

**Kingston Planning Board
Public Meeting
May 5, 2015**

The Chairman called the hearing to order at 6:45 PM. There were no changes to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman
Glenn Coppelman, Vice Chair
Mark Heitz, BoS representative

Adam Pope
Stan Shalett
Peter Coffin

Members absent: Carol Croteau, Richard St. Hilaire (Alternate), Ernie Landry (Alternate)

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Ellen Faulconer, Administrative Assistant/Board Alternate.

Board Business

Correspondence:

Mr. Wilson skipped ahead to Item #10 of Correspondence to address the excavation activity at the Blake property on North Road. The Board's previous decision was that, due to no further excavation occurring on the site, an excavation permit was not going to be required but a reclamation plan would be required.

Mr. Greenwood explained that he went to view the site and was confounded by the activity in relation to an excavation permit; the activity appears to be less than one acre in size; there is still an amount of earth material to be removed; it appears to be really low impact and a little more than minor landscaping of the topography but it does exceed that and does meet the requirement of needing an excavation permit. He noted that the requirements from DES are almost completed but the Town would need final sign off from NHDES to confirm this. He said that there is still excavation material required to be moved which would technically require a permit but due to the level of activity, he is befuddled by this. Mr. Greenwood said that the area in the Shoreland/Wetland area has already been reclaimed already. He said that his recommendation is to make sure the DES requirements have been completed; he does think it needs to be reclaimed; he noted that this is not a gravel pit. Andy Galloway, the contractor on the site, explained the remaining piles of material; there is approximately 300-400 yards left to be removed. Mr. Galloway stated that they were basically just leveling off the site and fix it from a previous timer cut; he said that while a lot of material had been removed from the site, a lot had been used for the owner's secondary access road. He confirmed that both of the piles of material were leaving the site; a third pile is the loam that is remaining to complete the NHDES requirements. Mr. Coppelman agreed that the Town would need something from the State confirming the completion of the DES requirements.

Mr. Heitz questioned the tax permit requirements with or without receiving an excavation permit. Mr. Wilson stated that because the excavation permit was not requested prior to the activity, there are no permits showing the amount of material to be removed. Mr. Heitz asked what the process would have been if the owner had applied for the permit. Mr. Greenwood explained the process which would have included an engineered plan detailing excavation activity and the time the land would be exposed with the progress in 2 to 5 acre increments. He noted that the requirements are for commercial excavation sites. Mr. Wilson added that the amount of material removed would have been noted. Mr. Greenwood said that it would also have included a reclamation plan. Mr. Heitz asked if the Board has ever not issued a permit that has been applied for; Mr. Greenwood said that the permit has always been issued. Mr. Heitz stated that if applied for appropriately, the permit would have been issued. Ms. Faulconer suggested contacting Mary Pinkham Langer who might be able to determine the amount of material removed from satellite photos. Mr. Wilson stated that since the material has already been removed, this might be the only way to determine the appropriate tax.

Mr. Coppelman said that the very least the Board would need is something clarifying what the reclamation is and is signed and certified to make sure it has been done. Mr. Greenwood stated that he would like the Board members to visit the property. Mr. Wilson did not think that was necessary at this point; the Board has to determine how to deal with it now and to have something explaining how the proper corrections will be made. Mr. Coppelman said that, at a minimum, there should be an existing conditions plan of some type even if the Board decides not to have an engineered plan. Mr. Wilson said that the owner had already saved a lot by not going through the process from the beginning. Mr. Coffin expressed concerns that this set a bad example and that the perception is to just go ahead and do things incorrectly without a penalty and fix it after the fact adding that there should be a penalty; he continued that if the Board doesn't act there is no incentive for other property owners to do the process correctly. Mr. Wilson stated that other towns have punitive fines for doing activities without the proper permits; he stated that other towns need a permit in place once a piece of equipment is on the property. Mr. Heitz said that it creates a lot of extra work when the Town is unaware of an activity; he said some evaluation needs to be done. Mr. Coffin said that he would like to see an estimate from the State regarding the amount of yards that have been removed with the fee being passed on to the owner. Mr. Pope said he would agree with a final plan that did not need to be an engineered plan. Mr. Coppelman suggested asking for photographs to show the final reclamation. Mr. Coffin said that it would need to be a sketch with proposed grades and profiles including setbacks from appropriate buffers. Mr. Pope suggested that the Board could require the owner/developer could provide a letter explaining the reclamation done on some type of letterhead so it gives an "official" appearance and include a final sign-off from the State for their reclamation requirements; provide an estimate of material documenting the material removed from the site for tax calculation purposes; provide a detailed sketch with slopes, grades and profiles, setbacks from the wetlands with photos included.

Mr. Wilson noted that the applicant gets the easy way out as they have saved money for a plan which is not necessarily the right thing. Mr. Pope stated that the Board could ask for an engineered reclamation plan. Mr. Heitz said that the Board needed to be consistent otherwise it creates problems. Requirements for previous sites were reviewed; one had an engineered plan, one did not require one due to the different impacts in the activity. Mr. Greenwood said that this

activity was 1/12th of the activity that occurred on the Early property. Mr. Greenwood added that this is not a commercial excavation site although clearly some of the material has been sold. Mr. Heitz asked if anyone thought that this excavation was not in some way commercial as this is the business of the Galloway company. Mr. Pope said that this activity is close to needing an excavation permit, if all the material remained on site, it wouldn't need an excavation permit. Mr. Pope confirmed that Mr. Galloway's estimate was that close to a thousand yards had been removed at this point. Mr. Pope asked if there was a surveyed plot plan for the site; Mr. Greenwood answered that he did not think so; he had only seen an enlarged version of the Town's tax map used for this site. There was a review of the application fees. Mr. Coffin found it incomprehensible that a 4 x 5 foot shed would need a building permit but the removal of 1,000 yards of material from a site didn't need a permit. Mr. Coffin asked if the property is being reclaimed in a manner compliant with the Town's ordinances, not just the State's and questioned if there was siltation fencing. Mr. Wilson said that none was there when he was on the site.

ACTION ITEM: Add to the Board's project for this year – refine excavation procedures.

Mr. Coppelman expressed his concern on consistency per Mr. Heitz's previous comments. Mr. Wilson said that the Town Engineer would need to review any submitted plan and the Board will need those fees covered by the applicant; the Town Engineer had already been to the site as well as Mr. Greenwood and the fees will be required to pay for those visits and continued review. Mr. Greenwood confirmed that the Board has the ability to require a bond based on State requirements. Mr. Galloway suggested providing an as-built with grades and elevations. The amount of the bond was discussed. Mr. Coffin stated that it shouldn't cost the Town to correct the applicant's lack of following procedure noting that it could cost thousands if the Board wanted to require an engineered plan. Mr. Heitz re-iterated that his issue is not what the Board does or does not require, just as long as there is consistency. Mr. Coffin said that a commercial excavation site's requirements would be different from a site doing just a little more than landscaping. Mr. Pope said that the requirements being proposed are reasonable for the magnitude of the activity on the site.

MM&S to require the owner/developer provide:

- **a letter explaining the reclamation done on site and that it be on some type of letterhead so it gives an "official" appearance**
- **include a final sign-off from the State confirming completion of their reclamation requirements**
- **provide an estimate of material and documenting the material removed from the site for tax calculation purposes**
- **provide a detailed sketch with slopes, grades and profiles, setbacks from the wetlands with photos included.**
- **Provide a \$1,000 bond to pay for professional review of the project**
- **The above requirements to be completed within 90 days**
- **The Board will review to determine that the requirements have been met at a public meeting.**

(Motion by Mr. Pope, second by Mr. Coffin) **Motion carries 4-0-2** with Mr. Heitz and Mr. Coppelman abstaining.

ACTION ITEM: Ms. Faulconer to contact the BoS staff re: pursuing excavation tax for the property.

Correspondence, continued:

- Concerns were raised about possible wetland filling activity at 75 N. Boston Road; Mr. Heitz will contact Mr. Broderick in the morning about contacting the owner.

ACTION ITEM: Mr. Pope suggested review of Ken's Auto/Salvage area as there are at least 30 cars and storage sheds piled up with cars on top of them. Ms. Faulconer will pull the file for review at the Board's next meeting.

- Exeter Chamber of Commerce Forum information received.
- BoS letter re: signage enforcement at Mr. Mike's
- Letter from Town Attorney re: Letter of Credit for PSNH - denied as written.
- PREP grant letter and information received from Danna Truslow; the Board discussed the possibility of the Master Plan needing a Natural Resource Inventory; Ms. Faulconer will get more detail about the funds, matching grant requirements and report to the Board.
- Permit for storage of asbestos for ESCI – 111 Rte. 125 received from the State; Ms. Faulconer will send a letter to the State and ESCI re: the need for an amended site plan review prior to commencement of this type of activity at this location.
- Bill from Town Engineer approved; Ms. Faulconer will confirm the remaining balance in the account.

Board Business, continued

Mr. Wilson confirmed that the Board members and public did attend the Saturday site walk. Mr. Wilson asked that Mr. Greenwood review the submissions with Mr. Quintal for the Jericho Drive property prior to the public hearing on the 19th.

Mr. Greenwood suggested that Mr. Quintal review the Early mylar prior to Mr. Wilson's signing.

MM&S to approve the April 7th minutes with a minor correction by changing "Mr." to "Ms." before Croteau. (Motion by Mr. Coppelman, second by Mr. Coffin) Motion carries 4-0-2 with Mr. Pope and Mr. Heitz abstaining.

The Board reviewed the Clark property approval specific to Greenhome Solutions per the last meeting.

ACTION ITEM: Ms. Faulconer to send a letter to Greenhome Solutions and the property owner that cars/signage are parked inappropriately on the site.

Signage Issues and the Board of Selectmen's authority to enforce without Planning Board action were discussed. Previous actions allowing the Highway Department personnel and a Selectman to remove unauthorized/permitted signs along the roadway, "pop-up" signs were reviewed. The Planning Board encouraged the Board of Selectmen to enforce the Sign Ordinance.

Planning Board projects

The Board reviewed proposed changes to Article 301 updating code language as proposed by the Inspectors.

The Board unanimously agreed to move the proposal to the Fall public hearing for proposed changes for the Town Meeting warrant. It was clarified that these changes do not take effect until they are posted for the Fall public hearing. Additional projects/proposals will be reviewed the Board's next business meeting.

MM&S to adjourn at 8:25. (Motion by Mr. Coppelman, second by Mr. Pope) PUNA