

1 **KINGSTON PLANNING BOARD**

2 **DECEMBER 13, 2022**

3 **PUBLIC HEARING**

4 **MINUTES**

5 Ms. Merrill called the meeting to order at **6:34 PM**; there were no challenges to the legality  
6 of the meeting.

7  
8 **MEMBERS PRESENT:**

9 Lynne Merrill, Chair

Peter Bakie

10 Chris Bashaw, BOS Representative

Peter Coffin

11 Glenn Coppelman, Vice Chair

Steve Padfield

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13  
14 **ALSO PRESENT:**

15 Glenn Greenwood, Town Planner

16 Robin Carter, Admin. Assistant

17  
18 **ABSENT:**

19 Robin Duguay

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21 Ms. Merrill introduced the Planning Board ("PB" or "Board").  
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24 Ms. Merrill opened the Hearing mentioning there are three (3) public hearings tonight.

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26 **Brentwood Property Holdings, LLC**

27 Mitchell Animal Hospital

28 Sarah Roland

29 1 Little River Road

30 **Map R34 Lot 54**

31  
32 *<Board note: This hearing began at 6:36 PM.>*  
33

34 Ms. Merrill read the Legal Notice that the applicant is requesting an expedited site plan  
35 review to add exterior fencing for a veterinary hospital.

36  
37 Provided to the Board was the application, Town property card, waiver for the full site plan  
38 review, site plan sketch showing where she wants fencing, hours of operation, number of  
39 employees and exterior photographs.

40  
41 Ms. Roland came before the Board and said they are converting the former Sleep Institute  
42 into Mitchell Animal Hospital. She wants a safe place to walk animals outside. Ms. Roland  
43 referred to the proposed sketch on the previously prepared site plan and the exterior  
44 photos she provided.  
45

- The fenced-in area would be a small area, about 18' x 25'.
- It would be a privacy fence. It would be a visible barrier between animals in the fenced area to people walking in.
- Won't be obstructing the view of traffic.
- Wants this area to walk dogs and stated no dogs would be staying outside unattended.
- In the back of the building she'd like to put a six (6) foot privacy panel that is out of the view of the front of the building and not near the road. This would be an entrance for the crematory people to access the building. Ms. Roland said this is not a priority, but would like to do it if the Board does approve it.

Mr. Coppelman said that based on the Town Planner's recommendation the Board should take a vote to invoke jurisdiction.

**Motion made by Mr. Coppelman to invoke jurisdiction. Seconded by Mr. Coffin. A vote was taken, all were in favor, the motion passed.**

**Motion made by Mr. Coffin that the applicant is not required to comply with the engineering detail requirements in the site plan review, granting the Applicant's waiver request. Seconded by Mr. Bashaw. A vote was taken, all were in favor, the motion passed.**

Mr. Greenwood read his comments in his memo to the Chairman and Members of the Kingston Planning Board, dated December 12, 2022.

Mr. Coppelman brought up the hours of operation and number of employees for the veterinary clinic. He asked if the business is open outside of the normal hours, for example, for emergencies. Ms. Roland said that over the last four (4) years of owning Mitchell's, she may have had to go in to get medicine on a rare occasion, but she doesn't have a tech staff on weekends, so she doesn't see animals there outside of normal business hours. She can't say she's 100% sure, but she doesn't plan on it. Ms. Roland said they do not keep animals at the clinic over the weekends. They do not have hours for weekend staff.

- Mr. Roland mentioned that there may be an area in the future she'd like to do a site plan review for to enlarge the parking lot.
- She does plan on installing a sign. If she did a second sign she knows she would have to go before the ZBA. But doesn't plan on doing that at this time. She'd like the lighted sign like the previous owner had. Mr. Coppelman wanted to make sure she knew the process for having signs installed. She has spoken to the Code Enforcement Officer, Jess Nesbit and is aware of the requirements.

*Ms. Merrill asked if there were any public comments <6:50 PM>. There was none. Public comment opened and closed at 6:50 PM.*

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93 **Motion made by Mr. Coffin based on the hours of operation, number of employees**  
94 **in place and the sketch submitted, to approve the requested modifications to the**  
95 **existing site plan. An Affidavit to be prepared. Seconded by Mr. Bakie. A vote was**  
96 **taken, all were in favor, the motion passed.**

97  
98 Ms. Roland was advised by the Board to check with the building department to see if a  
99 permit was needed for a sign.

100  
101 *<Board note: This hearing ended at 6:51 PM.>*  
102

103 **William C. Jerome IV**

104 1 Lincoln Circle

105 **Map R35 Lot 45-23**  
106

107 *<Board note: This hearing began at 6:52 PM.>*  
108

109 Ms. Merrill read the Legal Notice that the application is for a Conditional Use Permit for  
110 an Accessory Dwelling Unit (ADU) in a detached structure.  
111

112 Information provided to the Board was a copy of the Town property card, Gove  
113 Environmental Services, Inc. Locus Map, Subdivision plan D-14253, approved septic  
114 design, Approval for Construction – septic system, dated 7/28/2022, exterior and interior  
115 sketch, Function and Value Assessment prepared by Gove Environmental Service, Inc.,  
116 and exterior photos.  
117

118 Mr. Jerome, Mrs. Jerome and her parents were in attendance. Mr. Jerome said that the  
119 ADU Ordinance shows that the ADU cannot be larger than 1/3 of the current living space.  
120 They intend to follow all the building codes associated with building an ADU.  
121

122 Mr. Greenwood read his comments in his memo to the Chairman and Members of the  
123 Kingston Planning Board, dated December 12, 2022.  
124

125 Mr. Jerome commented on the schematics and said that their intention is to make it look  
126 like a barn.  
127

128 Department Head comments. BOS-No comment; Code Enforcement/Building-No  
129 comment; Fire-Yes, received comments; Health- No comments received; Highway- No  
130 comments received; Police-No comment; Town Engineer-No comments received; Town  
131 Planner-Yes, received comments.  
132

133 Ms. Merrill read the Fire Department comments and a copy was provided to the Applicant:  
134 Comply with NFPA, Comply with Town of Kinston Rules and Regulations and Detection  
135 in garage area.  
136

Mr. Jerome explained to the Board that he is a member of the Kingston Fire Department and does plan on following all the requirements.

The Board took a vote to invoke jurisdiction.

**Motion made by Mr. Coffin to invoke jurisdiction. Seconded by Mr. Padfield. A vote was taken, all were in favor, the motion passed.**

Mr. Coffin asked Mr. Greenwood if it looked like the applicant complied with the Conditional Use Permit for the ADU. Mr. Greenwood said that the parking was a subjective thing, but from the sketch it looked like adequate parking was available on site. At every angle and every perspective of the Town's requirements the applicant seem to comply. They went the further step to make sure they weren't encroaching on wetlands and hired a wetlands consultant. The applicant started this process about a year ago and has been very interested in following the rules that the Town has in place.

Mr. Coppelman brought up the septic permits and asked about the septic requirements. Mr. Jerome said they were tasked with deciding from two (2) separate plans. A new plan or a tie-in plan. They had the leach field tested to make sure it would support the additional load. They currently have a three (3) bedroom house with a 1000 gallon tank. The leach field is set up for a five (5) bedrooms. They will be adding a new 1250 septic tank and tie-in to the current leach field.

*Ms. Merrill opened for public comment at 6:59 PM and public comment was closed at 6:59 PM. There were no public comments.*

**Motion made by Mr. Coffin to approve the Conditional Use Permit for the construction of the Accessory Dwelling Unit. Seconded by Mr. Bakie. A vote was taken, all were in favor, the motion passed.**

*<Board note: This hearing ended at 7:00 PM.>*

**Catherine Pollard**  
11 Mockingbird Lane  
**Map R23 Lot 32-05**

*<Board note: This hearing began at 7:01 PM.>*

Ms. Merrill read the Legal Notice that the application is for a Conditional Use Permit for an Accessory Dwelling Unit in a detached structure.

Catherine Pollard introduced her brother who will be the person overseeing the construction of the project.

Ms. Pollard described the existing structure. It is one big open space at the street level. It has a three (3) car garage under and the ADU would be at the street level.

Department Head comments. BOS-No comment; Code Enforcement/Building-No comment; Fire-Yes, received comments; Health- No comments received; Highway- No comments received; Police-No comment; Town Engineer-No comments received; Town Planner-Yes, received comments.

A copy of Fire Department comments was provided to the Applicant: Comply with NFPA, Comply with Town of Kinston Rules and Regulations and Detection in garage area.

Mr. Greenwood read his comments in his memo to the Chairman and Members of the Kingston Planning Board, dated December 12, 2022.

Mr. Coppelman referenced the large space that is unfinished, confirming that it was going to be unfinished space. Ms. Pollard did confirm that it was unfinished space.

Ms. Merrill asked if they will be putting in a new septic system. Ms. Pollard said that, yes they will be.

**Motion made by Mr. Coffin to invoke jurisdiction. Seconded by Mr. Coppelman. A vote was taken, all were in favor, the motion passed.**

**Motion made by Mr. Bashaw to approve the Conditional Use Permit for the Accessory Dwelling Unit as provided in the documentation with the understanding it cannot exceed the 662 square feet and that on the plans the unfinished space, 10'3" x 16' remains unfinished which is also deemed unfinished space. Also, the installation of the new septic system to be installed as part of the conditions of approval. Seconded by Mr. Coppelman. A vote was taken, all were in favor, the motion passed.**

Ms. Pollard was informed that the building permits are done downstairs at the Building Department.

There was no additional public present in the audience.

*<Board note: This hearing ended at 7:10 PM.>*

### **BOARD BUSINESS**

**Ordinances: Article A – 1000 –** The Board did receive comments back from Town Counsel, C. Christine (Fillmore) Johnston of DrummondWoodsum. The comments are substantial enough to move this new Article to another hearing. **This will be moved to the January 3, 2023 Public Hearing.**

### **Approval of the November 15, 2022 Minutes:**

**Motion made by Mr. Coppelman to accept the 11/15/2022 minutes as written. Seconded by Mr. Coffin. A vote was taken, all were in favor, the motion passed.**

229  
230 **Correspondence:**  
231

232 **Ash Cigar Lounge, LLC:** Email from Pamela Seeman of the NH liquor Commission and  
233 Letter from Mark C. Armaganian, Chief Division of Enforcement of the State of NH Liquor  
234 Commission, dated December 7, 2022, RE: Ash Cigar Lounge, LLC (business name  
235 change correction). Address noted, 92B Route 125.

- 236 ○ Ms. Merrill read the email regarding the name change correction. Initially  
237 they told the Planning Board it was California Burritos, LLC, however, it is  
238 Ash Cigar Lounge, LLC.
- 239 ○ Ms. Merrill stated it still has an address that isn't there.
- 240 ○ Board of Selectman is aware of this and are addressing the licensing.

241  
242 **Rockingham County Conservation District 2021 Annual Report:**

- 243 ○ This was provided to the Board for their information.

244  
245 **BOARD BUSINESS CONT.:**  
246

247 **NH Housing Appeals Board Hearing on Hawks Ridge held in Concord on December**  
248 **13, 2022:**  
249

250 Mr. Coppelman attended as an audience member for his own interest, and if there was  
251 any input that was needed. Mr. Greenwood, Town Planner; Attorney Grandy (Huddy);  
252 and Jess Nesbit, Code Enforcement Officer/Building Inspector also attended. Mr.  
253 Greenwood explained it is a three (3) person board. He said he has never been there and  
254 the board has been in place for over a year. He said they have made a number of  
255 decisions and he read through about eight (8) to ten (10) of them. His perspective differs  
256 from their perspective. It was a formal, but relaxed setting. The board commented they  
257 have never seen such a large a crowd as from the condo development. The chairman  
258 was very clear that this was the largest attended meeting they have had to date. From  
259 the residents' perspective, because the entire hearing is predicated on certified record  
260 that's been provided, at some point, Mr. Dufrense's attorney did ask to add additional  
261 information. Our counsel said, we predicated this all on being a certified record, so she  
262 wasn't really in favor of doing that. The board adhered to that opinion and did not take  
263 any additional information prepared by Mr. Dufrense's attorney. The board listened to  
264 both sides. They have up to six (6) weeks to render an opinion. Mr. Greenwood said they  
265 were pretty astute in not showing their hand. The two (2) filings (he mentioned, not the  
266 certified record) that were done by the two attorney's, the Town's was really fact driven,  
267 and went all the way back to 2013 and brought it through the Superior Court Hearing,  
268 and the decision made that favored the Town, and all the actions that have taken place  
269 up there. In the end, they will come up with a decision. The board did seem to dwell on  
270 the fact that the ZBA granted a location for Mr. Dufrense to build unit 20. So, all Mr.  
271 Dufrense's pleadings that this is the actions of the Planning Board has harmed him and  
272 that he is only able to construct 33 out of 34 buildings, the board did to go back a couple  
273 of times to ask about the ZBA offering him a different location to build the 34<sup>th</sup> unit. The  
274 board asked why did they abandoned that, and even though Mr. Dufrense was there, his

attorney wasn't involved, and said he didn't know. They asked a very direct question, that was part of the certified record.

Ms. Merrill asked about what they thought about the deeds on where Mr. Dufrense wanted to put it, and on the deeds that showed that part of the land was not going to be developed. Mr. Greenwood said that counsel for Mr. Dufrense very early on said that they understand and acknowledge it. They did not supply this information in their certified record, this information was supplied by the Town. Mr. Dufrense's attorney didn't say it, but implied that this situation would be a civil argument and not within the bounds of an appeals court. Our counsel did go back and brought up the 2013 plan and that there are a whole set of facts that would need to be aware of surrounding the whole endeavor, and is more than rearranging a couple of driveways.

#### **Ginger Way** (off Rockrimmon Rd):

Mr. Bashaw said that at the Select Board's meeting last night, it came up that the Select Board never approved Ginger Way. He said the Planning Board had a hearing back on November 19, 2019. He asked if we could look this up and report what was decided to Mr. Wilson, Chairman of the BOS. Mr. Bashaw said that the history of it was the people that owned the property had gone to Chief Briggs and asked if it could be designated as a road to come up with an address because they had concern in the case of an emergency that no one would be able to find them. This may have been inadvertently approved and created for the 911 system. The Select Board hasn't taken the formal portion of where they would have to adopt it as a private road. **[AI.1-12.13.2022, Ms. Carter or Mr. Greenwood to check November 19, 2019 minutes to see what was discussed on this and put on the next agenda.]**

#### **ADJOURNMENT**

**Motion** made by Mr. Coppelman to **adjourn the meeting**. **Seconded by**, Ms. Merrill to **adjourn the meeting at 7:27 PM**. **A vote was taken, all were in favor, the motion passed.**

**\*\*Next Public Hearing/Meeting is scheduled for Tuesday, January 3, 2023. Subject to change.\*\***