

**Kingston Planning Board  
Public Hearing  
July 19, 2016**

The Chairman called the hearing to order at 6:50 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Glenn Coppelman, Chair  
Adam Pope, V. Chair  
Chris Bashaw  
Ernie Landry (Alternate)

Carol Croteau  
Peter Coffin  
Peter Bakie

Members absent: Mark Heitz, Richard St. Hilaire (Alternate)

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer; Ellen Faulconer, Admin. Assistant/board alternate

**George and Paula Demers  
32 Exeter Road  
Tax Map R35-5**

Charlie Zilch and George Demers appeared before the Board for tonight's presentation. Mr. Zilch recapped the process up to this point which is a continuation from the June 21<sup>st</sup> hearing. Mr. Zilch requested the Board to accept the shared driveway lay-out; he explained that the driveways have been moved away from the lot lines and the twenty foot setbacks. Mr. Greenwood reviewed his comments to the Board; he noted that his comment on the setbacks referred to the side lot lines and the turnaround is actually on the rear lot line; ordinances and regulations were noted referencing side lot line concerns. Mr. Zilch said the turnaround could be moved; he noted that there was substantial effort to move all of the driveways out of the 20 foot setback with 4 out of 5 being changed. Mr. Quintal discussed the proximity of the turnaround to the adjacent lot regarding snow being plowed onto someone else's property; he suggested if it could be moved that it should be moved due to this concern. Mr. Zilch said that he could reposition it on lot 5A by just moving it a little bit away from the property line. Mr. Bakie said that he would request that if someone is denying a request, they should say why they were denying it. Mr. Pope noted that the snow from the turnaround would be going onto the property needing the turnaround and didn't feel it needed to be moved. There were no other comments at this time.

Mr. Coppelman read the waiver request dated July 5, 2016 from requirements of Article 905.11 D and F; the access to this proposed 5 lot subdivision being limited to one access point (per request of police and fire officials) in an effort to minimize site impact and provide safe and effective access for driveways; the driveways have been located as proposed being shared

driveways crossing through the sideline setbacks of the lots is unavoidable; this waiver request is to allow the shared driveways to pass through but not run along the 20 foot side lot line setback.

Mr. Greenwood explained that the waiver for “D” was still required as the driveways travel through the side setbacks in a number of instances due to the incursion to get to the points on the lot.

**MM&S to approve the waiver dated July 5, 2016 as requested.** (Motion by Mr. Pope, second by Mr. Bakie) **Motion passed 4-2** with Mr. Coppelman and Ms. Croteau opposed.

Mr. Zilch referred to the Maintenance Agreement that had been submitted. Ms. Faulconer said that per Board procedure, she had reviewed the agreement for recommendations with the Board making the final decisions prior to sending to the Board’s attorney for review. She described possible issues for the Board: multiple references in the document to “road” maintenance agreement; she suggested it should say “driveway” maintenance agreement as it isn’t a road; the agreement specifies that the agreement can be modified by the association at any time and usually the Planning Board requires that it also be in conjunction with the Board’s approval to the by-law changes; the numbering of the lots needs to be approved by the assessor’s office for the final numbering for the mylar for recording; the document should have the correct numbering prior to being recorded to eliminate future confusion; there are some incorrect spelling notations and incomplete sentence; Ms. Faulconer will have a copy available for Mr. Zilch. Ms. Faulconer continued that the Fire Chief requests that that standards for the requirements for emergency vehicle use be noted and the email with this information can be provided to Mr. Zilch. In addition to that, there should be an easement agreement for the property for the turnaround and who is responsible for the maintenance and plowing of the turnaround; the Inspectors thought that there should be a notation that “there shall be no parking or storage of other vehicles or equipment in the turnaround”. Ms. Faulconer explained that these were just notes upon review and it was up to the Board to make a determination prior to sending to counsel; she made copies of this for Mr. Zilch and the Board to review. *<Board note: Ms. Faulconer left the meeting to make copies at this time.>*

Mr. Zilch noted that the State Driveway permit based on the one access point and most current plan and the State subdivision approval have been received. Mr. Quintal said that there are no outstanding items remaining from his review except those items required after approval such as bound certification and marker certification. Mr. Zilch said there were only a couple of follow-up comments from Mr. Greenwood that can be easily addressed. Mr. Zilch asked if the Fire Chief’s final review had been received regarding the driveway construction pending Mr. Quintal’s review. Mr. Quintal confirmed that the driveway would be built to withstand the emergency vehicle load.

Mr. Coppelman read the Building Inspector’s comments regarding snow location at entrance possibly blocking visibility. Mr. Zilch said the DOT requirements were met regarding snow storage area. The Building Inspector’s other concern was about setbacks for the turnaround that had already been reviewed during this meeting. Mr. Greenwood’s comments that had been

presented to the Board were reviewed: driveway easement language, the turnaround on 5E, question re: DOT approval. Mr. Greenwood noted that there were no other outstanding issues. Mr. Coppelman asked for any additional Board comments on this application. Mr. Coffin asked if there was any difference between the road and the driveway stating that while the members knew the difference asked if the Town had any difference in definitions between a private road and a driveway. Mr. Coppelman suggested checking the book. Mr. Bashaw referenced Article 1005.2; he read “there was road or highway which says the entire width between boundary lines and every public way or place used by the public for vehicular traffic” and there is a roadway, under definition “G”: “that portion of the street designed or ordinarily used for vehicular travel”. Mr. Coffin noted that those are for public roads or travel. Mr. Bashaw said that they do apply to public roads and did not think that the Town has it defined; Mr. Coffin said that because of that the Board has no regulation over that. Mr. Bashaw said that was correct and that must have been why the Fire Chief was looking for language maintaining the safety standards to maintain that but he did not think there is an issue of how they refer to it as a roadway or a driveway within their own private agreement. *<Board note: Ms. Faulconer returned at this time.>* Ms. Faulconer distributed copies of the agreement that included her notations. Mr. Coppelman asked if there was any public comment. There was none.

The Board discussed how they would proceed with the review of the document; Mr. Coppelman added the date of July 19, 2016 to the document as a reference point. Mr. Coppelman began reading the document and proposed changes; the first being to change the word “road” to “driveway” throughout the document. Mr. Bashaw said that based on the review of the definitions, he does not think the Board has any authority to mandate that they use “driveway”; the Town is already making it clear that we are not adopting it as a road and it is a private agreement; if he wishes to change it on his own accord, it is entirely up to the applicant. Mr. Zilch said he will change “road” to “driveway”. Mr. Quintal suggested that, based on the difference in length of each driveway, there might be an objection by property owners to pay an equal share and they might want to think about a proportional share instead. Mr. Pope suggested that instead of reading the entire document, he quickly reviewed it and agreed with Ms. Faulconer’s recommendations and since it will be reviewed by counsel; he suggested everyone taking a moment to read it for any issues. Mr. Zilch stated that Ms. Faulconer had already done the hard work. Mr. Pope agreed. Mr. Zilch agreed to the recommended changes. The Board agreed. Mr. Zilch will get the amended document to Ms. Faulconer who will forward to Attorney Loughlin. Ms. Faulconer confirmed the Fire Department’s comments; the driveway conforms per the Fire Department requirements (just the notations as noted earlier), confirmed by the Town Engineer. There were no further comments from the Board or the public. Mr. Coppelman confirmed that jurisdiction has been taken on the plan; the Board was still in the 65 day window.

**MM&S to continue to August 16, 2016 at 7:00 PM.** (Motion by Mr. Bashaw, second by Mr. Pope) **PUNA**

Mr. Coppelman announced that this is the notification for any abutters; there were no additional certified mailings regarding a continuance although would be in the public notice.

**Allied Clearwater**  
**Aaron and Kali Johnston**  
**251 Route 125**  
**Tax Map R40 Lot 14**

Mr. Coppelman read the notice for this hearing. Charlie Zilch gave a brief presentation of the project noting the lot currently serves a 3 bedroom duplex dwelling; due to limited access on the highway, there are combined driveways; the detail for the driveway is shown on sheet 2 of the plan. He continued that there is a generous parking on the lawn space; the remaining lot is wooded and undeveloped; it is in the Aquifer Protection Zone (APZ). Mr. Zilch explained that the applicants want to occupy ½ the building as their residence and the other “northern” part as office and storage; there will be three office personnel and 3 service technicians. Mr. Zilch continued reviewing elements of the plan including parking delineation, signage, dumpster location, access lighting noting that there is no expansion of septic, parking or water supply. Mr. Zilch pointed out the additional garage that will be for residential use and not used for any part of the business. He stated that an old carport behind the dwelling is being removed for the additional driveway area; the DOT state approval has been submitted and is under review. Mr. Zilch explained that there are very minimal site changes; there is not a lot of traffic impact and virtually no retail sales on site. Mr. Coppelman noted that while in the APZ it is also in CII and there is no issue with mixed use on this site. Mr. Greenwood said that any new lighting must comply with the Lighting Ordinance. Mr. Johnston said there would be one new flood light outside on the garage; Mr. Coppelman said that it should show on the plan with an added note that it complies with the Town’s ordinance. It was noted that both signs are actually off-site; the zoning ordinance requires all signs to be on the property; Mr. Greenwood explained that this would need to go to the ZBA. The ordinance was reviewed. Mr. Zilch said they have a request in to DOT to have the sign in the State’s ROW; they do not have a response yet. Mr. Coppelman suggested they show a sign on the plan that meets the requirements in case they don’t get relief from the ZBA or approval from the DOT. The Board recognized that a sign on the property itself would not be seen. Mr. Zilch will add a “ghost” sign on the plan with a notation that prior to permits and installation, it would require ZBA approval; he will add both an approvable sign and a ZBA-relief required sign. Mr. Greenwood noted that because the garage is being used for residential use, submitting elevations to the Board are not required. Mr. Quintal read his comments including needing a clarification of number of employees and parking; there was discussion regarding the number of people living in the dwelling and number of employees and those individuals that overlap into both categories; the total number of employees will be 7; total number on the site will be 4; there are 11 parking spaces. Mr. Quintal continued his review that included the letter of intent regarding no retail use of the building due to ADA requirements; Mr. Johnston said that it is unusual for someone to come to the place to buy something, occasionally someone comes to buy a filter or pay a bill; he added this was one reason he really wasn’t that concerned about signage since it is not retail; he added that most people don’t know where they are currently located. He continued with questions of types of delivery vehicles due to loading and unloading requirements; the plan did not clarify and there shouldn’t be any conflict with parking. Mr. Johnston said he has never had a tractor trailer make a delivery in over 17 years; deliveries are usually made with a ¾ ton pick-up. Mr. Greenwood said the requirement is not pertinent to how business is done on-site. Ms. Croteau agreed. Mr. Quintal continued with

comments regarding the parking on gravel surface which the Board can allow due to unique characteristics of land; Mr. Quintal said that typically in the past, the Town has required parking on a paved area. Mr. Coffin said he thought that was for auto sales. Mr. Coppelman said that for commercial use, the parking spaces are typically paved. Mr. Pope noted that it was hard to stripe and denote spacing on gravel. Mr. Coppelman added that sometimes if there is overflow parking for sites, the Board has approved gravel in those situations. Mr. Bashaw says that there are large gravel parking areas when “Seasons” opened up and when it became “Bolton’s” which is definitely not an overflow situation, that is a commonly used, every day parking lot and it seems to have 20 or 30 spaces. Mr. Pope said the parking was fine. Mr. Zilch said that it is a small operation and an orderly parking lay-out is not a problem for the employees; there are three service vans and two personal cars kept on site. The Board, by consensus, okayed the non-paved parking. Mr. Quintal continued his review asking for details for the proposed garage to show proper construction to support emergency vehicles; he noted that since it was just a personal garage, it was up to the applicant; vehicle parking spaces 6, 7, 8 should have a turning area for safety of people exiting the building; a turnaround could be added behind space 6 for these safety concerns; a turnaround for space #11 as well; snow storage should be in a designated (noted) area away from the leach field; limit of clearing should be shown on the plan; the dry well should be labeled for roof drainage only with the corrected detail shown; the State DOT driveway permit is required.

Mr. Coppelman read the Department comments. Conservation Commission had concerns regarding the spent material from the water treatment storage and disposal. Mr. Johnston explained that it didn’t come back to the site; the homeowner’s property takes care of it adding that there is no contamination material stored on site; any materials are stored in the trucks and the building; nothing outside. The Building Inspector commented on the proposed sign being on State property. Health had no comment; Highway had no issues. Mr. Coppelman read comments from Conrad Magnusson and Magnusson Farms stating that they were okay with the proposal. Ms. Faulconer asked the applicant if they would like to add commercial use to the garage as well as residential in case of any changes in the future. Mr. Johnston said that they would only use it for residential use so it wasn’t necessary to add that possibility.

**MM&S to accept jurisdiction of the plan.** (Motion by Mr. Pope, second by Ms. Croteau)  
**PUNA**

Mr. Coppelman read two waiver requests. The first request was for a \$1500 engineering fee instead of \$5000. Mr. Quintal and Mr. Greenwood agreed that \$1500 was enough due to the minor changes of the site.

**MM&S to grant the request to provide \$1500 instead of \$5000 for the engineering review fee.** (Motion by Ms. Croteau, second by Mr. Coffin) **PUNA**

The Board reviewed the second waiver request for site plan submission requirements noted in Article 904.5 (G): items 17, 18, 19, 37 were determined to be not applicable so no waiver required; item #29 is shown on the plan. Waivers would be required for Article 904.5 (G) sections #22 and #30.

**MM&S to approve the waiver request as modified (Article 904.5 (G), 22 and 30).** (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

**MM&S for a conditional approval with the following conditions:**

- 1. Add the new lighting on the plan with a note that it conforms to Town standards.**
- 2. Sign location and “ghosting of sign” location with a note that it is pending ZBA review/relief and DOT approval.**
- 3. Clarification of # of employees (resident and employee clarification); the total will be 7; there are 11 parking spaces.**

**In addition, per Mr. Quintal’s notes to the Board:**

- 4. Show turnaround areas near parking spaces 6,7,8 and 11**
- 5. Proper snow storage/notation about not being on leach field shown**
- 6. Note limit of clearing/tree line**
- 7. Dry well note**
- 8. Detail of roof drain note**
- 9. State DOT driveway permit**
- 10. Waivers granted noted on the plan**

**The conditional approval must be met within 90 days.** (Motion by Mr. Pope, second by Mr. Bashaw) **PUNA**

*<Board note: the Board took a 5 minute break>*

**William J. Pellerin, Jr.**  
**20 Coopers Grove Road**  
**Tax Map R17 Lot 5**

Mr. Coppelman read the public notice for the proposal. Mr. Greenwood explained that the State considers a condominium conveyance as a subdivision. Mr. Pellerin explained that this process was started by him in 2007 when he went to an engineer and an attorney about the condominium; he didn’t know he had to come to the Planning Board and thought everything was all set. Ms. Faulconer confirmed that Mr. Pellerin did get two bills on the property although there was no documentation regarding this. Mr. Greenwood said that a duplex is an allowed use in the RR zone; he said the plan was adequate but it needed a signature block on the mylar; he said that the condo. docs. would need to be recorded. Ms. Faulconer noted that the documents were reviewed by the Board’s attorney and since Mr. Pellerin had asked for waivers for the engineering bond as an existing site; he would have to provide funds to pay for the legal review. It was noted that approval for state subsurface requirements for subdivision/condos are usually put on the plan. Department comments were read; there were no issues or concerns. There was no public comment.

**MM&S to accept for jurisdiction.** (Motion by Mr. Pope, second by Mr. Bashaw) **PUNA**

**MM&S to approve with the following conditions:**

- 1. add signature block to the mylar**

2. **attorney fees for the Town's legal review of the condominium documents**
3. **recording of condominium documents**
4. **conditions to be met within 90 days.**

(Motion by Mr. Bashaw, second by Mr. Pope) **PUNA**

### **Board Business**

#### **Correspondence:**

- Letter received from "Up in Vapor" about operating in space #2 (labeled "collectible store" on the plan) of the "Country Store" building; they will be open 7 days per week, 10 AM to 7 PM, 2 employees; they expect 5 to 8 customers daily; Mr. LeFave (the business owner) said it is not a lounge; there are no tobacco products; they may someday provide samples. Mr. Pope noted that there is not a traditional site plan on file but this use does not rise to the need to require one. The Board determined that this was a similar use that did not require any additional review; the owner was informed about the sign permit requirements and the Certificate of Occupancy requirement available through the Selectmen's office.

**MM&S to allow the use as requested in the letter from Arthur LaFave, Sr. dated July 8, 2016.** (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

- Flood Plain Management recommendations from OEP; the Board will review and discuss at the next public hearing in August.
- Circuit Rider Contract received.

**MM&S to authorize the Chair to sign the Circuit Rider contract.** (Motion by Mr. Coffin, second by Ms. Croteau) **PUNA**

- Current budget information received.
- 2017 Budget request received; Ms. Faulconer will prepare a draft for the Board's review on August 16<sup>th</sup>
- CIP plan was reviewed; the submittal requests are expected to go out the last week in July. Mr. Coppelman stated that three Planning Board members are needed for the committee; he and Peter Coffin volunteered. Mr. Coppelman asked other Board members to think about it and get back to the Board in August.

**MM&S to accept the May 17, 2016 minutes as written.** (Motion by Mr. Coffin, second by Ms. Croteau) **Motion carries 3-0-3** with Mr. Pope, Mr. Bakie and Mr. Bashaw abstaining.

Mr. Coppelman noted that the discussion of the June 21, 2016 minutes brings the Board to the discussion of the letter written by Mr. Bashaw. Mr. Coppelman asked if there was any further business to discuss other than the letter; there was none. Mr. Coppelman said he would turn the discussion over to Mr. Bashaw but suggested that the Board should discuss whether it would be in an open forum or non-public. Mr. Bashaw stated that he did not meet non-public as some things referred more to a position and if part of the public body you are not protected under section C which is the section he believed would apply. Ms. Faulconer said that would be true for only part of the discussion and she would let the Board know when she thought that part came up during the discussion as then she would be requesting a copy of the tape if done in public. Ms. Faulconer said that the issues with the minutes were the part that did not need to be

non-public. Mr. Coffin said that he wasn't voting on the minutes as he wasn't at the meeting but the proper procedure would be to move to accept the approval of the minutes and then make any changes as necessary. Mr. Bashaw said that he is familiar with the statutory requirement of what is actually required in the minutes; he didn't mind if all the minutes were fairly vague and just met the minimum standard of what the statute requires, he wouldn't have a leg to stand on with having an issue but certain details are extensive but anything he feels is critical or an opinion that might reflect poorly on the Town, he thinks they are not as detailed as he would like to see. He said if the minutes are going to be vague and only meet the statutory requirements, then he would like the Board to review how long the tapes are held to be able to review verbatim what is said. He specified a statement in the minutes regarding the definition of a structure and differences in definitions that he would have liked to have more of the detail of his comments added to the minutes. He would like the Board to address Town mistakes. He referenced a previous discussion regarding lot size that the Board came to the conclusion that the requirements were wrong and needed to be addressed; he was upset that the Board hadn't added it to an agenda to fix the language. Ms. Faulconer noted that the agenda concern is not an issue regarding minutes; that is a Board agenda issue. Ms. Faulconer did not disagree about adding concerns to the agenda but that is not due to the minutes; it is because no one brought up to add them to the agenda. Mr. Bashaw is not okay with the process of corrections to the minutes being noted in the next set of minutes as the meetings are not broadcast to TV and with the tapes gone, someone could not come to review information with only having the minutes available so they either need to be more detailed or, no matter what, have consistency; either the same level of detail throughout the entire scope of the minutes or the same amount of vagueness and then maintain the tapes for review. Ms. Croteau said that on other boards she is on, she sends an email to the Chair to make the corrections; she questioned whether it was just appropriate to say that I disagree with this and ask for corrections. Mr. Bashaw said that he suggested that at one meeting but the previous minutes were not changed, they were in the next set of minutes. Mr. Landry said that if there are inaccuracies in a set of minutes, they are added to the minutes where the issue was raised and keep the first set of minutes as they are and then a set of amended minutes. Mr. Coffin said we had done that. Mr. Bashaw said that his biggest concern is that someone would search the set of minutes and see them as approved and not know that the following meeting had done something to change any inconsistencies. He asked what the process was and whether once the minutes were received whether the Board could correct them and send them back. Ms. Faulconer said that the minutes have to be turned in prior to the Board reviewing them; the minutes currently have the notation of "draft" so anyone looking at them will know they were not approved but those minutes are official minutes and can't be taken back or removed; the next set of minutes, if corrected, have the word "draft" replaced and either has approved with the date or if corrections, the pages where the corrections are made are noticed with either the corrections noted or a reference to the next set of minutes to see the corrections. There would then be two sets of documents per meeting with one set of minutes saying "draft" and the other saying "accepted" or accepted as amended. Mr. Bakie asked what happened if minutes are not accepted suggesting that if that happened they would need to be re-written to be approved. Ms. Faulconer said the minutes can be amended by the board and a second set of minutes will be given to the Town Clerk with the corrections; the first set of minutes don't get removed; she can't ask the Town Clerk to give them back once they are accepted and dated and replace them with another set and ask that they are back-dated; she continued that any changes



can be made to a set of minutes and they will be reflected in the next set of minutes and on the second document noting that the minutes were amended; the approved minutes have a notation when amended; they can't be "taken back"; adding the word "draft" doesn't have a legal designation but it does tell anyone looking for minutes that they aren't the approved minutes; the next set with the same date have the "draft" notation changed to either approved as written or accepted as amended with appropriate notations. Ms. Croteau said she contacts the Chair so changes are made before the committee meets. Ms. Faulconer explained that one person cannot amend minutes; it is the Board, not one person that approves the changes. Mr. Coppelman said the Board has always made changes at a meeting. Ms. Faulconer referenced Mr. Bashaw's comments about the structures discussion explaining that she did leave out part of his discussion as it wasn't pertinent to the vote; it was her assumption that his concerns with possibly conflicting definitions was an item he would bring up for the Board to discuss which would then be the pertinent time for the minutes to reflect the discussion and the comments he was making, while interesting, were not pertinent to the Board's vote. She added that the Board makes a lot of comments during a meeting but not everything everyone says is in the minutes adding if the Board wants a transcript done of the minutes, she will do that. Mr. Bashaw said that he thinks that sometimes there is detailed discussion that isn't tied to the vote. Ms. Faulconer said it is added if that is how the Board is making their decision; she said that she takes "tons" of notes but not all of them are in the minutes because sometimes the discussion eventually makes some of the comments irrelevant or no longer pertinent. Ms. Faulconer said that she knew what Mr. Bashaw was referring to as Mr. Steward had mentioned that there had been a building permit issue with him and that you both had had discussions and assumed that Mr. Bashaw would bring it back up for Board discussion along with the lot size square footage issue and at that point, there would be more discussion and detail and pertinent to the Board making decisions about definitions. She explained that she put in what she thought was Mr. Bashaw's important point at the time to that particular application which was basically why the applicant even had to come in at all and that was the more important point being made for the particular application; the rest of the comments were extraneous and not part of the Board's decision making process. Ms. Faulconer said she did condense his comments and thought it reflected his issue with the interpretation of "structure" as it required review. Mr. Bashaw confirmed through discussion that the "draft" never goes away. Mr. Coffin asked if Mr. Bashaw wanted to amend the minutes of June 20, 2016. Ms. Faulconer said that this is common practice for the minutes; she listens to what everyone says and condenses it to make the point. Mr. Coppelman agreed explaining that as individual Board members if there are issues with what has been captured; corrections are brought up at the time they are being accepted. Ms. Faulconer said that she will prepare transcripts of the meetings if the Board prefers. Mr. Coppelman said there are essentially two sets of minutes, the draft set and the approved set. There was further discussion on the procedure of minutes. Ms. Faulconer said if the Board wants a new set of minutes prepared with the corrections titled "amended", they can be provided; the Board has never required this. There was continued discussion about the meeting minutes and people seeing the minutes prior to being accepted. Ms. Faulconer will ask Ms. Grant to post both sets of minutes – the "draft" and the "amended" per the Board's request. There was continued discussion about minutes, amendments, draft minutes, approved minutes, timing of submission of original minutes and amended minutes. The Board would prefer that the amended minutes be posted; amended minutes will have an addition to the heading that it is "amended" and have notations referencing the pages of the

corrections; these minutes will be posted with the original minutes removed from the web site. Ms. Faulconer said she has no problem with the Board initiating a new procedure but this is the first time it has been brought up. Ms. Faulconer said Ms. Grant is very accommodating; if there is a reason why the original set should not be taken down, then she will request that Ms. Grant post both; the Board was okay with both being posted. Mr. Landry asked if the Board could adopt the minutes earlier than a month; Mr. Coppelman said that it could be done at an earlier meeting. Mr. Landry said the earlier the minutes are approved as final, the better it is. Mr. Coppelman said that the Board can try to approve them at the next meeting. Mr. Pope said the Board has tried to do that in the past but they hadn't been read, but the Board can give it a try. Mr. Pope added that the previous chair, Mr. Wilson used to ask Ms. Faulconer to keep a list of items for the Board to come back to during the year. Ms. Bashaw stated that often when he gets the next agenda, it reminds him that he wanted to bring up a topic but the public hearing agenda had already been posted. Ms. Faulconer said that all anyone has to ask is for her to keep a list and when she sees space on the agenda, she adds the discussion in on the agenda. Ms. Faulconer said that now she has "structures" and "lot size" on the list.

Mr. Pope returned to Mr. Bashaw's concerns about disposition of the tapes. Mr. Bashaw said that people may want to take an interest in something and by that time, the tapes will be gone; he thinks they should be maintained by the public; the tapes should be kept for a year. Mr. Bakie suggested looking into the Town upgrading the system from a tape recorder as people are coming into Town spending hundreds of thousands of dollars building houses in Town and we are flipping tapes. Mr. Bakie will look into this system. Mr. Bashaw was proposing keeping the tapes for a year. Ms. Faulconer said if the issue was public access then the tapes weren't the real issue, it was televising the meetings so people could have access. She added that every land use board in Town have all adopted the rules that after the minutes are accepted, the tapes are gone; she said that legally, once the minutes are adopted, they are the official minutes and there is no legal reason for the Board to keep them. Mr. Bashaw thinks the Town has a duty to keep them until the Town gets the video going. The Town cable concerns were discussed. Ms. Faulconer said that it is not in the Town's best interest to keep tapes once the minutes are approved; Mr. Pope said he didn't disagree with that and asked if the Board went back to being televised if the Board would agree that was a better solution; Mr. Bashaw agreed. Ms. Faulconer thought there was some type of advice, either from attorneys or through a seminar, that it was not advisable to keep the tapes once minutes were approved. Mr. Greenwood stated that he wanted to also make that point; he has repeatedly been told over the past 30 years by attorneys that it serves no purpose to have extra information floating around once an official set of minutes have been adopted; he has heard this consistently. He would like to speak with a couple of attorneys, with no cost to the Town, as to why they would be counseling Towns this way; he added that it doesn't serve the Board to make the Town's counsels jobs more difficult by keeping this information around if they don't want this done. Mr. Bashaw said the Town had to balance against not wanting the additional liability and townspeople wanting additional information. Mr. Coppelman said the Board could request verbatim transcripts; Mr. Coppelman said the budget will be reviewed shortly and this cost could be added to it. Mr. Bashaw wouldn't want an additional cost to the taxpayer. Mr. Greenwood will look into this issue; the Board will wait to review at the next meeting. Mr. Pope suggested sending a letter to the Selectmen about televising the meetings as the Town previously voted this action at least two town meetings ago.

Mr. Coppelman will send a letter to the Board with this request. Ms. Faulconer said when a Board member wants something reflected verbatim all they have to say during the meeting is please capture what was just said as the minutes can always be referenced to get their accurate comments; minutes are edited. Mr. Bashaw said he understands that now that the Board has had this discussion and the process was explained. Mr. Coffin returned to his previous point of whether Mr. Bashaw wanted to propose an amendment the minutes. Mr. Bashaw said he wanted to propose to amend the minutes of June 21, 2016 in the section about the structure; he would like to see them reflect his paragraph. Ms. Faulconer had an alternative proposal which would be that she listens to the tape and reflects his comments verbatim. Mr. Bashaw said that would be great. The minutes of June 21 will be tabled to the next meeting; they will be sent to the Board prior to the next hearing.

Mr. Bashaw said that he does not think that the rest of the discussion, based on 91: A III subsection B, met the requirements of non-public. Ms. Faulconer said that since there is only person it is specific to, she felt that it did meet the requirements. Mr. Bashaw said that it only referred to someone other than the public body itself. Ms. Faulconer said the issue being discussed was not concerning activity of a member of the public body but of an employee. Mr. Bashaw said that he had not found any conflict noted in the State RSA's with this issue. Mr. Bashaw said there was no desire to discipline an employee during the discussion. He said that he had a concern with the Administrative Assistant serving as an alternate. There was Board discussion concerning any other issues that might be brought up that wasn't non-public. There was no other business to discuss. Mr. Bashaw believes there needs to be clarification on a timeframe concerning multiple memberships. Ms. Faulconer said that was a Board of Selectmen issue, she explained the timeframe for challenges to decisions. Mr. Bashaw questioned the timing once the issue was found. Ms. Faulconer said that once the issue was identified, she wasn't on double boards anymore; she resigned. Mr. Bashaw said that her resignation didn't take place until June 9<sup>th</sup>. Ms. Faulconer said that was incorrect information; that was the date the Board of Adjustment accepted the resignation as they hadn't met before then; she gave her resignation to the Board of Selectmen in early April and the Board of Selectmen have that information; the letter is dated. She said the Selectmen didn't look into the issue any further as she had resigned to eliminate the need for spending Town money on legal opinions. Mr. Bashaw continued that Ms. Faulconer was going to get an answer on the issue; she re-iterated that she didn't have an answer as she resigned so there was no longer an issue; the answer she received was that they hadn't looked into it. She suggested that if he wanted the Selectmen to look into this further and spend Town funds on legal review and the Planning Board agrees, then go forward with it to the Selectmen. Mr. Bashaw continued that the Board wanted her to get information on the issue; she re-iterated that the information she got was that there was no additional information; her assumption was that once she resigned from the ZBA, the Board of Selectmen probably thought the issue was moot and no reason to go any further with it. Mr. Bakie asked what was Ms. Faulconer's current position with the ZBA; she answered she was the transcribing secretary. He asked if this was a paid position; she answered that it was. Mr. Bashaw asked if the Administrative Assistant was a paid position for the Town; she answered that it was; he asked if there was a conflict. Ms. Faulconer said the Board asked her to be an alternate as there had been another Town employee acting as a Board alternate and working as the secretary of that Board as well. Mr. Coffin agreed. Ms. Faulconer noted that an employee

issue is not an issue for the Planning Board; it is an issue for the Board of Selectmen. Mr. Bashaw stated that since the Board appoints its own alternates, it does fall to the Planning Board.

Mr. Pope made a motion to go into non-public session as there might be some type of action that could be considered disciplinary brought up during the discussion; second by Ms. Croteau. Mr. Coppelman polled the Board: Ms. Croteau: yes; Mr. Coffin: yes; Mr. Pope: yes; Mr. Coppelman: yes; Mr. Bashaw: no; Mr. Bakie: yes. Motion carries 5-1 Mr. Greenwood was asked to stay during the discussion as he might have some information for the Board as the issue was not about her employment but with her being an alternate to the Planning Board. Mr. Greenwood said this practice is fairly common in other towns; they ask the Administrative Assistant to be an alternate because sometimes a quorum becomes an issue. Mr. Coppelman said the Town of Kingston has done it. Mr. Bakie suggested that when voting the Board should have odd numbers for the vote. Mr. Greenwood explained that, like tonight, the Board could have six regular members with no BOS member present; that position can't be filled by an alternate leaving a 6 member Board; there is no statutory right to ask a standing member to unseat themselves to get to an odd number. Ms. Faulconer agreed to have Mr. Greenwood stay during the non-public session to provide any input to the Board. The Board stated that since they voted to go into non-public session already, they should probably stop talking about the issue until the public has left. At this point, Mr. Coppelman said the Board was going into non-public session and asked the public to leave.

The Board was polled and came out of non-public session at 11:05. No motions/actions were taken by the Board during non-public session.

**MM&S to seal the minutes of the non-public session.** (Motion by Mr. Pope, second by Mr. Coffin) Motion carries 5-0-1 with Mr. Bashaw abstaining due to his "no" vote to go into non-public session.

**MM&S to adjourn at 11:05.** (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**