

**Kingston Planning Board  
Public Hearing  
October 18, 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  
Chris Bashaw  
Mark Heitz, BOS rep.

Peter Bakie  
Ellen Faulconer (Alternate)  
Ernie Landry (Alternate)

Members absent: Carol Croteau, Adam Pope, Rich St. Hilaire, alternate

Also in Attendance: Glenn Greenwood, Circuit Rider Planner

Mr. Coppelman noted that Mr. Landry and Ms. Faulconer would be voting members for this hearing.

**Environmental Compliance Specialists, Inc.  
111 Route 125  
Tax Map R10 Lot 2**

Mr. Coppelman explained that this was a continuation from a previous hearing. The Town Engineer's report had been sent electronically to the Board for their review; Mr. Coppelman reviewed that report in addition to the Conservation Commission Chairperson's report. Both reports described little to no continued activity for the site to come into compliance. Ms. Faulconer confirmed that there was no communication from Mr. Wright since the last hearing.

Mr. Coffin stated that a very important issue was the lack of slope stabilization agreeing with Mr. Quintal's recommendation of the use of hay bales and other stabilization techniques while trying to get the site into compliance. He continued that there was an additional business on the site that had no occupancy permit; while suggesting that the closest way to come into compliance might be to continue with the process, no business should be allowed on the site without a business occupancy permit. Mr. Bashaw said the approved plan was more than 13 years old and the owner had been dragging his feet until the hammer began hitting the anvil, suggesting the importance of the owner having some sense of urgency to complete the plan. He continued that the Board should, at the very least, continue to the November hearing for a vote for revocation unless a substantial amount of work is done on the site. Mr. Coffin stated that he did not want to take a vote to revoke the approval without Mr. Wright here; he added that Mr. Wright could have contacted the Board by email if there was going to be a delay or to send an update even though he was out of town. Mr. Bashaw said that Mr. Wright knew there was a real potential of the site plan approval being revoked and the Board has given him months to deal with the site. Mr. Coffin suggested that Mr. Wright could have sent a representative in his place. Mr.

Coppelman agreed that Mr. Wright could have communicated with the Board and is extremely disappointed that the site is not stabilized; he suggested a letter to Mr. Wright explaining that the Board's consensus is the site needs to be complete by the November hearing as the Board is seriously considering revocation of the site plan approval. Mr. Bashaw noted that the Board was overly clear about the Board continuing on to revocation in November if the site was not complete or very close to completion/compliance; he said that Mr. Wright would not need to be in attendance at the next meeting as long as he contacts the Board that the site is in compliance.

There was Board discussion regarding Mr. Wright's schedule and that he said he wouldn't be back in Town until right before Thanksgiving. Mr. Coffin asked if Mr. Wright had sent any information to the Board regarding the other businesses on the site. Ms. Faulconer and Mr. Coppelman both answered that neither had received any further information from Mr. Wright.

**MM&S to change the November 15, 2016 hearing date to Tuesday, November 29, 2016.**  
(Motion by Mr. Coffin, second by Mr. Bashaw) **PUNA**

**MM&S to continue this revocation hearing to November 29, 2016 at 6:45 PM; inform Mr. Wright by letter sent by certified mail and by email that the site needs to be in complete compliance by that date or the Board will be taking a vote to revoke the site plan without further continuation; no other businesses have been approved for the site and should not be conducting business without prior review and approval.** (Motion by Mr. Coffin, second by Mr. Bashaw) **PUNAA** copy of Mr. Quintal's and Ms. Nathan's reports will be included with the mailings to Mr. Wright.

### **Accessory Dwelling Review**

The updated, proposed language was distributed. Mr. Greenwood noted that this is not the public hearing to adopt the language; the Board was still in discussion on the proposed language. Mr. Coppelman reviewed the Board's actions on this in response to State legislative actions that impact the current ordinance. Mr. Greenwood added that the Board had the discussion on the language last month and this current version incorporates those changes; he added some additional language (shown in blue) that the Board had not seen yet in order to comply with the legislation and the RSA notation changed from 674:21 to 674:71.

Mr. Coppelman instructed the public to feel free to ask questions as the Board reviewed the ordinance.

Board reviewed the language in the proposal:

- In 206.2: remove family apartment, change to dwelling unit
- 206.2 (A): remove "to be occupied by family member"
- Change all references throughout the ordinance to "apartment" to "dwelling unit" (206.2 (C), 206.3 (C), 206.4 (A, A-1, A-3))

There was Board discussion regarding options related to units and "detached"; Mr. Greenwood will bring options back to the Board including options regarding accessory units in detached garages/barns.

Mr. Greenwood reviewed the other proposed changes/amendments and additions. He said that 674:72 (A) did not require a familial relationship.

**ACTION ITEM:** Mr. Greenwood will bring options for proposed language regarding detached options back to the Board for the next discussion.

Mr. Bashaw suggested that the “door issues” may need to change as well, depending on the Board’s decision regarding detached units.

Ms. Faulconer explained that a possible new owner can come to the ZBA for a special exception with the current property owner’s permission. Ms. Merrill, member of the public, reviewed septic concerns being reviewed by NH DES and possible changes being discussed on a State level. The requirements of septic systems and accessory dwelling units were reviewed.

There was Board discussion about whether to continue requiring a special exception through the ZBA or leave granting authority with the building inspector. Mr. Coffin thinks the ZBA provides a check and balance in making sure all conditions are met. There was discussion regarding changing the granting authority to the building inspector or have either a special exception granted by the ZBA or a conditional use permit through the Planning Board. Mr. Coffin commented on land use boards having final review of the appearance of the structure. Mr. Greenwood said that the new requirements allow the locality to have a voice and the local community does have the right to determine the aesthetics of the structure. Mr. Coffin noted that by requiring the ZBA or Planning Board to approve, it provides the ability for the neighbors to have public input asking that a property remain looking like a single family home rather than a two family building. Mr. Greenwood said the Rockingham Planning Commission’s guidance is that since some aspects are a big change, the town should feel comfortable and continue granting as a special exception. He added that as it needs a building permit, there is no reason to impact the ZBA or PB by having this take over business before the boards. Mr. Coffin said that this process has been going on for a while and it has not impacted the board completing its business. Mr. Heitz suggested that a number of apartments were probably built without permits. Ms. Merrill for public comment suggested that if there are too many rules, people will do the building illegally. Mr. Coppelman suggested that the requirements could be split so under certain circumstances, such as being built within the existing structure, the building inspector could issue the permit but if the ADU was an addition or detached, it would need to get approval from the ZBA or PB. The current ordinance was reviewed. Mr. Greenwood will bring proposed language and include a “hybrid” of approval by both the building inspector and land use board for detached units. Mr. Bashaw suggested the possibility of two options for the voters in March. Mr. Greenwood will bring options to the Board to the next hearing.

Mr. Landry asked if the HDC had seen the proposal; he suggested making them aware of the proposals and upcoming discussion. Mr. Greenwood will send the proposals to them before they meet on November 16<sup>th</sup>. Mr. Coppelman will encourage the HDC Chairperson to attend the November 29<sup>th</sup> hearing.

### **Board Business:**

**Correspondence:**

- Letter from 6 Rte. 125, Platinum Auto Sales replacing Maroun Auto Sales; Mr. Bakie asked if the Town policy allowed car dealership to continue from one owner to another; Mr. Coppelman explained that if the same use, they did not require additional review as the site plan approval goes with the property.

**MM&S that no further review is required pending property owner confirmation in accordance with the letter received by the Board; they are to follow the existing site plan approval, receive their State license, apply for sign permit and get sign approval, received Business Occupancy Permit.** (Motion by Mr. Coffin, second by Mr. Landry) **PUNA**

- Letter received from Pest-End Inc., 17 Rte. 125 regarding proposed activity on the site; a list of approved uses was reviewed; the use was not specifically listed; pesticide storage was discussed; Commercial Zone III was reviewed. The Board discussed whether the use was close to other approved uses for the site; condominium association controls, inspector reviews were questioned. Mr. Coppelman noted that a new business occupancy permit would be required that would include departmental inspections. Mr. Greenwood expressed concern over wording indicating that there might be repair and maintenance of motorized vehicles adding that the site did not have approval for automotive repair facilities. Mr. Heitz suggested getting MSDS sheets on items being stored there noting that since the owner specifically stated that no liquid pesticides would be stored on site eliminated some of the possible contamination. Mr. Greenwood commented that the repair of motorized vehicles was probably the only issue of activities described in the letter.

**MM&S that, per the letter received from Pest-End, Inc. dated October 11, 2016, no further review is needed for the activities noted except for the repair of motorized vehicles which is not currently a permitted use on the site and would require further review in order to be allowed. This motion is conditional upon the Planning Board receiving MSDA sheets on items being stored on site; these sheets to be provided to the Health Inspector and Fire Department.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

- Request received for the extension of the deadline of the conditional approval for Allied Clearwater.

**MM&S to grant the approval for a 90 day extension of the conditional approval for Allied Clearwater.** (Motion by Mr. Coffin, second by Mr. Bashaw) **PUNA**

- DES notification for Benevento; the deadline for comment has passed.
- Letter from Charlie Zilch about meeting with the Board; already addressed.
- BudCom meeting scheduled for 11/20; Mr. Coppelman can attend if necessary.
- PB Budget received.
- Land Use books order; completed already
- HDC minutes of 9/21/16; HDC wanted the PB to have the information of their review of the American Assisted Living facility.
- Article from Town and City re: CIP's; copies were available for the Board; Mr. Heitz suggested providing a copy to the Department Heads.

**Board Business, continued**

- Law Lecture Series scheduled for Wed.; Mr. Coppelman can't attend; Mr. Coffin will go in his place.

- Confirmation that the 11/1 PB meeting was cancelled with the CIP committee meeting instead.
- Received application from American Assisted Living facility; Mr. Greenwood had not reviewed but had seen a previous plan and he believed it would be complete enough to add to the agenda; plan placed on the 11/29/16 agenda.

**MM&S to approve the 9/20/16 minutes as amended; amending the first line in the ADU section to change the date of 2007 to 2017.** (Motion by Mr. Coffin, second by Mr. Landry)  
**Motion passed** 6-0-1 with Mr. Heitz abstaining.

**Public Comment:**

Ms. Merrill noted the State's previous Shoreland Protection Act is now the Shoreland Water Quality Act; she stated that the Town's is different from the State's in many ways and suggested the Town's Shoreland Protection Ordinance be the same as the State's. Mr. Greenwood explained that the Town passed the ordinance before the State had and it includes other water bodies that the State does not include.

**ACTION ITEM: Mr. Greenwood will review the State and Town's requirements.**

Ms. Merrill spoke of activities during Envision Kingston including the possibility of more Bed and Breakfast's being beneficial as a use in the center of Town; she suggested looking at the B&B criteria and making it more amenable to allowing events and other associated activities.

Ms. Faulconer noted that the Envision Kingston report was just received and similar recommendations are expected to have been included.

Ms. Merrill referenced Marshall Road and Age-restricted overlay zoning suggesting that the Board might want to think about them in other parts of Town.

Ms. Merrill spoke about new Best Practices for Commercial Development and some are combining commercial and residential together; she stated that this will take an extended period of time to look at suggesting it is more of a possible action for the 2018 Town Meeting timeframe.

Ms. Merrill suggested deleting the 1000 foot restriction on vehicular sales/repairs as a number of businesses can be maintained on the exterior to be attractive such as a classic car restoration company.

**Buildable Area Requirements:**

Mr. Greenwood said that he had looked at surrounding areas and there was a shift from buildable areas, it was not unusual to stick with 2/3 or 3/4 requirements depending on the lot size, 60,000 for an 80,000 square foot lot as an example noting there were many other towns besides Kingston that have this. He continued that some towns have gone to other requirements. He referred to soil-type lot sizing that had been accepted by RCCD that had been developed 30 years ago which includes 25,000 sq. ft. as a base with on-site septic and water. He said that his perspective is it is perfectly adequate for the Town to determine what it is comfortable with. There was discussion regarding the minimum required for buildable area; minimum lot sizes were

discussed. Mr. Greenwood said that soil-type peaked about 15 years ago. Some towns have gone to determining their own buildable areas and go with a building coverage; he thinks this is based on Stormwater requirements and coverage. Aquifer requirements were discussed. Ms. Merrill, public comment, read the requirements for Aquifer A and B with the coverage going up to 35% if showing proper Stormwater Management. Mr. Greenwood said that the 60,000 is not an unusual standard. Mr. Bashaw said that the new proposed language gives the initial quick fix to the problem noted previously by the Board. Mr. Heitz said that the Town is currently at 60,000 with RCCD going with 25,000 suggesting a compromise of 40,000. Mr. Greenwood said the only scientifically based requirements are lot size done by soil types. He added that going away from that is probably due to the possibility of soils being really good and causing the lots to be really small. Mr. Greenwood explained that the 2 acre requirement comes from rural spacing. There was speculation on the justification of lot sizing. Mr. Bakie and Mr. Bashaw suggested keeping the acreage requirements but shrinking the developable requirement. Mr. Bakie said that 40,000 would be 50% of the not “wet” land. Mr. Greenwood added that the three acre minimum for a subdivision is when in the aquifer. Mr. Bashaw suggested not reducing the 80,000 square foot requirement but just look at the buildable area. Mr. Heitz agreed to not reducing the acreage as separation is important and decreases the probability of neighborly disputes.

There was discussion as to the reasoning behind lot size requirements.

Public comment included: Ms. Merrill recalled actions in 1975 and reducing the number of children in schools; Mr. Greenwood said it helped to preserve the rural character of the Town. Ms. Merrill said that the trend since 2005 is for smaller homes and smaller lots; she reviewed sales trends and suggested that “clusters” will be more popular. Mr. Pellegrino, member of the public, asked why if the 80,000 won’t change why there would be restrictions like the 15% if you have upland area; he said that it was almost impossible to get contiguous land and as long as it was not wetland, what difference would it make. Mr. Heitz said that apparently the scientific evidence shows you should have 25,000 sq. ft. Mr. Greenwood believes that it would exclude the 15% in the 25,000 square feet due to run-off. Mr. Heitz stated that if it runs-off, that area isn’t percolating the water. Mr. Greenwood said that they assume it is best for the 25,000 area to site everything for an independent house lot for residential development; it is done in conjunction with a scientific method. Mr. Pelletier said it would not be like having an 18,000 sq. ft. lot with septic systems leaching into the lake; there would still be 80,000 sq. ft. lots. Mr. Bashaw noted that Mr. Pelletier has a lot of issues on the property he is developing. Mr. Pelletier said that the area gets flattened out to prepare the lot adding that keeping the 80,000 is a good thing without additional restrictions so as not to make it more difficult for developers. Mr. Bashaw said the Board’s initial intention was to fix the regulation but this is a good idea to fix all of it. Ms. Faulconer suggested that the Board continue to discussion with the Town Engineer present. Mr. Heitz said that it was reasonable suggestion as this was a regulation that the Board can waive as necessary while the discussion continues. Mr. Greenwood noted that a lot of items in zoning is arbitrary and may still become standard. Mr. Bashaw said that there would still be perc. tests and other criteria. Mr. Coppelman noted that a lot of communities have a lot size requirement but no buildable lot size requirement; some of these were discussed by the Board.

**MM&S to adjourn at 10:15.** (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**