

**Kingston Planning Board
Public Hearing
April 15, 2014**

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	Stanley Shalett
Peter Coffin	Adam Pope
Mark Heitz, BOS rep.	

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

Absent: Rich St. Hilaire, alternate

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

Christian Smith introduced himself along with John Lariviere and Andrew Sullivan, Attorney. He stated that he had submitted new plans that showed the BOS approved road names and change in owner of record; only two new plans had been provided. Mr. Greenwood reviewed his list of remaining issues: finalization of condo. docs, groundwater testing program – final information and clarification of post-approval monitoring, testing of areas now that the snow cover is gone, septic plans have not been submitted, page numbers are either missing or incorrectly numbered, note regarding the cistern and its maintenance, etc., note regarding the road remaining private, clean site plan for recording purposes should include all relevant notes, there is a question regarding the note indicating that the light and landscape will be shown post-approval, questioned whether there should be a final sign-off from the Police Chief regarding lighting. Mr. Greenwood suggested having a letter from the Chief; Mr. Smith said that Joe Nichols met with the Chief and they can get a memo from him. Mr. Smith pointed out that Sheet “A” has a note regarding the road remaining private. Attorney Sullivan reviewed the condo. docs. stating that he believed all of the issues had been addressed. Ms. Faulconer stated that there was still one point that Mr. LaRiviere wanted in the document that the Board would have to review which was in section 25.2.1 regarding the allowance of occupants under the age of 55. Mr. Lariviere said that he wanted to leave in the section of allowing occupants under that age in case of needing nursing care or for younger people that were physically or mentally handicapped. Mr. Sullivan confirmed that he had checked with federal law and that was not a requirement. Ms. Faulconer said that her only concern was that it was not in compliance with the current ordinance and would leave it up to the Board. Mr. LaRiviere said that if it was not in compliance that he can strike it even though he thinks it is the right thing to do but it is not a make or break thing to keep this or remove it if it is not something that the Board can waive. Mr. Greenwood said the only way to keep this would be to amend the Ordinance at next year’s Town meeting or the applicant could ask for relief with the ZBA. Mr. LaRiviere stated that he would

remove that section. Mr. Sullivan will send a cleaned up copy to Ms. Faulconer to review. She will then send it out to the Board for their review and forward it to the Town's attorney for his review.

The well testing requirements were reviewed. Ms. Truslow stated that the requirement is to monitor for water levels for surrounding wells; take initial results to get baseline of the quality of the bedrock wells; periodic monitoring with the wells when it goes on line. She continued that the water quality on shallow wells and the nitrate in the groundwater is at question; she recommended that some additional nitrate testing be done for the next few months to make sure the septic design takes into account the concentrations and the trend; the testing should be done on the well with the high value noted and the adjacent well. She also suggested getting additional water levels at the existing wells to get a better handle on groundwater flow as it is not clear from the data collected. She added that this could be a short-term program which could continue after approval and depending on the results may not need long-term testing. Mr. Coppelman asked if this was part of a recommended monitoring plan to use as part of the approval; if the Board agrees that this is prudent, he would like a document to refer to for this. Ms. Truslow stated that she had supplied these documents to the Board but she had also just summarized the recommendations as bullet points which she will supply to Ms. Faulconer for the Board. Mr. Shalett asked about the testing for VOC's. Ms. Truslow explained that all this is included in the testing; she had the documentation for that. She added that post-installation testing includes bacteria, nitrates and yearly monitoring for permanent supply wells. Mr. Wilson said that to put it in simple terms, it is currently at a legal, but elevated level, and the septic will make it worse. Ms. Truslow said he was correct. Mr. Smith confirmed that one well had a hit for nitrates. Ms. Truslow explained that there is going to be some migration of nitrates and there is a limit in the Ordinances for nitrates and reviewed the limits. She pointed out the septic system locations, monitoring wells and water supply wells on the plan; she explained the assumed water flow adding that the testing isn't going to show the effect of the shallow well and nitrates; there could be additions to the nitrate levels. Mr. LaRiviere added that the background concentrations were calculated in the limits at the property line. Mr. LaRiviere stated that he was amenable to additional nitrate tests prior to installation of septic as short-term monitoring. Ms. Truslow said that 2 additional samples plus water level monitoring over the next few months should be done. Mr. LaRiviere said he was okay with this.

Mr. Greenwood said there are two issues that shouldn't be grouped together, the soil contamination issue and the nitrogen testing. Mr. Greenwood noted that some areas were not tested due to snow cover. Mr. LaRiviere said that they didn't find a location with even 1/2 of the level of the study levels and he didn't think any further testing was required. Mr. Pope confirmed with the applicant that there was one area on the site that was suggested it be tested but it wasn't. Ms. Truslow suggested doing a visual inspection once the snow is gone and the applicant's hydrogeologist, Sanborn Head, did not make any observations on the site prior to the snowfall. Mr. Smith said it could be a condition of approval.

Mr. Smith returned to Mr. Greenwood's list. He will check on the missing pages, number 10 and 12; note #6, he will add the note to the plan; #7 is on the plan; he will provide a clean site plan for recording. Mr. Greenwood noted there are 4 pages that should be included for recording; he and Mr. Smith will review that. Mr. Smith said he will get a sign-off from Chief Briggs.

Mr. Coppelman said that the Board does not, as a practice, approve a plan without the lighting and landscaping plans; it is not typically something the Board does. Mr. Smith said that they will work to get a plan together. Landscaping was reviewed in regards to the privacy requirement. Mr. LaRiviere explained that the decks are recessed into the buildings so decks aren't facing decks; they are sheltered on two walls to provide additional privacy.

Mr. Wilson confirmed that the new plans submitted by the applicant do not include sheets 10 and 12. Mr. Coppelman reviewed sheet 4 of 12 and asked to have the symbols pointed out regarding their locations. Mr. Smith stated that Sheet 2 has the street plantings which correspond to some of the symbols.

Mr. Wilson reviewed Conservation Commission's comments from a previous hearing; the access to the wellheads had been revised; Mr. LaRiviere stated that it was common for utility easements to cross over a waterline as they were at different depths. The ConsComm comments continued: they recommend a salt reduction area, noted radon issues in some of the surrounding properties, biological survey due to the vernal pools. Mr. Smith noted the biological survey had been done.

Mr. Quintal noted that the comments on his last sheet provided to the Board had been addressed. He added that there were State permits pending: State Subdivision approval, Alteration of Terrain permit, Septic Design approvals, need to file for EPA Notice of Intent, NH Div. of Historical Resources was signed off already. Mr. Quintal stated that the State approvals should be on the recorded plan. Mr. Smith re-iterated that there was a lighting plan but they did not have the sign-off from the Police Chief yet.

The Board reviewed pending items: lawyer review of condo. docs., letter from the Police Chief, the applicant will supply the Board with landscaping and with the lighting for the two entrances, remove the note that they will come after the approval. The Board needs to receive Ms. Truslow's "bullet" points. Mr. Smith stated that the well-siting report has been filed; they have to do a multi-day pumping test to determine what treatments may be required; they need the well approvals and then subdivision approvals.

Mr. Coppelman asked about a previous discussion regarding the water. Mr. LaRiviere said that the water supply will be run by a public utility; he will be glad to talk with the Town if they want adding that he has been in touch with HAWC and Pennachuk but has no current agreements. Mr. Coppelman said that this would be a BOS issue. Mr. Heitz stated that the only feasible way for the Town to be the utility would be for a third party to manage it; if Kingston ever sets up a water company, it can step in at that point. Mr. Heitz explained that, if that was needed, the Town would have to take it by eminent domain.

Ms. Truslow suggested that if the monitoring could begin earlier, it would be to everyone's advantage. Mr. LaRiviere agreed that one of the tests would be done prior to the next meeting.

MM&S to continue to May 20th at 7:15. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**

Board Business

Mike Simone, Summit Outdoor Solutions regarding utilizing the former Clark's garage had asked to speak to the Board at a previous meeting and scheduled this evening. Mr. Wilson explained that this meeting was to look at the proposal and tell the applicant the level of review that would be required. There is not site plan on file; there is a Lot Line Adjustment plan from 2000. Mr. Simone had provided the Board with a copy of the LLA plan showing the buildings they would be using (in yellow) and the current uses (in green). Mr. Greenwood recommended utilizing the plan they submitted for review as there was no new construction being added to the site. Mr. Wilson read comments from ConsComm regarding appropriate storage of toxic materials. Mr. Simone explained how the containment system works; he submitted pictures of how the storage worked; they comply with RSA 147-A. He discussed the disposal of waste products explaining that disposals are sprayed on location; triple rinsed at the site; the containers are cut in half and ready for regulated disposal. The sprayers get very diluted and basically wash themselves out.

Mr. Coppelman reminded the Board that the applicant had been sent to the HDC; Virginia Morse, the HDC Chair was present to review that meeting. Ms. Morse met with the applicant to gather information as it appeared a permit was needed; the use was neither permitted nor prohibited. Ms. Morse continued that questions were raised concerning the chemicals with many of the concerns actually being within the Planning Board purview. The Commission didn't deny the request but couldn't say "yes" on the spot; the members wanted to think about non-conforming uses; they agreed that the applicant can fill out a permit request and return next month. She added that two HDC members thought a public hearing is in order to hear from abutters but at a Planning Board hearing. Ms. Morse said that if the Planning Board says there are very little concerns with chemicals and the containment of chemicals; if the Board is comfortable with the assurances that they are all covered, then it may be a viable non-conforming use.

Mr. Greenwood suggested the Simone's come back to the Planning Board to keep the process moving to run the Planning Board and HDC in sequence instead of doing them separately. Mr. Shalett suggested that the history of the site should be reviewed as the Clark's had been there a long time and with a new use proposed it would be important to check if the Ordinance permits this use; he added that this use is not listed and where the Ordinance is silent then it is not permitted without an amendment. Mr. Wilson said that would be the point of the public hearing to get public input and review the Ordinance; the applicant should add the hours of operation, number of employees and notify the abutters with a public hearing. Ms. Morse asked if there was a determination that this was indeed a change of use. Mr. Wilson said that currently the Board is saying that there is no plan on file; the discussion of whether this is a change of use or not will take place at the hearing. Mr. Wilson asked Mr. Clark what is happening to the existing oil storage facilities. Mr. Clark said that they will be removed eventually. The application process was reviewed. Mr. Heitz suggested the possibility of the applicant setting up the office and keeping the vehicles where they were until after the approval process; with the idea that the office use is ok but the vehicles and chemicals would not be kept on site. Mr. Wilson cautioned that if there was a "no" vote for the hearing, this could create a problem. There was Board consensus that the office use was not a change of use for the site. The Board stated that the applicant needed to apply to be on the May agenda.

Kevin Connors came to speak to the Board about the previously approved Peaslee Substation; he introduced another abutter, Linda Loving. Mr. Wilson explained that the Board had previously granted a conditional approval for the site. Mr. Connors provided the Board with a copy of a letter dated April 7th from NH Utilities that the site has been redesigned and won't need the easements. Mr. Coppelman suggested that if that was the case, then PSNH would need to re-apply with a new plan. The Board unanimously agreed. Mr. Quintal stated that one of the conditions was to secure the easements. Mr. Wilson stated that if they can't do that, then they can't meet the conditions. Mr. Greenwood said that if they can't meet the approval, then they have to re-apply. Mr. Connors asked about his deadline to apply to the ZBA. Mr. Wilson said that he had to do what he felt he needed to do.

MM&S to approve the March 18, 2014 minutes as written. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion passes 5-0-2** with Mr. Pope and Mr. Heitz abstaining.

Correspondence:

- Lot Line Adjustment request between 2 and 6 Sands Lane was reviewed; the road is owned by the property owner joining the lots; the application was approved to be signed by the Chairman.
- Purchase Order for the computer in the PB office was approved.
- Bond for PSNH for Mill Road suggested at \$25,000 by Town Engineer and Road Agent was approved by the Board.
- Appointment papers okayed and signed by the Chairman.
- Building permit request by Travis McConnell reviewed; storage would be okay but a new tenant would require additional review.
- Letter received for a request of use at Commerce Park; it was noted by the Board that the site has to be in compliance before they can issue an approval. Upon review, the Board determined that the requested use (Fire Arm sales) is not an approved use for that site per the approved list.
- Two letters from possible tenants for 21 Route 125 were received; "Wicked Sticky" and "Atkinson Machine"; the Board does not require any additional review for these businesses to be on that site.
- A letter was received and read from Andrew Galloway, per the Board's request, about the use of material storage on the site. Mr. Galloway told Ms. Faulconer and the Town Engineer that he was having an engineer prepare a plan for the Board. Mr. Wilson said they are making stone to sell. Ms. Faulconer said that Mr. Galloway included a letter from DES regarding the protection of the water. The Board agreed that no other action is required at this time.
- Bond/reclamation issues of the Steve Early site were reviewed; the Board decided to turn the issue over to the Board of Selectmen for enforcement.
- Business Occupancy Permit was received for Memories; Mr. Coppelman noted signs and graphics appeared to be being added to the building.

ACTION ITEMS: Ms. Faulconer will bring this to the attention of the Building Inspector and ask him to check it out.

MM&S to go into non-public session to review a personnel matter. (Motion by Mr. Coffin, second by Mr. Pope) Mr. Wilson polled the Board: Motion to go into non-public session passed unanimously.

Glenn Coppelman - yes
Ernie Landry - yes
Stan Shalett - yes
Richard Wilson - yes
Mark Heitz - yes
Adam Pope - yes
Peter Coffin – yes

MM&S to come out of non-public session. (Motion by Mr. Coffin, second by Mr. Pope) Mr. Wilson polled the Board: Motion to come out of non-public session passed unanimously.

Glenn Coppelman - yes
Ernie Landry - yes
Stan Shalett - yes
Richard Wilson - yes
Mark Heitz - yes
Adam Pope - yes
Peter Coffin – yes

During non-public session the Board reviewed a letter received by Mr. Pellegrino. The Board was not in favor of pursuing options suggested by Mr. Pellegrino. Mr. Wilson, in conjunction with Ms. Faulconer, will write a letter to Mr. Pellegrino for the Board to review at the next meeting.

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