

**Kingston Planning Board
Public Hearing
February 16, 2010**

Mr. Hurley called the meeting to order at 7:02 and introduced the Board members. The meeting was posted in two places; no one challenged the validity of the meeting.

Board members present this evening:

Norm Hurley, Chairman
Richard Wilson, Vice Chairman

Jay Alberts
Ernie Landry

Richard St. Hilaire, Board Alternate, joined the meeting in progress in his position as Road Agent; not as a Board member.

Also present: Glenn Greenwood, Circuit Rider Planner; Larry Middlemiss, Health Officer (joined the meeting in progress)

Board Members absent: Mark Heitz, BOS representative, Glenn Coppelman, Scott Ouellette, Marilyn Bartlett, alternate

Mr. Hurley reviewed the agenda.

Board Business:

**Armand and Charlotte Boutin
Route 125**

A letter had been received by the Board regarding a proposal by the Boutins. Mr. Hurley read a letter sent to the Boutins from the Board of Selectmen. Mrs. Boutin explained the proposal to the Board. Mr. Hurley explained that there was no information to be found in the Town files regarding any approvals by the Planning Board specific to the proposed expanded use. Mrs. Boutin stated that they had made an error with the submittal of the original plan; they should have had their engineer, Paul Nichols, include the use of the second floor at that time. She stated that drawings of the proposal had been submitted with the building permit. Mr. Greenwood stated that the last approval by the Board that was recorded did not have any indication of the office space on the second floor; he added that the Inspectors would not see it as an approved use without a plan on file stating that the space is approved for office activity. There was discussion of electrical and plumbing work that had been done without permits or inspections. The Board advised Mr. and Mrs. Boutin that a revised site plan would be required for an approval of the proposed expansion of use. The Board also clarified that the proposal would still have issues with the Town's Inspectors regardless of any

Planning Board action; safety and building codes would need to be addressed beyond just the use issue.

Camp Lincoln
Ball Road

Lynn Gainty and Jeff Gleason introduced themselves to the Board as representing Camp Lincoln. Ms. Gainty explained the proposal; a plan had been submitted showing the construction of a garage on the site for residential and Camp storage. Mr. Greenwood explained that the proposal would need ZBA relief; the Board would need to accept the application and then deny it so the applicant could try to get the relief they would require to go forward with the application. He also stated that the applicant had asked for numerous waivers which the Board could grant so they could get to the ZBA. Mr. Alberts suggested adding the Board's blessing to the denial as it went to the ZBA. Mr. Greenwood explained that the applicant would need to return for Planning Board approval if granted relief by the ZBA.

MM&S to accept jurisdiction on the Camp Lincoln plan. (Motion by Mr. Alberts, second by Mr. Wilson) **PUNA**

MM&S to deny the application, with a letter to go to the ZBA explaining the Board denied because of process not due to any Board issue with the plan. (Motion by Mr. Alberts, second by Mr. Wilson) **PUNA**

The Board stated that the waivers granted for this application would also apply to the re-application should the ZBA grant relief; application fees would still apply.

MM&S to grant the waivers requested by Camp Lincoln. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

Diamond Oaks Golf Club
Route 125

Jim Dufresne was introduced as the applicant for the proposal also represented by Lynn Merrill and Attorney Cathy Sullivan. Ms. Merrill explained that Mr. Cummings, the engineer on the plan, was unable to be at the meeting this evening but an associate was present. Ms. Merrill gave an overview of the development; a mixed use development at the area known as Granite Field Golf Course. Mr. Greenwood explained that while the plan was complete for required elements to be accepted by the Board, he did have 18 comments of a more technical nature regarding the submitted plan set; he provided copies of these comments to the Board. He discussed items he felt were threshold issues; building setbacks and wetlands issues need to be clarified by the wetland's scientist; age restrictions on the residential units need to be clarified as there would be concerns with the septic design calculations and the formula for gallons per day; the length of roadway is a very long single access driveway and the Board should think about that; as a design

aspect for the residential units, he would like to see the roadway loop. Mr. Greenwood asked the Board to address the possibility of the project needing review for regional impact. Mr. Greenwood stated that although he did not believe a project of this size would be able to be decided within 65 days, he did feel that it was complete enough to be accepted by the Board for jurisdiction.

MM&S to accept jurisdiction. (Motion by Mr. Alberts second by Mr. Wilson)
PUNA

Attorney Sullivan explained the condominium documents to the Board. She explained that there was an age restriction of one occupant being 55 or older; a spouse could be younger than 55; should anything happen to the resident who was 55 or older, the younger spouse could continue to live in the unit; a caretaker, under the age of 55, could also live in the unit; in the case of a family emergency, someone younger could also stay in the unit. Attorney Sullivan used the example of a parent needing to go into the service so the child could stay with the grandparent; this would require approval of the condominium association. She stated there would be one massive condominium association made up of both residential and commercial to govern and control any of the common areas. She said that there was also the golf course which serves to provide the open space that is necessary for the whole project. She re-iterated a previous comment that the Board would be requiring review of the condominium documents by Town counsel. Attorney Sullivan explained that the Condominium association would be responsible for maintaining the road system and common areas; she will review the documents to strengthen those provisions. Mr. Middlemiss raised issues concerning the calculations on the site and the separate parcels. Mr. Middlemiss discussed issues with the septic loading; he had confirmed with the State that the calculations used required that all residents of the units be 55 or older which was not what was explained in the condo. docs.; the regulations were changed last year to allow for lower loading but did require all occupants to be 55 or older; he noted that one of the septic systems was within the protective well radius. His written comments were reviewed by the Board.

Ms. Merrill thought the properties had been merged and will provide that confirmation for the Board. Attorney Sullivan stated that the comments will be addressed with their engineer for the next Board meeting.

Mr. Hurley said there were other issues to be addressed including the use of the golf course for the open space calculations.

Mr. Greenwood noted that the Town Engineer had not reviewed the plan yet and the Board would need his comments.

Mr. St. Hilaire, as Road Agent, expressed the need for the proposed road to remain a private road, to be taken care of by the condo. docs; there needed to be specific notes that the condo. docs. could not be changed; the requirement for a private road needed to be part of the recording of a plan.

There was further board discussion on aspects of the plan with the applicant.

MM&S to require review for regional impact. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

ACTION ITEM: Ms. Faulconer to receive copies of the condo. docs and forward to Attorney Loughlin for review.

ACTION ITEM: Ms. Faulconer to post a meeting for Monday, March 1st at 3:00 for a Technical Review committee (Highway, Police, Fire, Town Engineer, Health Officer, Circuit Rider/Planner and any Board member or Inspector who wishes to attend).

ACTION ITEM: Ms. Faulconer to ask the Inspectors/Department Heads to attend the Technical Review meeting.

MM&S to continue to March 16th at 7:30. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

MM&S to authorize Ms. Faulconer to purchase a new tape recorder prior to the next meeting. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

Family Pools
3 Newton Junction Road
Tax Map R9-86 and 87

Mr. Greenwood discussed items in the proposal that were within the building setbacks; he suggested the Board should discuss as a concern needing ZBA relief. His other issue was some of the pools in the front setback although he thinks display is allowed as they are above ground; permanent structures are not allowed; the Board would have to determine whether to approve them.

Mr. Hurley clarified that Dennis Quintal was representing Family Pools during the presentation. Mr. Quintal introduced Dave Dufresne as an employee of Family Pools as well as a relative of the owners. Mr. Quintal explained the issues with the property lines due to the changes in the intersection of Newton Junction Road and Route 125 which occurred when the intersection was rebuilt. There is a section that is "cut-out", approximately 58 by 64, as it is still owned by Richard Gosselin, owner of the former "Bayberry Variety". Mr. Quintal stated that he submitted an existing conditions plan; there are no changes to the buildings on the site but there are changes proposed to parking area, a large graveled section being changed to pavement; Family Pools will occupy building #2 and utilize for retail sales; the proposal shows paved parking area with 27 spaces; the impervious area is being increased from 14% to 26% of the site; a gravel area is remaining for trucks to be able to make deliveries to the Family Pool site; there is a newly installed septic system so the existing system will be done away with; a display area is proposed for

out front; they are using the existing well; there is a sign already in existence which needs to be removed and permitted properly, now that the property lines have been properly established, it is not actually located on the property. Mr. Quintal pointed out the area for the dumpster which will be screened; the drainage was described; a drainage analysis was submitted as there is an increase in impervious surface; a slight increase in surface run-off which is proposed to be mitigated by installing a stone energy dissipater area on the edge of the paved area so the pre-construction rate of run-off matches the post-construction rate. Mr. Quintal stated that the Board would need it reviewed for the Board by an engineer; the trench is about a foot to a foot and a half deep. He added that the Lighting is not going to change on the site.

Mr. Hurley noted that the revised plans had not been able to be distributed to the Inspectors and Department Heads; the comments may not be pertinent to the amended plans. Mr. Hurley read the comments some of which had been addressed by the new plan; need drainage reviewed by Dave Walker working as the Town's Engineer on this application. Mr. Greenwood said that the Board could invoke jurisdiction.

MM&S to accept jurisdiction of the plan for Family Pools. (Motion by Mr. Alberts, second by Mr. Wilson.) **PUNA**

Mr. Wilson asked Mr. Greenwood to clarify his previous comments about the display area. Mr. Greenwood said the pool displays are within the building setback from the centerline of Route 125; he believes that these are not permanent structures as they can be dismantled and taken away. Mr. Wilson said that from a building inspectors aspect, they are not considered temporary structures; they have to meet setbacks; he added that "Alternative Sales" on Route 125 was told that they could do nothing within the 100 foot setback. He added that he does not have a particular issue with the pools but wants to make sure that the Board is not establishing a double standard; he also does not want to go against Town standards for an above ground pool. Mr. Wilson explained that, while it was not necessarily a permanent structure, it still has to meet all the Town setbacks as a shed or temporary garage would. Mr. St. Hilaire said that rules are rules but the 100 foot setback has to do with the State upgrading Route 125 and this intersection has already been improved. Mr. Hurley suggested that due to this information, the applicant may need to apply for a waiver for these setbacks. Mr. Greenwood reviewed the ordinance on page 110-4. Mr. Wilson said that the DOT had actually come down to this exact site about signs being within the 100 foot setback and they considered it site visibility; there was a discussion regarding site distance issues versus signs along Rte. 125 that might have been on the State right-of-way.

Mr. Hurley asked if there were any public comments. Mr. Alberts questioned the spirit and flexibility of the Town's law regarding the setback and thinks the Board has flexibility on the issue. Mr. Wilson said that keeping the setback at "Alternative Sales" still make sense because that section of Rte. 125 has not been improved while this intersection has already been improved.

Gary Guptill, 70 Route 125, asked to have the display area described as well as the setback of the displays from the road; he asked about signage for the site. Mr. Dufresne stated that there would be a change to the lighting on Building #2 which would add two small lights for entry purposes, not large flood lights. Mr. Guptill had a concern about drainage due to the added pavement.

Mr. Greenwood said that the structure setback definition appeared to prohibit swimming pools; the definition found on page PII-2 of the ordinance book under "structure". He added that in order for the applicant to place the pools where proposed, they would need to get a variance from Zoning Ordinance C-III for the 100 foot setback; he said he doesn't see how the applicant could show hardship; he added that he was not trying to pre-suppose the actions of the ZBA, but it was a big lot and he doesn't see how hardship could be shown. Mr. Quintal stated that there was room to move the display into the area to the west of building #2, between the 100 foot setback and the building. Mr. Wilson stated that moving the pools would solve a lot.

Mr. Hurley concluded that were obvious changes that needed to be done; a review by the Town engineer was needed; the revised plans needed to go to the Inspectors and Department Heads.

Regarding the expanded pavement, Mr. Greenwood said that the site plan shows the swing of pavement below building #1 but there are now two additional parking spaces that fall within the building setback; there is currently a legally existing non-conforming occurrence but in order to expand upon that, he believes that it needs ZBA relief. Mr. Quintal said that the existing gravel area has allowed for this parking they are just proposing paving it. Mr. Greenwood said that currently the existing setback line actually goes through the building, any change to that existing use is a non-conforming use. Mr. Quintal said they are just changing from gravel to pavement. Mr. Greenwood said that this give two additional parking spaces up near the trees which is also within the setback. Mr. Quintal agreed that it was a change in configuration along with a change from gravel to pavement but there would basically be the same number of parking spaces and defining them onto pavement instead of gravel. Mr. Dufresne said the intent was to improve the parking area. Mr. Hurley explained that it wasn't a question of whether the Board wanted to see the improvement, the problem was whether it was within the Board's jurisdiction to approve it as it is an existing non-conforming use; that requires ZBA review and approval. The Board suggested that applying for the next ZBA hearing would not delay the Planning Board's review. Mr. Hurley said regardless of Mr. Dufresne's decision, this would need to be continued due to the pending items and review still required. Mr. Greenwood stated that the minutes would be sufficient information for the ZBA.

MM&S to continue to March 16th at 7:10 PM. (Motion by Mr. Alberts, second by Mr. Wilson) Mr. Landry clarified that the Inspectors have not commented on the

revised plan; Mr. Hurley stated that the Engineer needed to review it, comments from the Inspectors, some changes to the plan were also needed. **PUNA**

ACTION ITEM: The Planning Board would like to receive comment sheets back from all the Inspectors/Department Heads even if the response is “No comment”; Ms. Faulconer to follow-up on this with the departments.

Board Business, continued

MM&S to approve the minutes of January 5, 2010. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

MM&S to approve the minutes of January 19, 2010. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

Ordinance Book Discussion/Town Engineer

Mr. Hurley stated that the Board had been sent Mr. Quintal’s proposal by email; hard copies were available for the Board. He read Ms. Faulconer’s concern regarding the additional table of contents for this particular section; Mr. Alberts stated his agreement. Mr. Quintal said that he had no problem with her suggestion. Mr. Quintal said his review of the ordinances showed multiple areas in multiple sections of the ordinances; he reviewed to try to keep them in one area; to better the sequence. He had a list of items for the Board to consider. He stated that he and Ms. Faulconer had discussed “definitions” as possibly not being in this section and all of them being together in the beginning section of the book; eliminating different definitions in different sections of the book. Mr. Alberts agreed with all definitions being in the same section. Mr. Hurley agreed that the Board should try to keep all definitions in the same section. Mr. Middlemiss asked about whether there were issues with all definitions being in one location depending on how they were adopted. There were questions raised as to whether the Board could vote on a newly created list; whether there might be conflicts in the definitions themselves. The Board agreed that it would be good to determine that and correct if necessary. Mr. Wilson said that he liked the definitions being in the pertinent sections but he agreed that conflicts should be addressed. Mr. Quintal said the issue is not only conflicting definitions but also definitions that are not defined well enough.

Mr. Alberts noted that the checklist is being proposed in the ordinance book. Mr. Greenwood stated that the Board had a checklist but it was not in the ordinance book; Mr. Quintal stated the importance of having it in the book. Mr. Quintal explained to the Board that his proposal showed the reference of the old to the new regulations and there was a page of items for the Board to consider. He added that these items might want to be discussed individually; he suggested that the Board might want to review for a future discussion as there was quite a change being proposed. He said that he believed that it would be easier to follow. Mr. Quintal said that he was on the agenda for next week to continue the discussion as well as

items for Stormwater. Mr. Hurley suggested the Board review this week for further discussion next week. Mr. Landry confirmed receipt of Mr. Quintal's proposals by e-mail.

ACTION ITEM: The Board to review Mr. Quintal's Ordinance proposal for discussion at next week's meeting; come up with suggestions regarding definitions; review Mr. Quintal's proposal of "things to consider".

ACTION ITEM: Mr. Greenwood/Ms. Faulconer to re-send Mr. Quintal's proposal to the Board members.

Mr. Hurley stated that the Board would continue discussing the proposed changes at next week's meeting along with the Stormwater Regulations discussion at the work session along with any Plan review.

Board Business, continued

Correspondence:

- YMCA/Camp Lincoln denial for proposed construction of new retaining wall and stairs.
- RPC Transportation Program Performance Report, Fiscal Year 2009
- Conservation Easement Stewardship Program
- DES report of settlement agreement, Shoreland
- Lighting Handbook CD received
- NH Stormwater Management manuals I, II, III received
- Invoice for Dennis Quintal for \$600 approved by Mr. Hurley
- Request for Cell tower expansion of concrete pad; **Board decided that there needed to be an amended site review.**
- Request from Carriage Town Bible Church for release of their bond; information received by Dennis Quintal; **Board decided to not release the bond.**

ACTION ITEM: Mr. Greenwood to contact Mr. Quintal; contact Carriage Town Bible Church about their request if not contacted by Mr. Quintal.

- Council on Resource Development
- Letter from BOS re: Mr. Melvin/possible application to the Planning Board
- Plan-NH; the Planning Board is not planning on doing anything regarding this application at this time. Mr. Hurley said that he was informed that the School has a new long-range Planning Committee that was looking for public input; he was told that they were concerned that no one from Kingston attended. Mr. Greenwood asked if the Board members had been informed; no one at the meeting knew about it.
- Changes of forms for Lot Line Adjustment – Mr. Hurley said they looked good.

- Letter regarding Article 9 discussed; if there are no issues, Mr. Hurley asked that everyone sign the article, email or fax a copy and include a contact number so the newspaper can confirm the signatures.

ACTION ITEM: Ms. Faulconer to type up a letter for the Board members to sign and get to the newspaper, as soon as possible.

Mr. Landry announced that FOKUS and the Conservation Commission were having a presentation on the Asian Longhorned Beetle which was a significant presentation due to the possible infestation issues with this insect. The amount of devastating destruction caused by this beetle was reviewed by several members of the Board.

MM&S to adjourn at 9:47. (Motion by Mr. Wilson, second by Mr. Landry) **PUNA**