

KINGSTON PLANNING BOARD

NOVEMBER 21, 2023  
PUBLIC HEARING/MEETING  
MINUTES

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

Ms. Merrill introduced the Planning Board ("PB" or "Board").

**MEMBERS PRESENT:**

Lynne Merrill, Chair	Peter Coffin
Robin Duguay, Vice Chair	Steve Padfield
Peter Bakie	Rob Tersolo

**ABSENT:** Chris Bashaw, BOS Representative

**ALSO PRESENT:**

Glenn Greenwood, Town Planner  
Robin Carter, Land Use Admin.

**PUBLIC HEARING(S)** (in these minutes)

Hawks Ridge of South Kingston, LLC, Mulligan Way, R3 LU4, 4020	Pg. 1
Karen and Daniel LaPanne, 3 Chase St., R34-36 Heidi Heffernan, 7 Wrights Rd., R34-32	Pg. 2

**PUBLIC HEARINGS**

*Request for a continuation to December 12, 2023:*

**Hawks Ridge of South Kingston, LLC  
Mulligan Way  
Map R3 LU4, 4020**

**Purpose:**

The applicant has submitted a **Site Plan Review application to amend the existing site plan** to seek approval to adjust/relocate Land Unit 4020 (20) and its associated Land Unit Area to a location on Mulligan Way between Land Units 23 & 24.

Mr. Coffin asked how many times this application has been continued. Mr. Greenwood responded that this is the 2<sup>nd</sup> request.

**MOTION** made by Mr. Coffin to **move to continue Hawks Ridge to December 12, 2023 at 6:45 PM. Seconded** by, Mr. Bakie. **A vote was taken, all were in favor, the motion passed. (6-0-0)**

Ms. Merrill explained the hearing process.

**Karen and Daniel LaPanne**  
**3 Chase Street**  
**Map R34 Lot 36**

**Heidi Heffernan**  
**7 Wrights Road**  
**Map R34 Lot 32**

*<Board note: this hearing began at 6:50 PM.>*

**Boundary Line/Lot line Adjustment application:** The applicants are proposing a boundary line adjustment to convey .094 acres from 7 Wrights Rd. (lot 32), a 2.824 acre parcel with an existing single family dwelling and an accessory dwelling unit, to lot 36 (.392 +/- acres) that contains an existing single family dwelling. Both properties are located in the Historic District 1, Aquifer Protection zone.

**Applicant(s):** Bryan Parmenter, Surveyor of PFS Land Surveying, Inc. Groveland, MA and Karen LaPanne of 3 Chase St. were present and both were authorized to speak on behalf of Heidi Heffernan (owner of 7 Wrights Rd.).

Ms. LaPanne spoke and explained that they are looking to purchase the small strip of land that belongs to Heidi Heffernan and extend out the land and put up a fence. Currently they have removed their existing fence and they want to put it back up. This also gives them more control over where their well is so it will be on all their land and right now it is Ms. Heffernan's.

**Board comment(s):**

Mr. Bakie brought up that 3 Chase St. is a non-confirming lot and asked if the applicant was just adding to it. Mr. Coffin explained that 3 Chase St. is non-conforming in size (.392 acres) and the applicant for 3 Chase St. wants to add the 16.7' strip of land that appears to have originally been a ROW to get to the back lot (7 Wright's Rd.) before Wrights Rd. was built. The small strip is part of the larger lot which is non-conforming in frontage and non-conforming for the aquifer protection zone by a very small amount. 3 Chase is also non-conforming for frontage and the lot size area for the aquifer protection zone. Overall, it makes the small lot more conforming by a respectable percentage where it makes the larger lot only non-conforming to the aquifer protection which requires 3 acres; therefore, the larger lot would become less conforming but only by a small percentage.

Mr. Coffin mentioned that the Zoning Board of Adjustment (ZBA) decided the small strip of land that would be going to the LaPanne's lot could not be used to satisfy the requirements of the aquifer protection zone. It is surrounded by other properties; it cannot be used for leaching field (only 16.5' wide) and could not be used to reduce the density of the land for putting in a leaching area or spreading out the septic. It does increase the area of the smaller lot. This is why the ZBA granted the variances to allow this plan to exist or it wouldn't be coming to the Planning Board.

Mr. Bakie asked if there is any reason why the Board shouldn't accept this request. Mr. Coffin noted that it is improving the overall compliance with Town ordinances. Mr. Coffin referred to an old plan (C-8742 dated May, 1967) that showed the extension of Wrights Road and the survey that was recently done shows that plan is inaccurate. The previous plan (C-8742) shows that Wrights Rd. extends (into 7 Wrights Rd, R34-32) with a turn around at the end of it and this never happened. Mr. Coffin mentioned that this was not a factor. The problem only exists because when you have a lot line adjustment you are creating 2 new lots. When you create a new lot, each lot according to the ordinance, has to comply with the zoning regulation. The

ordinance says the applicant can apply to the ZBA for a variance. This is a non-confirming preexisting situation and making variances to allow them to continue to be as such. He brought up that there are other small lots on Wrights Rd. and how did they come to be. Ms. Merrill said that the subdivision went in 1968 and the frontage for the Heffernan lot had frontage on RT. 125 even though it didn't have access and at that time it was legal.

**Town Planner comment(s):** Mr. Greenwood read his comments.

"This is the first public hearing of this proposal to alter the boundary lines of these two non-conforming properties. The plan is to remove 4,906.5 square feet of land from the Heffernan parcel and add it to the LaPanne parcel. The Board needs to take jurisdiction over the application and the plan is adequate for such a motion. After reviewing the plan entitled, "Lot Line Adjustment Plan Assessor's Map R34 – Lot 36 Prepared for Karen M and Daniel L LaPanne", prepared by PFS Land Surveying, Inc and dated July 11, 2023, I have the following comments:

- 1) Because both lots are nonconforming in size ZBA relief is required for this proposal. The applicants were granted zoning relief at the September Zoning Board of Adjustment hearing and a note has been added to the plan stating variances were granted. The plan should be amended to list the exact variances approved by the ZBA for each lot.
- 2) The Title Block should include both names, addresses and lot numbers for the two property owners involved with this boundary line adjustment."

Mr. Greenwood noted that he did send these changes to the surveyor and they will be making the changes to the plans.

**Department comment(s):**

- **Department of Public Works** - Ms. Merrill read the comments from Phil Coombs, Director of Public Works (dated 09/14/2023) that were provided previously for the ZBA public hearing and also to be shared with the Planning Board regarding the question of the extension of Wright's Rd. "While the original road was put at 345' it was repaved in 2018 at 580'. This aligns with the drawing showing the extension. Rich St. Hilaire would not have paved the road that the town did not own."
- **Board of Selectman** – "Lot 32 becomes more non-conforming (< 3 acres) (aquifer zone) by this lot line adjustment. We don't believe the Town can take this action without ZBA issuing a variance."

**Public comment(s):**

Public comment opened at 7:03 PM.

Ms. Merrill read a letter from Martha Healey (dated November 13, 2023) of 3 Wrights Rd. that was sent to the Planning Board.

- Her concern was about the Historic District I and can a tree business that includes large equipment, tractor, log splitter, large dead tress piled up in the backyard, large brush pile, burn pile, large pile of old wood chips, and various other pieces of equipment spread around the backyard.
- This is a small residential neighborhood, does this meet the standards of the goals of Historic District 1.
- "Our main concern is by purchasing the property, that it will allow the applicant, who owns the tree business and operates from their residence, to expand their business, so close to our property."

Ms. Merrill asked Ms. LaPanne if they were running a tree business from the property. Ms. LaPanne said they do have a woodstove and use wood for that. As far as the abutters fence that Dentist office owns it and not them. Ms. LaPanne mentioned that they (the Healey') could put up their own fence if they do not like looking over at their yard, this has nothing to do with their application to the Planning Board. Ms. Merrill asked if they keep heavy equipment on the property. Ms. LaPanne replied that they have a tractor, which many people have, a truck that Daniel goes to work in, they have a wood splitter because they cut cord wood. Ms. Merrill explained that she is asking to determine if a Home Business Occupancy permit is needed. Ms. LaPanne said that they have already looked into this and he travels elsewhere and that they are totally licensed and insured. Mr. Coffin commented that this question came up at the ZBA meeting and because it did not apply to the lot line, if they had issued the home business or if business being conducted in a residential zone then they should go to the BOS for enforcement.

Public comment closed at 7:06 PM.

**MOTION made by Mr. Bakie to invoke jurisdiction. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (6-0-0)**

Mr. Coffin commented that OPD recommends it and other Towns do it; that applicants come in with mortgage holder's sign off. If it applies to the applicants it should be written in the letter of decision that is sent to both applicants as a reminder that they do have been informed and have gotten permission from their mortgage holders before any transfer of deeds. He explained that the Planning Board approval of this doesn't create the lot line adjustment. Ms. LaPanne said correct and she did already talk to mortgage company and they have sent her the paperwork. They are waiting to hear on that and then move forward. She has talked with Ms. Heffernan to do the same thing.

Mr. Coffin said that another recommendation that came up from planning of NH is in the Notice of Decision to remind the applicants that this isn't an approval and that they need mortgage holder approval. Once everything is in place (finances/mortgage holder approval, deed, final plan) that's when it can become official, and the plan can come back to the Town for recording.

Ms. Merrill mentioned that there is a 30-day period for appeal.

**MOTION made by Ms. Duguay to approve the request for a lot line adjustment at 7 Wrights Road, Map 34 Lot 32 and 3 Chase Street, Map 34 Lot 36 with the following conditions:**

- 1) That the plan be amended to list exact variances approved by the Zoning Board.**
- 2) The Title Block include both names, addresses and lot numbers for the two (2) property owners as recommended in Glenn Greenwood's memo to the Planning Board dated November 16, 2023.**

**Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (6-0-0)**

*<Board note: this hearing ended at 7:14 PM.>*

182 **BOARD BUSINESS**

183  
184 **Zoning Ordinances for the 2024 Warrant Articles**

185  
186 **Article 206.4 (ACCESSORY DWELLING UNIT (ADU) Ordinance, ADU Requirements) -**

187 The Board voted on November 7, 2023 to change the maximum size of an ADU to not exceed  
188 49% of the GLA (GLA value is found on the Town Tax Cards). The Board revoted at this  
189 meeting to change the percentage from 49% to 50% as shown below.

190  
191 Mr. Greenwood explained that this allows the ADU to be 50% of the size (of the GLA) of the  
192 original structure, this is still accessory, it is half the size of the main dwelling. Mr. Coffin  
193 mentioned that now the size of the ADU is based on 1/3 of the size of the existing dwelling (GLA  
194 value).

Amending Article **206 Accessory Dwelling Unit Ordinance Section 206.4. ADU Requirements, E.** to read as follows:

“E. The size of the ADU shall not be smaller than 600 square feet. **The maximum size of the ADU shall not exceed 49% 50% of the size of the Gross Living Area, aka GLA** (heated or air-conditioned space), as defined in the Town’s tax card, of the primary single-family dwelling. (Amended 03/08/22) **In the case where a home is smaller than 1800 square feet the ADU may be no larger than 600 square feet.**

Single family dwelling units that are smaller than 1,200 square feet are not permitted to create an accessory dwelling unit. The reason for this is that an accessory dwelling unit in a structure smaller than 1,200 square feet would be more than 50% of the size of the existing structure and no longer deemed to be accessory to the primary unit.

Accessory dwelling units located in a detached structure shall comply with these same size requirements.”

195  
196 **MOTION made by Mr. Coffin to move to bring Article 206, Accessory Dwelling Unit ordinance**  
197 **as amended to public hearing. Seconded by, Ms. Duguay. A vote was taken, all were in**  
198 **favor, the motion passed. (6-0-0)**

199  
200  
201 **Article 102.5.A.2 (HISTORIC DISTRICT, Description and Permitted Uses,**  
202 **Historic District I) -**

203  
The Board revisited the proposed language that was discussed at the November 7, 2023 PB meeting for **Article 102: HISTORIC DISTRICT Section 102.5 Description and Permitted Uses, A. Historic District I, 2.**

**Proposed draft language -**

“Every building lot in Historic District I that has a dwelling or dwellings thereon shall not have more than one additional structure for use as permitted in accordance with Article 102.5.1. The only instance where two dwellings are allowed to be in separate structures is when one of these is an accessory dwelling unit (ADU) approved to be in a stand-alone structure (i.e., garage, barn, carriage house or other structure). See Article 206 for ADU definitions and requirements.” *(note: this makes it clear that 2 houses on a single lot are not allowed).*

The **current language** found in the ordinance is:

2. "Every building lot in Historic District I that has a dwelling thereon shall not have more than one additional structure for use as permitted in accordance with Article 102.5."

Ms. Merrill noted that the Board talked about this at the last meeting (11/07/2023) and the concern was the Seminary building project that has not yet made application to the Planning Board. But they have met many times with the Historic District Commission (HDC), Town Planner and Town Engineer to discuss various aspects of the project and have been moving forward even though it wasn't a formal process yet.

Mr. Greenwood reached out to Town Counsel for advice on the proposed amended language to this Article. Mr. Greenwood received a response email from Huddy, Town Counsel, dated November 20, 2023. Ms. Merrill read Huddy's email (copy available in the Planning Board office). Mr. Coffin said that it pretty much mirrors what the Board thought and to put it off another year and this is reinforcement.

Mr. Greenwood explained that if the Board doesn't make the proposed change that he suggests language change to include something to allow the Seminary property to have more than one extra development on it. If nothing is done, then the existing language shown in Article 102.5.A.2 will apply. "Every building lot in Historic District I that has a dwelling thereon shall not have more than one additional structure"..... He which means that when they do bring an application no matter what they have been told them, this still applies and means they would have to apply for a variance. Ms. Merrill commented unless we delete the paragraph?. Mr. Greenwood responded yes or have Huddy come up with language that justifies a difference for the Seminary property. The difference in this instance is there is public benefit in seeing the Seminary building saved and proposes additional housing to cover the cost of the renovation. Ms. Merrill mentioned that Kingston is in need of more housing, like most communities; there is a housing shortage in the state. It would be Kingston's opportunity to cite and say this is how we have contributed to the problem.

Mr. Bakie asked Mr. Greenwood if there has been a conversation with the developer as far as the grant to remove one of the existing buildings on the property. Mr. Greenwood said we have. Mr. Bakie brought up could there be a conversation with the developer that this is what the Town is looking at and let's try and work together, and give them a heads up on what is going on so they are not blindsided and want to be proactive with them. Mr. Greenwood said he would be very happy to have that conversation with them. He commented that we know what their challenge is, it is finding the septic capacity.

Mr. Greenwood said that we should look at this zoning ordinance and either 1) remove this limitation; or 2) have Huddy develop an amendment to allow that parcel to be treated differently. Ms. Duguay commented, or they request a variance.

**MOTION** made by Mr. Coffin **to go ahead and make an exception for this property for reasons of the housing shortage and to preserve the Seminary. Seconded** by, Ms. Duguay.  
*Board discussion: Mr. Tersolo brought up what happens when someone else wants an exception too. Mr. Greenwood said there isn't another property in Town that has the Seminary and it is the most historically significant structure in Town that is in the private hands of developers. Mr. Greenwood noted that its original use was a high density use except for 3 months in the summer. Residential use is different but historically has always been a really densely used property.*  
**A vote was taken, all were in favor, the motion passed. (6-0-0)**

**Approval of the October 17, 2023 Minutes:**

Remove the comma on line 676.

**MOTION** made by Ms. Duguay to approve the 10/17/2023 minutes as written. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (6-0-0)

**Full-time Land Use Administrator –**

Ms. Merrill brought up that there was a lot of things going on in Town last year with positions changing, people resigning and retiring. This gave an opportunity to look at how to restructure the workings of the Town Hall. In March, the Selectmen (BOS) came forward with a warrant article for a full-time Land Use Administrator position and eliminate the current part-time position that only provided support to the Planning Board.

This year the BOS asked the Planning Board if they would like to move forward this year with an article for a full-time Land Use Administrator. Mr. Bakie said one thing that should be stressed upon is this position is taking the position of two different people. This is combining Zoning and Planning; this is 2 separate entities combined into 1 position and would be very beneficial because would allow this position to have working knowledge on both boards. Mr. Coffin mentioned that in addition to their being a significantly larger workload for the ZBA, it was previously getting done by Susan Ayer and was coming out of the BOS budget so it was hard to evaluate how many hours were spent for the Zoning Board doing minutes and meetings. This year we have been tracking the hours for ZBA related work. In the past there have been months without meetings and now there are multiple ZBA applications.

Ms. Carter prepared a spreadsheet that showed the amount of hearings Kingston had in comparison to other surrounding Towns and Kingston was 2<sup>nd</sup> in volume. Many of the other towns had full-time people and Kingston only has a part-time person. The required amount of work that comes from this Board has greatly expanded. The Zoning Board has had a lot of hearings this year also.

Ms. Merrill said the BOS would like the Planning Board to take a vote on whether or not to include a warrant article for a full-time Land Use Administrator position that will provide support and oversee both the Planning and Zoning Boards.

Mr. Greenwood brought up that the way work was done 2 years ago leading into today was dramatically different, there was a series of 4 different people involved that are not involved now and having 1 full-time person for Planning and Zoning would be very beneficial because these people have full-time jobs. ZBA responsibilities have been passed around and minutes have been done by various other staff outside their regular full-time jobs; the Town Clerk and BOS Administrative Assistant were doing minutes and extra things but this is not sustainable, the Town Clerk should not be the minute taker for the ZBA. When proposing this full-time position, it should be made clear that this is not just converting of a part-time job, it is combining the workload of the Planning Board and the Zoning Board of Adjustment.

Mr. Coffin brought up a comment previously mentioned by Mr. Bashaw in that we are not competitive with other Towns that have staff available for more hours to help the public and take in applications. If the Town is going to be business friendly we need a streamlined process and the staff to manage it.

Ms. Merrill will draft language for this warrant article and bring it to the next meeting.

**MOTION made by Mr. Coffin to request a full-time Land Use Administrator warrant article and the Board will draft language for this. Seconded by, Ms. Duguay. A vote was taken, all were in favor, the motion passed. (6-0-0)**

**Planning Board Application Fees -**

Ms. Carter brought up that the application fees and the legal notice fees vary depending on the application and asked if it made sense to make the fees consistent because the processing and the notice fees are the same for all of the applications. Legal notice on average seem to be around \$150. Abutter notice fees will remain as is, \$12.25 per abutter.

**MOTION made by Ms. Merrill to set the application fees to \$75 and the legal notice fees to \$150. Seconded by, Mr. Coffin. A vote was taken, all were in favor, the motion passed. (6-0-0)**

**Voluntary Lot Merger Form – (there is no application fee, no legal notice or abutter fees) -**

Mr. Tersolo asked why there were no fees for the **Lot Merger application**. Ms. Carter explained that the form is filled out by the property owner, then it goes to the Planning Board for approval, then is processed by the Assessing Clerk. Once it is completely signed off, it comes back to the Planning Board for recording. There are no abutter notices required, there is no requirement to run a legal ad, the handling of the paperwork is minimal. The only fees at this time are the recording fees to record the Voluntary Lot Merger Form at the Registry once it is fully approved. That recording fee is based on what the Registry charges for their recording fees. If there will be a change to the Tax Map, there is a \$40 fee for that.

**Subdivision Application Fees -**

The Board discussed the application fee for subdivisions because subdivision applications can be more time consuming. Mr. Greenwood said that there is generally more activity and detail associated with these applications. We may need to go to outside consultants with larger subdivisions and although the applicant pays for this it does require more administrative work. The Board unanimously agreed to keep the subdivision fees as is - **\$100 for subdivisions less than five (5) lots; for subdivisions that create more than five (5) lots, an additional \$20 per lot is added to the application fee.**

**Housing Support, Inc. -**

Mr. Coffin brought up that Housing Support (186 Main St.) continued to today and noted they were not on the agenda. Housing Support, Inc. did formally withdraw their site plan application to the Planning Board.

**Preliminary Design Review Form -**

Ms. Carter drafted a new form when an applicant only wants to come to the Planning Board for a Preliminary Design Review proposal and discussion. The Board agreed this would be beneficial and to provide a copy to the Board for review once it is completed.

**ADJOURNMENT**

Ms. Merrill declared the meeting adjourned at **8:08 PM.**

**\*\*Next Public Meeting is scheduled for Tuesday, December 5, 2023. Subject to change.\*\***