

**Kingston Planning Board
Public Hearing
October 21, 2014**

Mr. Wilson called the hearing to order at 6:48 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
Mark Heitz, BOS rep.

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

Absent: Rich St. Hilaire, alternate

**Daniel and Debra Bartley
70 and 72 Hunt Road
Tax Map R6 Lots 8 and 10-1**

Paul Nichols, representing the Bartleys, handed out new plans. He noted that they had received a variance from the ZBA for using a shared driveway instead of the driveway being located in the 200 ft. of frontage on the lot; the new plan has the driveway easement shown. Mr. Nichols stated that the applicant is requested a waiver for the driveway setback on the property. Mr. Nichols pointed out the driveways on the plan. Mr. Coppelman said that because of the way the lot line was needed to be set, it puts the existing driveway in non-compliance and creating a non-compliant lot; unless there is some really good reason not to move the existing driveway, he would not be in favor of the waiver; the non-compliance is being done by the applicant's own actions and moving the driveway would not be impacting the wetlands. Mr. Nichols said that there is some very good landscaping on the property but the driveway could be moved and part of the stone wall would have to be moved; he said that he thought that adding the setback easements would meet the intent of the setbacks. Mr. Coffin said that this issue had been brought up at the ZBA but it had not been part of the request before the ZBA. It was noted that there were two driveway issues; Lot 10-1 was paved ½ foot closer and encroached in the 20 ft. setback by a ½ foot.

Mr. Greenwood explained that since he had not received a revised plan, his previous comments should be used for tonight's comments. Mr. Wilson noted that since the Board had just received the revised plan, no departments had been able to review them. Mr. Heitz stated that normally he would not be inclined to grant a waiver but since the 200 ft. or frontage is not being used, there are no restrictions being put on the property. Mr. Landry said he was inclined to not be in favor of the waiver since there is an option to move the driveway. Mr. Shalett said he was not in favor, it was too close. Mr. Pope was fine with granting the waiver. Mr. Coffin said that the placement might seem to meet the intent but he is opposed to granting the waiver as it creates a non-conforming lot and it is the same owner for both the lots; granting the waiver would just be done

for his convenience; not granting it keeps the Board from creating a non-conforming lot. Mr. Wilson said that based on the discussion, the waiver request would be denied. Mr. Nichols asked if this meant to move the driveway; Mr. Wilson answered that he needs to move the driveway.

Mr. Wilson asked what the issue was with the other driveway. Mr. Coffin said that it is 6 inches too close to meet the 20 ft. setback, but waiving this does not create a non-conforming lot it is just accepting something as it exists, as an as-built. Mr. Shalett, Mr. Landry and Mr. Coppelman all agreed with this setback as it is existing already.

MM&S to approve the setback for the driveway on lot 10-1 to be 19 ½ feet. (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**

MM&S to deny the waiver request for the 20' driveway setback requirement for Lot R8-8 and the proposed new lot 10-5 for the reasons noted during discussion. (Motion by Mr. Coffin, second by Mr. Coppelman) **Motion carries 4-3** with Mr. Wilson, Mr. Heitz and Mr. Pope opposed)

Mr. Quintal stated that the ZBA variance addressed many of his previous comments. He stated the emergency management may have some issues with the lot numbering; the applicant was advised to address the lot numbering issue with the Selectmen's office and Chief of Police; it was recommended the information be addressed and added to the plan prior to recording.

MM&S to conditionally approve the plan on condition of the driveway being relocated to bring into compliance with the 20 foot setback requirement. (Motion by Mr. Pope, second by Mr. Heitz) **PUNA**

The Board confirmed that the new plans with the new driveway location shall be received within 30 days of this approval; the driveway will need to be moved to be in compliance with this condition prior to receiving any building permits.

Carolyn Cogswell
1 First Street
U4-107 and R25-3

John and Carolyn Cogswell appeared before the Board along with Jeff Gleason, representing Camp Lincoln/YMCA. Mr. Wilson read Department comments. Mr. Gleason confirmed that this was the last of the lot line adjustments on property adjacent to Camp Lincoln.

Mr. Cogswell showed the Board the existing and proposed lot lines to take care of any encroachments. Mr. Heitz noted the property was going from 8700 to 15000 sq. ft. Mr. Wilson noted that there were no additional comments or questions from the Board or any public.

MM&S to approve the lot line adjustment plan as presented. (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

Board Business

Correspondence:

- Trendezza request to be put on next week's agenda; Board consensus to extend deadline to November 18th.
- RPC legislative forum announcement.
- Paperwork forwarded from BOS for Chairman's signature re: Shribman road bond; confirmed completion by Mr. Quintal; signed by the Chairman. **The Board does want a mylar for the as-built plan to be recorded.**
- Reply letter to Balukas read and signed.
- Complaint forwarded from BOS re: John Lancaster property; the noise barrier/buffer was removed; the Board confirmed that the noise barrier/buffer was a requirement; the Board reviewed discussion with Mr. Lancaster at the last site walk for Wicked CAS regarding the noise buffer/barrier; there was Board consensus that this was a requirement of the approved site plan and by removing it would bring the site into non-compliance; Ms. Faulconer will research to prepare an enforcement request for the Board of Selectmen.

Laurie Farmer
Hair I Am, LLC/DBA Elation Salon
43 Church Street
Tax Map R34-2

Ms. Farmer introduced herself and reviewed her history with the Town. Mr. Coppelman asked that she describe the plan. She stated that she had gotten relief from the ZBA; the Board confirmed that the type of plan presented had been approved by the Planning Board as adequate. Ms. Farmer explained the location; she was keeping the same aspects of the business as she currently had – she would have 5 stations with three sinks; she has met with the Inspectors to address their concerns.

Mr. Wilson asked for abutter comments. Kurt Baitz, abutter, expressed concerns with lighting on the property stating that the current lighting is not being managed well; lights were beaming into the bedrooms at night. Ms. Farmer said that she would work with him on the lighting. Mr. Baitz said that he has an issue with the site expanding from two businesses into what is basically a type of plaza with multiple businesses now. He does support Ms. Farmer and her business at this location; he will work with Ms. Farmer and the lighting. Ms. Farmer is only concerned with security with the lighting specifically in the back; she will change the light over the door so it doesn't beam into someone else's home.

The hours of operation are specified on the application for tonight's hearing. Mr. Wilson said that both Ms. Farmer and the current occupants need to comply with the Town's lighting ordinance. Mr. Baitz stated that he wants the lights off at night but wants to provide safety when opened for business.

Ms. Farmer confirmed that the septic system is able to handle the flow, chemicals; has all of her permits and copies are in the Board's file. Mr. Coffin confirmed that the Board had agreed to accept this plan instead of an engineered plan. Ms. Farmer stated she had gotten building permits, at her own risk, to update the property and prepare for the new business pending Planning Board approval.

MM&S to accept the plan for jurisdiction. (Motion by Mr. Pope, second by Mr. Landry)
PUNA

Mr. Coppelman re-iterated that lighting is an issue and the applicant and property owner must meet the lighting ordinance. Mr. Heitz expressed concern on imposing restrictions on existing lights prior to the adoption of the ordinance. Mr. Coppelman read the ordinance regarding grandfathering of the existing fixtures; adding that there had always been a requirement in a lighting ordinance about light spillage. Lynn Merrill, representing the owner and Kelly Rota, principal for the property, said that the lighting was changed and approved seven years ago but since there is a concern with an abutter will see about shading the lights.

MM&S to approve the plan as presented. (Motion by Mr. Pope, second by Mr. Coffin)
PUNA

Berkshire-Dominion Holdings
92 Route 125
Tax Map R8 Lots 40, 40A

Charlie Zilch, representing the applicant, explained that the intent of this review is to put a site plan on file to ensure the continued use of the site; he reviewed Mr. Quintal's previous review to bring the Board "up to speed":

- North arrow added
- Easements for 40A identified on Sheet A; the restaurant is on lot 40 but a lot of the infrastructure is on lot 40A; previously the easements were not in place but they have been added. Mr. Zilch read the easement which includes a statement that clarifies if the lots are ever "separated", the restaurant has rights to maintain and repair their infrastructure on that property.
- Building square footage was added
- Mr. Zilch read Mr. Quintal's comments regarding parking and the recommendation to not permit off-site parking or parking that require backing onto the Town road. Mr. Zilch spoke with Doug DePorter at DOT regarding parking in the State's ROW; Mr. Zilch said that, according to Mr. DePorter, the State is aware of the parking in their ROW within the existing parking lot and while technically not allowing it, they are not enforcing it; if they enforced it on this site, they would have to enforce it on every site in the State with the same issue. Mr. Greenwood also spoke with Mr. DePorter and confirmed this information adding that the State is aware of the circumstances and is not concerned with issues regarding "adverse possession" as this does not apply to State property and anytime they wanted to pursue State use of their property, they could. He added that the Board needs to be assured that additional parking is available on lot 40A and would be there for use if the State did take the property in the future. Mr. Heitz suggested that they put an easement for parking on lot 40A. Mr. Greenwood agreed that there should be something to that effect to insure future parking capability. Mr. Zilch said there is the possibility of approximately 19 spaces over the chambered septic system on lot 40A; he added that they could get about 40 spaces on that lot which he recognizes is environmentally sensitive and would need additional Planning Board review and

approval for that parking. Mr. Coppelman suggested a not “pre-designating” future parking for the site if needed. Mr. Zilch said that he could have sketch showing this but they are not proposing that at this time. Mr. Pope asked about them utilizing Town property for parking; Mr. Greenwood said that the same principal applies. Mr. Zilch noted that they had removed the one space that would have required backing onto a Town roadway and turned the other two into motorcycle parking to eliminate that issue.

- Mr. Coffin asked about hours of operation; Mr. Zilch said that they had gotten them but hadn’t added them to the plan.
- Mr. Shalett said that the restaurant is showing 250 seats with only 49 parking spaces and asked how this would be enough. Mr. Zilch said that for the most part, the parking is adequate in addition to the overflow on lot 40-A.
- Mr. Zilch continued with Mr. Quintal’s comments they have added snow storage to the plan
- There is some buffering but not a great deal on Lot 40 but it is an existing lot; they are not adding any changes as it is existing.
- Entry illumination is changing and it will be dark sky compliant.
- Mr. Quintal met with them on the site re: BMP’s for Stormwater Management; lot 40 with existing impervious surface exits; roof run-off and parking are caught in State drainage however, the roof run-off on the back side is not contained and they are proposing a 500 gallon dry well which will infiltrate into the ground; some of the parking goes into the pond (refer to sheet 3) with nothing to intercept it; they are proposing a sub-drain to capture and filter before infiltrating.
- Added requirements for 908 and 16.6
- Mr. Zilch said they are keeping the stairs where they exist; they had existed so they are not being replaced; so believe they are exempt from the Shoreland Protection Ordinance.

Ms. Faulconer suggested that the stairs might be an issue with the Fire and Building Inspectors and then would become an issue for the Shoreland Protection Ordinance; Mr. Wilson read the Fire Dept.’s previous comments regarding this issue with the stairs possibly needing ZBA approval and the issues with the docks. Ms. Faulconer noted that the use of the docks and any “implied” approval of their use by the Planning Board caused the Inspectors some concern. Mr. Wilson read the Building Inspector’s previous comments. Mr. Zilch said they would speak with the Fire Chief. The applicant stated that she did not know if the gazebos were or were not proposed to be used for the restaurant. Mr. Pope suggested the Planning Board could make it clear regarding the intent in the minutes or have a note on the plan. Mr. Zilch proposed the Board make a conditional approval. Ms. Faulconer said that might be premature pending Fire Dept. and Building Inspector comments on the placement of the stairs and whether it impacted the Shoreland Ordinance.

- Mr. Pope asked for the specifics concerning the hours of operation; he would like them stated. The applicant stated that she had no luck finding the hours; she said it appeared to close between 10 or 11; they would like to be open until 1:00 on the weekends. Mr. Coffin said that he found two different sets of time on line but that they closed at 11 or midnight at the latest. He didn’t find any hours later than a midnight closing.

Mr. Zilch said that they needed to add hours of operation to the plan; future alternative parking lay-out to be provided; get information for the stairs and speak to the Fire Department and Building Inspectors; provide status of the floating docks. Mr. Wilson explained the Board's upcoming schedule.

The Board asked about the proposed use for the site and asked for something in writing. The applicant explained that the business is separated; she is involved in the development of the property; another part of the business is involved with the use of the site; currently they are just asking for the use as it was before, the restaurant but additional uses such as live entertainment, etc. may be added; she said the use will eventually change. Mr. Zilch noted that any changes will require another site plan and review by the Board.

Mr. Zilch will provide updated plans within a week for distribution to the Departments.

MM&S to continue to November 18, 2014 at 7:00 PM. (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

Board Business, continued

Correspondence:

- RPC contract (Town contract)
- Shane McKeen – release of escrow approved.
- Bond Balance list reviewed
- Drinking water – Ms. Faulconer to find out the cost of ordering a larger map for the office.
- Sands property – letter from attorney received; Mr. Sands is on an upcoming agenda, just in case he needs to speak with the Planning Board.
- Richard Belliveau – letter re: in-home business; Ms. Faulconer to send letter thanking him for his proactive approach and that the Board does not require any review at this time.
- Dunkin' Donuts request for addition of outdoor freezer; qualifies for expedited review as long as the site is in compliance; add to next week's agenda.
- Latinville NOD signed and returned; requires Chairman's signature for recording
- ZBA decision re: 1 Meeks Road
- Invoices from Mr. Quintal (2) signed
- Progress reports for DOGC
- Budget presentation is scheduled for Nov. 23rd at 6:00 PM.
- Pictures from DOGC; in order to save a tree what is required; Mr. Dufresne confirmed that it would one of the lines; Mr. Greenwood stated an amended site plan would be required with full review/abutter notification; the Board agreed.
- Letter from Carriage Towne Plaza regarding a building permit and possible need for Board review; the Board looked at the proposal and the pictures provided and determined that the changes appear to be cosmetic (structures that currently have wood fronts will be changed to add windows and be backlit); the Board decided that no site plan would be required; all changes must meet the lighting ordinance – the light must stay on the

property and be dark sky compliant. Mr. Coppelman clarified that the Board does require elevations during site plan approval and the Board does approve these issues.

- Letter reviewed from Attorney Loughlin; Mr. Greenwood will contact.

MM&S to approve the September 16, 2014 minutes as written. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion carries 5-0-2** with Mr. Pope and Mr. Heitz abstaining.

Mr. Coffin reviewed the previous ZBA hearing. Mr. Coppelman discussed the upcoming CIP meeting and the lack of submissions for this year's updates. Mr. Coppelman stated that he has new employment and will not be attending the majority of the meetings held on the 4th week of the month but noted that this provided an opportunity for Ms. Croteau to participate more as she had been attending all of the meetings.

MM&S to adjourn (at approx. 9:20). (Motion by Mr. Coppelman, second by Mr. Pope). **PUNA**