

KINGSTON PLANNING BOARD
Public Hearing
December 16, 2014

Mr. Wilson called the meeting to order at 6:50 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Richard Wilson, Chairman	Glenn Coppelman, V. Chair
Adam Pope	Ernie Landry
Peter Coffin	Carol Croteau, Alternate

Also in attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer; Ellen Faulconer, Administrative Assistant
Absent: Mark Heitz, BOS rep., Stan Shalett, Rich St. Hilaire, alternate.

Mr. Wilson announced that Ms. Croteau would be a voting member this evening.

Berkshire Dominion Holdings
92 Rte. 125
Tax Map R8 Lots 40 and 40A

Charlie Zilch, engineer for the project, said that the new plans are dated 11/20/14; he noted that this was a continuation from the 10/21/14 hearing and that 4 items were remaining. He reviewed the ROW concern if the State ever expanded onto the property by explaining that there is a reserve area on the adjacent lot, shown on sheet 2, that could accommodate an additional 51 parking spaces to absorb any loss created by any future expansion of Rte. 125. Mr. Zilch said that there was a note added to the plan that would have hours of operation being Sunday through Thursday 11:00 AM to 11:00 PM and Friday and Saturday being 11:00 AM to 1:00 AM. Mr. Coffin asked if Mr. Zilch ever confirmed those hours of operation occurring previously on the site; Mr. Zilch answered that they did not. Mr. Coffin said that he had been able to find information on-line about hours but did not find anything listed that was past midnight. The Board will determine the hours after Mr. Zilch's presentation.

Mr. Zilch continued with the issues surrounding the floating dock/gazebo; it is shown where it will usually be; note #18 on sheet 1 confirms that the dock being on the plan does not authorize any use of the floating dock/gazebo; the Board added that any future use would require site plan review and approval and proper inspections. There was discussion regarding the wording for that note; it was determined that the note should be clearer and state that the approval of the plan does not constitute approval for the use of the floating gazebo/dock and that any further use would require Planning Board approval prior to utilizing/use of the gazebo/docks.

The issues surrounding the stairs were discussed. Mr. Zilch explained that the stairs were being slightly extended; they needed to move the door and access to the upstairs; he met with the Building Inspector and reviewed the Town's codes and both agreed that no further action is required. Mr. Coffin agreed that it is not an expansion, just an alteration to increase safety. The Board reviewed Article 205.9.A.

Mr. Wilson read comments from the Conservation Commission regarding relocating and re-engineering the snow storage area (reference Sheet 2 and 3). They raised concerns about sand and salt run-off to the Pond and suggested a different snow stockpile location. Mr. Wilson noted that the location on the front corner near the dam was about as close to the water as they could get without being in it. Mr. Zilch suggested putting it in the dry well area and allowing the run-off to be caught by the drainage area. Mr. Pope stated that the other location had the same issue. Mr. Quintal agreed and stated that it should also be moved further away. There was discussion regarding the need for plowing on locations on the site; Mr. Quintal suggested that the snow could also be hauled to a different location. After continued discussion on the placement of the snow storage, Mr. Zilch agreed with Mr. Pope that the snow storage could be moved onto the pavement to give some additional buffer. Mr. Quintal suggested that the plan be amended to specify those areas that should say "no snow storage" with the idea being to leave the snow storage on the pavement or require them to haul it in case of large snow amounts. Mr. Coffin said that Board does usually require a notation showing snow storage; Mr. Coppelman said that the Board could also mark an area "no snow storage" for clarification. Mr. Quintal agreed saying that the other spot on the plan has some filtering through the soil. The Board, by consensus, recommended this be changed on the plan; Mr. Zilch agreed to make the change; Mr. Pope said the notations should be made in both locations; the Board agreed.

Mr. Wilson noted that there were no further Department comments except those from the Fire Department which continued to have the same comments and referenced a letter from them dated May 29, 2014; Mr. Wilson said that they were requiring an engineer-stamped drawing for fire safety and they had not received an answer about this in months. Mr. Zilch explained that this was for interior work and was not sure where that stood with his clients but was aware that they would not have a BOP without it. Mr. Wilson said that while it was interior, the Board did like to support concerns of the Department Heads and help to get them addressed. Mr. Pope suggested that it could be a condition of approval.

Mr. Wilson pointed out that the "event" parking lot was not paved; it was confirmed that it was gravel parking; Mr. Wilson said that it should be paved. After discussion on this area, the Board concluded that it was fine as it was as only "event" parking but should it get to the point of being used due to increased activity instead of only "events", it would need to be addressed. Mr. Zilch will amend note 16 to say that the area marked "event" parking will only be used for events; if it becomes necessary to use as overflow parking then it would be subject to site plan review.

Mr. Zilch confirmed that existing signs would be used, updated as needed for changes in ownership. The Board returned to the proposed hours of operation. Mr. Pope confirmed that the site was in CIII; Mr. Wilson reviewed the abutting residential properties. Mr. Coffin stated that in the past, when hours have expanded with residential properties abutting, the Board has asked for input from neighbors. Mr. Wilson recalled that the previous business was not, as a rule, open past midnight. There was discussion regarding closing at 1:00 and how long after that customers actually finished and left the premises. There was discussion about expanding the hours of operation to 1:00. Ms. Faulconer noted that the application and legal notice was for continuing as previously operated and did not include an expansion in the notice. Mr. Zilch agreed with that and stated that to move the plan along would agree to limit the hours on Friday and Saturday to midnight as they have no information that the operating hours were later than midnight on Friday and Saturday. Mr. Wilson suggested the possibility of applying after having operated for year if the hours needed adjusting. Mr. Zilch will change the note on the plan to have the hours of operation be 11 – 11, Sunday through Thursday and 11-midnight on Friday and Saturday.

MM&S to approve the plan with the changes discussed during the hearing including changing note 12, hours of operation, to midnight on Friday and Saturday, keeping the closing at 11 for the rest of the week; 2 locations labeled as “no snow storage allowed” as discussed; new snow locations shown, as discussed, on pavement; modify note for parking that it is to be used for “event” parking only; amend note regarding dock/gazebo, as discussed, referencing no use approved and future use needs Planning Board review and approval and proper inspections prior to the use of the structures. The new plan is to be completed and submitted to the Planning Board within 30 days. (Motion by Mr. Pope, second by Mr. Coppelman) PUNA

The Board strongly suggested to Mr. Zilch that the applicant review requirements with the Fire Department before they go much further with the process.

Board Business

Mr. Zilch asked if he could discuss a letter sent to the Board also by Berkshire Dominion about 2 Spruce Lane. The letter was read; the applicant was requesting a building permit to add 2 Bay doors for a building with commercial use. It was explained that it was the building formerly known as Red Bell Antiques. Mr. Zilch said that his clients are aware there is an illegal apartment on-site which would require approvals prior to use; he stated that the area is not currently being used and will not be used without appropriate permits. Mr. Zilch said that the commercial space will be used for storage; it was previously used for antiques. Robert Waters, Sr. introduced himself to the Board; he confirmed that there is no intent to use the apartment, it is not being used for anything; he invited any Town official to come to the property to view the building to confirm that no one is living in it; he said there is currently some building items being stored in it for the “Pondview” restaurant (see above). Mr. Zilch confirmed that there are two apartments on the second floor that are currently being used. He also stated that Berkshire Dominion bought the property with the illegal apartment; they did not put it in. Mr. Waters expressed his

safety concerns about the apartment and the roof on the north side having the ability to withstand a heavy snowfall.

Mr. Waters and Mr. Zilch confirmed, for the record, that there is no intention of storing, selling or repairing cars on this property.

Mr. Coppelman expressed concerns about granting an approval where the site was not in compliance due to the illegal apartment. There was discussion regarding possible ways for the applicant to come into compliance regarding the apartment and the use of the space; suggestions included removing the kitchen, bedroom doors, etc. There was additional discussion regarding use of the apartment; pictures of the apartment were reviewed; the Board discussed various possibilities for altering the site to make it become in compliance. Mr. Waters did not want to remove the sink/kitchen area to keep as a break room; Ms. Faulconer asked why “storage” needed a kitchen/break area. Mr. Wilson suggested the applicant take the steps to make the apartment legal and then they could use it as storage or as an apartment. It was suggested that the discussion for the site coming into compliance by eliminating the illegal apartment should be worked out with the applicant and building inspector.

The Board’s advice/decision for the Building Inspector:

- No further Planning Board review is required for the use of storage and associated changes to the building (bay doors, etc.)
- The Board recognizes that there is an illegal apartment that puts the site into not being in compliance
- The applicant needs to meet requirements regarding the site being in compliance in order to get any building permits and/or occupancy permits.
- The applicant should discuss with the Building Inspector the requirements needed to bring the site into compliance.

Chairman Wilson announced that the 7:00 and 7:15 hearings would be delayed.

Bill Costos
10 Rte. 125
Tax Map 3-16

Mr. Wilson explained that this was the site of the former Little River Motel and Mr. Costos is asking to park his construction equipment on the site. Mr. Costos provided the Board with a list of equipment being parked on the site. Mr. Costos said that he wanted power to be able to avoid theft by having a light. Mr. Wilson said his major concern was the construction equipment not being parked on pavement. Mr. Costos said he was parking on an area with approximately 6 inches of crushed pavement adding that there is also a cement slab he can park on if needed. Mr. Coffin reminded Mr. Costos that there is a lighting ordinance that he must comply with; the light can’t shine into the roadway. Mr. Costos said that he is just lighting up a 60 ft. area. Mr. Coppelman said that it has to comply with the ordinance and be shielded and face downward, as examples. Mr. Costos said that it will be 300 watt, motion sensitive. Mr. Greenwood stated that his original

concern was that the equipment was being parked on a permeable surface but 6" crushed asphalt almost processes into asphalt with the weight of the vehicles. Mr. Costos amended his submission/sketch to show the actual locations of the item on the new plan; the Board reviewed the sketch.

MM&S to approve the plan as amended during the meeting. (Motion by Mr. Pope, second by Mr. Coppelman) **PUNA**

Nouria Energy/Shell Station
10 Rte. 125
Tax Map R3 Lot 17

Dan Hutchins from NH Signs appeared before the Board representing Nouria Energy. He explained that they wanted to relocate the sign for better visibility; he had taken photos to show that the line of site will not be negatively impacted. Mr. Landry asked about compliance with Sign and Lighting Ordinance. Mr. Hutchins said that he had reviewed the sign and proposed it based on the Town's requirements. Mr. Wilson asked if the address was on the sign; Mr. Hutchins answered that it will be now. Mr. Hutchins said it will be a similar sign, internally lit, no LED, no flashing lights, etc; it is basically the same sign. The Board re-iterated that the sign must meet all requirements of the Ordinance. The expedited site review process was reviewed. Ms. Faulconer read a note received from the Building Inspector asking that Mr. Hutchins be sure to tell the owner that the site was not currently in compliance (internally) as there was construction occurring within the building. He asked that Mr. Hutchins inform the owners that BoP's will not be issued until there are permits for construction occurring inside the building. The Board encouraged Mr. Hutchins to take care of this issue; Mr. Pope re-iterated that the site must be in compliance prior to any permits being issued.

MM&S to approve the expedited site plan with a change in the sign location as presented. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Performance Guarantee Regulation Amended

Mr. Wilson noted that the language had previously been reviewed by the Board; there was no public.

MM&S to adopt the changes to Article 907 as presented. (Motion by Mr. Coffin, second by Mr. Landry) **PUNA**

Zoning Warrant Articles Public Hearing

- Addition of language permitting assisted living-type facilities to Commercial I zone. A letter of support from Mr. Magnusson was read into the record.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)
PUNA

- Addition of language permitting assisted living-type facilities to Commercial III zone.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

PUNA

- Amendment to RR zone, Article 104 in regards to accessory apartments.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

PUNA

- Amendment to Article 206, accessory apartments.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

PUNA

- Amendment to Article 1201 regarding building heights in the historic district.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

Motion passes, 5-1 with Mr. Wilson opposed.

- Amendment to Article 103 regarding building heights in the SFR zone.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

PUNA

- Amendment to Article 105 regarding building heights in the SFR/Agriculture zone.

Mr. Wilson asked if barns and silos were excluded; it was determined that there was no language provided excluding them from the 30 ft. maximum as proposed. There was discussion regarding building heights of agricultural buildings.

MM&S to move to the ballot. (Motion by Mr. Coppelman, second by Mr. Coffin)

Motion tied 3-3 with Mr. Pope, Mr. Wilson and Ms. Croteau opposed; Motion fails.

There was board discussion about building heights, language concerning exclusions, ZBA action for future requests; special exception possibility; perils of having no height restrictions within the zone; fire safety.

MM&S to re-consider the motion. (Motion by Ms. Croteau, second by Mr. Coppelman)

PUNA

The Board continued the discussion.

MM&S to approve the amendment to Article 105 as written, with a 30 ft. height restriction. (Motion by Ms. Croteau, second by Mr. Coppelman) **FUNA** (Failed unanimously)

MM&S to move to public hearing an amendment to the ordinance that the building height restriction for the SFR/AG zone shall be no greater than 35 feet. (Motion by Mr. Coppelman, second by Mr. Coffin) **Motion passed 5-1** with Mr. Pope opposed.

The Board will post a public hearing for January 6th as long as the legal posting requirements can be met.

- **MM&S to move the zoning amendment for 3 Meeks Road to the ballot.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

- **MM&S to move the zoning amendment for 6 Page Road to the ballot.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

The Board reviewed proposed language for Alternative Treatment Centers in the CIII and Industrial Zones along with an addition to “definitions” in the Ordinance Book. Mr. Greenwood explained that these changes would need to be posted for a public hearing to move to the ballot.

- **MM&S to change the “Definitions” ordinance to include ATC and move to public hearing.** (Motion by Mr. Coffin, second by Mr. Coppelman) **PUNA**
- **MM&S to amend the “Industrial Zone” ordinance to include ATC as a permitted use and move to public hearing.** (Motion by Mr. Coffin, second by Mr. Coppelman) **PUNA**
- **MM&S to amend the CIII zone to include ATC as a permitted use and move to public hearing.** (Motion by Mr. Coffin, second by Mr. Coppelman) **PUNA**

Proposed changes to Elderly Housing and Elderly Housing District were distributed to the Board to review.

- **MM&S to move proposed changes to Article 106 to public hearing.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**
- **MM&S to move proposed changes to Article 208 to public hearing.** (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

There were no public comments. Mr. Wilson declared this portion of the public hearing closed.

Board Business, continued

Plan Review:

- Montana Realty Trust – put on agenda for Jan. 20th at 6:45; Mr. Greenwood will send to RCCD for their review.
- Early reclamation plan – Mr. Quintal stated that he had been on the site and his last comments concerned problems with the drainage; he needed the site stabilized and a proper stormwater management plan. Mr. Greenwood said the plan was lacking and did not recommend adding to the agenda. Mr. Greenwood will write a denial letter explaining the need for adequate stormwater management for reclamation of the site and that it would need to be reviewed by the Town engineer once the SWM was submitted.

Correspondence:

- Snow ordinance distributed for the Board members to add to their books
- Reviewed bonds/escrow
- Laurie Farmer requesting escrow balance be released.
- ZBA notice
- Torromeo notice and plan from DES re: proposed holding pond; comments back by 12/19; request an extension from DES for their review process as the Board

- has had less than 10 days to review the plan; ask for an extension to at least Jan. 10, 2015.
- Northland – wood fire boiler – comment period ends 12/22
 - Regional Master Plan – comments through February
 - Antiques Business Occupancy Permit received.
 - Trendezza plan needs to be reviewed by Mr. Greenwood prior to Mr. Wilson signing; Mr. Wilson will come in next week to sign the mylar after Mr. Greenwood has reviewed it.

MM&S to accept the minutes of October 21, 2014 as written. (Motion by Mr. Pope, second by Mr. Coppelman) **Motion carries 4-0-2** with Mr. Pope and Ms. Croteau abstaining.

MM&S to accept the minutes of October 28, 2014 as written. (Motion by Mr. Pope, second by Mr. Coffin) **Motion carries 4-0-2** with Mr. Pope and Ms. Croteau abstaining.

MM&S to accept the minutes of November 18, 2014 as written. (Motion by Mr. Pope, second by Mr. Coffin) **Motion carries 4-0-2** with Mr. Pope and Ms. Croteau abstaining.

Plan NH

Mr. Landry explained that there was an ad hoc committee regarding the possible uses of the seminary building; there was the possibility of applying for a charrette from Plan NH that would include the center of the Town, not just the seminary. The Selectmen have offered \$2000 for the activity; the ad hoc committee is in favor and they are going to the School Board to see if they would support it. Mr. Landry was asking if the Planning Board would support the charrette and if approved, would participate in the process. The Planning Board unanimously supported the proposal.

Tucker Road excavation

Mr. Landry told the Board that he had been doing some work on the Tucker property and noted that lot R33-31 had a lot of excavation going on which appeared to be, at least partly, in the Shoreland Protection District; it appeared to be a lot of excavation. Mr. Greenwood explained that the Planning Board is the regulatory agents for this type of activity. Ms. Faulconer explained that there is a line in the budget to pay the Town Engineer for these types of review. Mr. Quintal said that he had time to do this and asked Mr. Landry to accompany him on the abutting property and point out the area in question.

The Board agreed to have Dennis Quintal, the Town Engineer, review the site and take actions as appropriate to the activity.

Enforcement

- Ms. Faulconer to check with the BoS' Administrative Assistant to follow-up on enforcement actions regarding property at 107 N. Boston Road.
- Ms. Faulconer to send letter to Shane McKeen and "Diddies and Doodads" about future sales of Christmas trees not being an approved activity on the site; any future sales would require an amended site plan approval prior to the sales occurring. The Board agreed that it would be useless to ask for a cease and desist at this point as it was so close to the end of the activity.

MM&S to adjourn at 10:00 PM. (Motion by Mr. Coppelman, second by Mr. Pope)
PUNA