

**Kingston Planning Board  
Public Meeting  
August 26, 2014**

Mr. Wilson called the hearing to order at 6:47 PM. There were no challenges to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman  
Glenn Coppelman, V. Chair  
Peter Coffin  
Ernie Landry

Adam Pope  
Stanley Shalett  
Carol Croteau, Alternate

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Ellen Faulconer, Administrative Assistant

Absent: Mark Heitz, BOS rep., Rich St. Hilaire, alternate

**Scott Halik**  
**5 Winslow Park Road**  
**Tax Map U12 Lot 76**

Mr. Wilson invited Mr. Halik to speak with the Board regarding his questions about the Residential In-home Occupation ordinance. Mr. Halik told the Board that he has operated a DBA, attending shooting and trade-shows annually; he is not financially ready to rent a commercial spot but would like to start slowly in his home with a license to sell firearms and manufacture ammunition. Mr. Coppelman explained that the In-home occupation ordinance is a self-certifying type of business; the Planning Board doesn't review, approve or deny; certain in-home incidental occupations are allowed as long as they confirm to the ordinance however the Planning Board can give guidance or an interpretation. Mr. Halik stated that he has been in contact with the ATF in Boston about the requirements for the firearm's license; he will need a gun dealer's license and must be able to sell firearms out of the location; they won't issue the license unless he is set up to conduct business out of his home. Mr. Halik stated that no shooting will be done on the property. The Board reviewed the ordinance and the list of prohibited uses. Mr. Halik stated that he does not expect more than 3 or 4 customers a week; more than that he will need a bigger location. Mr. Pope reviewed the standards in Article 207; prohibitive uses included repair shops or service establishments. Mr. Halik stated that he had to sell guns, but he will not repair guns; he intends to do transfer of ownership only; he will repair ammunition. He explained that he is going for two licenses, Type I – gun dealer and Type VI – manufacture of ammunition for resale; he re-iterated that the brokering of gun transactions will take place in his home. Mr. Coppelman read the purpose of the ordinance; he stated that there was a certain amount of gray area in any ordinance and the purpose provides the guidance for something "traditionally" carried out in the home. Mr. Halik said that his house has a fourth bedroom with a separate entrance which he will use for this purpose. He explained that he buys scrap ammunition to refurbish; he reloads and makes re-usable and he needs a license to sell. Mr. Coffin said that traditional home offices are allowed and completely transparent; retail sales get into a grey area. The discussion of UPS deliveries was reviewed. Mr. Pope said that his only

issue is that this isn't noticed to the abutters per the established review of this ordinance. He stated that as a business use in the SFR zone that would require Planning Board review, this couldn't be done. A discussion of the other uses on other sites occurred. Mr. Greenwood said that the windows couldn't have bars on them as that would change the look of the residential site; inside security is permitted as with any other residential use. There was additional discussion regarding the Board's interpretation of the use, the zone and the ordinance.

Mr. Wilson said that the ATF will inspect the property. Mr. Halik reviewed his proposal and asked if there was anything that prohibited him from operating this business in his home. The ATF will contact the Town regarding his ability to operate the business at this location. Mr. Coppelman said that the Board should express their opinion and go from there; he said that he would be hard-pressed to say that it fits within the zone as he thinks that ammunition manufacturing is not appropriate for the zone; he is uncomfortable to provide positive feedback regarding the proposal to a federal agency without the ability to have a public hearing.

Mr. Wilson asked the Board members whether they felt it was against the zoning for this neighborhood. Mr. Coppelman replied yes; Mr. Landry said he was uncomfortable saying yes at this point without further information; Mr. Shalett said that this was not a traditional occupation that would be carried out in the home; Mr. Pope thought it fit the requirements; Mr. Coffin said that the proposal meets the In-home Ordinance but it wasn't permitted in the zone as retail and manufacturing was not allowed in the zone. Mr. Halik said that both proposals can operate independently. Mr. Wilson stated that people may be picturing kegs of gunpowder which is a fear for people worried about an explosion. Mr. Shalett asked if Mr. Halik would describe the use as a bullet factory; Mr. Halik said that he would not; he would describe it as the manufacturing of ammunition and the legal transfer of firearms. Mr. Wilson said that federal laws are not in the Board's jurisdiction. Mr. Coffin said that this use being permitted is a matter of scale. Ms. Croteau asked how much he was intending to sell. Mr. Halik said that he is going to have to acquire used brass first; he has no idea how much he will be making and the numbers could fluctuate; he said probably 15 to 20 boxes of ammunition a week; he is expecting to use the used shells of people qualifying for years. Mr. Pope said that it appeared to be a split Board and suggested calling the ATF to find out the question they will be asking the Board so the Board can make a decision based on the actual question. Mr. Pope suggested a motion to have an answer for Mr. Halik. Mr. Landry stated that upon discussion with Mr. Greenwood and review of the ordinance, there appeared to be a number of contradictory factors between the language saying that it can't change the residential character of the building while the standards seem to allow the use; he said that the use would be allowed only because it meets the standards and the term "traditionally carried out" is vague. Mr. Halik said that if necessary, he could do one proposed use without the other.

**MM&S that the Board's guidance is that Mr. Halik's proposal as described in his letter to the Board meets the home occupation ordinance for both the sale of firearms and manufacturing ammunition.** (Motion by Mr. Pope, second by Mr. Wilson) **Motion carries 4-2** with Mr. Coppelman and Mr. Shalett opposed.

Mr. Wilson noted that the Board would still need to be contacted by ATF and depending on the question, the answer from the Board could be a negative one; since the Board already voted, they

will wait to be contacted by ATF rather than call. Mr. Halik said that he is hoping to be in a store at some point; he confirmed that the Board said that the proposal meets the Home Occupation ordinance. Mr. Pope said that the majority of the Board thinks it does comply. Mr. Coffin explained that it is just the Board's opinion of the ordinance, they do not grant an approval for this ordinance. Mr. Wilson added that he would proceed at this own risk depending on the question the Board receives from ATF.

### **Plan Review:**

The Board reviewed plans received for next month's agenda:

D. Smith/White Cedar Farms will be added to the agenda; the request for waiver of engineering fees was granted but in the amount of \$500 not to zero as requested.

Camp Lincoln/YMCA will be added to the agenda; the request for waiver of engineering fees to \$1500 was granted.

### **Regulation and Ordinance Amendments**

#### **Subdivision Regulations:**

The subdivision draft proposal was reviewed. Ms. Faulconer discussed an issue raised by the Inspectors regarding addresses on the approved plan; the requirement of having addresses as approved through the Selectmen's office shall be on the final plan prior to signing the mylar will be added to the subdivision regulations requirements.

**MM&S to move the subdivision regulations as proposed to the public hearing on Sept. 16<sup>th</sup>.**  
(Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

#### **Building Heights:**

The proposed changes to existing zones to add building heights requirements were reviewed.

**MM&S to move the proposed "Building Heights" changes to public hearing.** (Motion by Mr. Coppelman, second by Mr. Landry) **PUNA**

#### **Site Plan Regulations:**

Mr. Greenwood explained the proposed changes as trying to make a concise, clean description of the application phase to make it easier for the applicant and the Planning Board. Mr. Coppelman noted a significant change in the parking requirements which will help with that aspect of review. The Board reviewed the proposal page by page for any concerns, questions or corrections. Mr. Coffin stated that at a conference he attended, there was a suggestion that there are 3D or colored plans to show profiles. Language regarding this will be added; Ms. Faulconer will confer with Mr. Quintal to get the appropriate text. Other amendments, corrections were reviewed.

**MM&S to move the amended site plan regulation proposal to the Sept. 16, 2014 public hearing.** (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

**Commercial Zone:**

Ms. Faulconer asked the Board if it might be appropriate to add a permitted use of “Assisted Living Facility” in the Commercial zone that currently allows work-force housing. Mr. Coppelman said that the term would be “CCRC”; Ms. Faulconer will prepare the language for the Board to discuss at the next meeting.

**Correspondence**

- Wetlands Permit/Early property on Rte. 125 will be given to Mr. Quintal
- Lighthouse Construction return of bond was approved.
- Letter received from China House regarding the change of the previous restaurant at 53 Church Street to this restaurant; no further review is required based on the description and details in the letter.
- Mr. Wilson signed mylars as reviewed and approved by Mr. Greenwood.

**MM&S to adjourn at 8:55.** (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**