

**Kingston Planning Board
Public Hearing
August 16, 2016**

The Chairman called the hearing to order at 6:45 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Glenn Coppelman, Chair
Peter Coffin
Mark Heitz, BOS rep.

Peter Bakie
Chris Bashaw
Ernie Landry (Alternate)

Members absent: Adam Pope, Carol Croteau

Also in Attendance: Rich St. Hilaire (Road Agent/Board alternate), Glenn Greenwood, Circuit Rider Planner; Ellen Faulconer, Admin. Assistant/board alternate, Evy Nathan, Conservation Commission Chairperson

Mr. Coppelman noted that Mr. Pope might be late but Ms. Croteau will not be at the hearing so Mr. Landry will be a voting member this evening.

**Roger Mitchell Group, LLC
14 Rockrimmon Road
Tax Map U11-Lot 29**

Mr. Coppelman read the notice for this hearing. Therese Reeve described the particulars of the application with the Board. She explained that there has been one driveway on the property for at least 18 years on the side of the property; it is a dirt driveway and she wants to pave it. She found out when she tried to get a permit that it was non-conforming; it is the only driveway and it ties all three buildings on the property together; it does run close to the property line. Mr. Coppelman explained the 20 foot setback regulation adding that the Board can waive that requirement; it looks like an improvement to the existing situation. Mr. Sargeant, the applicant's son, joined the discussion at this time and referred to hand-outs showing two options before the Board; option one was approximately 5 feet from the lot line; option 2 was 10 feet from the lot line; they prefer the first option.

Mr. St. Hilaire noted other lots with similar issues; he stated that while there were two solutions, the five foot setback proposal could work and did not create any problems for anyone. Mr. Heitz stated that driveways, many, many years ago, did not used to be considered structures. Mr. Greenwood said they have been considered a structure for over 15 years. Mr. Heitz said that the applicants have owned the property for over 18 years and they are not designing a new driveway so it is not further encroaching on anything. Mr. St. Hilaire agreed adding that they have been there for 30 years and they are just asking to pave the driveway. Screening on the property was reviewed. Mr. Heitz said if there were no complaints from abutters, then there was no need to

require the 10 foot setback. Mr. Coffin asked if lot coverage was an issue with the paving. Mr. Greenwood said it is not in the driveway regs. Mr. St. Hilaire said that while the Planning Board has given him the authority to grant driveway permits, he has not been given the authority to waive the regulations.

Mr. Coppelman asked for public comment. Ann Moran of 2 Colcord Road abuts the property. She explained the history of the property and that she had it surveyed when they bought it in 1999; she has concerns with any possible run-off and where the driveway will end adding that she is happy to work with the property owner. Ms. Reeve said the run-off will not run onto the abutting property. Ms. Moran confirmed that the split rail fence is actually on her property; there is a metal stake showing where Ms. Reeve's property ends. Mr. St. Hilaire said that he is in no position to confirm property lines. Mr. Coppelman said it was important to note that the setback being discussed is from the property line, not the split rail fence as that is not on the property nor does it mark the property line. Mr. St. Hilaire suggested allowing the 5 foot setback and not plowing snow on the neighbor's property. Mr. Coffin added that requiring a 10 foot setback might make it too narrow due to where the actual property line may be near the fence. Mr. Bashaw agreed.

MM&S to grant the waiver request for 901.1(C)3 in conjunction with the plan for paving per proposal #1; no closer than 5 feet from the actual property line. (Motion by Mr. Bashaw, second by Mr. Coffin) Mr. Heitz asked if the Board was requiring a survey. The Board clarified that the motion is from the property line and it is important that the work and setback be done in accordance with the actual property line. Ms. Reeve agreed to notify Ms. Moran when the driveway will be paved. Mr. Bakie cautioned to not put down any pavement until they are sure of the property line location. Mr. Heitz stated that it may need to be surveyed to clearly delineate the line. Mr. Coppelman said that if put down incorrectly, the neighbor could ask that it be corrected. Both parties agreed that they would work together.
VOTE ON MOTION: **PUNA**

George and Paula Demers
32 Exeter Road
Route 111
Tax Map R35-Lot 5

Mr. Zilch and Mr. Demers appeared before the Board; Mr. Zilch noted that this was a continuation of the hearing from July 19th. He stated that there were a few items to clean-up. They made the required corrections; they addressed Attorney Loughlin's concerns regarding clarification that each individual lot would not have trash pick-up; trash pick-up will be done at the driveway entrance off of Exeter Road; the mail delivery will be through a 5-box location at the driveway entrance off of Exeter Road. Mr. Zilch stated that waivers have been noted on the plan. The Board discussed the need for clarity of Town services such as trash pick-up and mail delivery. Mr. Zilch will put it on the plan. Mr. St. Hilaire said that it needs to be clearly stated that all shared driveways are "driveways" and never be assumed to be a road. The Board clarified that they are limited to driveways and not a roadway or Town roadway; they are not eligible for postal service or trash pick-up for each individual home; those services will only be

at the initial entrance off of Exeter Road. Mr. Zilch agreed to add a note that the post boxes will not impede the line of site along the roadway. Mr. Greenwood said that all of the notes have been addressed by Mr. Zilch. Mr. Zilch noted that all permits have been received. There was no public comment.

MM&S to approve the plan for the 32 Exeter Road subdivision based on the following conditions: note added to the plan regarding the limitation of postal delivery and trash services as discussed during this meeting; receipt of certificate of monumentation; note regarding the requirement of Impact Fees; mylar to be received within 90 days. (Motion by Mr. Coffin, second by Mr. Bakie) **Motion carried 5-0-1** with Mr. Coppelman abstaining.

Mr. Zilch will provide a copy of the recorded condo. docs. to the Town.

Environmental Compliance Specialists, Inc.

111 Route 125

Tax Map R10 Lot 2

Mr. Coppelman read the notice for this hearing. He reviewed the history behind this hearing regarding the compliance of the site and the hearing held in May in which Mr. Wright agreed to have the site in compliance by this time. The report from the Town Engineer done on August 4th was reviewed along with an email from Mr. Wright dated August 10, 2016; that report showed minimal work done at this point. Evy Nathan also attended the site walk with the Town Engineer; she would like to hear from Mr. Wright before commenting.

Jesse Wright stated that the progress to this point is not where he had anticipated; while he has recently reached out to a firm to do the work, there is currently no plan or estimation of the work. He has discontinued operations as ECSI; he leases space to another company; he is in the process of selling the equipment; he stated that the property looks a lot worse than it does better; he has sold 10 of the 25 roll-off containers and there are offers to buy the rest of the containers. He said it is going to take another couple of months to clean up the site. "Econ-services" is leasing the site. Mr. Bakie said the Board expressed the urgency at the hearing including the Stormwater run-off noting that Mr. Wright did not try to contract with someone until July and asked what happened with May and June. Mr. Wright said he anticipated finding time to do it himself and he just didn't adding that he understands the Board is exasperated he was just unable to get it done. Mr. Coffin said the Town Engineer told him to contact contractor's immediately to be able to get the work done and it didn't sound like that happened. Mr. Wright said he overestimated what he could get done on his own as there were a lot of extenuating circumstances.

Ms. Nathan said that the Conservation Commission has been watching this site since May when there was a possibility of asbestos being stored there which was apparently not done. She is dismayed by the containers with gas containers in them especially with the possibility of the containers leaching into the ground; they are located on the hill to wetland which is only 10 to 20 feet away. She said the rip-rap looks like it is handmade from demolition materials; there has been no change over months. She said that she didn't see any raised berms that Mr. Wright indicated were on the property. She stated that he is probably going out of business. Mr. Wright

said that ECSI and the property-owning entity were two different entities; both businesses are owned by Jesse Wright. Mr. Wright said that he may sell or continue to own the property itself. Mr. Heitz confirmed that Mr. Wright has already sublet some of the property; Mr. Wright said he had for the office and warehouse. Mr. Coppelman asked if the other business had an Occupancy Permit. Mr. Wright said they did not.

Ms. Nathan said that Mr. Wright has assured her that the containers would all be gone by the end of the week. She continued that these issues have been on-going for a really long time and not enough has occurred to show any change. Ms. Faulconer expressed concern that Mr. Wright has allowed the company leasing the property to bring in construction debris in containers at the same time he was supposed to be cleaning the site and removing containers. Mr. Coppelman said that he hated to be unsympathetic but the Board had been generous with a 90-day continuation to bring the site into compliance; the stormwater management components were supposed to have been in place since the beginning. Ms. Faulconer noted that the first time the applicant was invited to speak with the Board about this was August 18, 2015. Mr. Bashaw said that there were potentially hazardous issues on the site that seemed to never have been in compliance; he noted his concern with the possible sunseting of the business and there was another business operating on the site that was also not in compliance. He stated that it would be unwise not to hold a revocation hearing. Mr. Coffin noted that revocation of the site plan applies to the site itself not just ECSI adding that while the Planning Board would be scheduling a hearing, he would still have the ability to clean up the site before that. Mr. Coppelman explained that this meeting was to see where the site stood regarding compliance and to see if a revocation hearing was necessary.

MM&S to hold a hearing to consider revocation of the site plan for the property located at 111 Rte. 125, tax map R10-2, on September 20, 2016 at 6:45 PM. (Motion by Mr. Coffin, second by Mr. Bashaw). **Motion carries 5-0-1** with Mr. Heitz abstaining.

Mr. Coppelman explained that if the site comes into compliance by the hearing date then there would be no reason to revoke the plan; he explained that a revocation means that the business cannot operate on the site; the approval to run the business would go away and any commercial use would require a new site plan. Mr. Heitz added that if the site is not in compliance and the site plan is revoked then all operations must cease. Mr. Coppelman said that this would include the sub-lease. Ms. Faulconer explained the Business Occupancy Permit procedure including the requirement that the site be in compliance. Mr. Heitz asked if Mr. Wright had any further questions; Mr. Wright said he was all set and he would try to have significant completion by September 20th. Mr. Coppelman stated that compliance would be in his best interest. Ms. Nathan pointed out the irony of the company's name being Environmental Compliance.

Board Business

Correspondence:

- Letter dated 7/26 from Nicole Penta regarding compliance with Residential Home Occupation at 12 Independence Ave. for a dog training business and a permit from the Board. The Board reviewed the pertinent ordinance; it requires that all the activity is entirely within the home or an enclosed building which is not the case per Ms. Penta's

explanation of the proposed activity; Mr. Greenwood added that there is boarding of up to 5 dogs which is “kenneling” – a prohibited use in the ordinance. A letter will be sent to Ms. Penta clarifying that the Planning Board does not grant permits for this use and that upon review of the Ordinance, by Board agreed, by consensus, that the proposal, as stated in the letter, does not comply with the ordinance specifically sections 207.3(E) and (G)4.

- Invoices from the Town Engineer signed
- Site Inspection for King’s Landing received; Mr. Coppelman commented on the professional and helpful reports submitted by Mr. Quintal
- Bond Balance list
- Memo from ZBA re: granted use variance for Assisted Living Facility in HDC
- Emails to and from BOS re: televising meetings; Mr. Heitz said that the new equipment will be installed at the end of September
- Alteration of Terrain permit received from DES for Assisted Living Facility
- RPC newsletter
- Timber Harvesting seminar announcement
- Forestry and Saw Mill Field Day notification
- CIP request
- Sign request received for 2 Marshall Road; the Board agreed that it does not comply with the setback requirements in the Sign Ordinance; the Board does not have an application before them regarding this; the applicant can apply for an expedited site plan and a sketch would be allowed as a submission but the Board agreed that the sketch, as proposed, not does comply with the setback requirements. Ms. Faulconer shall let the Building Inspector know that he can deny the application for a sign permit due to the setback issues and not complying with the ordinance.
- Request to return balance of escrow from Steve Bartlett; Board authorized release after Mr. Greenwood’s manifest is submitted and deducted from the balance.

MM&S to approve the 6/21/16 minutes as amended. (Motion by Mr. Coppelman, second by Mr. Bakie) **Motion carries 3-0-3** (Mr. Heitz, Mr. Coffin and Mr. Bashaw abstaining)

MM&S to approve the 7/19/16 minutes as written. (Motion by Mr. Coffin, second by Mr. Bakie) **Motion carries 3-0-3** (Mr. Heitz, Mr. Landry, Mr. Bashaw abstaining)

OEP Floodplain recommendation: Mr. Greenwood explained that the additions proposed are requirements and need to be adopted in order to be able to have Flood Insurance; these ordinances have been adopted in the past for this purpose. The Board agreed to add this to the September hearing schedule.

Budget draft proposal: Reviewed and approved for submission; certain lines will need to be re-addressed before formal presentation to the Budget Committee (salary, grants, consultant)

Lot size requirements: Based on previous information, the Board will meet to re-address the requirements to make sure the regulation work; the “subcommittee” will meet to work out a proposal for the Board to review on Sept. 20th.

KPB

08/16/16

Accepted as written 9/20/16

Project list: add “multiple definitions” to the list

Ms. Faulconer reminded the Board that they asked her to meet with the BOS re: possible personnel policy changes.

MM&S to go into non-public session to discuss a personnel matter and a legal issue.

(Motion by Mr. Heitz, second by Mr. Coffin) **PUNA** by roll call vote:

Mr. Landry – yes Mr. Coffin – yes Mr. Heitz – yes Mr. Coppelman – yes
Mr. Bakie – yes Mr. Bashaw – yes

There were no Planning Board decisions made during non-public session. Mr. Heitz informed the Board that the Board of Selectmen is not interested in adopting any new policies. Mr. Heitz informed the Board of a legal issue.

MM&S to come out of non-public session. (Motion by Mr. Heitz, second by Mr. Coffin)

PUNA by roll call vote:

Mr. Landry – yes Mr. Coffin – yes Mr. Heitz – yes Mr. Coppelman – yes
Mr. Bakie – yes Mr. Bashaw – yes

Mr. Heitz spoke about concerns raised by the Planning Board about “Bolton’s” and entertainment to explain why he had not complied with the Planning Board request for an amended site plan. He stated that he contacted his attorney who said that activity did not require any additional site plan review. He added that he also spoke with Attorney Loughlin about this issue and suggested that the Board contact him about the question of the additional site review. Mr. Coffin referenced other sites and similar actions; Mr. Greenwood wondered if Attorney Loughlin was aware that the property in question was a legally existing non-conforming use. Ms. Faulconer said it would probably be a more productive discussion if the Board waited to speak to Attorney Loughlin first. Mr. Greenwood will follow-up and get back to the Board.

MM&S to adjourn at 9:40 PM. (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**