

**Kingston Planning Board  
Public Hearing  
August 21, 2012**

The Chairman called the hearing to order at 6:48 PM. There were no challenges to the legality of the meeting.

Members in attendance:

|                           |                 |
|---------------------------|-----------------|
| Richard Wilson, Chairman  | Adam Pope       |
| Glenn Coppelman, V. Chair | Ernie Landry    |
| Mark Heitz, BOS rep.      | Stanley Shalett |
| Peter Coffin              |                 |

Absent: Richard St. Hilaire, Alternate

Also Present: Glenn Greenwood, Circuit Rider/Planner, Ellen Faulconer, Administrative Assistant

**Wicked CAS  
45 Rte. 125, Units 1, 2, 3  
Tax Map R4 Lot 3**

The minutes of the site walk were distributed. Mr. Coppelman reviewed the site walk including the expansion of the activity and the series of unfortunate events that occurred making the decibel meter unavailable so the sound check could not be done. He stated that the Board toured the units with Unit 1 being the original site of the activity that had expanded into Unit 2; Unit 3 had the dynamometer installed in it. The Board listened to the sound produced when a car was tested on the dynamometer and listened to the sound produced at three different locations. He continued that there was no activity behind the units during the site walk; there was a discussion on car washing activity behind the building. He noted that the property owner, Mr. Lancaster, was on site during the site walk and gave permission for the site walk to continue. Mr. Wilson said that when he, Mr. Heitz and Mr. Greenwood did readings on the property, there was only one point when the noise was above the limit but no more than when he was speaking. Mr. Coppelman said that it was clear that when in the back with the car running and the doors open that the sound is loud but when in front of the building, the noise was similar to that coming from Route 125. Mr. Wilson spoke about adding sound baffles; Mr. Coppelman said that there had been discussion with Mr. Demers during the site walk about the possibility of adding some fencing or other techniques for sound attenuation. Mr. Wilson added that Mr. Demers had told him that he would be willing to put up some sound baffle equipment behind the car. Mr. Coppelman suggested that, since the sound check was unable to be done during the public site walk, the Board would have to discuss and make a decision. Mr. Wilson stated that the sound being made would depend on the type of car being tested adding that Mr. Demers would have to say within the specifications of the noise ordinance; if an open exhaust car was on the machine, the sound would travel. Mr. Pope noted that, depending on the vehicle, the noise could be within the ordinance guidelines or could be above it; the applicant knew what the limits were and exceeding them would be enforcement issue. Mr. Shalett suggested that there should be another site walk with the baffles in place for another sound test. Mr. Pope stated that the applicant had

said they would be willing to put up the sound baffle if they could be put at the edge of the property. Mr. Wilson re-iterated that the best way was to use the rolling baffle. Mr. Coffin agreed that this issue is more an enforcement issue and that the noise levels at the property lines needs to be better addressed in the ordinance; he added, however, that excessive noise at unreasonable hours was an issue to be addressed that should be stipulated by the Board for this site plan. Mr. Demers stated that, while originally applying with stated hours of 9 AM to 6 PM, he would like to submit a change to 9 PM; he planned on operating until 6:00 but wanted the right to be there until 9:00. Mr. Coffin discussed reasonable hours of operation. Mr. Demers said that they would instead ask for 9 AM to 7 PM; Mr. Wilson confirmed that the actual hours were 9 AM to 6 PM with an additional carry over of an hour in case there was a run-over. Mr. Demers agreed to those hours.

The site walk for the sound test was discussed. Mr. Coppelman said that his concern for having the site walk was that it was a legally noticed meeting and the Board should follow the process. Mr. Wilson agreed that the Board didn't want to do something that could be challenged at a later date. Mr. Coffin noted that Mr. Osborne, residential abutter to the property, agreed to let the Board use his property to do a test. Mr. Wilson said that once the baffles were built and put up, the Board could use Mr. Osborne's property to have the sound check done. Mr. Demers said that, at this point, he was not sure that the baffles were needed. Ms. Faulconer agreed with Mr. Wilson's suggestion to use the baffles; she felt that this was a good compromise between the Board and the applicant. She explained that in order for the applicant to avoid the costs for a ventilation system, the doors needed to be open during the testing to allow the carbon monoxide to exit the building; the compromise would be to allow the garage doors to be open for ventilation but require the baffles to help attenuate the noise due to the open doors.

Mr. Wilson opened the discussion to the public. Mr. Charles Osborne of 19 Pillsbury Pasture explained that he had attended the site walk and felt it was a free-running question and answer period; he stated that he thinks the sound test is the prudent thing for the Board to do. He said that the owners have a dilemma with addressing the carbon monoxide problem; he had asked them why the doors couldn't be closed to help address the noise and was told about that issue and the costs involved in minimizing the carbon monoxide issue. He noted that the car that was tested was a Toyota V-4 modified car, stating that he was not sure that established a proper baseline suggesting that a V-8 modified engine might be better to set the reading. Mr. Wilson explained that it would not matter what type of car was tested on the dynamometer because if the noise ordinance was being violated, it would be an enforcement issue. Mr. Osborne re-iterated his belief that if the sound test is done again, it should be done with a vehicle with a V-8 engine. Mr. Heitz stated that a V-4 is probably representative of the type of car usually tested. Mr. Heitz asked if Mr. Osborne can hear the testing on the dynamometer. Mr. Osborne said he can hear it in his backyard and agreed it was heard on the low end. Mr. Heitz asked if the noise was louder than that heard from Rte. 125; Mr. Osborne said it was more piercing, not necessarily louder. Mr. Coppelman said the noise was a different frequency. Mr. Wilson agreed it was distinctive. Mr. Osborne asked what the standard for sound measurements was and acoustics in general were; Mr. Wilson said that the Board had recently recognized that there was a problem with the Sound Ordinance. Mr. Osborne stated that it appeared that Mr. Demers is trying to find a practical solution to solve the noise problem. He continued that he recently got out of an industry that talked about Best Available Technology; he discussed a baffle system or acoustical

hood to generate the idea of the B.A.T. to solve the diffusion of sound; he re-iterated his position that a V-8 modified race car be used to set the sound decibel standards; also re-iterating that he would be looking for the sound test to be completed. Mr. Demers explained that the pitch of a modified V-4 is higher than the V-8.

Deb Millette, about to move into 49 Route 125 but not a resident yet, asked about hours of operation; Mr. Wilson stated that it would be 7 days a week with the hours dependent on the Board's approval; he explained that this use is allowed in the commercial zone. She stated that she wanted to know what she was up against before moving in to this location. Mr. Wilson discussed noise violations being an enforcement issue or a police issue. Ms. Faulconer said the Board needed to make a determination so the Police would know what to enforce.

Mr. Demers explained that 90% of the vehicles tested were road-worthy cars, only 10% would be a special car. Mr. Demers stated that they would be willing to build the baffle and willing to do the sound test as long as the Board did the test on Mr. Osborne's property.

Mr. Coffin asked to review the run-off issue on the site. Mr. Pope said if washing cars, the Board could review to determine if setting up a berm would be reasonable. Ms. Faulconer stated that she reviewed Stormwater Management; it prohibited washing of non-residential vehicles unless there was management plan with proper containment. Mr. Mastroianni's previous Lot Line Adjustment plan was reviewed by Board members to review the relationship of the wetlands to this site.

**Mr. Wilson stated that the best plan at this time is to have NO car washing on the site; if they want do car washing on the site they would need to return with the appropriate plan showing the Stormwater Management containment plan. Mr. Demers agreed to do no car washing until he did the appropriate plan and submit to the Board for review.**

The Board discussed a conditional approval; Mr. Pope started reviewing the details of a conditional approval. The requirement for baffles was discussed. Mr. Heitz discussed the elements of reasonableness between neighbors. Ms. Faulconer stated that she felt requiring baffles was reasonable as a compromise with the carbon monoxide issues for the applicant's operation. Mr. Demers stated that they will build the baffles and they will decide whether to use them or not. Mr. Coppelman said that if the applicant was building the baffles, why not require that they be used. Mr. Heitz suggested that the applicant try to be a good neighbor adding that if they were going to build the baffle, they should use the baffle rather than be disruptive to his neighbors and their business. Mr. Coppelman returned to the sound test issue asking what is legal for the Board to do and what is the Planning Board willing to accept for site plan approval. Mr. Pope stated that the applicant is meeting the sound ordinance and are not asking for anything else. Mr. Coppelman noted that this particular use was a very site specific type of thing and he thinks that using the baffle is the right thing to do. Mr. Shalett said that the Planning Board has to satisfy themselves that the sound is within the limits adding that there should be another site walk with the baffles in place. Mr. Coffin stated that the Board needed to keep to its statement that there would be a public site walk that included the sound test.

**MM&S to grant a conditional approval for the expansion of Wicked CAS into Units 1, 2, and 3 with the stipulation that the approved activities are per the letter given with this application; the hours of operation will be 9 AM to 6 PM, not to go past 7:00 PM with the condition that the metering of the sound levels are done within 180 days at a publicly noticed site walk and the levels are within the limits for the applicable zones with the baffles in place if required.** (Motion by Mr. Pope, second by Mr. Coffin) Motion passed 6-1 with Mr. Coppelman opposed. Mr. Coppelman explained that he is not in opposition to the business or the activity but is opposed to the wording in the motion. Mr. Coffin stated that he is strongly recommending that the applicant use the sound baffles.

Mr. Wilson told Mr. Demers that they would still need a Building Permit and a Business Occupancy Permit; he said that the Fire Department would require they meet guidelines for storage of fuel. The process of applying for the permits was reviewed.

**ACTION ITEM: Ms. Faulconer will contact Mr. Demers and Mr. Osborne to set up a decibel level check for Wicked CAS within 180 days of August 21<sup>st</sup>.**

**Shane McKeen  
89 Route 125  
Tax Map R10 Lot 7**

Mr. McKeen handed out a revised list for additional uses he would like approved. Mr. Wilson read comments from the Health, Building and Fire Inspectors. Mr. Greenwood said it was possible to record the Board's decision as an affidavit noting that this was not done often by the Board; the Board usually asked for a revised plan. The list and process of approval was extensively reviewed by the Board; the process for the review of an amended plan was explained. Mr. Greenwood explained that while there may be uses permitted in a zone, they would still require review and approval by the Planning Board prior to the activity occurring. The Board continued to discuss the process for a change or expansion of use on a previously approved site; items that might need to be reviewed for these changes include traffic, parking, associated facilities locations in relationship to the original approval. Changing the labeling of the units on the plan was proposed.

**After much review, the Board determined that it was not prudent to approve the list of uses submitted by Mr. McKeen as part of the current application; Mr. McKeen withdrew his request for the Board to approve the list he submitted this evening.**

**MM&S to accept the plan as originally submitted for jurisdiction.** (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Mr. Wilson read Mr. Greenwood's comments; the hours of operation need to be changed on the notes in the site plan. Mr. McKeen said that he would have the plan re-drawn to show the separation of the Units; the plan will add in the number of employees for the site, the square footage of the building and the square footage per unit; the hours of operation for the site. Mr. Shalett asked about the auto repair shop shown on the current plan; how it would operate. Mr.

Heitz stated that it is not there any more; Mr. McKeen clarified that the notes will show only the Antique Shop, Electrical Contractors unit and the Ice Cream Shop.

Ms. Faulconer asked to review the traffic pattern for the site. Mr. Coppelman stated that since the engineer was re-drawing the plan, the units should be listed by numbers with the uses listed in the notes section adding that future changes would be addressed by writing a letter to the Board to determine whether further review is required. It was explained that the Business Occupancy Permit would catch any code-related issues. The Board reviewed the traffic issues on the site; placement of the picnic areas in relation to the building was reviewed; an enter-only, exit-only pattern that created a one way loop around the building was proposed. Mr. McKeen is checking with his insurance company about adding bollards. Mr. Shalett suggested the Board could grant a conditional approval.

**MM&S to grant a conditional approval of the proposed Ice Cream Shop pending receipt of an updated plan (mylar) that will include the following items added to the plan: hours of operation (7 AM to 11 PM); uses (Ice Cream Shop, Antique Store, Electrical Contractors shop) added in the notes; maximum number of employees for the site; square footage of each unit; numbering of the individual units; traffic arrows added to the plan (in from the South, out from the North), creating a one-way traffic pattern; the conditions to be met within 90 days. (Motion by Mr. Shalett, second by Mr. Pope) PUNA**

### **Telecommunications Ordinance**

The proposed language was distributed; one line has been added regarding emergency services co-location.

**MM&S to bring the wording as presented forward to the 2013 warrant. (Motion by Mr. Coppelman, second by Mr. Pope) PUNA**

### **Correspondence:**

- Letter from the Library Trustees regarding signs.
- Letter from BOS to Library in response to letter from Library Trustees. Mr. Heitz confirmed that they had not received any information regarding the Trustees decision yet. Mr. Wilson asked if the Planning Board needed to have a hearing; it was determined that the hearing by the BOS was sufficient.
- Report received from Diamond Oaks on the public water supply; Danna Truslow will review for the Board; a public hearing will be held in September.
- Mr. Dufresne has asked to meet with the Board and asked that the Board authorize Mr. Quintal to review the conditional approval for any outstanding issues he may have.

**ACTION ITEM: Ms. Faulconer to contact Mr. Quintal; add Diamond Oaks to an upcoming meeting per Mr. Quintal's availability to review the plan. Ms. Faulconer to review their engineering bond; ask for an increase if necessary.**

- Request from ZBA Chair regarding procedures for special exceptions and In-law apts.

**ACTION ITEM: Ms. Faulconer to create form to disseminate appropriate information (special exceptions, etc) to the ZBA.**

**ACTION ITEM: Per Mr. Heitz, Ms. Faulconer to speak with BOS staff about creating form, that can be recorded, regarding In-law apartments and current requirements.**

- Mr. Magnusson is requesting his bond to be returned since the gravel pits are now closed.

**ACTION ITEM: Confirm restoration of Magnusson sites and then release bond.**

- DMV request from Ray's Auto Sales – approved by the Board, signed by Chair.
- DMV request from A-Team Auto (Doug Canney) at Clark Oil Site – approved by the Board, signed by the Chair.
- Budget request due to BOS by Aug. 31 – added to next week's agenda.
- Bond Balance List reviewed.

**ACTION ITEM: Ms. Faulconer to contact Wicked CAS to increase their bond to cover the actual expenses in reviewing their application.**

- Lot merger forms, R27 – 7, 8, etc. (9 pages) reviewed and approved by the Board.
- Lot merger forms (7 pages) – reviewed and approved by the Board.
- Ducks on the Pond bond is about to end; Mr. Greenwood had contacted them and they agreed to post a cash bond; those funds have not been received.

**ACTION ITEM: Mr. Greenwood to contact Ducks on the Pond again about posting a bond.**

- Letter from NHDES re: Wellhead Protection; add to next week's agenda for discussion.
- Notification of new Quadrangle Map
- Email received from Mr. Coppelman re: Brox news article.

**ACTION ITEM: Ms. Faulconer to email this article to the Board.**

- Seabrook Business License, to be reviewed during Ordinance review.
- DES notice to Kuzirian
- Issue with Nov. 6<sup>th</sup> meeting due to Presidential election; the Board will look at possible alternate dates or decide to cancel the meeting as it gets closer.

**ACTION ITEM: Ms. Faulconer to find out what other dates are possible for the Board to meet.**

### **Board Business, continued**

**MM&S to approve the July 17, 2012 minutes as written.** (Motion by Mr. Coppelman, second by Mr. Landry) **Motion passed 6-0-2** with Mr. Heitz and Mr. Coffin abstaining.

## **Ordinance Discussion**

### **Water District:**

**ACTION ITEM: Ms. Faulconer will review minutes when the Board met with Attorney Ratigan in reference to language for Master Plan, etc.**

### **Impact Fees:**

Mr. Greenwood had spoken with Mr. Doggett who said the District was not interested in participating and paying for the study; he asked if the Board would be including them in the review; Mr. Mayberry thinks they should be involved. Newton is updating their impact fees and only including the elementary school. There was discussion that this should be a decision given by the full School Board; Mr. Wilson will ask to address the School Board; Mr. Greenwood suggested that Mr. Mayberry could attend to explain the process.

**ACTION ITEM: Ms. Faulconer to get agenda dates for the School Board; contact Mr. Greenwood with dates that might be compatible with Mr. Mayberry's schedule; get Mr. Wilson added to the School Board's agenda.**

### **Master Plan:**

Mr. Greenwood and Mr. Landry had met about updating the Natural Resources chapter; they questioned whether the Board was looking for editorial updates and additions, just adding additional information or if the Board was looking to update the Chapter including future goals, etc. Mr. Landry noted that they hadn't contacted other groups such as the Conservation Commission about items that needed to be added to the Master Plan. Mr. Wilson said that the Board should be trying to update at least one chapter yearly; Mr. Pope agreed.

**ACTION ITEM: Mr. Landry and Mr. Greenwood will meet to discuss the update and how to proceed based on this information.**

### **CIP Update:**

Mr. Coppelman explained that the meeting scheduled for Thursday was being re-scheduled since there had only been one submission received at this point. Mr. Greenwood will be contacting Department Heads to get the material submitted by the meeting rescheduled for September. The deadline had originally been for early August. Mr. Greenwood will contact the committee members that the meeting is being re-scheduled.

**MM&S to adjourn at 9:50. (Motion by Mr. Coppelman, second by Mr. Landry) PUNA**