

KINGSTON PLANNING BOARD

**APRIL 18, 2023
PUBLIC HEARING
MINUTES**

Ms. Merrill called the meeting to order at **6:46 PM**; there were no challenges to the legality of the meeting.

MEMBERS PRESENT:

Lynne Merrill, Chair	Peter Bakie	Rob Tersolo
Robin Duguay, Vice Chair	Peter Coffin	
Chris Bashaw, BOS Representative	Steve Padfield	

ALSO PRESENT:

Glenn Greenwood, Town Planner
Dennis Quintal, Town Engineer
Robin Carter, Land Use Admin.

Ms. Merrill declared a quorum present and introduced the Planning Board ("PB" or "Board").

PUBLIC HEARINGS (in these minutes)

Housing Support, Inc., 186 Main St., R34-21	Pg. 2
Lone Tree Summer Camp, LLC, 12 West Shore Pk Rd., R10-10	Pg. 14
Northeast Atlantic Properties, LLC, Patriot Park, 63 Rte. 125, R9-89	Pg. 10
Summit Distributing, LLC, Kingston Crossing, Inc., 249 Rte. 125, R40-15&16	Pg. 1

Request for a continuation to May 16, 2023:
Summit Distributing, LLC - Kingston Crossing, Inc.
249 N.H. Route 125, Map R40 Lots 15 & 16

Site Plan Review Application & Lot Line Adjustment Application

The applicant is seeking Planning Board approval for a proposed retail motor fuel outlet having a quick service restaurant with drive-through window and gasoline station. The applicant is also requesting a lot line adjustment between lots 15 & 16 on Map R40.

Ms. Merrill read the letter from Summit Distributing, Inc., dated April 18, 2023, requesting a continuance for this hearing until a decision can be rendered from the ZBA. The applicant stated that the Town Planner has requested that the applicant seek a Special Exception from the Kingston Zoning Board of Adjustment (ZBA) for a gas station within the CII District.

Motion made by Mr. Bashaw to continue the hearing for Summit Distributing, LLC, 249 N.H. Route 125, Map R40 Lots 15 & 16 to the Planning Board public hearing at 6:45 PM on May 16, 2023. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (7-0-0)

Continued Hearing (1st hearing was on February 21, 2023, request for a continuance was requested on March 21, 2023 to the April 18, 2023 public hearing).

Housing Support Inc.

186 Main Street

Map R34 Lot 21

Site Plan Review Application

<Board note: This hearing began at 6:49 PM.>

Ms. Merrill read the legal notice for this hearing. *This is a **site plan review application** for the total renovation of the existing structure to create four (4) one (1) bedroom housing units, including a small addition at the rear. Also, the extension of the right-side driveway to accommodate one handicapped parking space and three extra parking spaces at the rear.*

Ms. Merrill explained the hearing process.

Applicant: Paula Newcomb, Executive Director of Housing Support, Inc.

Ms. Newcomb gave an overview of Housing Support, Inc. and said they are a non-profit organization for veterans and other disabled folks in communities in Merrimack Valley and hope to expand to Rockingham County. Others present on behalf of Housing Support, Inc.: Attorney Kevin Baum of Hoefle, Phoenix, Gormley & Roberts, PLLC; Bill Hall, Engineer Civil Design Consultants, Inc.; and Christopher Novelli of n3 Architecture.

- Ms. Newcomb summarized the status of the project and what was requested from the prior hearing on February 21, 2023.
- Mr. Novelli mentioned that the survey has been completed and is stamped by a Licensed Civil Engineer, and
- the building plans have been put back to the original plan that was previously approved by the HDC. The size of the units are all over 600 sq. ft.

Town Planner comment(s): Mr. Greenwood read his comments from the April 18, 2023 memo to the Planning Board (copy available in the Planning Board office).

Town Engineer comment(s): Mr. Quintal read his comments from the April 14, 2023 letter to the Planning Board (copy available in the Planning Board office).

Department comment(s):

- Code enforcement – Second floor needs 2 exit doors per unit and egress windows in bedrooms. Make sure the third floor are not bedrooms.
- Fire – Comply with NFPA. Comply with Town of Kingston Rules & Regulations. Note-Article 301 Building and Lots and 301.5 Rented Apartments: *Any building to be erected or altered for use as rented apartments, shall have minimum of two (2) readily accessible exits (windows excluded) from each apartment. Every*

apartment to be used by a single family shall have a minimum living area of 600 square feet per unit.

- Historic District Commission (HDC) – The change from a two-family to 4 apartments means that 8 parking spaces are required. Four mailboxes need to be placed, HDC review required. Two apartments are now on the 2nd & 3rd floors w/ only 1 egress shown on the plan. If 2nd egress (required) will be some sort of exterior escape it will have a visual impact and require HDC review and the changes to the barn raises many questions.
- Public Works – Proposed driveway would violate setbacks and require Planning Board approval. Shading indicates one material (Bit Concrete), but plan indicates gravel parking spots. Please clarify boundaries if both. Questioned snow storage. Will the noted poorly drained soils handle the runoff from the driveway? No catch basin is noted on driveway leading to detention basin.

Board comment(s):

Mr. Coffin brought up Mr. Greenwood's comments on snow removal (#7 on his April 18 memo) and Mr. Quintal's comments regarding stormwater runoff and coverage percentage noted on #5 and #9 of his letter dated 04/14/2023. Mr. Hall explained that the impervious area is about 6,300 sq. ft. on the lot which is approximately 28% coverage and believes up to 35% Stormwater improvement is allowed which they are looking to provide in the basin. Mr. Coffin asked for further explanation of the exfiltration. Mr. Hall explained that when they were looking to do the calculation to take exfiltration into account, they were conservative in taking just the storage basin to show storing the volume that would be needed. They do believe that it will infiltrate into the ground but haven't done a test yet on the rate it would infiltrate into the ground. They conservatively assumed that there would be zero groundwater computations. Trying to keep it simple with an earth berm that is about a foot and a half (1 ½) feet deep or so. Mr. Quintal commented that the detention basins being built and then machines track over them and pack them down so details would need to be on the plans to verify that there would be an infiltration or exploration by scarifying the bottom of the basin or by adding layers of sand or stone. The bottom of the basin is close to the grade and is going to be significantly above the water table.

Mr. Tersolo asked the applicant how they plan on addressing the 2nd floor egress. Mr. Novelli said that the bathroom is in the rear and may be able to use that space. They understand that any changes to the exterior have to go back to the HDC. The 3rd floor is part of the 2nd floor unit. Ms. Merrill asked if the windows for the bedrooms on the 2nd floor meet code for egress. Mr. Novelli said they do and commented that the egress size is 20"x24".

Ms. Merrill asked what their plan is for addressing the Town requirement for eight (8) parking spaces when there are only four (4) on the plan. Ms. Newcomb said that they do not believe they need eight (8) parking spaces. There are four (4) one-bedroom units that will be occupied by one (1) individual which is the nature of the program. From experience from their other programs, most occupants are older and do not drive; only four (4) spaces will be needed. Ms. Newcomb further explained that there are two (2) long driveways in

front of the building and in most places, people can park in their driveways, if necessary cars could be parked along the driveway. Ms. Merrill asked Ms. Newcomb if they are requesting a waiver from the Regulation and Ms. Newcomb replied, yes. Mr. Greenwood asked Ms. Newcomb if it is a requirement of the program to limit the parking to one (1) person. Ms. Newcomb responded, yes. Mr. Greenwood asked if this was noted in the tenant leases. Ms. Newcomb responded, yes. Mr. Greenwood mentioned that Town Counsel gave guidance that the leases will need to be for a minimum of a year. The units would be one-bedroom, single occupancy units and that may be reason for the Board to consider granting a waiver for parking. Mr. Coffin brought up that in considering limiting parking to below what is normally required, there would be zero spaces available for visitors, workers, etc. He said there is no public transportation in the area. Ms. Newcomb explained again that there are two (2) very long driveways in the front and that every house on the street parks in their driveways. She said they agreed to extend the driveway and put additional space in the back at the request of the neighbors who did not want to see the parking in the front. There really is additional parking in the front driveway should a visiting nurse need parking. Ms. Merrill brought up that extra parking is not designated on the plan, and it should be. Attorney Baum pointed out that there is plenty of space for parking on the plan and can certainly designate some area for temporary parking and add that to the plan. He said that they would still be looking for a waiver for the eight (8) spaces because it is not necessary for the program. Mr. Baum spoke to Mr. Quintal's comments on the driveway about getting neighbor approval (item #2 on Mr. Quintal's letter). He noted that this is an existing driveway that has been extended. Mr. Baum said that he doesn't believe that neighbor approval is warranted or permissible and mentioned that they are happy to work with the neighbors because they know there is some opposition but cannot give a neighbor the power over an applicant's application. The applicant is seeking a waiver for this too. The applicant/team can talk about putting in some landscaping or additional protections, but the driveway is a pre-existing driveway. Ms. Merrill mentioned that the driveway went a certain distance and ended before the building began, therefore, there wasn't the narrow passageway beside the buildings to get to the back. The narrow passageway is more of the concern because perhaps snow may be pushed onto the neighbors' land which is not allowed. Ms. Merrill asked if there was a plan to keep snow on this property. Mr. Novelli mentioned the idea of possibly having a fence installed but would have to discuss any thoughts and details with the applicant. Mr. Bashaw brought up that the driveway and that it is a complicated issue in that the Town does not define what a driveway is. The State definition he was able to find is "The point of entry to the property through the right of way regardless of its configuration once it enters through the right of way". Mr. Bashaw also had concern with the snow removal and that would have to be addressed.

Public comment(s):

Ms. Merrill opened the floor for public comment at 7:16 PM.

Susan Prescott, 50 Little River Road introduced herself and mentioned she is the Chair of the HDC. She had a couple questions. 1) Will there be a fence around the

179 retaining pond? 2) If the building is sold how will the restriction of four (4) parking
180 spaces be enforced for new owners in the future.

181
182 Attorney Michael Donovan, 52 Church Street, Concord, NH. Representing three abutters
183 Scott and Madelyn Ouellette of 189 Main St., Virginia and Robert Morse of 188
184 Main St., Jeff and Julie Robie of 184 Main St. *Mr. Donovan provided a copy of his*
185 *memorandum, dated April 18, 2023, to the Board.* He said that he has a
186 memorandum and list of all the deficiencies in the plan that do not comply, and he
187 has cited the sections of the regulations that apply. He mentioned that Mr.
188 Greenwood and Mr. Quintal touched on some of them, but not all of them. Mr.
189 Donovan stated that he would like to go over each of the several items on his list
190 but cannot do that in 3 minutes. He would like to have it placed on record his
191 objection to the 3-minute limitation because he cannot cover the list of deficiencies
192 on the plan within this time. Mr. Donovan went over some of the points addressed
193 in his memorandum.

- 194 • His clients' request is that the Planning Board not accept jurisdiction over this
195 application and deny it and take it off the agenda until all the deficiencies on the
196 plan and all the other approvals that are required have been met.
- 197 • One of the principal approvals is HDC approval. He noted that the Town Attorney
198 has revised her opinion and has advised that the members of the HDC and the PB
199 that the impact of the change in use requires approval by the HDC. He noted that
200 this point was made at the March 16, 2023 meeting with the Town Attorney and
201 that two of his clients were present at the meeting as representatives of the HDC.
- 202 • Changes to the exterior to the site plan require HDC approval and there are going
203 to have to be changes to the plan to deal with the second exit requirement, these
204 are life-safety codes.

205
206 Mr. Donovan explained that it is unfair to his clients and the Board to continue when the
207 process to obtain approvals will take some time. If the Board denies this and do not accept
208 jurisdiction and formally vote tonight, his clients are not prejudice from corrections being
209 made to the plans and coming back. Mr. Donovan emphasized that his clients are there
210 because they are in opposition to the application and not because they are opposed to
211 veterans housing. He said they are there because this is an inappropriate overcrowding
212 of a small lot with a change of use that is going to set a terrible precedent in the HD and
213 have a terrible impact on the abutting properties.

214
215 Mr. Donovan went over some Town procedural requirements.

- 216 • Requires a complete application.
- 217 • This property is the Aquifer Protection A District which limits coverage to 15%.
- 218 • Soils data is not depicted as part of the drainage study and this is required in three
219 (3) different places in the regulations, wetlands conservation district, stormwater
220 management regulations and the site plan regulations.
- 221 • Existing proposed lot coverage information is not shown. It indicates that it is 0.43
222 acres, which is 28% in the drainage study but is not shown on the plans.
- 223 • Solid waste disposal facilities are not shown.
- 224 • Dumpsters are not shown on the plan.

- Not enough parking provided.
- Parking maneuvering requirements are not met.
- Draining from driveways will drain onto Morse and Robie properties. Flow easements have not been provided, and when there is drainage that will go onto a private property there has to be an easement.
- Zoning ordinance limits uses on a lot to single and two-family dwellings.

Mr. Donovan mentioned the conflicts clause that is in Town Regulations and State Statutes, that when there is a conflict in the zoning ordinance or regulation the State Law says that the stricter provision governs. Referred to Section 301.1.B which limits housing on a lot to single and two-family dwellings.

- Mr. Donovan brought up that waiver requests should be in writing and would like to request copies of the requests when they are available.
- What is the specific program that they are participating in that is going to limit the number of occupants to one (1) person per bedroom.

Mr. Donovan brought up again that the Board should not accept jurisdiction and deny it without prejudice until all the items are addressed, including HDC approval. He mentioned that whatever the HDC decides may be appealed to the ZBA. He added, this shouldn't sit on the Planning Board agenda all this time, do the right thing, and don't burden his clients with further meetings until everything is complete. Mr. Donovan did mention that he would like to have an opportunity for a rebuttal to Mr. Baum's comments.

Stanley Shalett, 3 East Way said he is strongly in favor of this project.

- Brought up that in the ordinance a housing unit remains to be defined.
- Population density would be the same if a family lived in the existing two (2) units as one person living in each of the four (4) units.
- RSA 674.45 enumerates the notion of community values in addition for public purpose. This project does add value to the HD, therefore, is not in violation of RSA 674.45.
- "Change of Use" should not be determined on speculation and subjective opinion.
- Commented that the HDC can consider objectively environmental effects of noise and traffic congestion that may come up for any project, but this project is devoid of these problems.
- Mr. Shalett asked that his letter be put in the record.

Jeff Robie, 184 Main Street -

- Primary concern is the driveways and that at the end of one of the driveways it actually crosses over the property line near the road. So, it is not two (2) feet it is actually zero (0) feet. On the south side their foundation is less than ten (10) feet. Concerns about the runoff from the driveway. Right now, they do not have flooding in their basement, but they do have concerns that if there are changes to the driveway that could happen.
- The lot size for 186 and 184 Main Street are fairly small, and the structures take up a good amount of the lot(s).

271 Scott Ouellette, 189 Main Street -

- 272 • The size of the lot for 186 Main is a ½ acre lot and the driveways are too close to
- 273 the sidelines. The house itself is too close to the sideline. It is a grandfathered,
- 274 pre-existing, non-conforming use.
- 275 • Parking and lighting issues have been issues in the past for the two (2) family and
- 276 now it is being doubled to a four (4) family, which is what the plans shows, it doesn't
- 277 show four (4) individuals, those issues will double and increase.
- 278 • Water run off – there are puddles in the spring. The pond in the back is not going
- 279 to handle the runoff in the front, there are no catch basins or drains to take the
- 280 water from the front to the back.
- 281 • There is a filled-in pool in the back yard and is impervious. This is not shown, and
- 282 the requirements do not mention this in the drainage report.
- 283 • The stormwater plan that is shown is not enough for the aquifer recharge for the
- 284 site.
- 285 • He is not opposed to who lives there, the issue is it is a non-conforming two (2)
- 286 family and is proposed to be a non-conforming four (4) family and this doesn't
- 287 match the Town regulations.

288
289 Virginia Morse, 188 Main Street, an abutter to 186 Main -

- 290 • This area is very wet and said there should be soil types noted on the map.
- 291 • The water in the pond in the spring flows into their garden. The water flows toward
- 292 Greenwood Pond.
- 293 • Water in the front of the yard flows toward and under Main Street. This area is
- 294 always wet. There is a lot of challenge with runoff.
- 295 • They do get water in their basement.
- 296 • Her house is level to the ground and 186 Main is on a berm, the ground is higher.
- 297 • Their house is close to the lot line.

298
299 Public comment was closed at 7:45 PM.

300
301 Attorney Baum asked if he could speak to some of the comments that have been
302 discussed. The applicant has addressed many of the issues that have come up. They will
303 incorporate the comments discussed tonight from the Town Engineer and Town Planner.
304 They do believe they have provided enough information for the Board to consider
305 accepting jurisdiction. He asked that the Board treat this application like any other
306 application. Mr. Baum mentioned:

- 307 • They will put together waivers in writing.
- 308 • Some issues raised were the driveway and parking.
- 309 • With respect to drainage this will be brought back to their professionals.
- 310 • This is construction within an existing building and is not significant.
- 311 • This is under site plan review and are addressing neighbor concerns.
- 312 • With respect to future owners and the parking. The Board can put in conditions.
- 313 Can provide a copy of the lease with redaction. If a future owner wanted to change
- 314 it, they would have to go back before the Board.

- With respect to Aquifer Protection, the plan does speak to the 15%. In Zone A that can be increased by 35%, In Zone B 60%, providing you show Stormwater Management.
- He commented that it is clear that some of the neighbors are looking to send this back to HDC. However, what is unfair to everyone is to go back to HDC, come back the Planning Board to make minor changes, then go back to HDC.
- Mr. Baum brought up that he has significant concern about the statement that the HDC approval be appealed to the ZBA. There are existing rules that the appeal period has passed. This is unfair to the applicant to put that burden on them. It is the Planning Boards obligation and fair to provide the applicant a path forward. All the issues can be dealt with by waivers or conditions, if necessary.

Mr. Baum remarked that in regard to Attorney Donovan's request to rebut, typically the applicant gets the chance to address comments and that's it.

Board comment(s):

Mr. Bashaw addressed a question to Mr. Greenwood. He looked at the map to verify the 15% for the aquifer in Zone A and asked if this requires a Special Exception that has to go before the ZBA or if this is a waiver requirement. Mr. Greenwood noted it is a requirement for stormwater management. Mr. Coffin mentioned that the 35% requires recharge, not storage, and that is why we have insufficient information. We need a soil analysis; clay doesn't allow recharge. A full plan is needed that can be reviewed by the Town Engineer.

Mr. Coffin noted that a concern is allowing something to exist doubling the number of units with future possibility that someone may change the lease and not adhere to conditions agreed upon. Mr. Baum spoke and clarified that what he was suggesting was that Board apply conditions that would have to be adhered to and future owners would have to have a similar lease, can have further discussion on how this gets implemented.

Mr. Coffin brought up another technical aspect of the floor plan, does the 3rd floor sq. ft. living area calculation take into consideration portions that may be less than 5 feet tall, is this considered buildable area. Mr. Novelli said it is not, and the knee walls are shown on the plan. Ms. Merrill explained that the Town used 50% if a cape-like home and has no dormer and if there is a shed dormer on one side it is 75%. Ms. Newcomb informed the Board that the 3rd floor is not converted attic space, it is existing bedrooms. Existing is two (2) 3-bedroom units. She mentioned that with respect to comments about the increase in density for the two (2) units to four (4) units, we are talking about four (4) individuals as opposed to being lived in as two (2) 3-bedroom units. There should be far less density than there is today.

Mr. Bashaw asked Mr. Greenwood if he felt the plan was complete enough to invoke jurisdiction and continue the process. Mr. Greenwood said, he does.

Mr. Tersolo brought up HDC and zoning for driveways and raised some questions on drainage, ADA compliance, lighting, and surfaces.

Ms. Merrill said that if the Board decides to approve a conditional approval, Town Legal Counsel has advised the Board that it can be approved under the condition that the applicant has to go back before the HDC for the change of use. Necessary approvals from local boards and state agencies would be required.

Mr. Coffin said there may be a timeline issue if the Board invokes jurisdiction because we don't have enough information on the setbacks and the recharge issue. We don't have Counsel's advice on some of the other issues that were brought up tonight.

Mr. Greenwood said that his discussions with Counsel that there hasn't been any statements that setback issues of the Board initiating. Matters being brought up are existing circumstances. Mr. Coffin commented that the driveway in the back is a new proposal.

The applicant has asked that the Planning Board waive the \$5,000 fee and reduce it to \$250 (904.5,B.). The \$250 amount was not accepted by the Board.

Motion made by Mr. Bakie to reduce the Professional Review fee from \$5,000 to \$2,000. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (7-0-0)

Ms. Merrill asked if the Board would like to invoke jurisdiction. Mr. Tersolo expressed that there is still a lot of questions that may complicate the decision-making process for the Planning Board; and there are several things the applicant needs to complete, like the drainage plan. Ms. Duguay commented that the Town Planner has advised the Board the application/plan is complete enough to accept jurisdiction and noted that the Board has accepted jurisdiction for plans that had more conditions to meet than this.

Motion made by Ms. Duguay to invoke jurisdiction on the proposal by Housing Support, Inc. at 186 Main Street, Tax Map R34 Lot 21. Seconded by, Mr. Bakie. A vote was taken; Mr. Coffin and Mr. Tersolo opposed; the motion passed. (5-2-0)

Mr. Greenwood will compile a punch list of what Housing Support, Inc. needs to complete and send a copy of the letter from Attorney Donovan to Town Counsel. **[AI.1-04.18.2023]**.

Mr. Donovan asked that a copy of any waiver request provided to the Board from the applicant be provided to him.

The Board has requested a site walk. A site walk is scheduled at 186 Main Street on May 13, 2023 at 8:00 AM. This is a public meeting, and the public is welcome to be at the site walk.

Ms. Carter to send out a reminder and post a notice. **[AI.2-04.18.2023]**

Motion made by Ms. Duguay to continue the hearing for Housing Support Inc. at 186 Main St. to the May 16, 2023 PB public hearing, with all required information and plans due to the Planning Board by noon on May 4, 2023. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (7-0-0)

<Board note: This hearing ended at 8:25 PM.>

<The Board took a 5-minute break.> Ms. Merrill called the hearing back to order at 8:30 PM.

New Hearing:
Northeast Atlantic Properties, LLC
Patriot Park
63 Rte. 125
Map R9 Lot 89

Amended Condominium Plan

<Board note: This hearing began at 8:30 PM.>

*The applicant would like to **convert the existing building and new building to be constructed into commercial condominium units.***

Applicant: Tim Lavelle of James M. Lavelle Associates represented Northeast Atlantic, Properties. Travis McConnell of Northeast Atlantic Properties, LLC was present.

Mr. Coffin recused himself from this hearing.

Mr. Lavelle explained that what the applicant is proposing to do is change the ownership to condos. They are not proposing to change the site plan that was already approved by the Planning Board on June 12, 2007. The property was developed in 2009. The back building (Phase I), including parking, drainage and septic system is complete. The property has been graded. There are two (2) septic systems on the plan, one is already installed. What they are proposing to do is finish the plan, finish Phase II and put in the new ownership.

Town Engineer comment(s): Mr. Quintal read his comments from the April 14, 2023 letter to the Planning Board (copy available in the Planning Board office). Mr. Quintal informed the Board, applicant, public that the original site plans were done and approved before he was working for the Town, so he did not take part in that process.

Town Planner comment(s): Mr. Greenwood read his comments from the April 18, 2023 memo to the Planning Board (copy available in the Planning Board office). Mr. Greenwood noted that the Amended Condominium Plans were recorded a few months ago. Mr. Greenwood notified Mr. McConnell that this is something that needed PB approval.

Board comment(s): Ms. Merrill asked the Board if they had any comments. There were none.

Department comment(s):

- Fire – Buildings on the site-Comply with NFPA, Knox Box, NFPA 72 fire alarm system, Comply with Town of Kingston Rules and Regulations.

Mr. Lavelle commented:

- They are not changing anything from the original NH DOT permit.
- Proposed uses are all the same, nothing has changed.
- They are not proposing to tie in the disposal system to the existing system. Proposing to pave over the existing system. He likes the idea of having it inspected before paving over it, however, he said it doesn't need to be inspected for flow. Sheet 4 of the site plan shows two (2) systems under the parking lot.
- This site has been constructed and all the drainage is in, catch basin is there.
- This site was prepared for the new building. Will not be disturbing the well.

Mr. Lavelle said that they will need to resubmit a request for a new subsurface approval because the current one is from 2009. He plans on checking the tank size for the flow.

Mr. Lavelle commented that the site is complete, but now building Phase II and will be changing formal ownership. Mr. Lavelle explained that they were advised by applicant's legal counsel to have new plans prepared but didn't realize they had to come back before the PB because the way the Kingston Zoning Ordinance is written. Further advice was they didn't expect any limited common area outside the building because of the parking spaces.

Mr. McConnell explained how he learned he needed to go before the PB again. He came in to get his building permit for the new building. There was a discrepancy if the building was two (2) stories according to the site plan, it was determined it was. The new condo plan is what triggered questions from the Town. He said that all the issues being raised were addressed back when he first came to the Board in 2008/2009. They are simply just changing the way the buildings will be owned.

Ms. Merrill asked if there were questions from the Board. There was none.

Ms. Merrill read an abutter letter submitted to the Planning Board from Peter and Eleanore Coffin, dated April 13, 2023.

Areas of concern: 1) dumpster enclosure was not built, and the dumpster is currently in a parking spot, and not screened; and 2) landscaping plan for the buffer zone was never fully executed or maintained.

Mr. McConnell said that these items were addressed during Phase I. Mr. McConnell said that the buffer was put in, but they had to alter the plan because of the rock there. It is hard to plant on rock. He said that he had to take care of these items as part of getting

the occupancy permit for the first building. Ms. Merrill noted that the dumpster location is on the original site plan.

Ms. Merrill asked if the condo docs have been sent to the Town's attorney for review. They have not.

Motion made by Mr. Bakie to submit the Condo Docs-Declaration of Patriot Park Condominium (04/2020), and Amendment Number One to the Declaration and By-Laws of Patriot Park Condominium (02/2023) to the Town Attorney for approval. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (6-0-0) (Mr. Coffin was recused from this hearing.)

Motion made by Mr. Bashaw to invoke jurisdiction. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (6-0-0) (Mr. Coffin was recused from this hearing.)

The applicant has requested a waiver for the reduction of the Professional Review cost from \$5,000 to \$1,000 (904.5,B.).

Motion made by Mr. Bashaw to grant the waiver request to reduce the Engineering Fee (Professional Review) to \$1,000 from the \$5,000 normally required. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (6-0-0) (Mr. Coffin was recused from this hearing.)

Board discussion: Mr. Bashaw commented that the explanations granted by the applicant and his representative are sufficient. He doesn't believe they should need a revised DOT permit or alteration of terrain permits. He does agree that it is probably in the applicant's best interest to have the septic system inspected before they pave over it but should not be a requirement by the Board. Mr. Bakie mentioned that the recommendations by the Fire Department comment should be included in any Conditional Approval, and that this is an area that would also be addressed when the applicant applies for a building permit.

Mr. Bashaw asked the applicant if they had any objections to the items outlined by Mr. Quintal or Mr. Greenwood. He realizes the applicant has already spoken to a few of them. Mr. Lavelle discussed his objections.

- #2 on Mr. Quintal's letter re: Existing Conditions Plan. There is an existing condition plan on file. It was not included in this package because this plan was for the Amended Condo Plan.
- All the drainage and grading is done. All they have to do now is put in the foundation for the new building.

Mr. Merrill asked Mr. Quintal if he had any further comments. Mr. Quintal brought up again that he was not involved in the original design. He was looking at everything for the first time. He noted that 50% of the site is impervious, which is a lot, and it is draining down into a fire pond and he is not sure if that is adequate. Mr. Lavelle mentioned the fire pond is also a retention pond. Mr. Quintal based his comments on reviewing the plans for the

first time. He explained that the existing conditions plan is a plan that they could developed fairly easily, it shouldn't be that difficult. The design of the septic system is something the applicant said they would be doing. Mr. Quintal mentioned that DOT conditions and philosophy have changed over the years, and a call to the local State Engineer to see if they have any concerns and/or if a new permit would be required. Mr. Bashaw said that if the applicant was making fundamental changes to the already approved plan, then yes, then requirements would have to be looked into further and be held to today's standards if they have changed. In looking at the previously approved site plan and the condo plan there wasn't substantial changes to scrutinize the condo plan and be forced to be held to a higher standard than what has already been approved. Mr. Quintal said that was apparently approved by DOT years ago and unless the applicant expanded the change the DOT would probably not say anything. Mr. Lavelle said this is a very straight section of the road.

Public comment(s):

Ms. Merrill opened the floor for public comment at 9:00 PM.

Mr. Coffin came to the floor as a member of the public. He explained that the Amended Condominium Plan does not show a space for the dumpster. Mr. Lavelle spoke and said that the dumpster is shown on the original site plan, and the Amended Condominium Plan is being provided to change the form of ownership. Ms. Merrill said that we are discussing two different plans, one is the original site plan that will continue to be followed showing where the dumpster should be, and other is the Condominium Plan which is just the ownership plan. Mr. Lavelle recognized the dumpster enclosure is not in the location noted on the site plan and that will be taken care of in Phase II. Mr. Coffin asked if the applicant had plans to complete the landscaping. Mr. McConnell said that things that have been planted have been undone, however, before he got the occupancy permit there was a walk around with the Town and a few things on the plan had to be changed and then he was given his occupancy permit. Mr. Coffin said that the landscaping still needs to be addressed because it is non-compliant. He mentioned that the proposed signs should be on the plan. Driveways should be paved before being given final approval.

Public comment was closed at 9:05 PM.

Motion made by Mr. Bashaw to offer Conditional Approval of the Amended Condominium Plan (2/17/2023) with the following conditions: 1) requirements for the new septic design for the new building must be met, 2) they comply with the dumpster location and enclosure that was referenced on the original approved Site Plan (approved 06/12/2007 by the PB), 3) any signs must meet the Kingston Town Sign Ordinance and be brought into compliance, 4 Condominium Documents to be submitted to Town Counsel for review and approval. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (6-0-0) (Mr. Coffin was recused from this hearing.)

587 **Amended motion** made by Mr. Bashaw to include that the timeline for Conditions for
588 Approval must be met prior to the time of occupancy being granted. **Seconded** by, Ms.
589 Duguay. **A vote was taken, all were in favor, the motion passed. (6-0-0)** (Mr. Coffin
590 was recused from this hearing.)

591 *<Board note: This hearing ended at 9:10 PM.>*

592
593 *<Mr. Coffin rejoined the meeting.>*

594
595 **New Hearing:**

596 **Lone Tree Summer Camp, LLC**

597 **12 West Shore Park Road**

598 **Map R10 Lot 10**

599
600 **Subdivision and Residential Condominium Application**

601 *<Board note: This hearing began at 9:10 PM.>*

602
603 Ms. Merrill read the legal notice for this hearing.

604
605 *The intent of this project is to subdivide a 127+/- acre parcel, creating two (2) new house*
606 *lots to have two (2) unit condominium residential building on each new lot.*

607
608 **Applicant:** Eric Mitchell of ECM & Associates, Inc. spoke on behalf of the applicant.

- 609 • The existing lot is 127 +/- acres with a 73-acre conservation easement on it and
- 610 has an existing house on it.
- 611 • Want to subdivide two (2) new house lots with frontage on West Shore Park Rd.
- 612 and build two (2), 2-unit townhouse condominiums on each lot. The remaining lot
- 613 will be 122 acres and retain the existing house.
- 614 • The zoning is RR AQ.
- 615 • The 2-lot subdivision has been sent to DES for subdivision approval and separate
- 616 condominium subdivision approval.
- 617 • Requesting five (5) waivers:
 - 618 ○ 1) To waive the requirement for a Mandatory Preliminary Review.
 - 619 ○ To allow the scaled sheet 1 to be 1 inch is 200 feet to fit the remainder of
 - 620 lot 10.
 - 621 ○ To show NHDES approval for the submission as they are pending.
 - 622 ○ To provide only one test pit per new lot.
 - 623 ○ To allow minimal 15 to 25 percent slopes to be included in the buildable
 - 624 area calculations.
- 625
- 626 • Provided a wetlands assessment on the site (report dated 03/16/2023).
- 627 • Draft Condominium docs have been provided.
- 628

629 **Town Engineer comment(s):** Mr. Quintal read his comments from the April 14, 2023
630 letter to the Planning Board (copy available at the Planning Board office).

Town Planner comment(s): Mr. Greenwood read his comments from the April 18, 2023 memo to the Planning Board (copy available at the Planning Board office). Mr. Greenwood noted that there are five (5) waivers versus the four (4) noted in his comments.

Department comment(s):

- Public Works: 20' Easement for ROW needed. Ask applicant to please stop plowing snow across the road intersection.

Board comment(s):

- Mr. Coffin asked for clarification from Mr. Quintal on item #4 referenced in his letter.
- Mr. Bakie asked the applicant why there was only one (1) test pit done when the Town requires two (2). Mr. Mitchell commented that the state only requires one (1) and that it was an oversight on his part that the Town required two (2). Mr. Mitchell said that both the test pits for each lot were the same. If the Board wants to request another one be done, they will do that. Ms. Merrill said the test pits do also need to be witnessed by the Town of Kingston Health Officer. Mr. Quintal brought up that the reason he didn't have an objection to only one (1) being done is because the soil map shows very good grade of soil which covers the whole property. He said the reason we have two (2) test pits is to verify soil type, but the whole lot is basically canton soil and didn't show any ledge. Mr. Greenwood commented that he looks at the plans from a planner's perspective and not an engineer and that this is different than what the Town rules ask for two (2) test pits. He said that Mr. Quintal's knowledge of the soil types makes it seem like a legitimate request. Mr. Greenwood mentioned that the Board could consider a waiver based on the remarks from Mr. Quintal. Mr. Mitchell informed the Board that a site-specific soil survey has been done and the SES soil map shows that all the soils are canton soils 03 and the site-specific soil map verifies that all months are dry and free draining.

Mr. Tersolo asked if Town Counsel has reviewed the easement from the United States of America/Boy Scouts of America that comes along this property. Mr. Towne said that the proposed subdivision lots are not located in or near the area that is part of the conservation easement. Mr. Tersolo said that the easement covers more than just acreage in the conservation easement and is extremely inclusive of other details. He suggested that Town Counsel take a look at the easement. Mr. Greenwood mentioned that he has not reviewed the easement. Mr. Mitchell shared that his office did the search work for the easement, and it is two (2) different parcels of approximately 30-acres each. The middle is 127 acres and is not part of the easement.

Ms. Merrill asked if the Board had any other comments.

Mr. Quintal wanted to clarify the driveway requirements and referred to the Driveway Permit ordinance, Article 901.1,C.,5. It reads, "In order to minimize the number of driveways along town roads, shared driveways shall be encouraged when deemed

appropriate by the Planning Board for adjacent sites. No more than two driveways, entrances, exits, or approaches will be allowed to any one parcel of land". He explained that there is probably plenty of room along West Shore Pk Rd for driveways, but looking at this ordinance it says no more than two on a piece of property to start with and common driveways are encouraged.

Mr. Bashaw brought up that at one time there was discussion and public comment about violation of compliance activities taking place on the property and asked if there was ever any resolution/conclusion on this. Ms. Merrill said that this went to the BOS. Mr. Towne responded that he received some visits from the Town that raised some questions. He did speak with the BOS and sent a follow up email with an itemized list of answers to their concerns. He mentioned that some of the concerns raised were happening on other properties.

Public comment(s):

Ms. Merrill opened the floor for public comment at 9:40 PM.

Jan Hanson, 4 Merrill Avenue -

- Is there any plans for more subdivision on this lot. Will they be sold and not used for rental properties? Mr. Bashaw stated the Board can ask but they can't demand these types of answers.
- The Board informed Ms. Hanson that the subdivision regulations are on the Town website.
- Ms. Merrill noted that the remaining frontage shown on West Shore Park Rd. is 398 feet, which includes the road into the camp. You are only allowed one home every two-hundred feet and there is already one there and there is wetlands. Unless they decide to look into putting a road in and developing the whole property.

Sandra Maida, 10 Concannon Road -

- Ms. Maida shared with the Board that she has been hiking at Lone Tree for over 15 years. She had permission from the previous owners to hike there and after it was sold, and the current owner has given her permission to hike there also.
- Ms. Maida was at the BOS meeting when they were discussing things going on at the property (skinny dipping) and explained that it was not happening at this property. There was also blame that there was an arrest at the property, and again it wasn't this property.
- They have been a good neighbor and what they are doing is necessary for expense reasons.

Vern Soehner, 8 Merrill Avenue -

- Said that Lone Tree is a good neighbor.
- Mr. Soehner wanted to see the plan and where the subdivision was being proposed.

Public comment was closed at 9:45 PM.

Mr. Mitchell said that in looking at the comments provided in the Town Planner and Town Engineer review letters, he is confident that they can address and has no issues with them.

Motion made by Mr. Coffin to accept jurisdiction on Tax Map R10 Lot 10 as plans submitted. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Ms. Duguay to waive the requirement for Mandatory Preliminary Review based on advice from both the Town Engineer and Town Planner. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Mr. Coffin based on the advice by the Town Engineer to allow the scaled sheet 1 to be 1 inch is 200 feet to fit the remainder of lot 10 on the plan. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Mr. Coffin based on the advice of the Town Engineer and Town Planner to move to show the NHDES approvals for submission because they are pending. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Mr. Bakie to accept the one test pit per new lot based on the recommendation from the Town Engineer. Seconded by, Mr. Padfield. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Mr. Coffin that because the minimal location is steeper than 15% slope and based on the Town Engineer's recommendation that the Board move to allow minimal 15 to 25 percent slopes to be included in the buildable area turndown calculations. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Ms. Duguay to grant Conditional Approval for the submitted subdivision plan dated 3/15/2034 for Map R10 Lot 10, 12 West Shore Park Road, Kingston, NH 1) with the conditions detailed in the letter dated April 14, 2023 from the Town Engineer, Dennis Quintal 2) as well as the comments outlined in the memo from the Town Planner, Glenn Greenwood dated April 18, 2023, 3) Condominium Documents to be submitted to Town Counsel for review and approval, 4) the 20 foot easement R.O.W. for maintenance by Public Works be added to the plan, 5) and the five (5) waivers that were granted be added to the plan. Seconded by, Mr. Padfield. A vote was taken, all were in favor, the motion passed. (7-0-0)

Motion made by Mr. Bakie that all conditions be met within 90 days. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (7-0-0)

<Board note: This hearing ended at 9:55 PM.>

770 **BOARD BUSINESS**

771
772 **Approval of the March 21, 2023 Minutes:**

773 Corrections: Line 292, change seven (7) to two (2); Line 455 add an “” to State’s.

774 **Motion made by Mr. Coffin to accept the 03/21/2023 minutes as amended. Seconded**
775 **by, Ms. Duguay. A vote was taken, all were in favor, the motion passed.**

776
777 **Correspondence:**

- 778 • Ms. Merrill recused herself on this matter and handed over the meeting to Robin
779 Duguay, Vice Chair. **Letter from Daniel Mastroianni and Deborah J. Millette,**
780 **dated April 17, 2023, of 191 Main St, Kingston regarding 14 Church Street** and
781 **proposed changes to the commercial building.**
 - 782 ○ This is a request that should be addressed by the HDC and the Building
783 Department.
 - 784 ○ Bedroom count questions should be addressed to the Assessing and
785 Building Department.

786
787 **Motion made by Mr. Bashaw that no further action is required from the Planning**
788 **Board. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion**
789 **passed. (6-0-0) (Ms. Merrill was recused from this matter.)**

790 *<Ms. Merrill rejoined the meeting.>*

- 791
792 • Letter from **Kyleigh Delos Reyes** dated April 13, 2023, of **12 Bartlett Street**
793 **inquiring on requirements to look into opening a hair salon business in her**
794 **home.**
 - 795 ○ This request falls under the Home Occupation Ordinance.
 - 796 ○ Zoning is Rural Residential Aquifer and will need to be considered during
797 obtaining approvals/permits.
 - 798 ○ Bedroom count questions should be addressed to the Assessing and
799 Building Department.

800
801 **Motion made by Mr. Coffin that no further action is required from the Planning Board.**
802 **Seconded by, Mr. Bakie. A vote was taken, all were in favor, the motion passed. (7-**
803 **0-0)**

804
805 **Board Business Cont.**

- 806 • **266 Rte. 125** - Mr. Quintal said that Civil Construction Management, Inc. received
807 a request to review the septic plans for 266 Rte. 125. He asked the Board if they
808 had any issues with this. The Board did not.

809
810 **Motion made by Ms. Duguay to adjourn the meeting at 10:25 PM. Seconded by, Mr.**
811 **Padfield. A vote was taken, all were in favor, the motion passed.**

812
813 ****Next Public Meeting is scheduled for Tuesday, May 2, 2023. Subject to change.****
814

815

816

04/18/2023 Minutes accepted as amended on May 16, 2023:

817

- Pg. 1, line 5 – change Mr. Coffin to Ms. Merrill

818

- Pg. 15, line 640 – add the department name – Public Works