

**Kingston Planning Board  
Public Hearing  
Minutes**

**November 20, 2018**

The Chairperson called the hearing to order at 6:45 PM; there were no challenges to the legality of the hearing.

Members in attendance:

Glenn Coppelman, Chair

Peter Coffin, V. Chair

Phil Coombs, BOS rep.

Ellen Faulconer, alternate/admin. asst.

Peter Bakie

Chris Bashaw

Robert Pellegrino, alternate

Members absent: Lynn Merrill, Karen Layne, alternate

Also in Attendance: Dennis Quintal, Town Engineer; Glenn Greenwood, Planner

Mr. Coppelman announced that Ms. Faulconer and Mr. Pellegrino would be voting members this evening.

**Bluestone Investment Group, LLC**

**4 Marshall Road**

**Tax Map R33-21**

Mr. Coppelman read the public notice for this proposal that included 8 buildings with 4 units per building. He added that the Board had seen this previously as a non-binding design review. Mr. Coppelman stated that several comments had been received from departments that included a request for setting up the Technical Review Committee (TRC). He explained the Board's review process.

Barry Gier, the engineer on the project, described the location and size of the lot for the proposed project; it is in the RR (Rural Residential) zone; 16 upland acres; market rate housing; he referenced the requirements in the ordinance in establishing the permitted number of units. He stated that they had received a variance from the ZBA for the required acreage. Mr. Gier reviewed some of the particulars including a 900 ft. loop road, community water system, on-site four disposal systems, 16 visitor spaces provided throughout the project, the trail connecting to Library Lane. He noted that he had received comments from the Planner prior to this meeting and received the Town Engineer's comments this evening. Mr. Gier explained that they had requested a waiver for the required "hydrostudy" but since the Planner has explained that it is a requirement, they will comply and provide it. He reviewed the comments that included a conditional use requirement for the buffer impact; he skipped responding to comment #5 at this point; for #6 – there is no sidewalk; there is pedestrian access at Library Lane; #7 – the plan will be revised to show 2 exterior and 1 interior parking place per unit; he will review the cistern issue. Mr. Gier returned to the issues regarding the road setback requirements as he disagreed

with the Planner's interpretation; he thinks it is from the existing public road with their interpretation being that the units are clustered and typically 50 ft. from the center line and with the 25 foot landscape buffer added to that 50 ft. it equals a 75 foot buffer. He stated that setbacks weren't discussed during the design review. Mr. Coppelman explained that not every detail gets discussed during design review. Mr. Gier said that the closest setback is 34 feet from the centerline of the road and the furthest is 45 feet away.

Mr. Gier confirmed that the lot merger had been done. Mr. Greenwood discussed the setback issues; he noted that Mr. Gier relied on a lot of actions taken at King's Landing on Marshall Road; Mr. Greenwood noted that many of the current regulations were changed due to actions taken during that review. He said that the landscape buffer and other setbacks are a sticking point for him. Mr. Pellegrino asked what the setbacks were before. Mr. Coppelman explained that the improvements needed for King's Landing caused the changes in the regulations. He added that the overlay for this type of development allows a denser development and it does constrain setbacks a bit to allow for proper drainage and stormwater requirements. Mr. Coppelman said that when King's Landing went in, a number of Board members were dismayed with the look and feel of the project and how the units were packed in; he added that the Board also tries to make the developments look attractive.

Ms. Faulconer stated that her recollection was that there were also issues with the placement of the swales and drainage that caused safety issues near the driveways and roadway; she asked Dennis Quintal to comment on the proposal. Mr. Quintal stated that he reviewed the plan with Road Agent Rich St. Hilaire; he reviewed his comments to the Board that included: stamp missing, landscape plan should be provided, proposed 2 person maximum occupancy which should be part of the documentation or the flow increased, no hydrants shown, need to supply road name, cistern is shown in building setback, need specifics for LCA's, scale is incorrect, show 60 ft. right-of-way – there is nothing on the plan saying a private road or asking for waivers to requirements, building setbacks are incorrect, there is parking within the ROW; issues with culverts, access points, elevation, culvert diameter, roadway cross sections; test pit data is incomplete, discrepancy in elevation numbers, NHDOT specifications are not met, roadway design is unacceptable, cistern access pad is in decel. Lane, information is needed to clarify access points, adequate site distance is not achieved, vegetation maintenance plan is needed, the Lighting Plan needs to comply with Town Ordinances, need to see the contract for the Orenco/septic maintenance, bio-retention basins issue, spillway is insufficient, basin area and elevation to be labeled, inspection sequence needs to be specified, a note is needed re: pre-construction sequence, construction sequence note #9 is incorrect, dimensions for all outlet protection apron needs to be provided, hydrogeologist review is recommended, sub-catchment #302 calculations are missing, 100-year-storm event information is missing, need information re: performance guarantee and information needed re: Article 908.16.6.A. Mr. Coppelman noted this was a hefty list; Mr. Quintal stated that many of the items are an easy fix.

Mr. Coffin stated that the setback requires 75 feet; it says from the road; the Board requires the development to meet the Town road specifications. Ms. Faulconer noted that the requirement refers to any road whether public or private; Mr. Coffin agreed; no one on the Board viewed that issue differently. Mr. Bashaw explained that the Road Agent has been adamant about the Board

not waiving these requirements as it causes issues down the road for the Town. Mr. Coffin questioned the setbacks “from the road” in the project. Mr. Coppelman explained that the applicant’s engineer had a different interpretation of the regulation; they interpret that the setbacks are not from the development road but from Marshall Road; the Town’s Planner is saying the required setbacks are from the road where the buildings are being built. Mr. Gier said that private vs. public does matter in the interpretation; he stated that normally the setback is 50 feet, but this requires an additional 25 feet. Mr. Coppelman said the 50 ft. setback is for a traditional development and the buildings would not be packed so tightly together as they would in this type of development. Mr. Greenwood stated that was his concern. Mr. Coffin agreed saying that this has more surface and parking area and needs to have run-off for a larger surface area. Mr. Gier asked if the requirements would change if it was a closed system. Mr. Quintal said it is not recommended by the Town at this time; he continued that it was discussed with the Road Agent that there needed to be proper swales and drainage and to also provide adequate grade for landscaping and parking; he added that if the goals could be achieved then there might be the ability to adjust for a waiver but they need to meet the design criteria and goals for the function of the road for snow and drainage. Mr. Greenwood added that the setback is not a regulation so the Planning Board can’t waive the requirement; if applicable, the applicant would need to seek a variance from the ZBA if unable to meet the 75 foot setback. Mr. Pellegrino asked if a 60 foot ROW could be met and if the road could be moved. Mr. Gier said he hadn’t had a chance to look at that possibility; if it was possible, it would be a major re-design. He added that the building separation is 60 feet which would allow for drainage between the buildings; he said the only other road is the public right-of-way.

Ms. Faulconer stated that she understood why the applicant would interpret the zoning the way that they had but that their interpretation did not meet the intent of the ordinance. She continued that the proposed roadway was not a driveway off of Marshall Road, it was the road that was going to service the proposed buildings; the addresses would be based off the new road; the setbacks are from this road that needed to be built to Town specifications.

Mr. Coppelman read the Dept. Comments: he noted that there were no additional comments from the Road Agent; Fire Department: cistern specs. not met per 1008.3; cistern location NOT on Marshall Road, requirements for Fire Alarm system, Knox box; TRC recommended; Conservation Commission: they noted they had not met with the contractor; Building #3 is in the wetland buffer, mitigation is needed, they would like to speak with Jones and Beach about the project; Building: comments re: overflow/guest or RV parking, snow storage locations; Board of Selectmen had no comments; Health had no comments.

It was noted that the issue of the building setback from the center line is the main issue and the applicant’s engineer’s interpretation of “the road”. Mr. Bashaw explained that “the road” in the ordinance is the road that the development is putting in; he added that any changes would need to be done through the ZBA. (Zoning Board of Adjustment) Mr. Coombs stated that he agreed with Ms. Faulconer’s comments as did Mr. Coffin. The Board consensus is that the setback is from the proposed road for the development. Mr. Gier re-stated that he has a difference of opinion on the ordinance and it sounded to him like the Board was moving to the 75 foot requirement; he continued that if that was the case then sending to the TRC was premature. He asked that the

Board continue to the next hearing to allow him to come to a solution but wanted first to address other design elements that could be discussed this evening. Mr. Coppelman asked if there was more material to look at. Mr. Gier had multiple designs options/variants on the units. Mr. Bakie suggested that Mr. Gier read out to the Fire Chief regarding the cisterns before finalizing the setting locations. Mr. Gier said there is a potential for sprinkling, they are still completing the pump test.

Mr. Bashaw noted a previous development that had restrictions regarding future building for the units; he suggested that any future buyers are clear on any restrictions regarding any future building or expansion of the individual units; he asked that they take into consideration those restrictions regarding things such as patios, decks and utilities. Mr. Gier stated that these are each a four-plex but he will look at this. Mr. Coombs added taking into account utilities, underground utilities and things like propane tanks on the sides of the buildings. Mr. Coffin asked for clarity for the LCA's on the sides and backs of the buildings. Mr. Gier explained that they hadn't gotten into that depth of the project yet so the documents are not yet done. Mr. Bashaw noted that pedestrian trails are good making it safer to get downtown. Mr. Pellegrino added that sprinklers are probably safer for the residents and cheaper than cisterns. Mr. Gier said it would depend how much water is pumping. Plantings and the landscape table were briefly discussed. Mr. Quintal discussed the building locations and the swales explaining that there needs to have room in front of the building to do the landscaping; if you add in all of the issues discussed, it takes up 45 feet from the centerline so you need to make sure that the landscaping is in the area near that flat area and not placed in the swale. Mr. Greenwood said that there are 2 entryways shown to the site with no indication of signage, plantings, or monumentation; these should be incorporated into the plan. The clear-cutting along the road frontage for sight distance was reviewed; Mr. Gier said that they will leave as much vegetation as possible but will have to clear some for site distance; they will keep as much of the vegetation of the interior loop as possible although, he added that the septic system is also in the loop.

Mr. Coppelman referred to a previous discussion with King's Landing about the lack of vision to make the development look interesting and nice-looking; all the units are straight in a row with minimal landscaping. He added that landscaping and looking nice is a benefit to the Town and the residents.

Mr. Greenwood noted that the requirement for the Aquifer Study is not under the catch-all requirements; it is mandated specifically. Mr. Gier stated that he saw where Mr. Greenwood was coming from regarding this requirement.

Mr. Coppelman asked for public comments; there were none.

Mr. Greenwood stated that in the CUP (Conditional Use Permit) Ordinance, it does require the Board have feedback from the Conservation Commission or a decision couldn't be finalized. Mr. Coppelman suggested Mr. Gier speak with the Fire Department, Conservation Commission and the Police Chief specific to lighting issues at the entrance to Marshall Road. Mr. Coppelman asked about a permit from DOT; Mr. Gier said that was still in discussion.

There was discussion regarding the establishment of a TRC at the appropriate time, once Mr. Gier has come to some further conclusions about the design of the project.

**MM&S to authorize Glenn Greenwood to convene the TRC when it is appropriate.**  
(Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**

There was discussion regarding the possible continuation of this application. Mr. Coppelman explained the process for a written request for a continuance. Mr. Greenwood re-iterated that the CUP requires that the applicant meets with the Conservation Commission; he added that the meeting with the CC can occur outside of the TRC meeting.

**MM&S to continue to the January 8<sup>th</sup> public hearing with updated plans and documentation due to the PB office by December 27<sup>th</sup>; with the TRC occurring prior to the January 8<sup>th</sup> hearing.** (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**

### **Board Business**

**Proposed Ordinance Amendments:** Mr. Greenwood reviewed previous actions of the Board regarding moving proposals forward to public hearing. Mr. Coffin asked about one of the articles that was being reviewed by the Town Attorney in case it needed an amendment for clarification. Mr. Greenwood explained that the Town Attorney confirmed that the article was clearly written; the ordinance is clear that the allowed use is in a SFR (single family residence) and that a condo. does not meet that criteria; the ordinance is clear as it stands; the Board is not treating it differently; the property has a standard that has to be met and that is that it is a SFR unit. Mr. Coffin confirmed that it did not need any changes at all.

**MM&S to ratify the vote taken at the Board's meeting on October 2<sup>nd</sup> to move the proposed amendment forward to a public hearing on Dec. 11, 2018.** (Motion by Mr. Coffin, second by Mr. Pellegrino) **Motion carried 6-0-1** with Mr. Coombs abstaining.

### **Correspondence:**

- Memo from Inspectors meeting re: Electronic Signs.

**ACTION ITEM: The Board authorized Ms. Faulconer to send letters to businesses not in compliance; a copy of the sign ordinance will be included.**

- Engineer's report re: AAAL (All American Assisted Living) dated 11/9/18; Mr. Quintal reviewed that there were conditions re: stabilization for winter conditions; the applicant has chosen to go about it differently; surface run-off is going into an incomplete basin at this time; the wetlands are protected; it is a change of the plan that had originally been proposed by the design engineer and accepted by the Board. Mr. Quintal stated that this action puts him in an uncomfortable position; should he "force" them to comply with the approved plan or have them come back to the Board with changes; the applicant is aware of the intent and is fulfilling them. Mr. Greenwood asked if they actually were fulfilling it if not complying with the approval. Mr. Quintal suggested that they do a little more than they had. Mr. Coombs said that he was under the impression the wood chip berm

was part of the plan. Mr. Quintal said it was but with frozen conditions if there is an ice area and if it rains, is the berm protecting the run-off? The intent was to cover it with hay to prevent run-off. Mr. Coppelman asked if they should come in for an amended plan. Mr. Greenwood said that the Board has kindly let them amend the plan twice at this point. Mr. Coombs asked to go to the site with the Town Engineer the next time he and Conservation Chair Nathan go. Mr. Quintal said that the design engineer for the project said that what they are doing instead will work. Mr. Bakie suggested letting Mr. Coombs and Mr. Quintal review the site for compliance. Mr. Greenwood stated that the developer should hold to the approved plan or have them do an amended plan for the Board's approval.

**ACTION ITEM: Mr. Quintal will contact Mr. Coombs once the snow is gone for a site walk at AAAL. They will update the Board at the meeting on Dec. 11<sup>th</sup>.**

- Letter dated 10/25/18 from NH Division of Historical Resources re: project review for 266 Rte. 125 - need further information; considered archeologically sensitive.
- Dredge and Fill application for 266 Rte. 125 received
- Letter dated 10/30/18 from Eversource re: Park's Pond, R19 Lot 32 confirming their interest and concerns with the proposal on the property.

**ACTION ITEM: Mr. Greenwood will contact Mr. Parks re: an update on his plans.**

- Copies of letters per previous Board action sent to YMCA, 72 Rte. 125, Maroun's Auto
- Copy of letter from BOS to DES (Dept. of Environmental Services) re: RPC (Rockingham Planning Commission) grant.
- Letter from Attorneys re: demand for express retraction; Mr. Pellegrino asked to speak to this letter at the end of Board business.
- Invoice from Mr. Quintal for work done for Hawk's Ridge
- Invoice from Mr. Quintal for work done for Viens
- The Board's 2019 calendar was reviewed and accepted.

### **Review and acceptance of minutes:**

#### Review of September 18, 2018 minutes:

Correction: p. 8, motion to accept the June minutes – Phil Coombs abstained, not Peter Coffin.

**MM&S to accept the 9/18/2018 minutes as amended.** (Motion by Mr. Coffin, second by Mr. Coppelman) Motion carried 6-0-1 with Mr. Pellegrino abstaining.

#### Review of October 2, 2018 minutes:

Per Mr. Coffin's comments re: 10/2/18 minutes; notation: Make sure the proposals discussed at the October 2<sup>nd</sup> meeting are attached to the minutes.

Ms. Faulconer noted that the date on the minutes should be corrected to be October 2 not Oct. 4<sup>th</sup>.

**MM&S to accept the 10/2/18 minutes as amended.** (Motion by Mr. Coffin, second by Mr. Bashaw) Motion carries 3-0-4 with Mr. Coombs, Mr. Coppelman, Ms. Faulconer and Mr. Pellegrino abstaining.

**MM&S to accept the October 16, 2018 minutes as written.** (Motion by Mr. Coffin, second by Mr. Coppelman) **Motion carries 5-0-2** with Mr. Bashaw and Mr. Pellegrino abstaining.

Mr. Coppelman noted that there was no business currently scheduled for the Board on December 4<sup>th</sup>; by Board consensus, the meeting on 12/4/18 will be cancelled; the next hearing is scheduled for Dec. 11<sup>th</sup>.

**Correspondence, continued:**

- Mr. Pellegrino stepped down from the Board in order to address a letter that had been sent to Mr. Pellegrino, copied to the Planning Board, from an attorney on behalf of a client. Mr. Pellegrino stated that he wanted to address the letter and ask questions of the Board. Ms. Faulconer cautioned the Board to not get drawn into an issue that they currently were not involved with; any public discussion not on the agenda could get the Board drawn into a legal issue but ultimately it was the Board's decision whether to have the discussion or not. Mr. Coppelman stated that he was uncomfortable with a Board discussion of the letter and stepped away from the Board. Mr. Pellegrino questioned how he could get answers to some questions that he had; as an example, he asked who enforces issues of someone filling a wetland. Mr. Bakie suggested to Mr. Pellegrino that perhaps the Planning Board was not the right place for the discussion. Mr. Coombs suggested that Mr. Pellegrino get on the BOS agenda as they are the enforcing body for the Town; he can get on an agenda about the letter; he suggested Mr. Pellegrino put his questions in writing to the Board; Mr. Coombs will make sure the right people are at the meeting to address his questions. Mr. Pellegrino confirmed that he could also speak with Mr. Greenwood about the letter to help with answers to some of his questions.

**MM&S to adjourn at 8:50 PM.** (Motion by Mr. Coffin, second by Mr. Coombs) **PUNA**