been flagged; Mr. Landry replied “no”. Mr. Lavalley said that generally he would flag it but he didn’t do it this time. Mr. Alberts thought that it would just make the minimum requirements.

Mr. Lavalley said that per a previous discussion regarding siting of the wells outside 100 ft. radius of surface waters, this could be achieved; he said that HISS soil maps were reviewed against the plan for compliance.

ACTION ITEM: Mr. Quintal to verify site distances.

Mr. Wilson returned to the waiver requests. Ms. Faulconer asked if there were changes to the plan that was distributed this evening compared to the previous plan received by the Board; Mr. Lavalley said that a pipe had been changed from 12 to 18 inches.

MM&S to approve a 100 ft. radius for the proposed cul-de-sac. (Motion by Mr. Alberts, second by Mr. Pope) **Motion carries 4-1 with Ms. Faulconer opposed.** Ms. Faulconer stated that the only reason for her opposition was that the plans had just been received this evening and had not been able to be reviewed by the Town Engineer or Road Agent; regardless of previous comments she would prefer comments on the current plan before voting for the waiver.

The Board reviewed the request for the waiver of the road length restriction. Mr. Quintal said that the road length request was for 1160 feet.

Dan Bartley, abutter to the project, asked if the Board had taken jurisdiction of the plan stating the he didn’t think waivers could be granted prior to that happening. He added that if the Board was going to waive the restrictions for the road length, it should include the full proposal which should also include Mr. Conant’s proposed road length. Mr. Wilson explained that the Board had to vote on what was proposed, not unspecified future plans.

Ms. Faulconer added that the main reason for the 1000 foot restriction was due to fire suppression, since these houses were going to have fire sprinklers installed in every house that would address the fire suppression issue. She added that this would obviously need to be a condition of approval; Mr. Wilson, Mr. Greenwood and Mr. Pope stated their agreement for the need for this condition. Mr. Bartley re-stated his belief that the whole property should be included in the review.

MM&S to take jurisdiction of the plan. (Motion by Mr. Pope, second by Mr. Alberts) **PUNA**

The Board took a re-vote of the cul-de-sac waiver.

MM&S to approve the 100 ft. radius for the cul-de-sac. (Motion by Mr. Pope, second by Mr. Alberts) **Motion carries 4-1**, with Ms. Faulconer opposed for the same reasons previously stated.

MM&S to waive the limit requirements of 1,000 foot road length, to approve at approximately 1160 feet. (Motion by Mr. Alberts, second by Mr. Pope)

Discussion on the motion: Mr. Pope stated that he felt that this waiver request and the number of lots waiver request went together. Ms. Faulconer said that if that was the case, she was not in favor of waiving the 8 lot requirement to 6 lots. The applicant had previously stated that the request was so an Alteration of Terrain permit wouldn't be required due to the time it takes and costs involved; the requirement was to help defray the costs to the Town for maintaining and plowing new roads; waiving the requirement was of no benefit to the Town.

Mr. Lavalley re-iterated that the houses would be sprinkled; he continued that the original plan had 8 lots; he added that it was also the cost of the roadway for the waiver request and they didn't intend to develop for a year or two; he reminded the Board that there was already one lot taken from the subdivision and that if that was counted, it was really a nine lot subdivision once all the lots were developed. Mr. Pope re-iterated that, should the waiver for the road length pass, the Board would need to make sure that any condition of approval included sprinklers for all of the houses.

Tim Coombs, 73 Hunt Road, asked where the run-off from the development would be going and heading towards. Mr. Wilson explained that this comment and question was not pertinent to the current discussion on the waiver requests. Mr. Coombs asked that the Board eventually think about the run-off.

Tom Page, 74 Hunt Road stated his concern with the entrance and cars exiting from the road being proposed stating that it is creating hazardous conditions on an already dangerous section of road. Mr. Wilson said that the Board would be sending the Town Engineer to review the proposal. Mr. Page said that he was concerned that it would create more issues for an already unsafe area.

Vote on the Motion: **Motion Failed 2-3** with Mr. Wilson, Mr. Landry and Mr. Pope opposed.

Mr. Wilson asked for a motion for the waiver request to allow 6 lots. Mr. Lavalley said a vote wasn't necessary as the failure of the road length waiver made the next waiver unnecessary. Mr. Pope stated that he was not opposed to the waiver from the 1000 foot requirement, he was opposed to it only being 1160. Mr. Wilson wanted the waiver voted on to give clear direction to Mr. Lavalley.

MM&S to deny the waiver allowing 6 lots for the subdivision instead of 8 lots. (Motion by Mr. Pope, second by Ms. Faulconer)

Discussion on the motion: Mr. Pope said that there is an ability to create 8 lots and therefore there should be 8 lots. Mr. Landry agreed. Ms. Faulconer re-stated that it is not in the Town's best interest to waive the requirement.

Vote on the Motion: **PUNA**

Mr. Lavalley asked the Board to continue to the next hearing. Mr. Greenwood asked that the Wetlands report be reviewed by Rockingham County Conservation District.

MM&S to have RCCD review the Wetland Report. (Motion by Mr. Landry, second by Mr. Pope) **PUNA**

The Board determined that any continuance would require that any new plans be delivered to the Board no later than November 4th; Tim Lavalley stated that couldn't be done; Mr. Wilson said that under those circumstances, the hearing would need to be continued to December 13th. Upon reflection, Tim Lavalley stated that the plans could be revised and submitted by November 4th.

MM&S to continue the Solar Hills Subdivision hearing to November 15th at 7:30. (Motion by Mr. Pope, second by Mr. Landry) **PUNA**

Board Business, continued:

Mr. Wilson announced that the CIP meeting scheduled for Thursday had been cancelled; a rescheduled date had not been determined.

MM&S to adjourn at 8:45. (Motion by Mr. Alberts, second by Mr. Pope) **PUNA**