

**Kingston Planning Board
Public Hearing
August 20, 2013**

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

Members in attendance:

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

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Ellen Faulconer, Admin. Asst.
Absent: Rich St. Hilaire, alternate

**James Duval
4 Hunt Road
Tax Map R5-21D**

Mr. Wilson announced that the Board had received a letter from Mr. Lavalley requesting a 60-day continuance. The Board discussed compliance issues on the site; ZBA timing, the previous continuance. The Board agreed to a 30-day extension with the requirement that the applicant applies to the ZBA; the applicant is also requested to come to the next meeting regardless of being to the ZBA to speak with the Board.

ACTION ITEM: Ms. Faulconer will contact the applicant with the Board's decision.

Board Business

Correspondence:

- BCM Planning Invoice approved
- Civil Construction Invoice approved
- Announcement: DOT meeting re: Rte. 125 on August 28th at 7:00 PM in Plaistow
- Repaving Notification; the Board reviewed the enclosed map of the project.
- Repair Plate for East Coast Metalworks; deferred pending further information.

ACTION ITEM: Ms. Faulconer will contact East Coast Metalworks and invite them to come in to speak with the Board.

- Letter received re: Armed Citizen Training Center at Commerce Park; based on description of the proposal, the Board determined that it was similar to other approved uses, such as a Karate Class and therefore, no further review was required by the Planning Board. Other applicable permits would still be required.

Trendezza, LLC
22 and 30 Marshall Road
R33-27 and R41-1
Lot Line Adjustment

Christian Smith from Beals Associates reviewed the proposal. This plan gives The SE Land Trust fee access to their property instead of just an easement that they currently have. It was confirmed that the Board has received notification from SE Land Trust that they agree with the proposal. Mr. Greenwood's comments were read by the Chairman. Access was reviewed by the Board; property ownership was reviewed. There was no public comment.

MM&S to take jurisdiction of the plan. (Motion by Mr. Coppelman, second by Mr. Coffin)
PUNA

MM&S to approve the application. (Motion by Mr. Coppelman, second by Mr. Coffin)
PUNA

Board Business, continued:

Correspondence, continued:

- Letter received from Ducks on the Pond regarding phasing Building #2 in two steps; it was unknown whether the church would be built next. No one on the Board had an issue with the building being completed in two steps.
- Application received from BOP for Church St Plaza
- Manual received from PSNH re: transmission line work. Mr. Greenwood said that they are hoping to give a presentation in September; the Board may be getting a submission for changes to the transmission stations.
- Letter from RPC re: re-doing regional master plan.
- Granite Fields Futures "The Real Facts" brochure was received.
- Bond List reviewed.

MM&S to approve the July 16, 2013 minutes as written. (Motion by Mr. Coppelman, second by Mr. Heitz) **Motion passed 4-0-3** with Mr. Coffin, Mr. Wilson and Mr. Landry abstaining.

MM&S to approve the July 23, 2013 minutes as written. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion passed 6-0-1** with Mr. Pope abstaining.

Church Street Zoning Clarification:

Mr. Heitz asked about the Board's interpretation of approved uses in the Rural Residential Zone on Church Street specific to an office space with a display area that had the majority of work off-site. Mr. Coffin suggested that the "general business office" would apply to this type of use. Mr. Coppelman agreed that it is not high-traffic retail. Mr. Heitz asked if the Board felt that a use,

such as a water filter company, might be allowed to go there. There was discussion that the use was on the line as it is not clearly defined as allowed because it doesn't fit the same description as an architect or dentist as it might have a small amount of retail; the general agreement was that it would be allowed but it was not as clear as other uses and it would be a discussion point. Mr. Coffin stated that the worse-case scenario was that it would go to the ZBA. Mr. Greenwood noted that Antique Shops, an allowed use, are 100% retail. He added that beauty parlors also have a lot of retail goods available. Mr. Pope clarified that the use was probably allowed but the trucks on site might be an issue and a discussion point. Mr. Wilson agreed that they would be a discussion point but not necessarily a point for denial.

Bill Ranney, Business Owner
Robert Kalil, Property Owner
Little Old Lady Auto
5 Rte. 125
Tax Map R3-6

Mr. Wilson reviewed the outstanding compliance issues on the site. Mr. Ranney stated that he thought he was all set on the site and with the signs. The Board reviewed the site and issues with compliance including cars parked on State property; on non-paved surfaces; outstanding sign compliance issues. Mr. Ranney explained that his staff has a tendency to expand beyond where the cars should be parked. Mr. Coppelman suggested that Mr. Ranney explain that if they don't stop doing that, they may no longer have a place to sell cars and generate revenue. Mr. Heitz reviewed past actions with Mr. Ranney including a certified mail sent in March of 2013 alerting Mr. Ranney of his continued violations that referenced the notices of violation sent in February and November of 2012; he reminded Mr. Ranney of his response agreeing to comply; Mr. Heitz noted that he hadn't complied yet. Mr. Heitz stated that, in order to come into compliance, he had to remove the un-permitted signs. He explained the potential of a fine of \$275 per day per violation; the notice had been sent on March 14, 2013. Mr. Ranney stated that he had met with the Building Inspector; he told the Board that he thought the Building Inspector said everything was okay. Previous letters from Mr. Ranney were read. Mr. Ranney said that he has had numerous interactions with the Building Inspector.

Mr. Heitz suggested possible actions for a motion that included meeting with the Building Inspector within 30 days and to be in compliance or have fines assessed with a review in September with a possible site plan revocation.

Mr. Heitz told Mr. Ranney that if he had signs that were not in compliance with the sign ordinance, he needed to remove them; he could go to the ZBA and if relief was granted then he could re-install them; but until that time, he needed to bring his signs into compliance now. Mr. Coffin suggested the timeframe being 30 days for compliance; at the end of the 30 days, the fines could start and then within the next 30 days, the Board could revoke the site plan. He re-iterated that Mr. Ranney needed to immediately remove the signs and suggested getting in touch with the Building Inspector as soon as possible. Mr. Coppelman expressed concern with the possible wording of a motion that included fines as the Board can't impose fines. Mr. Pope noted that the Board could request that action from the BOS. There was discussion regarding the possibility of posting a hearing to revoke the site plan in 30 days giving the applicant 30 days to get the

property in compliance prior to the revocation. If everything is in compliance within that time period, then the Board would not revoke. Mr. Greenwood noted that if the Board did that, it would mean notifying abutters for possibly no reason if the site was in compliance.

MM&S to require that Mr. Ranney meet with the Building Inspector within 30 days; come into compliance of site plan and Sign Ordinance within 30 days; recommend the Board of Selectmen start fines for non-compliance issues at the end of 30 days; the Planning Board will review this site again at the September public hearing for a possible site plan revocation hearing in October. (Motion by Mr. Heitz, second by Mr. Coppelman) PUNA

**Richard LeClaire, Business Owner
Frederick and Lisa Korn, Property Owner
Bucco's Restaurant
143 Main Street
Tax Map U9-42**

Mr. Shalett announced that he was recusing himself as he had spoken with the applicant.

Mr. Wilson reviewed a non-compliance issue on the site regarding outside food sales; he noted that Mr. LeClaire had been told that there was to be no outside food sales on the site but he did it anyway. Mr. LeClaire stated that he had spoken about doing outside food sales in the previous year. Mr. Wilson noted that Mr. LeClaire had recently been invited to discuss this issue with the Board but the vendor passed away; the Board had been notified that this activity wasn't being done any more. Mr. Wilson noted that last year's approval had clearly been a one-time event. Mr. LeClaire said that this year it was only a hot dog cart; last year was a lot of items; he didn't think it was a big problem. Mr. Wilson noted that the pictures available did not look like just a hot dog stand. Mr. LeClaire agreed saying that there was also a pig roast. Mr. Wilson clarified that this issue had nothing to do with Kingston Days; Mr. LeClaire had been told last year that any outside sales needed an amended site plan review. Mr. Heitz noted that when they had recently been sitting in at a meeting, before leaving, Mr. LeClaire said that they weren't doing food sales any longer. Keith Dias, attorney representing the property owners, asked if the Board could outline specifically why they were asked to attend the meeting. Mr. Heitz stated that there is not a current Town-issued Hawkers and Peddlers license to operate a hot dog cart; Mr. LeClaire had been before the Board and reviewed his use and the current site plan approval does not allow for outside food sales; he would need to amend his site plan for that use; he added that in order to do outside food sales, it would need Planning Board review and approval; Mr. LeClaire told the Board that he wasn't doing that.

Mr. Heitz continued that the BOS had received a request from the Planning Board to stop the outside food sales; there was activity going on outside at the site; Mr. LeClaire was notified that outside food sales was not allowed and he did it anyway. Mr. Heitz noted that there is a minimum fine of \$275 per day; if Mr. LeClaire wants to have outside food sales on the site then he needs the Planning Board to approve a revised site plan.

Mr. LeClaire stated that, to him, food sales is food sales, whether inside or outside. He stated that he had a copy of Certificate of Approval issued to Mr. Korn from the HDC allowing an

outside seating area. Ms. Faulconer noted that there are two levels of review, the HDC and the Planning Board; approval from the HDC did not grant an approval from the Planning Board. Mr. Coffin read the sections of the HDC approval that Mr. LeClaire omitted which includes full compliance with Planning. Mr. LeClaire stated that he felt this was a larger use. Mr. Coffin said that the approval from the HDC also included requiring a picket fence and tables and follow all of the Planning Board requirements; these would have had to be met.

Mr. LeClaire stated, officially, that he will have no outside sales ever again.

Mr. Greenwood clarified that while there wasn't a recorded site plan for the site, the file did contain a series of meeting minutes consisting of what can be done on the site.

Mr. Heitz, in speaking as the Board of Selectmen, stated that Mr. Le Claire came in, he told the Planning Board that he wasn't having this type of activity the he took the opportunity to make some money and disregarded the notice of violation. He clarified that he was referring to the business owner, not the property owner. He continued that he recommends that the Planning Board should decide to revoke the site plan; the business owner knowingly violated their site plan; he added that the Planning Board could decide to not go forward with the public hearing if the fine was paid and there was a commitment for no more outdoor activity. Mr. LeClaire stated that he did not make any money on the event; Mr. Heitz confirmed that someone, allowed by Mr. LeClaire, made money on the outdoor food sales. The Board continued their discussion on the possibility of the site approval revocation.

Ms. Faulconer suggested the Board prepare an affidavit that all parties signed that would then be recorded to eliminate this type of future issue. Mr. Coppelman stated that all aspects of the site approval could be part of the affidavit. Mr. Wilson stated that the Board of Selectmen needed to address the fines issue as it was beyond the Board's purview.

Motion made and seconded to continue this discussion for 30 days; if the issues can be resolved to the Board of Selectmen's satisfaction, Mr. Heitz will return to the Board with a recommendation regarding the revocation of the site plan. (Motion by Mr. Heitz, second by Mr. Coppelman) **PUNA**

Attorney Dias stated that doing an affidavit seems agreeable. Both he and Mr. LeClaire's attorney, Stephen Wight, asked to review the affidavit when it was completed.

ACTION ITEM: Ms. Faulconer will research the current approval for the site and draft the affidavit for the Board to review.

Mr. Heitz stated that the Board of Selectmen had an issue with people disregarding a Cease and Desist. Attorney Dias, representing Mr. Korn, assured the Board that the issues will not continue. Mr. Heitz re-iterated that there was already a site plan approval that did not contain outside sales. Mr. Dias asked when they would be meeting with the Board of Selectmen. Mr. Heitz invited the parties involved to attend the August 26th Selectmen's meeting at 7:00 PM.

MM&S to continue this hearing to September 17, 2013 at 6:45. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

<Board Note: Mr. Pope left at this time.>

Board Business, continued

The Board reviewed the revised plan submitted by Archangel Woodworking; the Board agreed that it met the conditions; the applicant should be advised to provide the mylar for signature and recording.

Plan Review

Plans provided by Montana Realty were reviewed and added to the September 18th agenda. Mr. Greenwood will review any additional submissions received by Thursday for any additions to the agenda as the Board will not be meeting on Tuesday.

Draft changes for the Residential Home Occupation were distributed for future review by the Board.

MM&S to adjourn. (Motion by Mr. Coppelman, second by Mr. Heitz) **PUNA**