

**Kingston Planning Board
Public Hearing
October 16, 2012**

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

Members in attendance:

Richard Wilson, Chairman
Mark Heitz, BOS rep.
Ellen Faulconer, Alternate

Adam Pope
Peter Coffin

Ernie Landry
Stanley Shalett

Absent: Glenn Coppelman, Richard St. Hilaire, Alternate

Also Present: Glenn Greenwood, Circuit Rider/Planner; Police Chief Don Briggs, Jr.; Selectman George Korn

**Samantha Mooskian
In-door Gun Range
21 Route 125
Tax Map R3 Lot 2**

Ms. Mooskian introduced the consultant she had hired for the proposal, Matt Brinkerhoff, Range Design Consultant from Action Target. He explained that he helps to address sound, ballistics and ventilation. He distributed generic plans for an example proposal noting that the design shown was not specific to the building. Ms. Mooskian explained that she currently does not have a timeframe for opening the proposal. Mr. Greenwood informed the Board that the applicant was requesting not to supply a formal site plan for the site as there were no outside changes to the building being proposed adding that most items to be reviewed would be taking place inside the building. He clarified that all of the attendant site plan issues that go with the activity inside the building are up to the Board for review; he noted that if the Board thinks there are any external issues the Board could ask for that additional review. Mr. Wilson read the 8 issues that Mr. Greenwood had prepared for the Board.

Mr. Brinkerhoff reviewed sound studies for shooting ranges; he explained that new concrete walls would be built inside the building which is bullet-proof and acts as a sound barrier and helps reduce the sound. Ms. Mooskian stated that the proposed hours of operation were 10:00 to 8:00 PM 7 days a week. Mr. Brinkerhoff explained that the concrete is used to keep the bullets inside the building; the concrete is lined with 2 inch acoustical material to help keep the sound from transmitting outside the building; he noted that additional material could be added to make it quieter. Ms. Faulconer asked if there was a better way to make the sound more muffled than what was currently being proposed; she stated that the proposal itself was not an issue for her but gunfire being heard 10 hours a day, seven days a week was a different type of sound as compared to an occasional running of an engine, as an example; she suggested that it would not be prudent to be able to hear constant gunfire. Mr. Brinkerhoff said that the sound could be lessened by adding more sound deafening material, gypsum board or other material. Mr. Shalett questioned safety issues and the level of experience of the people using the facility. Mr.

Brinkerhoff explained that this would be part of the business side of the proposal as opposed to the range design but added that the owner would confirm the levels of experience and have at least one range safety officer on duty. Mr. Wilson asked about the number of employees; Ms. Mooskian answered that she had no idea at this point adding that it would probably be 5 employees. Mr. Wilson confirmed that there is no State or Federal licensing requirements for this type of facility. He asked what types of merchandise she expected to sell in the merchandise section of the proposal. Ms. Mooskian answered that she wasn't sure; Mr. Brinkerhoff suggested items would be targets, ammunition, holster, clothing, and other accessories. Mr. Coffin asked if firearms would be sold at this location. Ms. Mooskian answered that she would eventually be selling firearms; Mr. Brinkerhoff confirmed that she would be required to have a license to sell firearms.

The types of firearms that would be used on the site were questioned. Mr. Brinkerhoff said that it would only have a 25 yard shooting distance; they would think the use would be for a pistol range as most rifle shooters want more than that distance. The decibel levels of rifles, as opposed to pistols, were briefly reviewed. Mr. Wilson noted that the difference with this type of noise level was the erratic noises that would be made.

Mr. Brinkerhoff addressed the issue raised about how the bullets don't pierce the ceiling noting that there are steel plates that line the ceiling along with ballistic baffles. <Board note: the Board experienced the effects of an earthquake.>

Mr. Shalett asked how many shooters there would be at a time; Mr. Brinkerhoff explained that there would be 15 lanes in the facility. Mr. Shalett asked how many safety officers would be present and Mr. Brinkerhoff answered that there was no written requirements; there should be more with inexperience shooters but this was established at the discretion of the range owner. Ms. Mooskian noted that there would be a camera system set-up to watch the range. A nearby state-of-the-art facility in Manchester was discussed for similar criteria. Chief Briggs asked if the Manchester Firing Line was similar; Mr. Brinkerhoff answered that it was very similar to what was being proposed. Chief Briggs asked about the air filtration system; Mr. Brinkerhoff said that it was NOSH, OSHA and EPA approved.

Mr. Shalett asked if emergency first aid would be on the site; Mr. Brinkerhoff said there would not be but there would be a trauma kit. Mr. Brinkerhoff noted that the Manchester facility has hand guns and rifles and there were no incidents to date.

Mr. Tim Shea, 3 Hillside Road, an abutter to the rear of the property stated that he is not against anyone making a living but he can see the building when the leaves drop in the fall; he said that stray bullets had been a concern which he said sounded like that had been addressed but that allowing a 50 decibel sound level 7 days seemed shocking to him; he added that allowing these sound levels were not in the best interest of his home's investment. Mr. Brinkerhoff agreed that if he lived in site of a shooting range, he would be concerned about his home, too but noted that they have put ranges inside homes; they can be very safe; they will do everything they can about the design to keep everything safe.

Mr. Bob Whitney, Route 125, asked who would be policing the decibel sound levels. He asked about the noise generated by the exhaust system. Mr. Brinkerhoff said that the exhaust equipment has sound silencers; he explained that the shooting would take place in the back of the building. He re-iterated his question about policing the sound levels and was told by Mr. Wilson that complaints regarding enforcement go to the Board of Selectmen.

Chief Briggs stated that he hadn't seen a set of plans to review; he asked if it would be possible to go to Manchester for a tour to see how it operates and get a better idea of the overall operation. Mr. Brinkerhoff said it would depend on the property owner allowing the Board to view it; he added that his company was just finishing up a small shooting range in the Manchester Police Department which might be a place to go to review a set-up. Chief Briggs suggested that the Manchester Lanes would give the Board a better idea of a commercial operation. Ms. Faulconer noted that additional information concerning this application should be supplied to the Board for distribution to the other Departments/Inspectors to review for comments. Mr. Wilson confirmed that the Board was looking to go to Manchester to review the facility and sets of plans would need to be submitted for Town Departments to review. Ms. Mooskian added that she would have to meet guidelines for any of the Insurance companies. Ms. Faulconer said it might be more plausible for the public hearing to take place at the Manchester police department; take a drive to the Manchester facility to listen for any sound issues. Mr. Brinkerhoff will work with the Board to set-up reviewing one of the facilities.

Mr. Pope questioned whether the Board would usually ask to review items for an internal site plan; he added that the noise ordinance doesn't address commercial to commercial use. Mr. Whitney asked if the firing range was completely enclosed, internal to the building; the applicant answered that it was. Mr. Wilson asked Mr. Greenwood about reviewing the internal aspects of the proposal. Mr. Greenwood noted that the Board has reviewed interior details of a proposal citing the Sad Café review as an example; he noted that the Board had asked for changes to be shown on a plan for review when there were drastic changes to the internal use of the property; he suggested that the Board should make sure of the proposal and there are steps the Board needs to take to do this; nothing that the Board has discussed about reviewing the interior specifications of the proposal go beyond that allowed by site plan review. Mr. Wilson confirmed that the applicant would provide internal plans including the lane set-up, ventilation, etc. to the Board for distribution to Town Departments prior to the next hearing. He suggested to the applicant that if they weren't ready for the next hearing that they could notify the Board and ask for a continuance. Mr. Wilson noted that Ms. Faulconer would be a voting member for this evening's meeting.

MM&S to continue to December 11, 2012 at 6:45. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

Chief Briggs announced that Seabrook had declared an "unusual event" for the 4.5 earthquake, epicenter at Lake Arrowhead, Maine.

Library Trustees
2 Library Lane
Tax Map R33-21-2

Lesley Hume, Trustee Chairperson, addressed the Board explaining that the proposed sign has been a topic since January of this year. She clarified that the sign had not yet been purchased; they were here to show the proposal to the Planning Board and explain that how they came to the conclusion that this was the best decision; she stated that the Trustees had not made any final decision regarding the sign. Ms. Hume added that she had brought representatives from the sign companies to answer any specific questions. Copies of the Trustees' presentation were handed out to Board members.

Ms. Hume began by stating that the Planning Board had not approved the site plan for the library because the Library is exempt from government authority; she added that the library doesn't comply with Kingston's site plan regulations and referenced changes to the building due to drainage requirements. Ms. Hume explained that a two-sided sign was not currently feasible; narrow posts wouldn't support the sign they wanted. She explained that the Trustees had not considered the sign placement when re-designing the drainage. She explained the proposed sign stating it was 8 ft. long, 29 inches wide and 8 inches deep; the color of the background of the sign can match the siding of the building; the sign allows for a message of up to four lines or one very large line; they don't need the message to scroll; the message would not change more than once daily; the letters would most likely black or white with an occasional colored item such as a pumpkin on Halloween. Ms. Hume noted that the sign can be linked to the generator and used for emergency messaging.

Ms. Hume referenced the section of the ordinance regarding the permitted message board sign for libraries; she stated if they used that type of sign, in order to get their message across, the sign would have to scroll; she questioned whether those requirements in the ordinance were enforceable. Mr. Wilson explained that signs are for advertising; businesses need to advertise, libraries do not need. Ms. Hume noted that the sign would cost 26 cents per day to operate for 18 hours per day. Ms. Hume reviewed her interpretation of the ordinances regarding the proposed sign's compliance with the Sign Ordinance. Ms. Hume referenced a conversation she had had with Mr. Wilson; Mr. Wilson clarified that he had agreed that the Library didn't have to comply with local ordinances upon agreement and approval by the Board of Selectmen.

Ms. Hume explained that changeable copy signs have no historical significance; the Trustees had spoken with Virginia Morse, Chairman of the Historic District Commission, who agreed that the proposed sign was the best sign for the building. Ms. Faulconer asked if Ms. Morse was representing her own opinion or representing the HDC; Ms. Hume said she was under the impression that she was representing the HDC at the meeting. Mr. Heitz asked to confirm that Ms. Morse had stated that this was a good sign for the HDC; Ms. Hume answered that she did not want to speak for Ms. Morse.

Ms. Hume noted that the library was trying to solve a problem; she stated that the message board is very important as they would like to draw as many people into the Library and let them know what is going on in the facility. She felt that they could comply with the use restrictions, the type of the sign was a problem; the size was an issue as was scrolling as a possibility.

Mr. Wilson asked for any public comments; there were none at this time.

Mr. Greenwood reviewed his comments to the Board regarding the proposed sign. He had noted that there were five distinct sections of the ordinance where the proposed sign did not comply with the ordinance:

1. Zone Issue: The Rural Residential District does not allow for internally lit signs.
2. The actual name on the building, Kingston Community Library, is a sign and constitutes signage; if both signs are added together, per the ordinance, both signs are not in compliance due to combined size.
3. The ordinance states that “no sign can be a computer animated-type sign. The proposed sign does not comply; it is not an allowable sign.
4. Libraries are specifically called out in the ordinance and those signs must be externally lit; he added that a municipal library is required to comply with the Sign Ordinance. Mr. Pope asked for clarification on the ability to have a sign other than the name sign. Mr. Greenwood clarified that he was referencing the section of the ordinance that specifies the total amount of signage, combined.
5. General Safety Standards: Mr. Greenwood stated that this might be considered subjective but from his perspective, the sign, as a readable sign, is distracting and a safety issue. He explained that when DOT puts up signs, they are always set up to be facing the direction of travel, not placed so the driver has to look away from the travel lane. Mr. Shalett stated that a lot of cars exit the plaza, going right to Route 125; this sign would be distracting to travel and traffic; he cited a similar-type sign in Plaistow noting that it was distracting. He suggested that they consider putting up a sign on the side of the building as it faced traffic. He also noted that they use Carriage Towne News to advertise their activities.

Ms. Hume explained the current sign and lighting for the front of the building; she stated that the proposed sign would be on into the night and could be timed to shut off when the building was finally shut down for the evening, after any meetings, etc. using the room.

Mr. Wilson stated that due to the many discussions, he has had about two months to think about the issue; he said it was not an issue of whether the Board was for or against the sign, the Board had to uphold the Ordinances of the Town and this proposal missed on several sections. He explained that the Board had taken two years to come up with an Ordinance to put before the voters and re-iterated that the Board had to base any decisions on the ordinance. He stated that regardless of the other issues, no sign shall be a computer animated type sign. He questioned the Library Trustees minutes of September 10th; those minutes show that the Trustees had already voted to put the sign up. He re-iterated that the bottom line is that the proposed sign does not meet the requirements in the Town’s Ordinances; he believed that any relief from the requirements had to be given by the Board of Selectmen; they were not allowed to grant relief to themselves.

Ms. Hume clarified that the Trustees were not here this evening to get the Board's approval; she added that none of the Trustees are "in love" with where the sign is going; the Trustees' engineer told them that any sign put in the drainage section would disrupt the drainage. Mr. Wilson added that he had spoken with the Town Engineer who had no problem with an elevated sign in the drainage area.

Ms. Faulconer suggested that the Library Trustees should address this issue by putting the question before the voters at Town meeting; she added that the Library had discussed all of the building issues at multiple public hearings so the voters had seen some of the site issues prior to voting on the Library; if the Trustees felt it was important to have a sign that was not supported by the ordinances adopted by the voters, they should ask the voters to change the ordinance to permit this type of sign. Mr. Wilson asked why this particular type of sign was necessary. Mr. Heitz stated that this type of sign is more of a commercial use. Possible changes for the warrant were discussed including language specific to the library, changes in the zone itself, and zoning changes for the lots involved. Mr. Pope explained that the proposed sign does not meet the Town's regulations; it is not a necessity to not meet the regulations. He stated that he understands that this group of Trustees does not intend to have the sign moving but he is concerned with the next group that doesn't think it needs any further approval.

Mr. Shalett asked about the cost of the sign; Ms. Hume replied that the cost was \$14,000 plus the cost of installation and electricity.

Ms. Hume noted that changes had been made to the site to address issues by Town Officials after the Town had voted to approve the Library. She addressed the traffic issue by adding that a lot of informational signs on the highway are scrolling and sits in a similar fashion to that being proposed. Mr. Heitz disagreed; he said that people will want to see if the sign has changed from day-to-day; they will look to see if the sign has changed and read it; because of that it does create a distraction to the traveling public; things that change cause more of a distraction.

Charles Razz, with Hammar and Sons, reviewed the types of signs that may be a distraction; he said scrolling signs and amber signs are designed to get your attention. Mr. Shalett said that those types of signs are used for a public need, often alerting the public to a life and death situation. Mr. Razz said that the proposed sign is not amber and yellow; it shows black letters and has been designed to not be distracting. Mr. Heitz stated that the sign is designed to draw attention to the message that the Library wants to attract to the public; he asked Mr. Razz if he didn't think that a sign that changes its message was more of a distraction than a name sign on the building. Mr. Razz answered that neither sign is a distraction. Mr. Heitz disagreed adding that every time a person would drive by they would look to see what had changed; any sign that changed its message, people will look at the sign.

Mr. Greenwood asked to clarify a statement regarding safety and DOT signs; while recognizing that his concern with the safety of the sign he did want to clarify that while many police and DOT use LED signs, they are not 30 feet off the right-of-way and at an angle viewable from the front window; he stated that looking away from the road to read a sign is a safety issue and not endorsed by the Police or Department of Transportation. He also stated that while the current Library Trustees do not anticipate the LED lettering/sign to move, ownership of the ability to do

this sometimes encourages making weird decisions; if you have the ability to create this type of sign, eventually someone will use the technology. Ms. Hume explained that they were drafting a policy to manage the sign. Mr. Greenwood said that it would be nice if she was going to commit to be on the Library Trustees forever, but it was unlikely. Ms. Faulconer questioned the ability to police that commitment since the Trustees were asserting that they were autonomous and not under anyone else's jurisdiction, what would keep them from using this function. Mr. Pope suggested having Chief Briggs' input regarding the safety/distracting issues being discussed.

Mr. Heitz asked for a non-binding discussion; he wanted to know if there were Board members interested in changing the ordinance to allow this type of sign. Mr. Wilson stated that he supported the Library re-writing the ordinance as a warrant for Town meeting. Mr. Pope said that he would not support changing the ordinance, he would support changing the zone; he would recommend allowing this type of sign for that zone. Mr. Heitz questioned allowing animation capabilities; Mr. Pope said he was okay with the animation due to the restrictions being put in place. Mr. Wilson cautioned that the more the Trustees asked for, the more likely residents were to vote no. Mr. Coffin suggested changing the site to commercial and changing the language in the ordinance to reflect that the sign was "not to be animated" as opposed to "animated capable" and just grant to the Library. Mr. Landry would not support a computer animated sign at the intersection; he has concerns with general safety standards; he would need to look at this type of sign on a case by case basis. Mr. Shalett would not support changing the ordinance; he cautioned that this would open the flood gates for everyone to ask for it. Ms. Faulconer was not in favor of changes to the ordinance as she was concerned less with the type of sign and more with the safety issues it would cause and suggested that the Trustees contact the Town Engineer about placing a free-standing sign in a different location. Mr. Heitz clarified that he was asking if the Board was in favor of putting in a warrant article to change the ordinance; he was asking because the Board of Selectmen had previously stated that the only way they would override the Ordinance in favor of this proposed sign was if the Planning Board indicated that it was a good idea and they would be changing the ordinance. Mr. Shalett stated that the voters should decide if any change was warranted. Ms. Faulconer said she was not in favor of the Board proposing a change. Mr. Pope added that the discussion regarding the sign ordinance did bring up the possible issue of the language regarding "animated type" to "animated". Mr. Heitz cautioned that it was tougher to manage enforcement through prohibiting capability; it is easier to simply prohibit entirely.

Mr. Wilson suggested that the Library Trustees had the information they were looking for from the Board. Ms. Hume asked that the other sign consultants speak to the sign. Ben Barr talked about the ability to see the sign; Ms. Hume confirmed for Ms. Faulconer that he was not a traffic engineer, he was a "sign guy". Mr. Barr talked about sign placement and safety; this type of sign works the same as a letter board; they had put up 40,000 signs in the nation; he said that there had never been an accident or a lawsuit because of a sign they had put up. Ms. Faulconer asked if they would put that assurance in writing; Mr. Barr said no as they couldn't control how people drove.

Ms. Hume thanked the Board for tonight's discussion.

The Board took a five-minute recess at this time.

Correspondence:

- Updated Board calendars were distributed.
- Civil Construction Invoice signed
- Board review existing bonds; Okay to return Wicked CAS balance
- Email received from BOS re: possible purchase of business list; no interest from the Board
- Diamond Oaks Golf Club, comments received from Health Officer dated 9/27/12 and updated on 10/10/12
- Report from Town Engineer for Diamond Oaks
- Bruce Mayberry/Impact Fee project update
- Natural Resources meeting reminder
- Annual Conference Guide notice

RPC Commission Meeting Update:

Mr. Wilson shared information received at the meeting; Kingston's portion of the Rte. 125 Corridor is on a date for 2033; not even on the current 10-year-plan list; due to this, both Mr. Wilson and Mr. Coppelman voted no on the plan approval. He praised the speech given by the DOT Commissioner; he had explained that a slight increase in the gas tax would provide an additional \$8.3 million in revenue for DOT projects, road repair now costs \$1.5 million per three miles; they are falling behind 20 to 30% every year; gave examples of other countries funding of infrastructure, Canada spends 10% of the GNP on roads, China, who is actually building new infrastructure, not just repairing it, puts 30% of their GNP into roads.

MM&S to adjourn at 9:40. (Motion by Mr. Heitz, second by Mr. Coffin) **PUNA**