

**Kingston Planning Board
Public Hearing
November 19, 2013**

The Chairman called the meeting 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, V. Chair	Stanley Shalett
Mark Heitz, BOS rep.	Peter Coffin

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer, Larry Middlemiss, Asst. Health Officer.

Absent: Adam Pope, Rich St. Hilaire, alternate, Ellen Faulconer, alternate

**Richard LeClaire
Frederick Korn
Bucco's Restaurant
143 Main Street
Tax Map U9-42**

Mr. Greenwood reviewed the issues that had occurred up until this point. Mr. Wilson read a memo in which Mr. LeClaire asked for a continuance to Dec. 4th with the stipulation that he would submit for an amended site plan prior to that date.

MM&S to continue to Dec. 3, 2013 at 7:15. (Motion by Mr. Coppelman, second by Mr. Landry) **PUNA**

Board Business

Correspondence:

- Info. re: CEDS
- Wholesale dealer plate for 72 Rte. 125, the Board will return this.
- Transport Plate request for 3 W. Shore Park Drive; the Board will invite them in to meet with the Board.
- Little Old Lady requesting auto inspections; Mr. Coffin thought that the Board had outstanding issues on this site; Mr. Middlemiss stated that the signage issue was all resolved. Board okayed the request.
- Bond balances were reviewed.
- Court case decision received.
- PB expenditures detailed were received.

- Letter received from Stephen Early re: closing of gravel pit; Mr. Wilson explained that the Board had asked for a detailed plan which was not received; Mr. Quintal noted that there were quite a few piles of material still on the site; Mr. Greenwood said that there still needed to be a restoration plan; Mr. Coffin stated that there had been issues of the use expanding onto abutting properties.

ACTION ITEM: Ms. Faulconer to send a letter to Mr. Early about the reclamation and restoration requirements.

- Letter from NHD of Historic Resources – no significance re: Peasley substation
- Town and City magazine
- Zoning calendar and suggested dates – will be reviewed later in the meeting.
- Request for 3 Old Coach Road to sell Christmas trees and wreaths; Mr. Wilson suggested it was the trailer place location; Mr. Coffin said it is the abandoned mobile home, Reynolds trailer place. Mr. Heitz said it was not abandoned; they were doing trailer accessory sales and parts. Mr. Coppelman noted that the pool place had a similar request and the Board okayed that as seasonal sales. The Board okayed tree sales at the Reynolds trailer location.
- East Coast Metalworks letter dated 11/6 was received regarding information for a previous approval.
- 14 Coopers Grove Road NH Shoreland application received; it would require a Conditional Use permit at the local level; the Board will continue discussion later.

**Fitzgerald-Boyd Law, PLLC
Montana Realty Trust
17 Jericho Road
Tax Map R5-8-30**

Mr. Wilson explained that the Board had not received the review from RCCD back yet; he noted that it was unusual to have had to wait this long. Mr. Coppelman stated that the report is critical to the Board's decision. Mr. Greenwood recommended postponing to the next meeting, not an entire month. Mr. Coppelman asked if there was more information for the Board to review. Mr. Greenwood said that Mr. Quintal had submitted information and there was an abutter's letter. The Board discussed issues and timelines regarding receipt of the report. Mr. Greenwood will follow-up on getting the report before the next meeting. It was noted that jurisdiction was invoked on Oct. 17th; this date would still fall within the 65 day window.

Mr. Quintal's comments and Mr. Lavalley's reply were reviewed; Mr. Quintal said that his list is all set prior to receiving information from RCCD that might cause him to have additional review. The applicant asked for a copy of the abutters letter that included DES file information; she asked for an opportunity to review and respond at the next meeting; she also asked to be contacted in regards to the receipt of the RCCD report.

Abutters comments:

Andy Rusnick, abutter who wrote the letter referenced above, stated that he would answer any questions the Board might have about the information in the letter.

David Binder, abutter to the property since 1986, stated that he was surprised this issue was still going on and hadn't been addressed as it had been rejected twice, in 1993 and again in 1998, due to illegal fill being put in; a fill he witnessed and reported; he originally wrote a letter about it in 1991. He questioned what had been changed to be continuing the review based on the past decisions. Mr. Wilson said that standards had changed but they have to meet criteria based on the conditions before it was filled; that is why they are waiting for the wetlands scientist report; they can't use the filled land as part of the dry land which is why the Board is waiting for the report. Mr. Binder questioned that the filled part won't be used as part of the developable lot. Mr. Heitz confirmed that it can't be counted as upland if it is filled land. Mr. Wilson said the wetland criteria has changed, they would now have to prove it wasn't a wetland area based on the original, not the filled conditions; if it has changed, the Board may need to consider. Mr. Binder confirmed that the Board would not be considering any changes if the fill contributed to the change. Mr. Wilson agreed re-iterating that the filled section of the lot cannot contribute to that change. Mr. Quintal asked Mr. Binder if he could note on the plan the area of the fill. Mr. Binder stated that he saw the fill being dropped by the trucks, which was done at night, and he pointed out the general area on the plan noting that they called the Town when it was happening. Mr. Quintal said that it is in the area of the proposed house and leach field.

Mr. Coppelman asked who would be verifying where the fill occurred and what the boundaries of the fill were. Mr. Quintal suggested that when the first development was done, the wetlands would have been identified so the original subdivision would show them; an alternative would be to have more testing done. Mr. Greenwood said that he provided Mr. Cuomo with a copy of the file that included the former soils plan. Mr. Coppelman said that RCCD should be able to make the comparison depending on the details provided.

MM&S to continue to Dec. 3rd at 7:30 with Mr. Greenwood communication with RCCD to get the report. (Motion by Mr. Coppelman, second by Mr. Heitz) PUNA

Trendezza
22 Marshall Road
Elderly Housing Proposal

Mr. Wilson announced that he had a note from the Highway Department that the Town Engineer will speak on his behalf. He noted that there is a long list of items from the Town Engineer. It was confirmed that the applicant has not applied for septic approval as of this time. The applicant provided revised exhibits addressing some of Mr. Quintal's comments. Mr. Wilson questioned whether the current proposal should go back to Technical Review; he questioned whether there might be a major issue with the proposed wells; Mr. Quintal said that would depend on the State. The applicant explained their process for filing with the Groundwater Bureau and then for septic.

The applicant reviewed Mr. Quintal's comments and their response: will address State requirements for the drainage and treatment within the well radii; curves will be updated with correct figures; pond, scale, plan clarification will be done; will address ponding and grading issues; basement elevations will be addressed; driveway culverts will be put in; road specs were

corrected. There was a discussion regarding the Dennis comments that the design shows a 40 ft. ROW; the Town requires 60 feet. The applicant noted that Granite Fields was approved with a 25 setback from edge of pavement to the edge of the buildings. The applicant continued with Mr. Quintal's comments: changes made to cistern per Fire Department requirements; the applicant stated that the condo. association will pay for curbside pick-up; will address property lines, Mr. Quintal said that the marking of the property lines are to protect abutters' property, provide clarity for property lines. The applicant stated that there is a clear "no-cut" buffer along the border; the radius legends were fixed; retention areas will be addressed; unit 6 culvert will be addressed; match line has been corrected; the applicant will change the 12 inch culverts to 18 inch culverts; the applicant hopes that all of the incorrect references have been addressed; the drainage analysis will be revised as requested. The applicant noted that the walking paths are shown; lighting shown; enhanced privacy aspects by changing the decks and window placement.

Mr. Greenwood reviewed his comments: he has concerns with the walking trails noted more clearly and in a defined plan; his biggest concern is the roadway; he would like a lay-out noting where the 60 foot ROW would look like to see where it would lie within the unit dispersal on the property. Mr. Smith said he could do this.

The Board had a lengthy discussion with the applicant on the road requirements; the applicant had agreed to build the road to Town specifications but felt that the setbacks were unnecessary and did not meet the ordinance as this was not a road, but a driveway; since it wasn't a road, the setbacks were actually off of Marshall Road. The Board had concerns about the possibility of the road becoming a public road in the future with inappropriate setbacks for maintenance, pipes, etc. Mr. Heitz stated that the BOS were concerned about issues and costs associated with this possibility and have asked the Planning Board to encourage all roads built to Town specs. The discussion included density abilities, maximizing costs and opportunity; alternate hypothetical proposals; setbacks; private roads as driveways on site plans; site plans versus subdivision; minimum setbacks in different zones; private roads requiring no setbacks versus the same setbacks as a public road. The applicant stated that if the Town would require all of the Town specs. then the Town will own it now and he will propose a public street.

Mr. Quintal explained that the on the detail that was submitted, the typical cross-section shows a 60 ft. ROW and 30 feet from the center to the edge of the building; if that is the case, then the buildings are proposed to be 40 feet off the edge of road so that is only 10 feet from the setback line. He continued that his point is that in the cross section, when the center line, shoulder, grass, pavement, slope to the swales, contours and grading are considered, the bottom of the swale will be 23 feet from the centerline of the road which means that the buildings are going to be 16 to 17 feet from the swale, the maintenance of the road will be close to the house; he wanted the Board to be aware of this so that when the limits of the common area are determined, those limits shouldn't interfere with the drainage that needs to be done for the roadways which will be 16 to 17 feet from the buildings. Mr. Coppelman confirmed that the setback for Rural Residential is 30 feet. Mr. Quintal said that plan confirms this zone.

The Board discussed differences and distinctions between this proposal and previous ones such as Granite Fields.

Mr. Greenwood continued reviewing his comments. The Post Office had been in touch with the office and would like to meet with the applicant to review the mail kiosk locations. Mr. Smith said they would.

Mr. Greenwood asked the status of the previous Boundary Line Adjustment. Mr. Smith said the mylar is ready; the applicant was hoping to do all of the recording at one time but will get the mylar in for recording. Mr. Greenwood stated that he would not like this to get lost in the process which had happened to a similar proposal. He noted a comment from a previous set of comments regarding seeing the condo. documents for review. The applicant will provide them.

Mr. Quintal said that in the discussion with the Road Agent, the applicant needed to set up a numbering scheme to comply with emergency standards. Mr. Greenwood noted that it was unlikely that this needed to return to the Technical Review committee.

Mr. Landry asked about compliance with the Aquifer Protection Ordinance; referencing the section pertinent to requirements for a hydrogeologic study. The applicant reviewed the septic systems gallons per day: two up front – 6900 gpd, in the east 1800 gpd, two in the cul-de-sac were 2400 gpd. Mr. Landry stated that a hydrogeologic study should have been conducted; it was confirmed that the property is in the Aquifer Protection Zone. Mr. Smith stated that is was their misunderstanding about it being mandatory.

Mr. Wilson invited abutter comments at this time. Andrea Kenter of 23 Marshall Road questioned not having the hydrogeologic study and encouraged the Board to require the study; she questioned whether there would be any groundwater impact; she stated her belief that the number of wells would be classified as a public water supply raising additional review for this proposal; there was discussion regarding the process with the State and water supply. Ms. Kenter spoke of possible lead contamination especially considering the amount of dirt being moved about on the property and the Aquifer; she questioned whether wetlands studies had been done. Mr. Greenwood said that they were being reviewed by RCCD. The applicant said they had also been in touch with Fish and Game. Mr. Wilson asked Mr. Greenwood who checks on the lead issue as it keeps coming up. The applicant said they did a Phase I environmental study which was submitted to the Board. Ms. Kenter said that a Phase I study has not investigative due diligence associated with it, it is purely a paper study; no augers have been in the ground, no samples collected. She stated that she has data showing there is lead contamination; someone familiar with the property would need to point out the areas. She added that if there is the possibility of lead in the soil in a parcel and development of this size on the Aquifer, the investigation should be requested by the Board; while the hydrogeologic study might show the lead contamination, the Board should be looking at soil samples to determine the impact as it can be costly to remediate.

Mr. Landry noted that the Planning Board did not need to make a motion to require the hydrogeologic study; it is required by the Ordinance. Mr. Coffin agreed by reading the requirements and noting that it says that it “shall” be required; he said it is not up to the Board to determine, it is requirement. The applicant agreed but re-iterated that this is one lot so the frontage is on Marshall Road; everything interior is a site plan with the frontage requirement being in relation to Marshall Road.

The applicant continued reviewing his interpretation of the setbacks. Setbacks, slopes, drainage and other aspects of the road and the development continued to be discussed. Mr. Heitz suggested that before moving on, the Board needed to resolve the setback issue; he confirmed that the ordinance says the requirement is 25 feet from edge of pavement. The applicant again referred to previous approvals such as Granite Fields. Mr. Quintal stated that he felt it was a different presentation compared to this one; it was far away from Rte. 125, a gated community with entrance on a card basis; this is not really the same type of proposal; it is a different location, closer to the highway without the same private aspect of Granite Fields. Mr. Coffin suggested having the deed state that, in perpetuity, there could be no public road ever allowed on the property to disallow this ever being a public road and then the setback requirements would go away. At this point, there were multiple conversations regarding the aspects of the setbacks and private versus public roads.

Mr. Heitz asked Mr. Greenwood why he wanted to see the 60 ft. ROW; Mr. Greenwood answered that he wanted to see where the ROW would land on the property so, if the Town was petitioned to be a public roadway, the Town could see what the impact would be. Mr. Wilson stated that if the applicant is adding in the documents that it will always be a private road, then it will be a private road. Mr. Greenwood stated that if this would become a Town road in the future there will need to be a legal instrument drawn up describing the legal limits of the Town road. Mr. Quintal re-iterated that the applicant would need to show limits of the common area that needs to be set off the 30 foot centerline; that the limited common area should not encroach into that because that is where the swales will be. The applicant stated that the limited common area won't be in the front. The discussion on the setbacks continued.

Mr. Wilson said, for the record, he is fine with being 25 feet off the pavement. The applicant said they have 30 feet. Mr. Quintal said it is actually 28 feet. Mr. Wilson said it still allows plenty of room for snow storage. Mr. Shalett said the assumption should be that the road will someday be a Town road and should be built to all of the Town standards. Mr. Coffin said that, worst case would be the Town accepts the road and the buildings would be grandfathered as having a 40 foot ROW instead of 60 ft. Mr. Wilson stated that in reality, what does a ROW really mean; it is a line down someone's yard. Mr. Heitz explained that the idea is that if the Town needs to lay pipes or maintain the road, the work isn't being done on people's property. Mr. Wilson said there is plenty of room for maintenance; a ROW is an imaginary line that is never going to come into play. He asked for Board input. Mr. Landry said he would like the road built to Town standards but is comfortable with the setbacks as proposed. Mr. Heitz stated that if the proposal falls within what is permitted in the ordinance than the 60 feet requirement can't be imposed; he recommended that the Board look at it for the future as this is an on-going issue; if the ordinance doesn't permit the requirements, then the Board should go with what is proposed. He re-iterated his belief that the Board ought to revise the ordinance. Mr. Coppelman stated that he is not sure that the Ordinance isn't being interpreted differently by some of the Board members; he thinks the interpretation can require the setbacks. The applicant discussed density and setbacks which would not be meeting the intent; Mr. Quintal disagreed explaining that the buildings can be clustered and the setback could be 80 feet and still get density benefits. Mr. Coppelman said that the original reference is 20 feet off the road; the applicant noted that the "roadway" is a driveway, not a road.

The setbacks, front lines of the buildings and where the setbacks fell were reviewed. Mr. Coppelman clarified that no one suggesting an additional 60 feet from the 60 ft. ROW; it is a 30 foot setback in RR but he would be happy with 20 feet noting that this did not appear to be where the Board was going. Setbacks and wetland setbacks were discussed; the Board continued reviewing the setbacks.

Mr. Quintal suggested making all of the dwelling units 40 feet off the centerline which would work with the swales being at least 15 feet off the front building line; he noted that making some adjustments to the buildings and road would make them all meet this requirement and work well with getting the swales at least 10 to 12 feet off the front of the houses. Mr. Smith will do this to the extent possible. Mr. Wilson suggested they come back to the Board, needing to shoot for the 40 feet off the centerline. The applicant said that he would come up with an alternative design for the house in the tighter locations to meet this requirement and keep them away from the wetland.

MM&S to require the road be built to Town Standards with the front edge of the building being 40 feet from the centerline of the road. (Motion by Mr. Wilson, second by Mr. Heitz) **Motion carries 5-1-0 with Mr. Coppelman opposed.**

MM&S to continue this hearing to Dec. 17th at 6:45. (Motion by Mr. Heitz, second by Mr. Landry) **PUNA**

Board Business, continued:

- Mr. Wilson stated that George Korn dropped off a document showing the placement of a temporary trailer. Mr. Heitz asked what temporary meant; Mr. Wilson did not know. Mr. Greenwood noted no water or sewage connections. The Board reviewed the requirements for expedited site review; this proposal fits those requirements as it is less than 7% of an existing structure. Mr. Greenwood noted that there is an approved site plan on file and this is not a change of use. Mr. Wilson questioned what temporary meant again. The Board reviewed whether approval was appropriate or whether to review after actual submission. Mr. Coppelman read 904.2 re: needing a conceptual consultation with the Planning Board to determine if a site plan is not required. Mr. Greenwood said that this could constitute a conceptual consultation; it needs to be at a noticed meeting not a hearing; the minutes will reflect a copy of the site with the location of the proposed temporary structure; nothing gets recorded. Mr. Greenwood added that the applicant needs to bring in twelve copies of the plan; repeating that it does not get recorded.

MM&S to grant the approval of an expedited site plan based on the submittal the Board received. (Motion by Mr. Heitz, second by Mr. Coppelman) **PUNA**

MM&S to continue PSNH proposal, per their request, to Dec. 17th at 7:00 PM. (Motion by Mr. Landry, second by Mr. Coffin) **PUNA**

Plan Review:

Shoreland Permit received; Board confirmed CU permit was required; Ms. Faulconer or Mr. Greenwood to contact the owners re: the requirements.

Torromeo Industries: application for a State permit due to EPA requirements; they need site plan review due to a physical upgrade to the site due to the construction of a vinyl holding pond. The Planning Board instructed Mr. Greenwood to contact Mr. Torromeo about the need for local review.

Boundary line adjustment plan received for Camp Lincoln; added to the agenda; Mr. Greenwood and Ms. Faulconer will establish time on the agenda.

Amended site review for Granite Fields; condo doc changes proposed; Attorney Loughlin said it needed site review; add to the agenda for Dec. 17th.

ACTION ITEM: Mr. Greenwood will have Attorney Loughlin give us his opinion and advice on the changes; he will ask for a “lay interpretation” of what the changes mean to the Town.

Mr. Wilson reminded the Board that, due to Thanksgiving, there was no meeting scheduled for next week.

The Zoning amendment calendar was reviewed and accepted as presented.

MM&S to adjourn at 9:05. (Motion by Mr. Coppelman, second by Mr. Heitz) **PUNA**