

**Kingston Planning Board  
Public Hearing  
March 18, 2014**

The Chairman called the meeting to order at 6:53 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 (arrived with the meeting in progress)
Peter Coffin	Adam Pope
Mark Heitz, BOS rep. (arrived with the meeting in progress)	

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer, Ellen Faulconer, Administrative Assistant (Board Alternate)

Absent: Rich St. Hilaire, alternate

**PSNH**

**Lot Line Adjustment**

**14 and 18 Mill Road**

**Tax Map R-11-11 and 12-1**

Nick Golon introduced himself and Walt Balinsky and Laura Gaines as representing the applicant. He explained the LLA and noted that the applicant had received relief from the ZBA for the three acre requirement. Mr. Quintal reviewed his comments: he noted that the plan was not clear in describing which lot line was being created; the plan should show the “proposed lot line”; the Town’s regulations require iron pipes be placed every 200 ft. and this may be worthwhile for this project. The Board consensus was that the iron pipes should be placed along the property line with R-11 and R-12. Mr. Wilson confirmed that the Board had received the ZBA decision for this application. <Board note: Mr. Shalett arrived at this time.>

**MM&S to approve the application as proposed with two conditions: the new line is to be labeled “to be created” and additional monumentation along the property line is to be installed every 200 feet.** (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

**PSNH**

**Peaslee Substation**

**14 Mill Road**

**Tax Map R11-11**

Mr. Golon continued his representation of PSNH. Mr. Wilson read Conservation’s comments: questions regarding relocation of bio-retention area, an incorrect date and symbol missing from p. 3. Mr. Golon will correct the typos and missing symbol; he explained that the reason the bio-retention area was moved was to keep as large a buffer as possible so the bio-retention area was moved 10 feet.

Mr. Quintal began his review of his comments by noting the Mr. Golon had been prompt in addressing his questions and concerns. He reviewed his comments: Sheet 4 is the only sheet being recorded and it is missing some information that should be included on the recorded plan including easements, the lot line adjustment just approved, pertinent notes and waivers. As an example, he noted that Sheet 2 shows a 60 ft. easement with Book and Page number but that page isn't being recorded. He re-iterated that all pertinent notes, easements and waivers should be on a sheet that is being recorded. He added that the driveway is supposed to be located 20 feet off the property line. His second comment concerned the bonding issue previously discussed; he had spoken with the Road Agent but hadn't heard back from him about any amount of the bond yet. Mr. Quintal stated that the plan being recorded should include any easements, waivers, clarification of lot line adjustments, state approvals and any conditions of approval. Mr. Wilson noted that all of this could be reviewed by Mr. Greenwood for completion of the conditions. Mr. Greenwood questioned the Board's comfort level not knowing the amount of the Bond. It was determined that the Board would agree with any decision reached between the Town Engineer and the Road Agent; if the applicant didn't agree with the amount, they could come back to the Board. The applicant agreed with those conditions.

Mr. Wilson asked about public comment. Kevin Connors of 20 Mill Road noted that there are three properties affected by the easements. The status of the easements was discussed. Mr. Balinsky stated that they had confirmation that all three property owners were willing to provide easements which were still in negotiation and not currently finalized. Mr. Golon explained that their lighting plan is different than Unital's; their lighting only comes on if the power is off.

**MM&S to conditionally approve the application as presented with the following conditions:**

- **A bond will be posted in the amount determined by the Town Engineer and Road Agent for wear and tear on Town roads for this project.**
- **All easements are to be shown on the plan**
- **All notes, approvals, waivers and permit numbers are to be on the sheet to be recorded**
- **The site plan needs to reflect the new boundary line**
- **Conditions to be met in 60 days.**

Motion by Mr. Coppelman, second by Mr. Pope. (PUNA)

**Board Business**

**Correspondence:**

- The Road Agent requested information from the Planning Board regarding any requirements for the new Highway Garage approved at Town Meeting.

**Action Item: The Board stated that one presentation would be adequate; televising the hearing is requested for better public information.**

- Invoices signed for Attorney Loughlin and Town Engineer.
- Letter received from Diddies and Doodads going into the former Prancing Horse antiques; the Board agreed with the information previously provided by the Chairman that this was a similar use and would require no further review from the Planning Board.

**Trendezza**  
**22 Marshall Road**  
**Tax Map R33 Lot 27**

Christian Smith introduced himself along with John Lariviere, Nikki Roy and Joe Nichols; he reviewed the plan revisions. They had revised the plan using USGS data; got the required stamps and signatures; they spoke with Mr. Quintal and corrected benchmarks; Sanborn Head had revised the hydro studies. Ms. Roy explained that the plan was revised to reflect the adjusted daily flow for a 55+ development and addressed Ms. Truslow's comments adding that they had also received Ms. Truslow's most recent comment letter. Danna Truslow reviewed the changes explaining that there appears to be a couple of places that are close to the nitrogen limit but it seems reasonable. She explained that there is some type of source of nitrogen that makes one well fairly high and there is no sense of a trend which remains a concern. She added that the lead study should be checked when there is no snow cover for a better sense of the actual field conditions. Ms. Truslow noted that it makes sense to continue water monitoring to make sure conditions are understood prior to construction; these points are her major evaluation points. Ms. Roy noted that the nitrate concentration in one well met the 10 ml. at the property boundary; she added that on-going water testing will be done in the future twice yearly. Mr. Coppelman asked Ms. Truslow if this was sufficient. She stated it would be post-construction, without continued testing over the next few months, it would be a wait and see proposition. There were questions about the monitoring prior to construction. Mr. Smith stated that the owner, Mr. Lariviere, agreed that during construction, he will have Sanborn Head monitor the well located at SH-1. Ms. Truslow added that it would make sense to have all the wells monitored for water levels. The applicant agree with that.

Comments from Conservation were read by Ms. Faulconer; concerns about the walking paths proximity to a vernal pool were noted. Mr. Smith explained that a newer plan showed the walking paths moved due to extensive discussion with Fish and Game; the buffer has been extended and the walking paths are now outside of the buffer. Mr. Quintal agreed with Conservation that the North arrow on Sheet 7 was incorrect; Mr. Smith will correct; he explained that no box culverts are proposed so are not shown on the plan and the LCA's are shown on sheets 2 – 4 and are not germane to the other sheets.

Previous comments from the Fire Department were read regarding easements for the cistern and concerns over the maintenance of the cistern. Mr. Lariviere noted that the right to access the property is addressed in the condo. docs. Ms. Faulconer explained that the concern was not to simply access the property but to have easements rights to access the cistern and a note stating that the condo. assoc. would have the responsibility of maintaining the cistern. Mr. Smith stated that he would add a note to the plan that the association would be responsible for the repair and replacement of the cistern.

Abutter comments: Andrea Kenter had sent two letters to the Board, one regarding the hydro study and one regarding the lead study. Ms. Kenter requested that the Board take the time to read her letters and she would be happy to answer any questions at the next hearing. She did a quick review of them. She stated that she thought, on the whole, a good job was done on the hydro study. She said her letter described a possible source for the high nitrate levels being the

tens of thousands of birds that used to be in proximity to the property when chickens were raised in the area. Ms. Kenter spoke to the lead study saying that this was a bigger issue which she said was significantly flawed; she briefly reviewed her reasoning for this statement again asking the Board to review her letter; she noted that the visual review of the site was done the day after Kingston got 10 inches of snowfall making a visual assessment out of the question. Ms. Kenter added that the Board had asked her to identify areas of concern and one busy area in particular was not looked at for the study. She continued that the random sampling did have lead levels in all of the samples and suggested that they simply did not hit the “hot spots”; some samples were discarded but alternate locations were not chosen to replace those samples. There was discussion regarding a specific piece of equipment that was not used; Ms. Roy explained why. Ms. Kenter re-iterated her belief that the study was flawed and asked again that the Board review her letter and the pictures she provided so she could better address the issues at the next hearing. She added that a supply well is inaccurately located and the new well on the abutting property was not shown on the plan. Joe Nichols explained that the incorrect location shows the originally proposed location of the well which is a more stringent location. Mr. Coppelman confirmed with the applicant that they have received copies of Ms. Kenter’s letters. Ms. Roy commented that the standard industry approach for lead sites were not intended for recreational shooting but for official ranges; there are not standards for this type of shooting. She continued that the area not tested is not an elevated area; it was their assumption that people would not shoot into a flat area. Mr. Lariviere said that they had discussions with the State and they find no reason to conduct additional studies. Ms. Roy said that they will not respond in writing to this unless they get a request from the Board and then they will get to it when they can. Ms. Roy will get the NHDES contact information to Ms. Faulconer.

**ACTION ITEM: The Board (Ms. Faulconer) will contact NHDES to confirm the State information regarding this issue.**

Mr. Coppelman asked about the updated Condo. Docs. Ms. Faulconer said they were much better than the original submission but still had some areas of concern. Ms. Faulconer reviewed some of the concerns including attaching date to ordinance references; fixing typos and incomplete sentences; concerns with language usage and possible misinterpretation; concerns with allowing additions based on issues of setbacks; privacy still may not be addressed which would be a Board issue for discussion. Rather than review the entire document, the Board authorized Ms. Faulconer to review with Mr. Lariviere; Mr. Lariviere will contact his attorney to review the document with Ms. Faulconer; the comments and concerns will be addressed and the document will be fixed and resubmitted for review prior to sending to the Board’s attorney for his review.

**ACTION ITEM: Ms. Faulconer will send Water District language to Ms. Roy.**

Mr. Lariviere told the Board that he would be removing the 8:30 application from the agenda as it was no longer required since they had received an equitable waiver from the ZBA.

**MM&S to continue to April 15 at 6:45. (Motion by Mr. Pope, second by Mr. Coppelman)  
PUNA**

**Franma, LLC**  
**22 Main Street**  
**Tax Map U5-61**

Mr. Heitz explained that he was asking to construct a patio made from pervious pavers at the rear of the lot and was asking to extend the hours of operation. Mr. Heitz noted that he had received a variance for the lot setbacks, lot coverage and a special exception for the Shoreland. Mr. Wilson confirmed that the Board had received the paperwork from the ZBA. Mr. Heitz stated that the site is currently approved to operate from 7 AM to 10 PM, 7 days a week; he is asking to expand those hours to be able to close at 11 PM on Thursday, Friday and Saturday; the remaining days will stay the same. Mr. Greenwood stated that the plan notes reflect the hours. Mr. Heitz explained the pervious pavers noting that they were LEED certified that created a stable surface while allowing the water to pass through and percolate down through them; Mr. Coffin provided additional information and reviewed the discussion with the ZBA. Mr. Coppelman confirmed that the infiltration happened through the seams. Mr. Quintal stated that he reviewed the sheet flow but there is a berm on the edge so it is one of the better products to be used; he did not review this plan in depth as that had previously been addressed by the former owner on a recent application. Mr. Wilson confirmed that the catch basin had been installed. Mr. Coppelman said that he felt that the applicant was not going beyond anything that had been approved by the ZBA; had gone as far as anyone could go to conform with Stormwater Management and the three hours increase was very minimal. Mr. Heitz explained that the former owner chose to remove the concrete material placed without approval prior to meeting with the Board about submitting an amended site plan review.

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

The Board discussed the fencing on the property line next to the Town's recreation site. Ms. Faulconer suggested that it might be appropriate to have a note regarding the fence between the commercial activity and the Town's recreation site; she stated that a former owner might think it was decorative instead of a requirement. Mr. Wilson noted that the fence is already shown on the plan; Mr. Greenwood confirmed that the wooden fence is located right on the property line. Mr. Coffin stated that the fence is there in lieu of a vegetated buffer suggesting that maintenance of the fence should be delineated on the plan. Ms. Merrill, the realtor for the previous owner, suggested that the Board check with Mr. St. Hilaire regarding the ownership of the fence. Mr. Heitz agreed that he will maintain the wooden stockade fence at this location on the site. Ms. Faulconer stated that, due to the location of the site and its surroundings, she felt that the request for the additional hours was reasonable. Mr. Coppelman agreed that the additional hours are reasonable given the business and the area of the business; the solution of the patio with the pavers is a good one.

**MM&S to approve the application as presented with the understanding that the property owner (U5-61) will maintain the stockade fence as shown on the plan.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

<Board note: Mr. Heitz joined the Board at this time.>

## **Board Business, continued**

### **Correspondence:**

- Letter received from Steven and Dawn Padfield regarding Memories Ice Cream; Mr. Coppelman reviewed the history of the site suggesting that the applicants review the existing site plan; he noted that this is in the SFR/Ag zone making it a challenge; he stated that there are some specific conditions on the site plan approval that they should make themselves aware of; he stated that if this was continuing as it has been approved, then it would be fine explaining that items were to be manufactured on-site with local products and they can use the farm stand. Mr. Coppelman noted that the property sits close to neighbors who are sensitive to the use but added that it is a great business. Ms. Padfield stated that they would try to be concerned of the residents; they know that when they are ready to do the bathroom addition they will have to return to the Board. Mr. Coppelman re-iterated that since they will be operating under the approved site plan, they should review it to be aware of conditions. Ms. Faulconer asked them about their note about adding coffee back and if this would have additional early morning traffic; Ms. Padfield stated that they are just adding coffee to the menu but not adding any hours, they still plan on opening at 11 AM. The Board agreed unanimously that if the activity is not changing in any way, no further review is required.
- Copy of letter to BOS re: RPC dues.
- Request for plates from 5K Truck and Auto – the Board has no information regarding this activity.

### **ACTION ITEM: Ms. Faulconer to invite the owner of 5K auto in to speak with the Board.**

- Continued from last week: Auto Inspection for Mr. Rami – Ms. Faulconer had contacted the State regarding Mr. Rami leasing the license from Mr. Maroun; per the discussion, this is not allowed. The Board deferred action pending further information from the owner.
- The Board reviewed information received from the Town of Plaistow regarding possible construction debris being collected on the Galloway site. Mr. Coppelman asked if this was an approved activity on the site as he did not recall approval of that use; Mr. Greenwood stated that he did not believe the Planning Board had approved dumping of debris on the site; he suggested that he would review the files and return to the Board.

### **ACTION ITEM: The Board authorized Mr. Greenwood to review the files regarding site approvals for the Galloway site; if this use (construction debris dumping/storage) is not on the plan, the Board authorized Mr. Greenwood to send an Enforcement request to the Board of Selectmen.**

- Bond Balance was received
- The meeting with the SRSD ad-hoc committee was noted, Mr. Coppelman cannot attend the first meeting; Mr. Coffin will check his schedule to see if he can attend on the Board's behalf.
- The Board reviewed an email from the BOS regarding a special event activity at Depot Rd.; Mr. Greenwood stated that he didn't see where the activity as currently explained was under the jurisdiction of the Planning Board as it was a sporadic activity with no improvement on the site. Mr. Heitz was unsure as how a previous issue had been addressed in another location. Mr. Greenwood said that location had a site plan for an education school and the Renaissance Fair was not attached to the approval. Mr.

Coppelman agreed saying that the special event request is a public safety issue for the Board of Selectmen to deal with.

- Reviewed a letter pertinent to the former Pondview being referenced as “Saddle Up”; the letter had been referred to the Inspectors who were dealing with the building issues; the Board had been informed that they had hired an engineer to prepare a site plan for the Board to review; due to this information, the Board took no action on the letter.

The next meeting is April 1<sup>st</sup>; the Board authorized Mr. Greenwood to review any plan submissions for the April public hearing.

Mr. Pope and Mr. Coppelman will be sworn in before the next meeting; the election of officers will take place at that time. It was noted that all the Board’s warrant articles passed.

Mr. Greenwood asked to speak to the Board in non-public session to discuss a legal matter. Mr. Quintal left the meeting at this time.

**MM&S to enter into non-public session to discuss a legal matter.** (Motion by Mr. Coppelman, second by Mr. Landry) Mr. Wilson polled the Board: **(PUNA)**

Mr. Coppelman – Yes	Mr. Shalett – Yes
Mr. Landry – Yes	Mr. Wilson – Yes
Mr. Heitz – Yes	Mr. Pope – Yes
Mr. Coffin – Yes	

The Board discussed a legal matter and agreed to schedule a meeting with the Board’s attorney.

**MM&S to come out of non-public session.** (Motion by Mr. Coppelman, second by Mr. Landry) Mr. Wilson polled the Board: **(PUNA)**

Mr. Coppelman – Yes	Mr. Shalett – Yes
Mr. Landry – Yes	Mr. Wilson – Yes
Mr. Heitz – Yes	Mr. Pope – Yes
Mr. Coffin – Yes	

The Board added Diamond Oaks expedited review to the April 1<sup>st</sup> agenda at 7:15 PM.

**MM&S to adjourn at 9:50 PM.** (Motion by Mr. Pope, second by Mr. Heitz) **PUNA**