

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

**TOWN OF KINGSTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
August 10, 2023
(concluding August 11, 2023)**

PRESENT: Peter Coffin, Chair; Meghan Kelley, Vice Chair; Kyle Bache (alternate); Peter Broderick; Richard Russman; Shaw Tilton; Members

Also Present: Robin Carter, Land Use Administrator

Mr. Coffin called the meeting to order at 7:00 PM.

A quorum was present at the meeting.

BOARD BUSINESS

Approval of Meeting Minutes (July 13, 2023):

MOTION: by Ms. Kelley to accept the minutes as written.

SECOND: by Mr. Tilton

A vote was taken, All in favor, the motion passed. (5-0-0)

Correspondence:

Mr. Coffin referred to a letter dated August 9, 2023 to the Town of Kingston Zoning Board of Adjustments from Christopher Swiniarski of Divine Millimet who is counsel for one of the abutters to the proposed Summit Distributing, LLC, 249 Rte. 125 location. The letter mentioned that a particular member of the Board should recuse himself for alleged remarks of prejudgment. The member addressed the alleged remarks as referring to a previous hearing, which had been decided, and stated that he had not prejudged the current hearing before the Board. During discussion by the Board, a question was asked if another member of the Board should recuse himself for a statement made at a previous ZBA meeting before he was a Board member. That member also explained that it was not related to the current Special Exception hearing. Mr. Coffin asked if any member of the Board wanted a non-binding advisory vote on recusal. No request was made; no vote was taken. Mr. Coffin asked each member if he wanted to recuse himself from the Summit Distributing, LLC hearing. Neither Board member recused himself.

PUBLIC HEARING

<Board note: hearing opened at 7:22 PM>

**Summit Distributing, LLC Kingston Crossing, Inc.
249 N.H. Route 125
Map R40 Lot 15**

Mr. Coffin read the legal notice:

The applicant is requesting a **Special Exception (Article 109:7)** to allow a retail motor fuel outlet with a 5,100 sf convenience store/quick service restaurant and 5 retail fuel dispenser islands (10 fueling locations) and 3 high speed commercial diesel islands (2 fueling locations) within the Commercial II District.

49 **Applicant:** Present at the hearing was Tom Frawley, President and Owner of Summit
50 Distributing, LLC, Brian Bouchard, Attorney with Sheehan Phinney Bass & Green, PA,
51 Portsmouth, NH office; Heather Monticup, P.E., Vice President/Director of Land Development of
52 Greenman-Pedersen, Inc. (GPI) is the traffic engineer; Nicole Duquette, P.E., LEED AP,
53 Project Manager of GPI.
54

55 Attorney Brian Bouchard spoke and said that he represents the applicant, Summit Distributing,
56 LLC. Mr. Bouchard noted that he submitted a letter to the Board, dated August 10, 2023. He
57 mentioned, in June, 2023 that this Board previously determined and granted a Special
58 Exception in the aquifer protection district that the proposed project does not detrimentally affect
59 the quality of the groundwater contained in the aquifer. This decision was later upheld in a
60 decision by the Rockingham Superior Court.
61

62 He explained that the application for the special exception is only for the gas station use. The
63 retail use and restaurant uses are permitted in the C-II zone.
64

65 Mr. Bouchard talked about how to measure the traffic and how traffic will change in comparison
66 to other commercial uses that are permitted in the C-II zone. He gave some examples of a truck
67 terminal, a supermarket, and a few others. All of these would change the traffic patterns
68 significantly from a vacant lot. He commented that when the Board is analyzing this criterion,
69 they need to analyze it as compared to other uses that are permitted in the C-II zone. The
70 applicant's proposal for a retail operation and restaurant are permitted by right.
71

72 Mr. Bouchard brought up that at a prior hearing in June, 2023 that there were residents that
73 urged the Board to take a position that if the applicant could not guarantee, with 100% certainty
74 that no gasoline would ever leak and that there would never be an incident, then the Board
75 should deny the application. He explained that Summit Distributing, LLC has never had a leak at
76 any of its facilities and doesn't anticipate any here. The system has been designed with myriad
77 redundancies to avoid any leaking into the environment. Mr. Bouchard said that the ordinance
78 does not require or demand a 100% certainty guarantee. He read criterion #4 of the special
79 exception (109.7(A)(4), "no hazard to the public or adjacent property on account of potential fire,
80 explosion or release of toxic materials." He remarked that this criterion encourages the Board to
81 consider reasonable possibilities, reasonable potentializes, to evaluate the mitigation systems,
82 and redundancies. But it is not one that requires a 100% certain guarantee or invite
83 consideration of conjecture and unfounded speculation.
84

85 Mr. Bouchard pointed out that TFMoran confirmed in their letter dated August 9, 2023 that they
86 do not have any further traffic concerns. He referred to a letter from Truslow Resource
87 Consulting, LLC dated August 7, 2023 and quoted text from the letter, "*The release of toxic
88 materials from the proposed Summit Fuel depot is unlikely based on the proposed site design,
89 management and controls. There should be no hazard to the public or adjacent property owners
90 from hydrologic impacts or stormwater releases of toxic materials from the site if all controls
91 listed area installed and maintained, and stated emergency response measured are followed.*"
92

93 Mr. Bouchard explained that the owner of this project is a local NH business owner, cares about
94 this community and has a well-regarded reputation in the State of managing distribution
95 systems like this. GPI and the applicant have addressed to resolve all the comments and
96 concerns raised by the three experts contracted by the Board.
97

98 Heather Monticup of GPI gave an update on traffic. She said that TFMoran (TFM) did a traffic
99 review (letter dated July 7, 2023) of GPI's Traffic Impact and Site Access Study. GPI responded

100 to the letter from TFMoran on July 26, 2023. The comments addressed where Covid
101 adjustments and trip generation comparisons. They have addressed all the comments and
102 updated all the analysis.

103
104 Ms. Monticup mentioned that even if the warehouse project (266 Rte. 125) does not move
105 forward in signaling the intersection of route 125 and 107 that it will be a remediation measure
106 of this project.

107
108 She said that they received a letter from TFMoran dated August 9, 2023 and every comment on
109 it has been noted as resolved. There are no further outstanding issues on the traffic side of the
110 project.

111
112 Nicole Duquette of GPI spoke and mentioned that they received comments from Danna Truslow
113 of Truslow Resource Consulting, LLC and Dennis Quintal, Civil Construction Management, Inc.

114
115 She brought up the potential releases to the site. They can't say it will never happen to the site;
116 there may be the potential, but they have planned for the possibility of this. They have made
117 sure that there are redundancies to contain a potential spill on the property.

118
119 Ms. Duquette went through some elements of their treatment train system. The pre-treatment
120 train is the initial system on the property. She referred to a diagram and explained the layout of
121 the property. The area shown in yellow and orange is the only area they are asking for the
122 special exception on. She explained that if there was ever a spill at the dispensers, each of the
123 islands on the retail section is surrounded by positive limited area a/k/a the retaining grooves.
124 These are capable of retaining 5 gallons of gasoline or diesel fuel. On both of these there are
125 canopies, so do not have to worry about snow cover. If there was a spill that was over 5 gallons
126 (at the dispenser island) then it would go into a catch basin. All the catch basins have
127 eliminators. This is a T type system that allows floatables to build up in each of the catch basins
128 and will stay at the top and the water will settle down. In each of the catch basins there is the
129 ability to contain 66 gallons of floatables. This is the first line of defense. If there is a spill over
130 71 gallons, it goes to an oil/water separator. Ms. Duquette went through the NH public records
131 for the last 10 years (2012-2021) and the largest spill recorded by a dispenser was 17 gallons. If
132 there is a spill greater than 71 gallons, they do have a 1,500-gallon oil/water separator tank. For
133 the fuel delivery area, it goes through basically the same process except for the containing
134 grooves around it because there is not a canopy. In the first defense system they have about
135 190 gallons of floatable capacity. There is a 1,500 oil/water separator in the front and there is a
136 3,500 oil/water separator in the fuel delivery area which has 2,000+ gallons for storage for
137 floatables. This is well over what is required by the State regulations. Knowing that the Town is
138 very sensitive to making sure that they are containing oils they have the much larger oil/water
139 separator there. In the last 10 years, the NH public records for the maximum amount of spill for
140 delivery is 500 gallons. They are well above this for containment. They have numerous
141 redundancies to make sure they are containing everything on site.

142
143 Ms. Duquette addressed a comment made about the dissolve of petroleum and this is where the
144 treatment system comes in mentioned in the Stormwater Management report. From here it goes
145 on to the lined sediment system and bioretention area. This is a lined system so is not going
146 directly into the groundwater. According to a UNH Stormwater testing center, where the DES
147 gets their recommendations on stormwater from, they have tested wooded bioretention areas
148 and have found it as a 99 % rate of removing hydrocarbons. Both areas have the bioretention
149 area to deal with the suspended hydrocarbons within the stormwater.

150

151 **Board comment(s):**

152 Mr. Coffin asked what happens to the hydrocarbons? Ms. Duquette said it is because of the
153 carbon material breakdowns within the system. Because the Town is very sensitive to this issue
154 the applicant has proposed another additional treatment system. Even though this system
155 meets DES requirements and meets 99% removable just with the bioretention area, they will be
156 adding a 2nd treatment device on each area. It will be an enclosed mechanical storm filter
157 treatment system and the filters will be made of granular activated carbon (GAC).

158
159 There was mention about the wells. Ms. Duquette said that NH DES Unground Storage Tank
160 Bureau has regulations for separations to wells. A public water system (any system that
161 services over 25 people) should be permitted as a public water supply system. The DES
162 requires this type of water supply to be 500 feet from any gasoline system component and 400
163 to diesel. There is a 250-foot radius to private wells for gasoline components and 75 for diesel.
164 The closest well to the system will be their public water supply. They will be meeting DES
165 setbacks for wells and fueling supplies.

166
167 Ms. Duquette said these are a few of things they did change: One was the comment from Mr.
168 Quintal about the notation with the Oil/Water Separators. This was changed from 2,500 to show
169 3,500 gallons. The other is the landscaping to make sure its 99% removal in the bioretention
170 area, they added more vegetation to the bottom of this area. Another addition would be adding
171 the storm filter. This information will be added to the initial application information that was
172 submitted.

173
174 Mr. Coffin asked about the well radius, and it was mentioned that the closest well was theirs at
175 500 feet. He questioned how far it is from the fueling area to the to the edge of the property and
176 would they need a well radius in the protection area that goes into adjacent properties. Ms.
177 Duquette said that would be a setback and that the distance between the public water supply
178 and components is a setback. The well radius is different. Mr. Coffin asked if the setback
179 requirement from the fueling facility-does it cross the property lines; would you need an
180 easement from keeping people from putting in a well. Ms. Duquette said they have the area on
181 the property that is needed. She mentioned that in the letter from Verdantas dated August 3,
182 2023, there is a recommendation to have groundwater and wells leaning towards the outlets of
183 the property, Verdantas recommended three monitoring wells.

184
185 Danna Truslow, who prepared the Hydrologic Evaluation was present and came to the table and
186 gave an overview of her review. A concern she had was the discharge from stormwater in the
187 bioretention areas. Her concerns were during a rainstorm where there is a prediction of a certain
188 amount of discharge. Ms. Duquette gave information on storms and said that a 2-year storm is
189 3.15 inches in 24 hours, a 10-year is 4.8 inches in 24 hours, and 50-year is 7.4 inches in 24
190 hours. Mr. Frawley said the tankers do not make deliveries in hazardous conditions.

191
192 Mr. Broderick asked if the retention areas were ponds or tanks. Ms. Duquette responded that
193 the pretreatment system is all enclosed concrete structures. He asked if there was a baffle at
194 the outflow. Ms. Duquette said there is. Mr. Broderick said that any petroleum products are
195 lighter than water and would go to the top (like a septic tank) therefore the outflow is likely to just
196 be water.

197
198 Mr. Tilton brought up the storm we just had and the heavy rain. Ms. Duquette said that they are
199 required that their pre and post flow water rate is mitigated on site. Their systems are designed
200 to handle large storm events. The pretreatment systems are designed to make sure the first
201 flush is taken care of, like everything in the parking lot.

202
203 Mr. Coffin asked how they know when the pretreatment system is full. Ms. Duquette explained
204 that they are required to address how this is handled in the stormwater regulations.
205
206 Ms. Truslow provided more information from her review. She clarified a comment Ms. Duquette
207 mentioned earlier about stormwater and the 99% hydrocarbons removal efficiency, pertained to
208 diesel range hydrocarbons. The lighter range tends to be gasolines and are more soluble. Ms.
209 Truslow said that is why she was satisfied that the granular filter system as long as it is properly
210 contained and maintained. She said the adsorption of petroleum is what happens in the
211 bioretention system, the bacteria corrodes and breakdown the products, it's a natural
212 remediation system.
213
214 Mr. Tilton brought up the 1% and what are the risk factors. Ms. Duquette said that there was a
215 letter submitted with the response to Ms. Truslow's comments by Verdantas (dated August 3,
216 2023). Ms. Duquette referred the Board to page 2 of the Verdantas letter regarding monitoring
217 and detection of petroleum. Ms. Duquette said the system that is proposed for this site far
218 surpasses what is in place at some of the other sites mentioned in the letter.
219
220 Ms. Truslow noted that UNH Stormwater Center did a report that may help explain more
221 information on the 99% approval rate. Ms. Truslow said she could make this report available if
222 anyone was interested in it.
223
224 Ms. Truslow said there is going to eventually be stormwater discharge/drainage. The adjacent
225 property is going to be continued to be owned by the same owner. Mr. Coffin commented that
226 Summit still plans on doing the lot line adjustment and will be owned by the same owner,
227 however, this may not be permanent conditions and the adjacent lot may be sold. Will they need
228 some kind of an easement permitting the well and the setback for mitigating stormwater. Ms.
229 Duquette said they will need a drainage easement in back, a slope easement that goes down
230 and an easement for groundwater for the upper lot and that these are things that are usually
231 taken care of at the planning board.
232
233 Ms. Truslow mentioned that there are no guarantees but there is a lot of redundancies built into
234 the system and a lot of conditional work done to mitigate contaminate release. She commented
235 that the stormwater discharge plan could be addressed at the planning board level. Mr. Coffin
236 noted that is why the ZBA requested the hydrologic evaluation and that ZBA included in their
237 October 12, 2021 decision to put a condition that the Planning Board would determine what was
238 required for the aquifer protection. He commented that the hydrologic evaluation was done to
239 understand the affect to abutting properties.
240
241 Mr. Broderick asked Ms. Truslow if she is comfortable with the system Summit is proposing to
242 install. Ms. Truslow said with the redundancies, especially with the granular activated carbon
243 that is at the backend of the retention system that she understands will treat anything that may
244 discharge into the ground. It comes down to management, maintenance, and checking that
245 everything is being followed.
246
247 Mr. Coffin said that Kingston doesn't have the resources to do ongoing monitoring for a project
248 of this size and would want to come up with a plan to oversee it and a condition would most
249 likely be having to set up an escrow fund to hire an engineer, consultants and other resources
250 that may be needed. This is usually a condition that would be set by the Planning Board.
251
252 Public comment opened at 8:20 PM.

253 **Public comment(s):**

254 Mr. Coffin asked if Mr. Swiniarski of Divine Millimet would give further explanation on his
255 comments outlined in his letter dated August 9, 2023. Mr. Coffin referred to the comments
256 about the traffic and engineering review not being complete yet. He asked Mr. Swiniarski if he
257 was all set now that they have been received and a copy provided to him. Mr. Swiniarski said he
258 is not because the traffic one came in around 5:02 pm today (via email), one yesterday and
259 another one a couple of days before. He explained that the Town's peer reviews, and applicant
260 had about 30 days to respond, and he doesn't think it is fair for them to have expert review in
261 less than two hours before the meeting. He also said the residents should be able to make the
262 decision if they want to engage experts to be able to review them. Mr. Swiniarski said he hasn't
263 had a chance to review the information.
264

265 Mr. Coffin said that the initial 3rd party reviews were distributed a few weeks ago giving time for
266 review. He explained that the way things are normally done is plans and material are reviewed
267 at the hearings. Mr. Swiniarski said everyone is entitled to review it and have a reasonable time
268 to review the material and they haven't had a reasonable time.
269

270 Mr. Coffin referred to item II. 2. In Mr. Swiniarski's letter, "Third Party Review of the Application
271 by Civil Construction Management, Inc. is not complete because it relies upon a blatant
272 falsehood." The statement that is being referred to is from Summit's August 3, 2023 peer review
273 response letter prepared by Civil Construction Management, Inc., dated July 19, 2023.
274 *"Convenience stores and quick service restaurants and the utilities necessary to service them
275 are allowed by right within the Commercial II District, and therefore, are not part of the Special
276 Exception for a gas station within the CII District requested by the applicant."*
277

278 Mr. Coffin asked Mr. Swiniarski to explain why he believes convenience stores and quick
279 service restaurants are not permitted by ordinance in the C-II zone. Mr. Swiniarski said in June,
280 he submitted a detailed written explanation on this. Mr. Coffin referred to the C-II ordinance
281 under permitted uses, Article 109.5.I. "Establishments service food and beverage such as, but
282 not limited to: restaurants, cafes, and taverns"; and K. is Retail stores, Mr. Coffin noted that
283 this ordinance hasn't changed and asked Mr. Swiniarski why he thought it was a blatant
284 falsehood because the ordinance shows they are permitted. Mr. Swiniarski commented that the
285 property is also in an overlay district. Mr. Coffin said that the Board has already heard the
286 application on the aquifer protection overlay zone and we are not here to discuss it. He asked
287 Mr. Swiniarski that their statement that says it is permitted by right in a CII zone, is a falsehood?
288 Mr. Swiniarski said it is a falsehood, it doesn't tell the whole truth and that this is in an overlay
289 district. He said that we know that the Board was reluctant to make a decision as to whether
290 additional relief is necessary or not. Mr. Swiniarski remarked that if the Board is going to be
291 relying on those statements and rendering a decision tonight, then the Board is going to be
292 making that decision and that is the decision they are going to appeal. This is the same decision
293 the Planning Board will have to make if they get involved. He brought up that if there is a Code
294 Enforcement Officer, they will be making that decision as well when they request it and they will
295 be appealing that decision too if it is wrong. Mr. Swiniarski said that this is a material issue.
296

297 David Mezey, 1 Monarch Way –

- 298 • Mr. Mezey said he is a resident of Kingston.
- 299 • In favor of the development.
- 300 • He is a retired healthcare professional, and he has dealt specifically and directly with
301 medical, pharmaceutical, and chemotherapy waste. He commented in comparison that
302 the 17-gallon gasoline spill over a 10-year period fails in comparison because every day

- 303 pharmaceutical waste comes out of humans and goes into the septic systems.
304 • He applauds the applicant for all the fail safes and safety requirements they seem to
305 have met and exceeded.
306 • He commented that this is a great thing for the Town.
307

308 Phil Coombs, 6 Little River Road –

- 309 • Mr. Coombs mentioned that he is a downstream abutter to this project.
310 • Asked about the traffic light and if there would be one. Mr. Coffin said yes, and the 266
311 Rte. 125 project is responsible for it but if that project doesn't happen then Summit would
312 be required by the State to put it in, and the right and left turning lanes at the intersection
313 also.
314 • He said he has an issue with the applicant saying they have no spills.
315 • There have been 3 rain events with over 3 inches in the past few months. 3.2", 4.86",
316 4.86" in under 6 hours. This is a large volume in a short amount of time.
317 • This proposal does not address the groundwater.
318 • Article 109.7.A.3. C-11 district has not been taken into consideration. "No excess
319 demand on municipal services including, but not limited to water, sewer, waste disposal,
320 police, fire protection, and schools." The ZBA has not addressed this with the police and
321 fire department. The Planning Board sent out a set of plans requesting comments, but it
322 did not ask if there would be any excess demand on these services. Mr. Coffin said that
323 Summit has not gone to the Planning Board yet. Mr. Coombs asked if the subject matter
324 experts on the impact of this operation have been consulted (Police and Fire). Mr. Coffin
325 said other than them receiving a copy of the plans, no. Mr. Coombs mentioned that a
326 similar, but smaller truck stop in Town had through June 1st of this year, had 69 calls
327 from the police department: in 2022-128 calls and in 2021-92 calls. This is a drain on
328 municipal services. The Board needs to consult with the Police and Fire on the amount
329 excess demand of municipal services on a similar operation in Town on the same road.
330 • He spoke to the matter of appropriate review time. It has been brought up that this Board
331 approved the aquifer protection measures. He would call this a blatant falsehood. In an
332 hour and 15 minutes with first hearing the information from the applicant, the Board took
333 that action. At no point was the public allowed to review any of the information, consult
334 with any experts or challenge any of the information. Mr. Coffin said that the appeal
335 period for this application is over. Mr. Coombs said he is aware of that, but it is
336 happening again here.
337 • The Board's job is to represent the residents of Kingston, not the applicants.
338

339 Stan Wentzell, 33 Rockrimmon Road –

- 340 • He is fundamentally against this. Yes, it would be good to have another place to go for
341 gas. But if this goes in it will have to come down someday. Is there a capital reserve fund
342 if the project has to close down. Does the Town get involved?
343

344 Tom Frawley, Summit Distributing, LLC –

- 345 • He commented on the decommissioning piece since it was brought up as a concern. If
346 this becomes a vacant gas station, who cleans it? NH has a petroleum cleanup fund. It's
347 a fee that is collected on every gallon of gasoline and goes into the fund. It is specifically
348 designed to clean up sites. There is an insurance fund that is part of many states in the
349 country. This is a state fund and there is federal funding associated with managing this
350 and also fees that the state collects. This fund is dispersed for cleanup operations
351 related to petroleum spills, and underground storage tank leaks, and other clean up.

352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400

Phil Coombs, 6 Little River Road – (2nd public comment)

- Mr. Coombs brought up that there have been spills from other gas stations in Town in the past and mentioned that this information is on the NH DES OneStop website.
 - Formerly Bayberry Variety, 71 Rte. 125-1800 gal storage tank (04/2005)
 - Formerly Crinkles Variety, 82 Main St-leaking underground storage tank ('91)
 - Hanson Foreign Auto, 44 Rte. 125-leaking underground storage tank (02/88)
 - Former Max Quick Shop, 122 Rte. 125-leaking underground storage tank (04/88)
 - Mr. Mikes (Alliance Energy), 37 Main St. (03/13)
 - NHDOT, 35 Newton Junction Rd.-1800 underground storage tank (09/83)
 - Northland Forest Products,36 Depot Rd.-underground storage tank (08/95)
 - 126 Rte. 12 (06/04)
 - Pete's garage, 48 Church St.-leaking underground storage tanks (09/93)
 - Walter S. Clark and Son's, 138 Main St.-leaking underground storage tank (08/99)

Mr. Broderick asked Mr. Coombs if he knew when those tanks were installed. Mr. Coombs said that information was not available online. Mr. Broderick commented it was pre the double walled tanks.

Tom Frawley, Summit Distributing, LLC –

- Noted that from 2012 to 2021, 562 underground storage tank systems were installed and from this data set there have been 0% of these becoming underground storage tank problems in NH.
- This is the period of time when we have newer technology.
- He commented that historically he agrees. Now there are doubled tanks, double walled lining, electronic monitoring.

Mr. Coffin asked about what the applicant does for monitoring if the power goes out and they have no internet connection to report to a central location? Mr. Frawley explained that they have a redundant cellular system built in. And every new station they build they are putting in generators. Solar will probably not be adequate to completely run the service but will be right there for power needs.

Pam Brown, 23 Sunshine Drive –

- Restated her opposition to a gas station on top of the aquifer in Kingston.
- She referred to Article 109.7.A.4. "No hazard to the public....." She commented that the aquifer protection is the greatest potential to groundwater. Kingston has the largest aquifer protection in the area.
- Powwow River was selected by the State for evaluation for potential water supply.
- The Aquifer Protection ordinance 201.4.E.14 outlines that gas stations are a prohibited use in the aquifer protection zone. If the Board waives this what else will get waived.
- A restaurant or a mini mall or office complex are fine. There are plenty of gas stations in the area. If gas stations are on the prohibited list, then the Board should not be approving this project.
- She said she will boycott the facility if it goes through and wants them to withdraw their request.

Mr. Coffin said he understands concerns with the aquifer, but that is off the table for tonight and the Board has to make a decision based on the special exception criteria for the C-II zone.

- 401 Mr. Bouchard – Sheehan Phinney
- 402 • Concerns raised with 3rd party experts have been addressed and satisfied.
 - 403 • Mr. Bouchard noted that this matter has been pending since April because a meeting
 - 404 was called to address regional impact. Abutters to the project have had notice for
 - 405 months and have had the opportunity to hire an expert if they wanted to and provide
 - 406 information to the Board.
 - 407 • Regarding police and fire, he commented that this Board does not need an expert for
 - 408 everything. If the Board feels they need one, then are entitled to one. What the
 - 409 Supreme Court says is you bring your own experiences into these proceedings. You
 - 410 can't ignore what your experts have said that the concerns have been satisfied.
 - 411 • Mr. Bouchard said in response to statistics cited by Mr. Coombs, a gas station is not
 - 412 unique in capacity to any retail store built in that area.
 - 413 • This is a well-designed facility that will properly address any consideration. This project
 - 414 meets all the requirements for the special exception as many of the experts have
 - 415 indicated.

416 Muriel Ingalls, 100 Main Street -

- 417 • This is a large project and does Kingston have the expertise and personnel to work with
- 418 the applicant and oversee it. There is no code enforcement officer now.
- 419 • Ms. Ingalls stated that she objects to the gas station in the aquifer protection zone and
- 420 an ordinance was passed this year that doesn't permit gas stations in the aquifer zone.
- 421 • The Board needs to take the community into consideration. Who is the ZBA responsible
- 422 to, the applicant or the residents of Kingston.
- 423
- 424

425 Mr. Coffin explained that the Aquifer Protection ordinance is not what is being addressed in this

426 hearing. It was already addressed at a past hearing. In response to the Town of Kingston, if the

427 use is approved in the C-II zone, the Board would have to create conditions to protect the

428 aquifer zone of Kingston. If it means denying? Or can be with safeguards?

429

430 Ms. Duquette – GPI

- 431 • They did get their NH DES Alteration of Terrain (AOT) permit. One of the conditions of
- 432 this permit is the professional design engineer is required to certify that all stormwater is
- 433 installed properly. They have to inspect the pretreatment and treatment systems and
- 434 sign off on them.
- 435

436 Mr. Coffin mentioned that this was something that came up with 266 Rte. 125, the warehouse

437 project. That this is a very big project, and an escrow account was created to enable the

438 hydrogeologist (Danna Truslow) to work with the applicant to create a system and a plan for a

439 monitoring system. If this project was approved, a condition would be to have an escrow

440 account set up to allow the Town Engineer to go and inspect and to have a maintenance and

441 monitoring system.

442

443 Ms. Duquette – GPI

- 444 • She said they will have an underground storage system (UST). These systems are
- 445 required to be inspected during construction. They have professional engineers in their
- 446 office that just go out and inspect UST installations for certifications for UST permits.
- 447

448 Mr. Coffin asked if there was any other public comment. There was none.

449

450 Public comment was closed at 9:10 PM.

451

452 <The Board took a break at 9:10 PM and reconvened at 9:19 PM>.

453

454 Mr. Coffin referenced the letter from Civil Construction Management, Inc date July 19, 2023,
455 regarding a discrepancy Mr. Quintal found in the volume of the Oil/Water Separators that
456 showed 2,500 vs 3,500 and that this will be fixed on the revised plans.

457

458 Mr. Coffin brought up this comment noted in Mr. Quintal's letter. There is a "peak elevation in
459 the Bio Retention Basin on large storms will be above the surface elevations in the Oil/Water
460 Separators." Mr. Coffin asked Ms. Duquette how this has been addressed. Ms. Duquette
461 explained that it is an online system. GPI provided a response on this and is found on pg. 2 of
462 their response letter dated August 3, 2023. Mr. Coffin read from the letter – *"In the highly
463 unlikely event of a large storm event and a fuel release occurring at the same time, the off-line
464 pretreatment devices may be bypassed. However, the stormwater runoff would be directed to
465 the sediment forebay and bioretention basin which is lined with an impermeable PVC liner for
466 the purpose of containing a potential release."*

467

468 Mr. Coffin raised Mr. Quintal's comment about human error found (pg. 1, comment
469 section/paragraph 4) in his July 18, 2023 review letter.

470

471 Mr. Coffin read the following section of the letter. *"However, there is no doubt that contaminants
472 will leave the proposed site one way or the other. The question is to what degree and what
473 affect it will have on the environment. Lab results from test wells may someday find
474 contaminants in the groundwater what action will be taken then and at what cost to the Town."*

475

476 Mr. Coffin mentioned that this is why the Board asked about insurance and DES requirements
477 for UST's. He questioned that the state insurance was 1 million to 2 million for total insurance
478 coverage. Mr. Frawley said it's per incident and went on to explain that it is a million and half per
479 incident for the state funding. Mr. Coffin asked what would happen if the company went
480 bankrupt. Mr. Frawley explained that if there was a release at a location and it is registered with
481 the State, and you are compliant, which you have to be to get approval for the UST system, and
482 there is a release it automatically becomes the responsibility of the State to remediate that
483 location. It still is the owners responsibly and the State manages and approves the remediation
484 plan. Mr. Frawley said that in the recent history (last 25 years) the cost of individual UST system
485 failures hasn't exceeded 2.5 million dollars for any individual site.

486

487 Ms. Duquette talked about petroleum clean up and containment. She mentioned the
488 bioretention area and that it has a lined system and it has a monitoring system. If there is a
489 larger spill that goes into the bioretention area any contamination is contained in the basin. In
490 case there is a spill this makes it more cost effective too.

491

492 Mr. Tilton asked if the items of concern in Mr. Quintal's engineering review and Ms. Truslow's
493 review regarding the hydrologic review have been addressed by the applicant. Mr. Duquette
494 said they have. Mr. Tilton asked if a hydrogeologic study should be done. Mr. Coffin said that
495 the hydrologic evaluation was done to specifically address the runoff and not aquifer protection
496 for this hearing. The hydrogeologic is something that could be requested during the Planning
497 Board process should that take place.

498

499 Mr. Russman asked if there was a catastrophic episode, would the owner of the LLC have any
500 liability or would the State have the sole responsibility for cleanup. Mr. Bouchard said the

501 owners do have liability responsibilities under most things brought up. The LLC still has assets,
502 it has to maintain insurances.

503

504 Mr. Coffin brought up that the Board received a list of suggestions from the Rockingham
505 Planning Commission (RPC), dated June 5, 2023. This was sent to the ZBA and the Planning
506 Board for the Determination of Regional Impact (DRI). He read some recommendations that
507 were indicated in the memo.

508 1) Condition site approval of the installation of the proposed signal at NH 125/NH 107.

509 a. This has been taken care of and is part of the applicant's proposal.

510 2) They mentioned that they anticipated emissions of light, noise, smoke, odors or
511 particles.

512 3) Recommendations under water supply: To mitigate any potential groundwater
513 contamination they recommended a hydrogeologic study. 'Spill prevention, Control
514 and Countermeasures Plans and that NHDES Best Management Practice for
515 Groundwater Protection (Env. Wq 401) are followed."

516 a. This would be an item handled at the Planning Board process.

517 b. They listed other recommendation items for the Planning Board.

518

519 Mr. Broderick mentioned Article 109.5 and permitted uses are – referenced 109.5.C. Truck
520 terminals are a permitted use, and that D. Accessory uses customarily incident to the above. A
521 fuel dispenser system in a truck terminal would be an accessory use. If a truck terminal is a
522 permitted use and a gas station is not mentioned as a permitted use and the truck terminal does
523 the same thing as a gas station (minus the stores) could the Town end up with something worse
524 than what is being proposed. Mr. Broderick brought this up because the RPC commented on
525 trucks running.

526

527 Mr. Coffin noted that the applicant volunteered to have a hydrogeologic study done in October
528 of 2021.

529

530 The Board discussed items that would be handled at the Planning Board process vs what the
531 ZBA needs to address during this Special Exception hearing.

532

533 Ms. Kelley asked why the ZBA doesn't require a hydrogeologic study to be done. Mr. Coffin said
534 that this type of study would relate to the previously approved special exception application in
535 the aquifer protection. If the Board puts a condition of approval in that it has to be done it
536 should be done at the Planning Board process.

537

538 Ms. Truslow spoke and said that a hydrogeologic study is triggered by a few uses. These are
539 listed under the Aquifer Protection Ordinance, Article 201.4.B. Because it is not exclusively
540 required, she suggested making it a condition for the Planning Board to address.

541

542 Mr. Tilton asked if the Board should ask for expert testimony from Police and Fire. Mr. Coffin
543 mentioned this could be a condition the Board sets.

544

545 The Board went into deliberative session and went over the list of standards for Special Exceptions
546 of Article 109.7 to determine if a special exception can be granted.

547

548 **1. No detriment to property values in the vicinity or change in the essential**
549 **characteristics of any area including residential neighborhoods or business and**
550 **industrial districts on account of the location or scale of buildings and other structures,**

551 **parking area, access ways, odor, smoke, gas, dust or other pollutant, noise, glare, heat,**
552 **vibration or unsightly outdoor storage of equipment, vehicles or other materials.**
553

554 There was discussion between Board members on how to evaluate the impact of a gas station
555 relative to permitted uses in the C-II zone. Mr. Russman said that this is a detriment to
556 residential property values due to the scale of the building, odor, noise, and glare having an
557 impact on the residential properties not far away. Mr. Coffin said that there is a lighting
558 ordinance and a noise ordinance. Mr. Broderick described the surrounding commercial
559 properties; Mr. Coffin said that this is a commercial use and will have an impact on property
560 values; Ms. Kelley mentioned that does this impact property values more than other type of
561 businesses in this district?
562

563 The Board determined by majority vote that there would be a detriment to property values,
564 particularly to abutting residential property due to the location (proximity) and scale of the
565 proposed structures and parking area, odor, smoke, gas, noise, and glare. Testimony was
566 given by member Russman as an attorney who dealt extensively in real estate sales and
567 purchases, and on June 1 by residential abutter Steve Kent, about the noise impact, increased
568 lighting and impacts to property values.

569 **VOTE:** Agree: 2 Disagree: 3
570

571 **2. No creation of traffic safety hazard or substantial increase in the level of traffic**
572 **congestion in the vicinity.**
573

574 The Board determined that there would be no creation of a traffic safety hazard, rather that
575 there would be an improvement in safety due to the required signalization of the Rte. 107/Rte.
576 125 intersection, and that there would be no substantial increase in the level of traffic
577 congestion caused by the proposed filling station. These findings were based on the applicant's
578 traffic study, DOT mitigation plan, comments from Rockingham Planning Commission, and a
579 peer review of the traffic study by TFMoran, Inc. traffic engineers.

580 **VOTE:** Agree: 4 Disagree: 1
581

582 **3. No excess demand on municipal services including, but not limited to: water, sewer,**
583 **waste disposal, police, fire protection, and schools.**
584

585 The Board's vote on this issue was inconclusive with two members voting that the standard had
586 been met, and three members abstaining, citing insufficient information provided to determine if
587 the demand on police services would be excessive. Testimony had been received citing a large
588 number of police calls to a similar business in town, but no comparative information about other
589 businesses, particularly those that are permitted in the C-II zone.

590 **VOTE:** Agree: 2 Disagree: 0 Abstain: 3
591

592 **4. No hazard to the public or adjacent property on account of potential fire, explosion or**
593 **release of toxic materials.**
594

595 The Board discussed that this was a very high standard to meet, and if the discussed conditions
596 of approval were excluded, none of the Board members believed the standard could be met.
597 The question was discussed with the addition of conditions that would require the
598 recommendations proposed in the responses to the peer reports be added and that a funded
599 monitoring system be established.
600
601

602 The Board determined that it was not shown that no hazard existed due to the potential release
603 of toxic materials. While the hazards had been significantly reduced by alterations to the
604 original plans, the peer reviews did point to certain conditions, such as human error and
605 extreme storms, that could release toxic substances.

606 **VOTE:** Agree: 2 Disagree: 3

607

608 **5. Notification of the hearing will be provided to the Planning Board, Conservation**
609 **Commission and Board of Selectmen.**

610

611 The Board voted unanimously to affirm that such notification had occurred based on retention of
612 the certified mail receipts for notifications sent to all three boards.

613 **VOTE:** Agree: 5 Disagree: 0

614

615 Mr. Coffin asked for a vote.

616

617 **MOTION:** by Ms. Kelley

618 **To deny the application as noted by the findings of facts for the failure to meet standards**
619 **1, 3 and 4 of Article 109.7.A.**

620 **SECOND:** by Mr. Tilton

621 **A vote was taken, 4 in favor, Mr. Broderick opposed, the motion passed, (4-1-0).**

622

623 Mr. Coffin explained to the applicant that the Board's decision is appealable up to 30 days from
624 today.

625

626 *<Board note: hearing closed at 11:30>*

627

628 *<The Board took a break at 11:30 PM and reconvened at 11:38 PM>*

629

630 **Housing Support, Inc.**

631 **186 Main Street**

632 **Map R34 Lot 21**

633

634 *<Board note: hearing opened at 11:38 PM>*

635

636 Mr. Coffin read the legal notice:

637 The applicant is requesting a **variance** to **Article P II Section B.13** to permit up to three unrelated
638 persons within each unit of the existing two-family residence on the property.

639

640 **Applicant:** Present at the meeting was Paula Newcomb, Executive Director of Housing Support,
641 Inc. Others present on behalf of Housing Support, Inc.: Attorney Kevin Baum of Hoefle, Phoenix,
642 Gormley & Roberts, PLLC and Christopher Novelli of n3 Architecture.

643

644 Attorney Baum introduced himself and said he is representing Housing Support, Inc and gave an
645 overview for the reason for the variance request.

646

647 Housing Support, Inc. is a non-profit 501(c) housing development corporation that provides
648 housing and related support services.

649

650 The property is located in the Historic District (HD1), it is an existing 2.5 story 2-unit dwelling with
651 3 bedrooms on each side, a total of 6 bedrooms. They want to provide affordable housing for

652 veterans and subsidize rents for them. Mr. Baum said that they have an application before the
653 Planning Board to convert the building to four 1-bedroom units. Housing Support and two of the
654 abutters have come to an agreement that they would like to keep the two 2-units with the 3
655 bedrooms and rent out each bedroom to 3 people in each unit rather than create 4 new
656 apartments.

657
658 Mr. Baum explained that the reason they were applying for the variance is because of the
659 definition of family as defined in Article P II Section B.13. Their intent is to have 3 unrelated veterans
660 in each side.

661
662 The exterior of the structure would only require limited renovation, that would be for a 186 sq. ft.
663 addition in the back for handicap access. They will be making some esthetic upgrades to the
664 building and landscaping. He noted that this property is in the HD1 zone. The driveway to the right
665 will be extended so there is parking behind the building.

666
667 Ms. Newcomb explained that the building will be high efficiency. It will be historically appropriate;
668 the interior will be renovated with sprinklers.

669
670 Mr. Baum mentioned that Housing Support is getting funding specifically for affordable housing
671 that requires them to keep the property for 30 years.

672
673 **Board comment(s):**

674 Mr. Broderick asked about the parking and will there be room for 2 parking spots per person. Mr.
675 Baum said that they are extending the right-side driveway and there is a driveway on the left too.
676 They will probably have to go to the Planning Board for a waiver for the driveway setback. He
677 noted that Housing Support has ten other properties and from past experience they are probably
678 not going to need all those parking spaces. Mr. Broderick said that he had concern with the
679 parking requirements for 6 people and additional parking for support people.

680
681 Mr. Broderick asked the applicant if they had looked into what the property could be used for that
682 would be allowed according to the HD1 ordinance. Ms. Newcomb explained that there was
683 research and inquiries with the Town and that the neighbors were not in favor of the 4 units. That
684 is why they are seeking this variance to work out a solution with the neighbors.

685
686 Mr. Coffin explained that the applicant has done research and because this is in the HD1 it doesn't
687 say single family or duplex it says "residences" (102.5.A.1.a.) under permitted uses. Town
688 Counsel has provided input on this also. He commented there are apartment buildings in the HD
689 and they are allowed in the HD. This used to be part of an overlay zone with rural residential,
690 mixed use, but it is not now. Technically they are not required to get this variance because they
691 could change the use from a 2-family to duplex, and our statutes do not require familiar
692 relationship requirements for a duplex. This is part of a compromise agreement with the neighbors
693 to keep this as a 2-family structure to reduce the number of people who can live there, and
694 voluntarily on the part of Housing Support, Inc. to pursue this variance.

695
696 **Applicant:**

697 Mr. Baum went through the five (5) variance requirements.

698
699 He said that the first two (2) criteria are considered together and are under NH Supreme Court
700 case law.

- 701 **1. The granted variance will not be contrary to the public interest.**
702 **2. The spirit of the ordinance is observed.**

- 703 • Mr. Baum explained that the test that the court has articulated is whether granting the
704 variance would unduly and to a market conflict with the ordinance such that it violates its
705 basic zoning objectives.
- 706 ○ Their position is it does not. The property is in the Historic District I (HDI), the stated
707 objective of the HD is generally to “to preserve the historical and architectural heritage
708 of the town.” This proposal maintains and improves the existing historic building and
709 barn.
- 710 ○ This is in support of the intent of the district. The specific intent of HDI is to be an
711 integrated area of mixed uses, primarily residential but with building service-related
712 civic functions.
- 713 ○ It will remain residential and meets its intent by providing the civic functions because
714 they will be providing housing to veterans.
- 715 • Mr. Baum said that another test is whether the variance, if granted, would alter the
716 essential character of the neighborhood or threaten the health, safety or welfare. There
717 are no material changes to the exterior of the structure, there are significant interior
718 changes which are going to improve it and make it a nicer, safer building. Any exterior
719 changes will be consistent with the HDC approval.
- 720 • They believe the general intent of the unrelated rule is to avoid party apartments. This is
721 not the case here. The occupancy will be adult veterans. Service will be provided through
722 Housing Support to the residents that are going to be held to a lease that includes a
723 requirement for conduct.
- 724 **3. Substantial justice will be done in granting the variances.**
- 725 • Mr. Baum mentioned the test for this is whether there is a benefit to the public for the
726 denial that outweighs the loss of the applicant.
- 727 • In this case, the loss to the applicant is Housing Support cannot make full use of the house
728 consistent with its mission. It reduces the number of people that it can serve. There is no
729 real benefit to the neighborhood and there would be no real change to outside.
- 730 • There is going to be support provided for 30 years, it will be ongoing, and the building will
731 be maintained just as Housing Support maintains its 10 other properties.

732
733 Ms. Kelley asked who monitors the requirement for conduct? Mr. Baum said that Housing Support
734 does. Ms. Kelley asked if onsite or offsite? Ms. Newcomb said that the VA will also provide
735 services onsite that will regularly stop in and check on things. Mr. Baum explained that there is
736 no onsite monitor that lives onsite but there will be regular services. Ms. Newcomb explained that
737 most of the residence will most likely be over 55, on the first floor there will be two handicapped
738 units. Mr. Broderick asked if there is someone responsible for making sure the property is
739 maintained. Ms. Newcomb said that there will not be an overnight person, but there will be
740 services and an individual assigned by the VA and Housing Support will also be onsite. Mr. Baum
741 said if the Town has any issues, they can call Paula. He also noted that this is a non-profit that
742 does care about taking care of their properties.

- 743
- 744 **4. Granting the variances will not diminish surrounding property values.**
- 745 • Mr. Baum commented it will be just the opposite. They will be making significant
746 renovations to the property. Under this proposal they will be fixing the exterior up, putting
747 in landscaping consistent with the HD, and there will be significant internal improvements.
748 The expectation is the building itself will significantly improve. As a result, there will be
749 improvements to surrounding property values as well, and certainly there is no evidence
750 that it would be a detriment. He noted that two of the abutters are satisfied with this
751 approach.
- 752

- 753 **5. Denial of the variances results in an unnecessary hardship.**
754 • There are three (3) criteria.
755 • 1) Special conditions exist that distinguish it from others in the area. -
756 ○ The property has an existing historic structure, on a relatively long narrow lot. There is
757 room density wise to put in more than they are proposing, but there is only so much
758 that can be done without stretching too far back as well as being constrained by the
759 HD. They believe special conditions apply.
760 • 2) There is no fair and substantial relationship that exists between the general public
761 purposes of the ordinance and its specific application.
762 ○ There is no specific purpose noted for the unrelated, it is really to avoid unruly party
763 tenants.
764 ○ There will be support services, there will be monitoring by VA and Housing Support.
765 This is the consideration for the unrelated rule and they do not think it applies here.
766 ○ It would allow two adults by right and they are looking for one more, per unit.
767 3) The proposed use has to be reasonable. Mr. Baum commented that the Supreme Court
768 says if the use is permitted it is deemed reasonable. This is permitted as residential use.
769 It is permitted as a 2-family, it will continue as both.
770
771 • Mr. Baum said that they believe they have met all five (5) criteria and asked the Board to
772 grant the request for relief.
773

774 Public comment opened at 12:23 AM.

775 **Public comment:**

776 Attorney Michael Donovan introduced himself and said he was representing his clients, the
777 Ouellette's and the Morse's.
778

779 Mr. Donovan said that his clients do not object to the approach that has been presented tonight.
780 They would appreciate it if the Board would make the driveway and the parking as shown on the
781 drawing a condition of the variance approval.
782

783 Mr. Tilton noted that this is a Vash (Veteran Administration Supportive Housing) program and
784 being a former VA employee that worked with Vash programs assistance, they offer substantial
785 national effort to provide veterans with housing; and the oversight that would go with this is very
786 different than anybody who would be opening up an apartment building. The requirements that
787 Housing Support will have to keep up to the standards, there's a significance there.
788

789 Mr. Coffin referenced the plan provided by the applicant and asked if the driveway was going to be
790 paved. Mr. Baum said it isn't necessarily going to be paved, the intent is it would be the existing
791 gravel and stay that way. It may be paved in the future and will work through those details with the
792 abutters. Mr. Coffin commented these are all details that can be worked out with the Planning Board.
793 Mr. Baum asked that the condition for the driveway be based on the plan because that is the
794 agreement they have with the neighbors. They have a plan that has been approved by the HDC and
795 includes a driveway extension. What they are proposing is that any approval given should include the
796 condition of the driveway being extended consistent with that plan.
797

798 Public comment was closed at 12:27 AM.
799

800 The Board briefly discussed the email from Glenn Greenwood, Town Planner (dated July 6,
801 2023) to Ms. Newcomb and Mr. Baum that gave explanation from Town Counsel (Huddy) on
802 this topic and is what also served as the denial for this application.

803
804 Mr. Baum spoke and commented that in regard to the July 6th email, he did speak to Glenn and
805 Huddy and they indicated to him, and is his understanding, that the intent was to state that the
806 proposal needed relief and that is why they are here before the Board tonight. It didn't address
807 other issues with the variance application. It mentioned that absent this variance she didn't
808 believe this ordinance permitted the three unrelated.

809
810 The Board went into deliberative session and went over the five (5) required criteria worksheet to
811 determine whether a variance can be granted.

812
813 Mr. Coffin explained that traditionally the Board's procedure is to vote on each of the criteria and then
814 propose a motion.

815
816 **1. The proposed variance will not be contrary to the public interest, because...**

817
818 Mr. Coffin said for the findings of fact the Board can state – For the reasons submitted in the
819 application. He noted the applicant did read information from the application. *(A copy of the*
820 *application is available in the ZBA office, upon request.)*

821
822 **VOTE:** All 5 vote "yes". (5-0)

823
824 **2. The spirit of the ordinance is observed.**

825
826 Mr. Coffin said for the reasons cited in the application.

827
828 **VOTE:** All 5 vote "yes".

829
830 **3. Substantial justice will be done by granting the variance.**

831
832 Mr. Coffin said for the reasons stated in the application.

833
834 **VOTE:** All 5 vote "yes".

835
836 **4. The values of surrounding property values are not diminished.**

837
838 Mr. Coffin said, because it remains a two-family house. For the reasons stated in the
839 application.

840
841 **VOTE:** All 5 vote "yes".

842
843 **5. Literal enforcement of the provisions of the ordinance would result in unnecessary**
844 **hardship.**

845 Mr. Coffin said, it will prevent reasonable use of the property.

846
847 **VOTE:** All 5 vote "yes".

848
849
850 All five (5) criteria having passed unanimously. Mr. Coffin asked for a vote.

851
852

853 **MOTION:** by Mr. Russman
854 **To approve the Variance based on having met all five (5) standards of the criteria with the**
855 **condition of granting the driveway extension.**

856 **SECOND:** by Mr. Tilton

857 **A vote was taken, All in favor, the motion passed. (5-0-0)**

858 Discussion: It was brought up if the motion should include "per the plan". Mr. Coffin asked the
859 applicant if they needed it to reference "per the plan". Mr. Baum said, no. Mr. Coffin explained that
860 not including the plan reference enables them not to have to pave it if that is what the neighbors
861 want. This gives the flexibility to do what may be needed to comply with the Planning Board's
862 requirements.

863
864 Mr. Coffin explained that the variance expires in two (2) years from today. Unless it is extended
865 by a Planning Board application based on this variance until that process is through.

866
867 Mr. Coffin informed the applicant that it is 30 days for an appeal of the variance and that the
868 Board recommends waiting 30 days from the granting of the variance to begin construction.

869
870 *<Board note: hearing closed at 12:49 AM>*

871
872 **ADJOURNMENT**

873 Meeting adjourned at 12:50 AM.