

**Kingston Planning Board
Public Hearing
Minutes**

June 20, 2017

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

Members in attendance:

Glenn Coppelman, Chair	Chris Bashaw
Peter Coffin, V. Chair	Peter Bakie
Lynne Merrill	Robert Pellegrino, Alternate
Mark Heitz, BOS rep. (arrived with meeting in progress)	
Ellen Faulconer, Alternate (Admin. Asst)	

Members absent: Carol Croteau, Ernie Landry, alternate

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer, Peter Broderick, Health Officer.

Mr. Coppelman announced that Ms. Faulconer would be a voting member for the entire hearing, replacing Ms. Croteau and Mr. Pellegrino would be a voting member for the Bartlett hearing replacing Ms. Merrill who was recusing herself for that hearing only.

William S. Bartlett, III
76 Ball Road
Tax Map R24, Lot 8

Mr. Coppelman read the notice for the continuation of the proposed two-lot subdivision. Mr. Coppelman read the letter received from the Health Officer regarding the witnessing of the test pit for the record. He noted there were comments from Mr. Greenwood and Mr. Quintal.

Mr. Bartlett had no further comments as he believed everything was covered in the plan.

Mr. Greenwood noted that he originally had 11 comments, two were editorial and the others had been addressed with the new plan. He added that the Board should further discuss the waiver that had been given based on the letter received from the Health Officer.

Mr. Quintal referred to his comments regarding a spelling error that should be corrected prior to recording; the State subdivision number needs to be added to the plan; the math needs to be corrected at the correct number of the square footage difference between 80,465 minus 11,920 is 68,545 not 78,545; monuments need to be set. He said he received the report from the soil

scientist and the detail provided was helpful; all of his other comments had been addressed with the new plan.

The Board reviewed the previous action of waiver the requirement of RCCD reviewing the test pits due to the updated information provided by the Health Officer. Mr. Coppelman referred to letter dated 5/25/2017 received from the Health Officer; a copy of the letter had been provided to the Board members. Mr. Greenwood noted that the Board requires that all test pits must be witnessed by the county. Mr. Broderick explained that at the time he was asked to witness the test pit, he initially was unaware that it was for a subdivision; he thought it was just a test pit for a single house lot which he has the authority to witness. He told the applicant that while he was there and everything was all set up, he would witness the test pit in case it turned out that he could; if not, he would call them and they would have to arrange to have RCCD witness the test pit. He spoke with Ms. Faulconer who confirmed that RCCD must witness all test pits for a subdivision; he re-confirmed this with Mr. Greenwood. Mr. Broderick continued that he contacted the applicant that he would need to have RCCD witness the test pit; the engineer stated that he would ask the Planning Board for a waiver of that requirement. Mr. Broderick confirmed that the letter said that the plan had not been approved by either the Town or the State at this point. He stated that he had no further comments as the letter explained it all. Mr. Coppelman asked how the Board wanted to act on this as the initial information to the Board was that the Health Officer witnessed the test pit and the Board did not want to go against what a town official had told the applicant. Mr. Bakie stated that was part of the reason but in addition to being seen by the Health Officer, the Town Engineer thought it was okay. Mr. Bashaw asked if there was anything prohibiting the Board from granting the waiver. Mr. Greenwood said it was a regulation that the Board can waive. Mr. Bashaw said that while the rationale had changed a bit as to why the waiver was granted, the results are the same as they believed that a satisfactory test pit had been done. Mr. Pellegrino asked if the applicant could dig another test pit and have it done. Mr. Bartlett replied that they could but it would cost another \$500 and would change nothing. Mr. Coppelman confirmed that Mr. Pellegrino would be voting on this hearing, replacing Ms. Merrill, and Ms. Faulconer would be voting throughout the hearing, replacing Ms. Croteau. Ms. Faulconer suggested sending a letter to the engineer reminding him of the regulations requiring RCCD to witness subdivision test pits so there is not an issue in the future. Mr. Coppelman stated that the Board only has to take further action on this is someone wanted to reconsider the vote; by Board consensus it appeared that everyone was comfortable with the action taken at the last hearing. There was no further information from Mr. Bartlett.

There was discussion regarding the placement of the bounds; Mr. Bartlett referenced filling the wetland to provide the ability for the bound; Mr. Quintal reminded him that he could not fill the wetland and described how the bound could be set to adjust for not putting it in the wetland area. Mr. Coffin referenced Mr. Greenwood's previous noted regarding the possibility of a site walk; Mr. Greenwood said the Board declined to do a site walk.

Mr. Coppelman read Department comments: Conservation's comments: when a structure is built, close attention should be paid to the driveway and building to address poorly drained soils and the brook. Highway supported the subdivision, noting the applicant gave easements when fixing Ball Road. Mr. Quintal said the proposal meets the setback and doesn't infringe on the

4000 square foot area. There were no comments from any public; no further questions from the Board.

MM&S to approve the revised subdivision plan dated June, 2017 with the following conditions based on the Town Engineer's notes:

- 1. Sheet 1&2, Note 1 – change to correct spelling of “utilize”**
- 2. Sheet 1&2, Note 3 – add in State Subdivision Approval number**
- 3. Sheet 2- for the calculations for Contiguous Uplands on Lot 8, amend the math error to show the correct square footage to 68,545 square feet.**
- 4. Per Article 905.14.I.1.b – monuments need to be set and provide mylar for recording.**
- 5. Add in the date of the waiver (5/16/17) for the witnessing of the test pit.**

(Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**

<Board note: Ms. Merrill rejoined the Board at this time.>

**All American Assisted Living
(Main Street)
4 East Way
Kingston, NH 03848
Tax Map R34 Lot 71B**

Mr. Coppelman read the notice. Mr. Chadwick introduced himself and an architect for the project. He noted that he had received all the State permits; a small well-siting report preliminary had been received; the well permit itself can't happen at this point until the well is dug. He added that the letter from the Fire Department was provided; all issues have been met and there are no concerns from them; the Board of Selectmen had two hearings regarding the land transfer; the hydrogeologist review and recommendations had been provided; they were waiting for a few housekeeping items to be finalized and waiting for the Town Engineer's review. Mr. Chadwick added that they need to Conditional Use permits, one for the use and one for the wetland buffer; there was one last waiver requested regarding the interior landscape requirements; 1408 sq. ft. is required, they have 890 sq. ft. of greenspace for the front; Mr. Chadwick was unsure whether a waiver was needed at the front actually faces Rte. 125. He stated that the overflow parking area will be grassed and mowed and asked if that did constitute green space. Ms. Merrill confirmed that while it would be solid enough for parking it was still permeable. Mr. Greenwood explained that the parking regulations are fairly new and this is the first project that the Board is reviewing them; the requirement is to make sure there is a break-up for a commercial use with a “sea” of pavement adding that this isn't the kind of parking area that is the problem. He suggested that to be conservative, the Board should require a waiver but his guidance would be to approve it as it exceeds what the Board is trying to require and protect against. He said the waiver is cleaner; Mr. Chadwick provided the waiver request dated 5/22/17...

MM&S to allow the interior waiver as presented because the design intent of the landscaping in the plan is consistent with and meets the intent of the regulation. (Motion by Ms. Merrill, second by Mr. Coffin.) **PUNA**

Ms. Faulconer asked Mr. Chadwick if the size of the easement granted by the Board of Selectmen was different than what was discussed at the public hearing regarding the easement purchase.

Mr. Chadwick confirmed that the easement size previously agreed to with the Board of Selectmen is incorrect at this time. Ms. Faulconer asked if the applicant had discussed the change with the Board of Selectmen to correct the easement square footage amount. Mr. Chadwick stated that he had just been contacted by the Board's administrative assistant about the discrepancy but they had not been in touch with a member of the Board of Selectmen.

Mr. Quintal reviewed his comments. He stated that he reviewed the revised plans and the applicant responded well to his previous comments; changes were made to reduce the impact on the wetland buffer; the stormwater management design is good. He read his comments noting that the Board needs to determine if there is a significant impact for the Conditional Use Permit; he stated that the design for the porous pavement has been eliminated. Mr. Quintal confirmed that he had reviewed Danna Truslow's report; the long-term maintenance plan needs to be recorded on the property deed; he stated that the maintenance report is detailed and it needs to be done; it needs to be recorded. He stated that the long-term record of maintenance states that it will have the inspections and follow the maintenance plan; the inspections will be kept on site and available to the Town upon request. Mr. Quintal suggested that the inspection reports should be sent to the Town instead of just being kept on site and available; he questioned how the Town will handle the inspections of the site after the fact and how to enforce the stormwater management on the site plan; he stated that his other comments had been addressed.

Mr. Greenwood confirmed that he had received Danna Truslow's report noting that she had a two-phased recommendation for a maintenance schedule and a monitoring program for five years. He noted that two CUP's are required; he agreed with Mr. Quintal's recommendation for the CUP and having the limits placed upon the development within the wetland buffer. Based on Ms. Truslow's report, he stated that there isn't anything prohibiting the use permit due to the Aquifer Protection District. Mr. Greenwood noted that the well is on Town property and he was recently notified that the size of the required easement is different than that approved by the Selectmen; he suggested letting the applicant and the Board of Selectmen work through those issues and come to some sort of agreement. Mr. Greenwood asked Mr. Chadwick if they would need to get a new Alteration of Terrain permit due to the changes; Mr. Chadwick said that due to the substantial changes he would need to have this amended and approved.

<Board note: Mr. Heitz arrived at this time.>

Mr. Coppelman reviewed the earlier discussion regarding the easement area. Mr. Heitz stated that the size of the easement had increased from approximately 60,000 square feet to 90,000 square feet, increasing by another third and increased it substantially. Mr. Chadwick stated they had been requested to reduce the wetland buffer impact and moved about ½ an acre of

constructed building and attendant structures that were in the wetland buffer. Mr. Coppelman said that the Planning Board could not grant the permit depending on the activity within the buffer; the Board needed input from the Conservation Commission and they recommended moving out of the buffer as much as possible. Mr. Heitz said it does result in a significant change; the whole parcel is involved. Mr. Chadwick said he did not think it was the whole parcel; he added that the full intent is to purchase the entire parcel and was not trying to mislead anyone. Mr. Heitz noted that the likelihood of the property being sold is not great due to the State. He thinks it is very unlikely but the intent of the Town to sell the property is not different. Mr. Chadwick said that the State is proceeding along for the easement but also still following through on determining their value to remove the reversal clause; their intent is to purchase the property. Mr. Heitz said that if that doesn't happen, the current encumbering is an additional 1/3 of the original agreement. He said that he will discuss this with the Board but expects that the Board will raise the value for the easement by 1/3; if the sale goes through then it won't be an issue as that value would not be increasing. Mr. Coppelman said that if the Board grants a favorable vote, this would be one of the conditions.

There was discussion concerning the long-term maintenance regarding the nitrate reductions and two types of monitoring being recommended. Mr. Chadwick said that they can have the reports sent to the Town to make it easier to check for compliance. Mr. Greenwood referenced the recommendation for monitoring the nitrate levels as the numbers comply with the Town's requirements but the numbers are pushing the limits of the standards; the numbers are based on modeling not an actual number so there needs to be monitoring for the nitrate loading to make sure they remain within the requirements. Mr. Chadwick stated that it is easy to test at the outflow. Mr. Coppelman said that if they are okay there, then they should be ok at the property line. Mr. Coffin read Ms. Truslow's recommendations regarding the testing of the test wells at the property lines. Mr. Coppelman questioned the frequency. Mr. Quintal said that the report from Mr. Chadwick specifies the frequency and can be amended to send the reports to the Town. Mr. Coffin asked the recommendation of the frequency from the Town Engineer. Mr. Greenwood said that for the stormwater, it is forever and should be two times a year and should just happen; the 5-year limit on the nitrate loading is a five-year limit as long as it is maintained properly.

Mr. Coppelman asked for any public comments or questions. Mr. Stan Shalett, abutter at 3 East Way, had some information and concerns about flushing pharmaceuticals and the possible impact on the water, wells and drinking water. He questioned the possible sale of the property and the process; Mr. Heitz explained the reversion clause. It was explained that the applicant has a plan for handling drugs and pharmaceuticals. Mr. Coppelman said that it is a policy that is established and there is monitoring. Mr. Heitz added that police departments participate in a turn-in of drugs program. Mr. Coffin said in this type of facility the staff educates the residents to properly dispose of medication. Ms. Merrill said that in these facilities, the drugs are locked up and not in the hands of the residents so there is zero chance of improper disposal from the residents. Mr. Shalett thanked Ms. Merrill for assuring him and thanked the Board for allowing him to speak.

Mr. Coppelman asked about the CUP's. Mr. Greenwood said that one was easier; the more complex one is regarding the construction activity within the buffer. Ms. Faulconer asked if review and approval of the Conditional Use Permits needed to have been publicly noticed; Mr. Greenwood said it wasn't a requirement as part of the site plan review process. He stated that the requirement for Conservation Commission input had been addressed through the site plan review process. The CUP criteria was reviewed for Conditional Use in the Aquifer Protection Ordinance. Mr. Greenwood stated that it falls under permitted use as the ZBA confirmed that it was a permitted use. The Board voted on each requirement individually: a) it would not detrimentally affect the quality of the groundwater; Mr. Coffin stated that Ms. Truslow's report concluded that with the proper monitoring and testing that it would meet the requirements; this voting would be based on recommendations of Danna Truslow being included as a condition of approval.

-MM&S that the application meets condition (a) based on Danna Truslow's report and based on her recommendations as a condition of approval. (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

-MM&S that the application meets condition (b) as the withdrawal and recharge occurs on the same site. (Motion by Ms. Faulconer, second by Mr. Bashaw) **PUNA**

-MM&S that item (c) meets the requirement for the conditional use based on no hazardous waste or toxic waste, only domestic waste. (Motion by Mr. Coffin, second by Ms. Merrill) **PUNA**

-MM&S that the application meets the requirement of section (d) as it complies with all other aspects of the Aquifer Protection article. (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

-MM&S that the application meets the requirement of section (e) as the Board has received and reviewed the hydrogeologic report. (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**

MM&S to grant the Conditional Use Permit as all five requirements have been met for the Aquifer Protection District. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

Mr. Greenwood reviewed the next CUP referencing pages 202-5 and 202-6. The comments provided by the Conservation Commission for this hearing were read. Mr. Chadwick responded by explaining that the area questioned was a patio with outdoor furniture where the residents could eat lunch and the staff could cook on an outdoor grill; the walkway is currently asphalt. Safety issues regarding using other surfaces were discussed. Mr. Quintal said a walkway is different than a parking area and is a different type of evaluation environmentally; walking doesn't have a lot of contaminants associated with it. Mr. Quintal clarified that only 1 section of about 110 feet of the walkway is within the buffer, then it leaves the buffer and then about another 50 foot section goes back into the buffer. He stated that the impact line will be staked out with a construction fence so they will know where the buffer is to impact it as little as possible. Mr. Chadwick stated that residents are now allowed to have dogs in the facility and the dog walking area will be maintained properly and will not be within the buffer setbacks. Mr. Chadwick confirmed that other than the dog area, nothing new had been added to the plan. Mr. Coppelman said that the Conditional Use Permit was for the impact to the buffer, not the impact to the wetlands, as there was no activity in the wetlands themselves. He read the waiver request dated 5/22/17 for 202.8 (B).

-MM&S that the proposal meets the CUP requirement #1 based on comments and the willingness to act on the Conservation Commission's request to move the project southerly to lessen the wetland buffer impact. (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**
Mr. Coppelman read the applicant's answer to this requirement. Mr. Chadwick said that they are replacing the non-existent vegetation; Mr. Quintal said that the limit of construction won't be encroach into the wetlands.

-MM&S that based on Mr. Quintal's comments for good construction practices, the applicant has met condition number 2; condition of the limit of work of the erosion control line based on Dennis Quintal's recommendations. (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

The Board reviewed the third requirement regarding no alternative route to crossing a wetland.

-MM&S that condition #3 is not applicable as there is not wetland crossing proposed. (Motion by Mr. Bakie, second by Mr. Coffin) **PUNA**

MM&S to grant the Conditional Use Permit as the applicant has met all of the requirements of Section 202.8. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

Mr. Coppelman noted that the outstanding issue was the easement of the well. There was discussion about moving forward and outstanding conditions. Ms. Faulconer stated that at seminars she had attended, advice had been given to postpone a hearing that was going to have conditions of approval to give the Board's staff time to prepare the conditions of approval for the Board to review prior to making the final vote so nothing was omitted in the rush to approval. Mr. Chadwick suggested that he had prepared a list of conditions and would like to push through to the approval. The Board took a 10 minute recess to allow Mr. Quintal, Mr. Greenwood and Mr. Chadwick to work out a list of conditions for the approval.

Upon return from the recess, Mr. Coppelman said the Board should not be under pressure tonight to vote on the approval in case there might be something missing from the conditions; he stated the Board could meet next week. Mr. Greenwood read the draft of the conditions of approval which had 5 items listed. There was discussion regarding the Long-Term Maintenance Plan and suggested modifications and requirements. Comments were made specific to the requirement of being a condition of approval as well as a note on the plan for future reference.

There was a motion to change the Long-Term Maintenance Plan language to reflect the inspections be done twice a year and the reports sent to the Town of Kingston Board of Selectmen; this will also be a condition of approval; there was no vote on the motion. Mr. Quintal said that the monitoring program should be developed and it should be approved by the Town. Mr. Coffin said that it needs to specify the frequency; the downgrading should be monitored and there are two options and it hasn't been specified which one is being used. Mr. Chadwick read it that it was "a" or "b"; Mr. Coffin said that the Board hadn't decided which one was required and the first one has no frequency or length of time noted; the Board needs to identify if it is annually and for at least 5 years and these need to be specific in the condition of approval. Mr. Quintal also noted that the "bullet" item listed before that was also not defined. Mr. Chadwick stated that an annual test was fine with him; he would ask the designer to make the recommendation. Mr. Greenwood said that he would contact Ms. Truslow and ask her to make the recommendation.

Mr. Bashaw stated that he felt that the Board had lost the intention of the break as there are very specific things that needed to be added and he felt that the Board was rushing at this point; he recommended continuing and meeting again next week. Mr. Coffin agreed that this would give the staff the ability to confirm the recommendations and requirements and contact Ms. Truslow for her recommendation. Mr. Greenwood stated that he, Mr. Chadwick and his designer, Mr. Quintal and Danna Truslow would be in touch to do a draft of the conditions of approval; he agreed that it was better to do it right. Mr. Bakie asked if, after the vote to approve is cast, if the Board could add something after the fact. Mr. Coppelman and Mr. Greenwood answered “no”; once the vote is taken, it is final and the hearing has ended. Mr. Coffin said if any Board member had any brilliant flashes in the next few days how that would be handled. Mr. Greenwood said to funnel the information through the office and Ms. Faulconer would get the information to him. Mr. Greenwood will review the minutes for anything that might be missed.

Conditions of approval: Mr. Coffin reminded Mr. Greenwood that the easement and/or purchase needed to be added to the draft list he provided earlier; Mr. Coppelman said that the drug plan should be part of it with a note on the plan re: BMP’s for pharmaceutical disposal. Mr. Coffin said that 908-16.6 should be .9; Mr. Quintal said to change the language to “limit of proposed work in the buffer zone” shall be....; Ms. Faulconer reminded the Board that without specifically noting the deadline to meet the conditions of approval, it would automatically be required within 90 days.

MM&S to continue to June 27, 2017 at 6:45. (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**

Board Business

Critical Correspondence:

- Hummingbird Realty re: Commerce Park and Business Occupancy Permit request

MM&S that the use described in the letter (storage, no full-time personnel or customers on site) meets the approved list of uses and no further review is required. (Motion by Mr. Coppelman, second by Mr. Coffin) **PUNA**

- Dealer license for Mr. Giorgi received; this use had previously been reviewed by the Board; no further review was required; Mr. Coppelman signed the form to forward to the BOS for their signature.

MM&S to adjourn at 10:05. (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**