

**Kingston Planning Board
Public Hearing
June 4, 2013**

Mr. Wilson called the public hearing to order at 6:45 PM. There were no challenges to the legality of the hearing.

Members in attendance:

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

Absent: Glenn Greenwood, Circuit Rider Planner

Also in Attendance: Richard St. Hilaire, Road Agent; Melissa Fowler, Town Clerk/Tax Collector, George Korn, Selectman

**Ida and James Ahern
3 Third Street/Great Pond Park
Tax Map U4-140**

Mr. St. Hilaire introduced the property owners; he passed out copies of the tax maps that include this property which information added specific to this request. They want to pave a 44' x 18' parking space that currently exists as a graveled space. Mr. St. Hilaire stated that he had spoken to the State; they don't consider a paved area more impervious than it already is as a graveled space; the State has no issue with it. He explained that the parking area was there when the owners bought it, 30 years ago. He explained that they own U4-140 and 141; the road bisects the two parcels; the house is on 141, they park on 140 which does not have a residence but does have a garage.

The Board reviewed aspects of the Shoreland Protection Ordinance. The area that the owners want to pave is approximately 73 to 80 feet from the water; Mr. St. Hilaire added that the encroachment on the back boundary line is supposed to be 20 feet; it is currently 10 feet; there is grass to the water.

Mr. Heitz asked about the size of the lot; it is 157 feet deep, areas up to 60 feet wide and 22 feet wide at the Shore. Mr. Ahern confirmed that there is no driveway on Lot 141, all the parking is on lot 140.

Mr. Coffin asked Mr. St. Hilaire if the person who he spoke with at the State put the information about the impervious surface in writing. Mr. St. Hilaire said there was a pamphlet that the State uses. Mr. Coffin questioned the comments from the State regarding the interpretation of the impervious surface. Mr. Heitz confirmed that Mr. St. Hilaire's issues for the Board's review are

the lot coverage and the setbacks. Mr. St. Hilaire agreed. He commented that problems were created when these types of lots were allowed to be year-round.

Mr. Coppelman read that there is not to be more than 20% lot coverage in the Shoreland Protection District. Mr. Heitz questioned the language for the 20 foot minimum setback requirement. Mr. St. Hilaire explained that the language used to say "should be" 20 feet; now it says "must be" 20 feet. It was noted that the garage is approximately 20 by 24 feet. Mr. Coppelman noted that the 20 foot requirement is a regulation, not an ordinance.

Mr. Coffin stated that the issue is not just the setback but the paving within the SPO. Mr. Coppelman added that the driveway doesn't meet the setback; the action requested doesn't make the situation better, the Board would be allowing a paved, more permanent, driveway closer than allowed. He added that the Board needed to think of this using current regulations and ordinances, not current abutter ownership. Mr. Coppelman noted that the Planning Board administers the conditional use permit; the ZBA administers special exceptions; sections of the SPO were read.

Mr. Coppelman stated that activity within the Shoreland Protection requires a 150 foot setback; there is a restriction of 20% lot coverage. Mr. Pope noted that, per Article 205.4, pavement is considered a structure; no building shall be constructed within the Shoreland setbacks. Mr. Coffin stated that, judging from the property owners' measurements, it is all within the SPO.

Mr. Coppelman confirmed that the line shown on the tax map is the Flood Zone line. Mr. Wilson suggested that this issue needs to be sent to the ZBA. Mr. Coppelman agreed that the ZBA was the appropriate place. Mr. St. Hilaire explained to the applicant that the Planning Board can't ignore an ordinance, only the ZBA can grant the approval.

Mr. Pope noted that surface alterations are permitted within 150 ft. of the shoreline, only as necessitated. He continued that the lot coverage is the issue; driveways are permitted within 150 ft. of the shoreline. He questioned if the applicant was increasing the lot coverage. Mr. Heitz cautioned the Board about issues of possibly considering gravel as impervious as pavement. Mr. Coffin noted that with pavement, there should be a review of a recovery system or swale. Mr. Wilson re-iterated his belief that this would require ZBA action. Mr. Shalett, Mr. Landry, Mr. Coppelman and Mr. Coffin agreed; Mr. Pope disagreed; Mr. Heitz suggested making a determination of the parking lot and building size as if it were below 20%, it might be allowed. The Board discussed modification of existing conditions, non-conformance, making something more non-conforming; increasing an impervious surface, creating a more permanent non-compliance; lot coverage issues; drainage. The Board reviewed the property card, calculated the lot coverage; Mr. Heitz stated that even if given the benefit of the doubt on some of the measurements, they were over the 20% lot coverage. Mr. Pope agreed as did Mr. Wilson and Mr. Coffin. Mr. Pope stated that while he thought it was close, the applicant was over the 20% and needed to go to the ZBA.

MM&S to recommend the applicant seek relief from the ZBA for two items: lot coverage within the Shoreland Protection Ordinance and the lot line setback issue for the

driveway/parking area which is currently less than 20 feet from the property line. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion carries 6-1** with Mr. Pope opposed.

ACTION ITEM: Ms. Faulconer will send copy of the motion to the ZBA.

Board Business

Hawkers/Peddlers/Bucco's Restaurant: Mr. Wilson stated that the hot dog cart at Bucco's currently has no approved Town License; there is a question if this is a violation of the approved site plan; the Board needs to decide if they had a valid license, could they operate on this site. Ms. Fowler joined the discussion. The Board reviewed RSA's pertinent to Hawkens and Peddlers, Itinerant Vendors; reviewed exemptions specific to Farmers Markets; exemptions for home-grown products and other exemptions.

Mr. Coppelman said that the Board is still dealing with a commercial site where another use has been added which changed the approval. Mr. Heitz suggested inviting the owner of Bucco's in to speak with the Board. The Board continued discussing definitions and criteria pertinent to Hawkens and Peddlers and Vendors. Ms. Fowler stated that she wanted continuity for licensing; she is getting calls from residents and Historic District members about these uses; she would like to make sure everyone is treated the same and the information being given out is the same from everyone involved. Mr. Pope questioned if the State issues a license, can they set up at Bucco's without site review. Ms. Faulconer answered that a State license does not override local ordinances. Mr. Wilson and Mr. Coffin agreed that an amended site plan review was needed.

Action Item: Ms. Faulconer will contact the State regarding licensing. The owner of Bucco's will be invited in to speak with the Board.

Ms. Fowler asked how she should proceed should the hot dog cart owners come in to renew their license. Mr. Heitz stated that she should tell them that it is under review and the Town is getting clarification from the State regarding the types of license they should have.

Project Review: Ms. Faulconer distributed draft language pertinent to the Sign Ordinance. Mr. Wilson asked that the Board review for the next meeting to discuss changes, etc.

Minutes: Mr. Heitz noted that, in the Holly Williams review on page 1 of the April 16th minutes, the 200 foot well radius should be 100 foot well radius.

MM&S to approve the minutes of April 16, 2013 as amended. (Motion by Mr. Pope, second by Mr. Landry) **PUNA**

MM&S to approve the minutes of May 7, 2013 as written. (Motion by Mr. Coppelman, second by Mr. Shalett) **Motion passed 5-0-2** with Mr. Pope and Mr. Heitz abstaining.

Committee Update:

CIP: Mr. Coppelman said that they were waiting on confirmation of membership from BudCom and the BOS. They will try to set up a meeting soon to begin to send out information looking for updates; they usually try to meet in June.

ACTION ITEM: Ms. Faulconer to contact BOS and BudCom re: representation to the CIP committee.

Heritage Commission: Mr. Landry stated that the Commission membership was full; the first meeting was held; Ms. Powers is Chair, he is Vice-Chair. He noted that the Town has applied to be a Certified Local Government; the Board of Selectmen had this done by their Administrative Assistant, Cathy Grant; he commented that Ms. Grant had done a very professional job with this application.

ZBA: Mr. Coffin stated that the ZBA didn't meet last month.

HDC: Mr. Coppelman explained that both he and Mr. Shalett were not at the last meeting as they attended the Granite State Future's meeting. He added that a valuable member, Judy Ruben, was moving and would be leaving the Committee; if anyone was interested, they should contact the HDC. Mr. Korn stated that the HDC also talked about the vendor at Bucco's and expressed concern with the number of pushcarts that might show up along Main Street. Mr. Coppelman read Article 1201.5 regarding the HDC's authority which included signs, street furniture and other characteristics affecting the streetscape.

Correspondence:

- 51 Rte. 125 – asking for Upholstery business, Mon. through Sat., 8-6.

ACTION ITEM: Ms. Faulconer will contact owners to come in to speak with the Board.

- Letter from Mr. Pellegrino apologizing to Ms. Faulconer and the Board.
- Letter in response to Mr. Galloway from last meeting; signed by the Chair.
- Request for Bond reduction/Coopers Grove; referred to Mr. Quintal
- Letter from RCCD re: Solar Hills
- Invoice from RCCD re: Solar Hills

ACTION ITEM: Ms. Faulconer to scan letters relative to Solar Hills to send to the Board for their review.

- Test pit report from RCCD for Marshall Rd. project
- Report from Town Engineer re: Early Gravel pit; the Board will defer discussion to the next hearing when Mr. Quintal will be in attendance.
- Letter from DOGC re: using bond for road construction review
- Construction progress report for DOGC
- Announcement re: RPC meeting/request for project activity submission; Mr. Coppelman stated that Kingston had submitted something already.

- Open House for RPC regional Master Plan announcement; Mr. Coppelman encouraged people to attend.
- Budget report received.

Other Business: Mr. Coppelman asked to speak with the Board. He referenced a previous review by the Board and referred to this discussion as a post-mortem, learning exercise. He said that he felt that the Board, as well as himself, moved a review along sooner than they should regardless of any other officials who may or may not have wanted it moved along. He noted that there were issues such as tree-cutting, buffers, activity within the Shoreland that should have been more closely reviewed; adding that there needs to be consistency. He stated that he was not happy with his involvement and actions and re-iterated that reviews should be looked at more closely and more consistently. Mr. Wilson stated that he had also thought about this concern suggesting that the Board's first mistake was sending a letter without first reviewing the approved site plan for any existing inconsistencies with the approval. He agreed that the Board makes mistakes and agreed that it was not necessary to go into more detail. Mr. Coppelman stated that some mistakes make more of an impression than others. Mr. Wilson said there was a lot of pressure from outside sources and there were a lot of things said in public that shouldn't have been said; he agreed that consistency was important.

Summer Schedule: Mr. Wilson asked if the Board wanted to go to two longer meetings a month rather than three shorter meetings. The Board reviewed the calendar and, by consensus with no objections, decided to amend the calendar to the following meetings for June, July and August:

June 4th and June 18th

July 16th and July 23rd

August 6th and August 20th

ACTION ITEM: Ms. Faulconer to send out revised calendar.

MM&S to adjourn at 9:30 PM. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**