

1 **KINGSTON PLANNING BOARD**

2 **FEBRUARY 7, 2023**

3 **PUBLIC MEETING**

4 **MINUTES**

5 Mr. Coppelman called the meeting to order at **6:30 PM**; there were no challenges to the  
6 legality of the meeting.

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8 **MEMBERS PRESENT:**

9 Glenn Coppelman, Acting Chair Peter Coffin  
10 Chris Bashaw, BOS Representative  
11 Peter Bakie

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13 **ALSO PRESENT:**

14 Glenn Greenwood, Town Planner  
15 Robin Carter, Land Use Admin.

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17 **ABSENT:**

18 Lynne Merrill, Chair  
19 Robin Duguay  
20 Steve Padfield

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22 Mr. Coppelman declared a quorum present and introduced the Planning Board ("PB" or  
23 "Board").  
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26 **Board Business**

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28 **Correspondence:**

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- 30 • **RE: 266 RTE 125 – R41-17-1:** Mr. Coppelman read the letter from Morgan A.  
31 Hollis P.A. of Gottesman & Hollis, dated January 6, 2023, addressed to Glenn  
32 Greenwood, Town Planner. Mr. Coppelman mentioned that Attorney Hollis was in  
33 the audience and is not on the agenda to speak, but if the Board has questions,  
34 he is available.
    - 35 ○ Mr. Coppelman explained that additional information was provided including  
36 an update on all the various conditions of approval (33 noted).
    - 37 ○ Mr. Coppelman asked Mr. Greenwood to give his thoughts and guidance  
38 on this. Mr. Greenwood said that so much work has gone into this project  
39 to see it go by the wayside because of final discussion about the  
40 Department of Transportation (DOT) seems wrong and the Town should be  
41 able to grant an additional approval to a date. He is concerned about  
42 changing the wording on the original Conditional Approval without having  
43 some sort of public process done. If the DOT issues a driveway permit and

in no way changes the site layout that the Board approve the extension without changing the conditions of approval. Mr. Greenwood said that conditions on all the other permits get approved with 60-90 days, but they are asking that conditional approval go beyond that to ensure that it all happens. Mr. Greenwood explained that he thought that the Board could grant the time extension similar to last year and that a waiver would be required.

- Mr. Coffin referred to an email from Attorney Hollis, dated January 24, 2023, asking for some clarification. Mr. Coppelman explained that he believes that Attorney Hollis meant what Mr. Greenwood described. The Board could choose to deal with the time extension tonight at the public meeting, and if the applicant then wanted to modify conditions of approval, he could choose to do that at a noticed public hearing. The Board asked Attorney Hollis if he would further explain the requests.
- Morgan Hollis, Attorney at Gottesman & Hollis, 39 East Pearl Street, Nashua introduced himself. He said he is there to represent the owner of the property. He explained that he meant that the extension be taken up tonight at a public meeting and that to be fair to the public, Board and applicant that the other two (2) requests, the issues with the change in conditions be taken up at a posted public hearing.
- Mr. Greenwood referred to the Site Plan Review Regulations, Article 904.17 – Procedure for Plan Review, B.2. – Conditional Approval, “a request to extend the time limit for a specified period of time not to exceed 45 (forty-five) days. The applicant may apply for one 45 (forty-five) day extension.” Mr. Greenwood explained that the Board has allowed much longer than that on numerous occasions. He asked the Board that in this instance that the Board waive 904.17, B.2. to allow that it be extended beyond 45 (forty-five) days.
- Per the 02/01/2022 PB minutes the current extension is through 02/28/2023.

**Motion made by Mr. Coffin to waive the conditions of Article 904.17, B.2. to allow the Board to vote on a timeframe greater than the 45 (forty-five) day limitation in the regulation. Seconded, by Mr. Bashaw. A vote was taken, all were in favor, the motion passed.**

**Motion made by Mr. Bashaw to grant the twelve (12) month extension (to 02/28/2024) as asked by Attorney Hollis on behalf of the project at 266 Route 125 to allow for the twelve (12) month extension for the conditions of approval as currently written. Seconded, by Mr. Coffin. A vote was taken, opposed by Mr. Coppelman, the motion passed (3-1-0).**

**Board discussion.** Mr. Coffin mentioned that the conditions were beyond the applicant’s control. Mr. Bashaw said that the applicant has continually been working with the DOT and this hasn’t been a lack of effort or interaction on their part. Mr. Coppelman remarked

that in a project this size that there is no question that with the complexities involved and the delays that occur, it takes longer.

Mr. Coppelman explained to Attorney Hollis that he opposed this because he was “no” vote on the original application and felt for consistency it wasn’t appropriate to vote “no” originally and say now you can have the twelve (12) month extension.

Mr. Coppelman asked Attorney Hollis if he had any more questions. Attorney Hollis will coordinate with Mr. Greenwood when the next meeting for this project should take place.

- **RE: 160 Main St. – U10-9:** Mr. Coppelman read the letter from Tom Rezza, dated February 4, 2023, regarding Occupancy and Sign Permit/Approval of Unit D at 160 Main St., formerly Kingdom Awakening.

Mr. Coppelman explained that this is not a public hearing tonight. If the Board has questions, they will ask the audience, otherwise the Board doesn’t take testimony on a non-public hearing night.

Mr. Coppelman described the plaza as a retail plaza and that it has a site plan for the whole property. Along with the site plan approval comes a list of possible typical types of uses. What the Board needs to determine is whether or not this needs further review, or does it fall under the catch all category of a typical retail business that would occupy one of those units.

Mr. Coffin said given the variety of uses there this seems like a reasonable category. Mr. Bakie mentioned he is also in favor of what they are applying for. Other business there was Cahill Electronics (retail) and there were video games in the pizza shop, so there is a history of those types of things happening in that plaza.

Mr. Coppelman had a question about parking. He asked the business owner (potential occupant), Tom Rezza, when he felt peak time would be. Mr. Coppelman said that there are plenty of spaces there, but when the parking lot is full, and the overflow end up parking along Main Street. He raised it as an issue, but explained he is not opposed to the business. Mr. Coppelman wants to make sure the infrastructure and property can handle it. Mr. Bakie brought up that the business that was there previously (Kingdom Awakening) used a lot of parking, there were more than 20 or 30 people there at a time and this would be lessor of a parking load than what was previously there. Mr. Bashaw mentioned that if there was going to be an issue with the parking, it should be addressed to the property owner. Mr. Coppelman said that if the Board decides to move forward with this and there are parking issues, it would be something the Town would have to address with the property owner. Mr. Bashaw said that other businesses on the Plains have people park on Plains if needed and he has no issues with this. Mr. Coffin said that parking is legal unless otherwise noted.

Mr. Coppelman said the Board should vote to either approve as requested by the business owner with no need for further review or if the Board thinks something else should be added then this should be part of the motion.

**Motion made by Mr. Bashaw to approve the request as written in the letter by the business owner with no further review. Seconded, by Mr. Coffin. A vote was taken, all were in favor, the motion passed.**

**Board discussion:** Mr. Bakie mentioned to the business owner to make sure he knows to do some research on what can be done for lighting and signs. He recommended that the business owner contact the building department to understand what can be done. Mr. Coppelman said that not only is there a sign ordinance in Town, but that property is in the historic district which has additional sign and lighting requirements. He said if the business owner has any questions about it, this information is online on the Town website or talk with the Code Enforcement Officer/Building Inspector, Jess Nesbit. Mr. Coppelman reiterated what Mr. Bakie explained that there are limitations for the types of lighting and signage, including what can go in the windows and wanted Mr. Rezza to be aware and be careful about these things. Mr. Coffin said that the sign permit has to go through the Historic District Commission (HDC) and Code Enforcement/Building Inspector. Mr. Bashaw explained because of the limits on the HDC and if you are dealing with video games and comic book type posters you won't be able to put those up in the windows facing outwards. Mr. Coppelman pointed out that the signs on the plaza all have a standard format, look, and feel and the new sign would have to follow the consistency of the signage there.

Mr. Coppelman brought up that Mr. Rezza already knows (per his letter to the Board) he needs a business occupancy permit (technical term, Certificate of Occupancy) which is also done through the Building Inspector's office. Which means whenever a tenant changes in a business occupied space the Town is aware of it and can be inspected to make sure everything meets code for electrical, plumbing, and other applicable inspections.

Mr. Coppelman asked Mr. Rezza if he had any questions for the Board. Mr. Rezza did not.

- **RE: Kings Landing Annual Age Census – R33-27.** Mr. Coppelman read the letter, dated January 3, 2023, from Shelly Sullivan, Secretary of Kings Landing Condominium Association, 7A Monarch Way. The letter was provided to the Planning Board to comply with the requirements of Article 208.05 "Market Rate Elderly Housing".

Mr. Coffin asked if we received this from other age restricted communities. Mr. Coppelman said that he believes this is the only one that reports regularly. Mr. Coppelman mentioned that we don't have many of these developments in Town but it may be something that could be looked into now that we have a full-time

178 Code Enforcement Officer. This is a condition in the Town regulations. The Board  
179 touched on the other age restricted developments, Lamplighter, Rowell Estates,  
180 and Fieldstone.  
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182 **Approval of the January 3, 2023 Minutes:**

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184 Amend the minutes as follows:

- 185 • Pg. 14, line 603 - change the word “attaching” to “attacking”.
  - 186 • Pg. 18, line 790 – change the word “His” to “Mr. Coppelman”.
- 187

188 **Motion made by Mr. Coffin to accept the 01/03/2023 minutes as amended. Seconded**  
189 **by, Mr. Bashaw. A vote was taken, all were in favor, the motion passed.**

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191 **Ginger Way (off Rockrimmon Rd.):**

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193 Mr. Coffin explained that it was clear in the minutes, dated November 19, 2019, the name  
194 Ginger Way was put in the 911 system for safety, but the issue is it was never adopted  
195 by the Town as a road. He referred to the 11/19/2019 minutes for other details. Mr.  
196 Bashaw stated the issue is that the Town has not formally adopted it as a private road.  
197 Mr. Bashaw said that the Select Board wanted to know how it came to be and the history  
198 of it and how it became to be Ginger Road. If it was going to be named as Ginger Way in  
199 the Registry of Deeds the Town needs to formally approve it. Mr. Greenwood said that as  
200 it was explained to the Board from the engineer during the process, it was called Ginger  
201 Way by the police chief at the time for purposes of 911 identification. Mr. Bashaw said his  
202 understanding at that time is a police or fire chief could call e911 and implement  
203 something without anything from the Town. Mr. Bakie commented as they can do that  
204 now. Mr. Bashaw remarked that with the Planning Board meeting minutes (11/19/2019),  
205 the BOS will have what they need and want to make it clear that nobody is anticipating  
206 this being a Town maintained or adopted road. The BOS, for consistency of what is  
207 already in place for the e911 system can have it on record as a being approved as a  
208 private road, if that’s what the meeting minutes said. Mr. Greenwood explained that the  
209 Board wanted it clear that they were not endorsing a road named Ginger Way as a public  
210 road. Mr. Bakie brought up that that whole property is part of the old Nichols chicken farm  
211 and is one property, it is not a separate property. So why is it identified separately and  
212 would it be similar to an ADU. Mr. Coppelman explained that an ADU would have a  
213 different address, one would be A. Mr. Bakie said you wouldn’t put a whole new road in  
214 though. Mr. Bashaw mentioned that it looks like there were recommendations that it  
215 probably should have been called 14 Rockrimmon Rd., A, B and C, but what happened  
216 is because it already got approval and was already in the e911 system for a few years  
217 now it would confuse things and may be a life safety issue if went back to the old number  
218 system. Mr. Bashaw explained that the BOS is ok with approving it as private road with  
219 that labeling to be consistent with the e911 but recognize that going in that order created  
220 issues for the Town. Mr. Coffin said that another issue may be is that the Town has a  
221 distance number system and that beyond Ginger Way was 2 Colcord Road which already  
222 existed, therefore, #2 wasn’t available and that would have been the simplest solution.

223  
224 Mr. Bashaw asked Ms. Carter to notify Susan Ayers, BOS Admin., to add this to the BOS  
225 meeting agenda and he will discuss it with them. **[AI.1-02.07.2023 – Ms. Carter to**

forward the information on Ginger Way that was discussed at tonight's meeting to Ms. Ayers.]

**Draft House (22 Main St.):**

Mr. Bashaw shared with the Board that the Draft House has submitted special event use permits for the upcoming summer and fall season. He explained that the special event permits come under the purview of the Select Board, but they received ten (10) of them. There are ten (10) different dates for the same activity. Mr. Bashaw said BOS did not defer this but suggested that they get some input from the Planning Board and does the Board want to give some guidance when something that becomes a new continued activity on a regular basis; and when would the Board think they would request a business owner to reapply for an amended site plan. Mr. Coppelman said that it really is a discretionary thing, personally if he is looking at a reoccurring activity wanting ten (10) dates over a two (2) month period, he feels is beyond a special permit, but somebody else might not think that. Mr. Bashaw said the BOS could take up each one of these special permit requests, but because of the issues we've had in Town with live music, and stated he's a huge supporter of live music in Town and it is great for the businesses when done appropriately, but he may recommend to the BOS that the first month is approved and see how it's going before all of them are agreed to for the entire season. Mr. Bashaw asked what circumstances could trigger that the BOS should push them back to the Planning Board for an amended site plan review. Mr. Bashaw commented that this is more special event permits that the BOS are used to seeing at one time. Mr. Greenwood asked for more detail about the events. Mr. Bashaw said they are ten (10) outdoor acoustical music sets. Mr. Coffin brought up that because they are going to be held outdoors the time of the events could cause an issue. Mr. Bashaw said they are earlier times (5:30 PM- 7:30 PM), and the permit references that they would be single performer acoustic music; doesn't say whether it's amplified acoustic or what type of acoustic. Mr. Greenwood commented that you probably can expect it is some type of amplified in some manner but that it is a single acoustic performer vs having four (4) different instruments playing. Mr. Bashaw said that applying consistency and fairness of the application of the rules is important. If other restaurants are going to apply for similar events in similar circumstances that they be treated the same. Mr. Bashaw recognized the difference between a four (4) person band to a single person acoustical set. Mr. Coppelman said it is more than how many people are playing, it's a question of what constitutes a number of events for a special event permit. He felt the Board was getting beyond that when talking about the number of performers. Mr. Bashaw said that if a special event permit was for different things, it would be different than a pattern of ten (10) consistent events throughout the year, there may come a time when the BOS directs them back to the PB to look at a possible amended site plan. Mr. Bashaw thought he doesn't think it's anything the Board needs to vote on but may be something the Board wants to consider and discuss further and take an opportunity to look at the rules and regulations for special event permits for the Town and offer any input, he believes the Select Board would welcome any input that they should consider when addressing these in the future.

Mr. Coffin said he believes that the BOS limited the number of events in the past. Mr. Bashaw said he wasn't sure, but believes they were handled on a case-by-case basis and there may have been issues on the time and the level of acoustic volume used. He believes they may have been limited to address the needs and concerns of all the abutters. Mr. Bashaw said that as far as he knows there is no limit on the number of special event permits. Mr. Bakie brought up that it is a way to circumvent the rules and the permits were a photocopy ten (10) times for the same event, he doesn't see a special event. Mr. Bashaw said that when there is poor wording or lack of wording in the rules and regulations and ordinances it promotes loopholes. Mr. Coffin suggested that this be on a BOS meeting notice that the Select Board will be discussing special event permits and see if there's any input. Mr. Bashaw said he will bring this back to the BOS and will inform the Select Board that there were some concerns discussed on this. This is something the BOS could look and adopt/amend a new rule and regulation if appropriate.

#### **Patriot Park, Northeast Atlantic Properties, 63 RTE 125, R9-89:**

Mr. Greenwood mentioned to the Board that the owner came in to talk to him about starting the second building (Phase 2). He thought in looking at the plan that it was a one (1) story building and was approved for 8,500 sq. ft. as shown on the plan. He couldn't find anything in the minutes that contradicted that statement. However, in looking at more detail on the plan set there is a lot of evidence that contradicts that statement. The elevation information that was provided in the plan set was not very good. They provided an architectural rendering that isn't the actual site and shows an elevation that could be two (2) floors but could also be a big dormer and then provided a picture of one that is really fake dormers. When Mr. Greenwood looked at the parking calculation that is on the plan, the Board made the applicant provide parking as if it was 17,000 sq. ft. for retail office potential, not 8,500 sq. ft. The septic design for the smaller building (noted on the plan as 8,500 sq. ft.) is nearly two (2) times as large as for the larger building which is twice as big. He said everything points to the Board actually approved the building for two (2) stories and said he is comfortable with this, but wanted the Board to know that he was going to talk with the property owner's counsel and tell him that it was approved for two (2) floors.

Mr. Bashaw said any history he knew about this is it was two (2) floors of 8,500 sq. ft. each floor. Mr. Greenwood responded saying that is what it looks like. He asked the Board if they had anything to offer to indicate it is something differently, if they didn't, he was going to inform Mr. Nesbit that it is supposed to be two (2) floors. He said that many times you often put on the plan according to zoning ordinance what the maximum height, but the height shows forty-five (45) feet and that would be two (2) floors. Mr. Greenwood explained that in this commercial zone it is forty-five (45) feet, and the engineer would have written what the maximum was and it does support two (2) floors and if they were only going to do one (1) floor he doesn't believe they would have put the maximum height on the plan at all because it would have never approached that. Mr. Coffin asked if the plan set showed that vertical measurement. Mr. Greenwood said that the elevation on the



rendering does not show any measurements. Mr. Coppelman looked at the initial minutes relating to this project, and they do not reflect that detail (fall of 2006). The minutes didn't show anything about square footage; however, it did talk about two (2) buildings, and it did talk about the second building being larger than the first building, but it didn't mention anything about it being two (2) stories. Mr. Greenwood explained again that it appears that the supporting information shows that it is two (2) stories. He shared these findings with Mr. Nesbit and the property owner but has not confirmed this with the owner's attorney yet because he wanted to speak with the Board first.

#### **Warrant Articles on the Ballot:**

Mr. Coffin mentioned he went to the deliberative session and there may be a couple articles according to the copy available at that session that need to be corrected, or old language from a previous ballot that needed to be removed. The Board referred to the most recent State of New Hampshire Town of Kingston Warrant Articles 2023 document to see if the changes were reflected in it.

- Article 6: Amendment #5, 201.2.K. The previous language has already been removed.
- Article 11: Amendment #10, Citizen Petition on Section 300, Article 301, - wanted to check to see if "THE KINGSTON PLANNING BOARD DISAPPROVES OF THIS PETITION" was at the **end of the section**. This change was already done.

#### **ADJOURNMENT**

Mr. Coppelman adjourned the meeting at **7:35 PM**.

**\*\*Next Public Hearing is scheduled for Tuesday, February 21, 2023. Subject to change.\*\***

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Minutes accepted as amended on March 7, 2023:

- Pg. 3, line 121 – add the word "not" before the word opposed.
- Pg. , line 220 – change the word "has" to "doesn't have" a ....