

**KINGSTON PLANNING BOARD
APRIL 16, 2024
PUBLIC HEARING/MEETING
MINUTES**

Ms. Merrill called the meeting to order at **6:48 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	Ben Romano
Electra Alessio, BOS Representative	Rob Tersolo

ALSO PRESENT:

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

PUBLIC HEARING(s) (in these minutes)

Cellco Partnership, d/b/a Verizon Wireless', Map R1 Lot 1, Off Hunt Road	Pg. 5
Hawks Ridge of South Kingston, LLC, Mulligan Way & Bent Grass Circle, Map R3 Lot 4 LU 4020	Pg. 2
Susan Paradis and JDS & C Trust, LLC, 92-C Main Street and 94 Main Street, Map U7 Lot 10 & 11	Pg. 3

BOARD BUSINESS

Appointment of Ben Romano as a new Planning Board member.

MOTION made by Ms. Alessio **to appoint Ben Romano as a Planning Board member. Seconded** by, Mr. Coffin. **A vote was taken, all were in favor, the motion passed. (4-0-0)**
Mr. Tersolo was not present for this vote.

Mr. Romano was sworn into the Planning Board by Tammy Bakie, Town Clerk. Mr. Romano accepted and signed his oath.

Appointment of William ("Liam") Jerome IV as an alternate Planning Board member.

MOTION made by Mr. Coffin **to appoint William Jerome IV as an alternate Planning Board member. Seconded** by, Ms. Duguay. **A vote was taken, all were in favor, the motion passed. (5-0-0)** *Mr. Tersolo was not present for this vote.*

Ms. Merrill noted that Mr. Jerome is aware he needs to make arrangements to get sworn in with Ms. Bakie this week. Mr. Jerome was not present at this meeting.

PUBLIC HEARINGS

Hawks Ridge of South Kingston, LLC (continued hearing from 3/19/2024)

Mulligan Way & Bent Grass Circle

Map R3 Lot 4 LU 4020

<Board note: this hearing began at 6:51 PM>

The applicant has requested a continuance to the May 21, 2024 public hearing. Ms. Merrill read the legal notice.

Re-application for Limited Common Area (LCA) Adjustment and Amended Site Plan "Village at Granite Fields Condominiums". The intent of this application is to seek an approval for the owner/applicant to relocate one of the proposed age restricted, single family residential units from its current approved location to a new location that would be partially within the 1,000' setback from Route 125. The proposal is to relocate unit 20 from its original location on Mulligan Way to Bent Grass Circle just right of LCA 34.

Applicant: No one was present.

MOTION made by Ms. Duguay **to accept the applicants request for continuation to May 21, 2024 at 6:45 PM** (at the Kingston Town Hall). **Seconded** by, Ms. Alessio.

Board discussion: Ms. Merrill explained that Hawks Ridge of South Kingston, LLC has tried to come before the Board since October 17, 2023. This recent request, which was first scheduled for the March 19, 2024 public hearing, is for a different location on the property than was applied for in October. This is the second request for continuance. The concern is: The property owner, The Residential Village at Granite Fields Condominium (RVGFC), has not granted permission for Hawks Ridge to discuss this application.

Mr. Coffin mentioned that this application is based on a variance that expired in February 2024. He asked a technical question: if the applicant got the application for this location in before the variance expired, which was within the 2-year period from the variance being granted, is this application for the current location or is it for the original application with the location that had been denied by the Planning Board a few years ago? Mr. Greenwood explained that the application that is before the Board now and was applied for in February, is for a new location, a location that was set aside for the clubhouse. Ms. Merrill commented that it is currently being used as a storage area for the residents' RVs. Mr. Greenwood brought up that Hawk's Ridge did have a previous application (October 17, 2023) for a different spot and the applicant withdrew that application in December, 2023.

Ms. Merrill noted that this is within the 1,000-foot setback from RT. 125 (mentioned in the ZBA NOD, for the 2/10/2022 public hearing) and questioned if they have to get a variance from the Zoning Board anyway? Mr. Greenwood stated that they have already received this variance. Mr. Coffin said that variance has expired now, but they got their application to the Planning Board just before it did expire. Mr. Greenwood said the Board has given Hawks Ridge a lot of time to obtain RVGFC approval to discuss the application. Mr. Coffin mentioned that is sounds like the Planning Board has not received permission from the landowner. Mr. Greenwood replied, correct. Because this application was received before the variance expiration, Mr. Coffin suggested the Planning Board deny the request for continuance and have the applicant reapply to the Planning Board, go through the process, and request another variance - if they receive property owner permission.

Ms. Alessio commented that the denial would be without prejudice and the Board could vote no and not grant the continuation and they would be done right now. Mr. Coffin explained that they would have to start from scratch, and it doesn't matter if it was with or without prejudice. Mr. Greenwood said that if the Board does not grant the request for the continuance the application fails to move forward. Ms. Merrill mentioned that when Hawk's Ridge has permission from the landowner to come forward, they could reapply. She questioned if we vote "no" now, does that mean we're not adding without prejudice to it. Mr. Coffin remarked that it doesn't affect their actions.

A vote was taken, 0 in favor, 5 opposed, 0 abstained. This motion to grant the continuance did not pass.

<Board note: this hearing ended at 6:58 PM>

Ms. Merrill explained the hearing procedure.

Applicant: James M. Lavelle LLS

Property Owner: Susan Paradis and JDS & C Trust, LLC

92-C Main Street and 94 Main Street

Map U7 Lot 10 & 11

<Board note: this hearing began at 6:59 PM>

Ms. Merrill read the legal notice.

This application is a request for a **Boundary Line/Lot Line Adjustment** between Map U7 Lot 10, 92-C Main Street a .13-acre lot and Map U7 Lot 11, 94 Main Street a 2.01-acre lot in the single family residential aquifer (SFR AQ) zone. This proposal is to transfer .21 acres from U7-11 to U7-10 to increase the lot size to .34 acres for lot 10 and reduce the lot size of lot 11 to 1.80 acres.

Applicant: James Lavelle, LLS presented on behalf of the property owner. (92-C Main St, U7 Lot 10, Susan Paradis and 94 Main St. JDS & C Trust, LLC Susan Paradis, member.)

Mr. Lavelle displayed and described a plan that showed the two lots as they are now. He noted that they both are located on Great Pond (Kingston Lake). The 94 Main Street frontage does not change, and 92-C Main St. has a 10-foot right of way to it from Main Street. He presented another plan to show what the proposed lots would look like according to the lot line adjustment plan. The lot size increases for the smaller lot to make it more livable in the summer time.

Town Planner comment(s): Mr. Greenwood gave his review comments explaining that this is the first public hearing for this proposal and the plan is complete from my perspective. However, the Planning Board is not authorized to approve a plan where a non-conforming lot is made smaller. As a result the Planning Board must deny the application so that the property owners can apply to the ZBA for zoning relief.

Mr. Greenwood noted that even though they are keeping the larger lot at 80,000 SF., which is a lot size requirement, this property is located in the aquifer protection zone, so the standard lot size is 3 acres and not 2 acres. The Zoning Board of Adjustment (ZBA) is the only board that is empowered to grant relief for this. Lot line adjustments are the requirement of the Planning Board so this process to apply to the PB is necessary, but it can't go forward without ZBA action.

Town Engineer comment(s):

Mr. Quintal went over his comments that were based on the review of the following documents received April 10, 2024.

- ☐ 2 Sheet Plan Set, Lot Line Adjustment Plan, Tax Lots U-7 Lot 10&11 by James Lavelle Associates dated March 8, 2024.
- ☐ Right of Way Plan D-40663
- ☐ Copy of Tax Map and Tax Cards, also Deeds.

1. The plan is a simple Lot Line Adjustment between two lots. Lot 11 is 2.1 Acres, and a Lot 10 is 0.13 Acres. The LLA proposes to subtract 0.21 Ac from Lot 11 and add it to Lot 10. This action will make the area of Lot 11 to be 78,590 s.f. My question is does this meet the minimum lot size area?

2. I note that the proposed property line will be 15 feet from the existing dwelling on Lot 11. And 20' is required. Does this meet the Town Zoning requirement for building setback.

3. Note 4 refers to the 10-foot lake access for Lots 8, 9, 11. The plan show it to be for Lots 8, 9, 10.

4. A deed reference is for Lot 12 not part of this Application.

5. A Bound Certification will be required.

- Mr. Quintal added that the State has their rules that anything less than 5 acres requires State subdivision approval and where this lot is less than the State requirements and its being made less, **that perhaps State subdivision approval is required prior to Planning Board taking a final approval of this.** And if he is incorrect that maybe a letter from the State (NH Department of Environmental Services) would say that. He wanted the Board to be aware of this and wanted to bring it up as a comment.

Mr. Lavelle said he has addressed the issue before relative to subdivision approval and he will look into getting a letter from the State.

<Mr. Tersolo arrived at 7:06 PM.>

Mr. Coffin brought up that his understanding is because it starts as two lots and stays as two lots, there isn't a third lot being created, that is where the subdivision would come in if creating a third lot.

Mr. Lavelle recognized that they will have to go before the Zoning Board of Adjustment (ZBA) but wanted the Board to know that Ms. Paradis is trying to improve one of the lots. It may be a question as to whether they can receive the variance for the setback from that building, but they may be able to; and changing the lots does nothing but help the smaller lot and be little to injure the larger one.

Public comment was opened and closed at 7:07 PM. There was no public comment.

Mr. Lavelle asked the Board to continue this to a date at this point uncertain to give time to go to the ZBA.

The Planning Board discussed the variances the applicant should seek relief on.

- The proposed 15-foot set back of the structure on lot 11 (Article 301.1) and lot size (Article 301.1 and Article 201.4.A.).

Mr. Coffin said the term without prejudice should be used otherwise he'd have to recuse himself because he is on the ZBA. Mr. Greenwood explained that the Board is sending the applicant to the ZBA to do what they need to do.

MOTION made by Ms. Duguay to continue the hearing on the proposed lot line adjustment at 92-C Main Street and 94 Main Street, Map U7 Lots 10 & 11 to ~~May 21, 2024~~ at 6:45 PM (at the Kingston Town Hall) with updated plans due by ~~May 9, 2024~~ by noon. **Seconded** by, Mr. Coffin. **A vote was taken, 5 were in favor, 0 opposed, Mr. Coffin abstained, the motion passed. (5-0-1)**

The Board discussed the timing of the next ZBA meeting which is May 9th. Mr. Lavelle conferred with the property owner, and they would like to continue to the June meeting.

AMENDED MOTION made by Ms. Duguay to amend the motion for continuation to **June 18, 2024 at 6:45 PM (at the Kingston Town Hall) with plans due by June 6, 2024 by noon.** **Seconded** by, Ms. Alessio. **A vote was taken, 5 were in favor, 0 opposed, Mr. Coffin abstained, the motion passed. (5-0-1)**

Ms. Merrill explained to the public that they will not receive another notice of the meeting and the next public hearing for this application will be June 18, 2024. Abutters will receive notice of a future Zoning Board meeting if one should be scheduled.

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

Applicant: Cellco Partnership, d/b/a Verizon Wireless'

(3rd public hearing for this application - *continued hearing from 3/19/2024*)

Property owner: David Kimball

Off Hunt Road

Map R1 Lot 1

<Board note: this hearing began at 7:15 PM>

Cellco Partnership, d/b/a Verizon Wireless' application for the necessary **Conditional Use Permit** and **Site Plan** approval to construct and operate a 140' wireless telecommunications facility off Hunt Road.

Ms. Merrill explained that she will be stepping down as Chair for this hearing and Ms. Duguay will take over because Ms. Duguay has been here as Acting Chair the last two meetings.

Ms. Duguay mentioned that this is the 3rd hearing for this proposal.

Applicant: Present were Chip Fredette on behalf of Verizon Wireless and Mark Beaudoin of the law firm Nixon Peabody.

Mr. Fredette explained that he was not at the last meeting (March 19, 2024) and mentioned that Mr. Beaudoin had reported to him that the Board and the public had reviewed in depth their findings with the balloon float and viewshed analysis and that the sentiment was that folks would still like to see the site relocated. Mr. Fredette had a long conversation with Mr. Kimball (the property owner) and Mr. Kimball agreed to allow them to relocate the site. The new proposed site is several hundred feet from all property lines.

- Mr. Fredette referred to sheet Z1 of the plan – the abutters plan. He noted that where it was once 50 feet from the Hampstead boundary line, the site is now proposed to be 374'

from that boundary line. From the lot line closest to the site is 228' and from the frontage they are about 736', and from the Plaistow side line it's about 368'.

- Sheet Z2 – this is the site plan zoomed in overlaid with aerial image. They are still proposing to use the same point of access from 121A, and where they turned left to go to the site - where they floated the balloon, they are turning right and going to benefit from some of the wood line toward the east side. There will be about 30 or 40 feet of tree cutting to finish the road into the woods, and the site will benefit from 3 ½ sides of vegetation in and around the compound.
 - Power and fiber utilities will still route from the same location overhead along the right side of the existing driveway and will stay over head until the wetland culvert and then go underground from there in the open area of the aerial view all the way to the site.
 - Their wetland scientist (Audra L. Klumb) visited the location, and she flagged the area, and they submitted a report. Kevin Hatch, their surveyor, will go out and pick up the flags. They will provide the wetlands shown from the plan view to date, but all they had time tonight is to provide is the memo from Audra L. Klumb, CWS#222, President A&D Klumb Environmental, LLC dated April 11, 2024.
 - Mr. Fredette said that in summary there are no wetlands within 100 feet of the site. He read a paragraph on page 3 of Ms. Klumb's memo. "No other wetlands were observed within the review area. No wetland impacts are expected as the proposed tower access will follow the existing gravel driveway. Direct wetland impacts would require a NH DES Wetland Permit and Town Review. Impacts to the wetland buffer may require Town review of the town where the buffer impact will occur."
 - He said that they will have a revised plan showing the wetland areas delineated.
 - The last page in the photos included with the memo shows granite view LiDAR and X marking the spot of tower and the closest wetland to which Ms. Klumb refers, are flags numbered BB1 – BB8. This information will be more clearly defined on the next site plan.

Town Planner comment(s):

Mr. Greenwood mentioned that he had a couple changes to his previous comments because of the wetlands report that was recently received. Mr. Greenwood read his review comments.

This is the third public hearing for the construction of a new wireless communications tower for land located in the Rural Residential zone in south Kingston. With a revised plan offered that moves the location of the proposed tower further from the property lines most of my issues are addressed. The Board is required to consider the approval of both a CUP and site plan review within this application process. The following are my comments upon reviewing a revised site plan entitled, **"Verizon Wireless Kingston 4 NH off hunt Road Kingston NH 03348"**, prepared by Dewberry Engineering , Inc., and dated 10/20/23 revised to 4/01/24.

All of Mr. Greenwood's issues have been addressed except items 9 and 15:

9. Bonding for removal and /or abandonment of this tower can also be considered by the Planning Board. The applicant has provided a bond estimate for tower removal as part of their new materials.

15. The proposed new tower location is addressed in a wetlands report dated 11 April 2024. According to this report the tower maintains regulatory buffer distances according to the Kingston Wetlands Conservation District zoning ordinance. Does the Planning Board want an independent review of this report because this is within a boards right to do.

Mr. Greenwood noted that the report seemed comprehensive and outlines the areas that the wetland scientist found to be in existence in the devised area of work and it seems like there is no wetlands impact. Again, this is something that the Board can do if they want to request that an independent study be done.

Town Engineer comment(s):

Mr. Quintal conducted a second engineering review and based this review on the following documents:

- 9 Sheet Plan Set, Tax Map R-1 Lot 1, Land owned by David Kimball, Applicant Verizon Wireless by Dewberry Engineers, Boston Ma., revised date 4-01-24.
- Letter to Planning Board 4-3-24 & Generator Specifications.

Mr. Quintal stated that his previous comments from his last review on January 12, 2024 that he believes have been addressed are deleted, others remain. New comments have been added for consideration:

1. Article 904.5.G.7 - The person who flagged the edge of wetland must stamp and sign the plan.

3. The lot is located at the southwest corner of Kingston and a portion of the lot is in Plaistow and it also abuts the Town of Hampstead. A plan says that there is 53+/- acres based on a survey. Article 904.5.G.36 – Provide surveyed property line information. The plan notes that it is not intended to be a Boundary Survey. The Lot Line has dimensions but no bearing. Should a waiver be required? Which sheet/sheets should be recorded, and which sheets will be on file with the Town.

4. There is an existing access driveway onto the lot from Route 121A in Hampstead. The first 135 feet of the access is paved. The gravel driveway extends to an existing cleared area that appears to be used to stockpile materials. Perhaps the plan should identify the type of materials that are and will be stored on the lot. Mr. Quintal mentioned that this has nothing to do with the tower but wanted to bring it up for the Board to consider since it is in the area.

5. The access driveway crosses a wetland and has a 15" culvert pipe to convey surface runoff from one side of the driveway to the other. The wetland Dredge & Fill Permit must be noted on the plan or provide verification that the wetland fill was done before State Regulations were created.

- 348 7. The Tower setback radius of 98 feet extends over the Town line into
349 Plaistow. The location of the 140-foot monopole tower will have a drop
350 zone over the lot line. I wonder if an easement is required, or written
351 permission is required from the Town of Plaistow. Article 904.5.G.9 Also,
352 why couldn't the tower be located farther from the property line so there
353 would be no impact to the Town?
354 8. On Sheets Z3 & Z4 the lot line of Hampstead is labeled as Plaistow.
355 9. Note 2 Sheet Z4 says underground, Plan says overhead. The plan
356 should clearly show what is overhead or underground utilities. Mr. Quintal
357 commented that if they do not know at this time, to add a note to that
358 affect.
359 10. Sheet Z6 shows the Proposed Tower. The supplied Exhibit R shows a
360 Sample Camouflaged Tower Photo. If this is going to be used, a note on
361 the plan should be added accordingly.
362 11. Sheet Z7 – The Detail 5 refers to Note 4 but there is no Note 4.

363
364 Mr. Quintal stated that he did go over the wetlands report by Audra Klumb, who is a well-respected
365 soil scientist, and the report was comprehensive, and he noted that she does say "no wetlands
366 within the review area". His personal opinion is he doesn't believe they need to have another 3rd
367 party review on this because the report was pretty well done.

368
369 In review of the **Bond**, he doesn't have a concern about the number that was created for the bond
370 amount, however, what has been done in the past for Bonds is especially for something that may
371 be done in the future is we've added 25% for inflation purposes, this would add \$6,914 to the
372 amount. If the Board would want to have some sort of review by him or the Building Inspector, is
373 sometimes a bond that would be included for that, this would be something to consider. Typically
374 in the past this was 4% of whatever the Bond is.

375
376 **Board comment(s):**

377 Mr. Coffin brought up the applicant's comments about finishing up the plans for the next meeting
378 and if this is going to be done then a tolling agreement will be needed. Mr. Fredette said that they
379 will provide an agreement. Mr. Coffin noted the shot clock timeline expires in ten days (April 26,
380 2024).

381
382 Mr. Coffin asked if electronic copies of the **environmental assessment** that they will be doing
383 can be sent to the Board so it can be sent to the Conservation Commission (CC) when Verizon
384 applies for the building permit. Mr. Coffin pointed out that the comment the CC made wasn't
385 addressed. Mr. Fredette brought up that the CC made comments that at the previous site that
386 there was some value to the wetland that might support wildlife habitat and wondered if their
387 contacts were going to the NH Fish and Game, the answer is yes. Mr. Fredette said that in the off
388 chance that any of these agencies deem something about the site negative and they ask to
389 change it, they will be back in front of the Board with this change.

390
391 Mr. Coffin brought up the **camouflage pole** and that the Board asked that Verizon provide a
392 sample photograph, and we understand that the antenna elements will still be visible, from a
393 distance a camouflage pole would look a lot more like a pine tree than just a monopole antenna
394 would and think it would be an improvement. From an aesthetic standpoint the Board may ask for
395 this even though the tower has been moved further away from the residences because it is pretty
396 open.

Mr. Fredette mentioned that when they initially presented to the Board, they showed the coverage map and in the area of Kingston, Hampstead, Plaistow benefits from the service from 4 or 5 different existing towers that have been in existence since about 1999 to 2001. They are all monopoles and all in plain view. It was brought up to him that the towers are most visible during zoning. In his 23 years of doing this nobody has ever said during a public session, "boy that's a great place for a tower".

Mr. Coffin commented that on the Kohler **generator** it was up about 95 decibels that that was the high level and the Generac one was only 75 decibels, but the Kohler had less muffling on certain microphones. This would have exceeded the Town regulations at the property line if they hadn't moved the pole. With the 6 decibel per distance doubling starting at the 23 feet they get it down to below 70 decibels (figuring at 374 feet) which would be within the ordinance level at the property line based on the 6-decibel attenuation distance based. Mr. Fredette added that if the generator was running during a power outage/providing service, people would likely hear the neighbors generator over theirs. Mr. Coffin mentioned that the generator running during a power outage wouldn't be as concerning because that's an emergency situation generation and to be expected. Mr. Fredette said they could poll the Board and find out when they would like Verizon to schedule the 20-minute maintenance cycle and program it that way. Mr. Coffin suggested that the exhaust pipe be angled away from the residential zone. Mr. Fredette stated that both types of generators have sound attenuated enclosures.

Public comment(s):

Public comment opened at 7:39 PM.

Doug Boule, 70 Ellyson Ave., East Hampstead –

- Mr. Boule stated that while they appreciated that the tower has been suggested to be moved, it hasn't been moved far enough. It's about 700 feet to his property and it was mentioned the last time they were here that there are recommendations from New Hampshire that the towers be located 1600 feet from all residential properties. There is plenty of land here to do that, all the space off to the right. Why can't it be located where it is not going to be near someone's property. Wouldn't have to hear the diesel generator, fumes would be further away from them. Mr. Kimball has 50 acres of land, and this site is still located close to residences.
- Both Hampstead and Plaistow are zoned light residential in this area. Hampstead and Plaistow people are going to be most affected by this tower and it should be taken into consideration that both these towns would not allow a cell phone tower to be placed in a residential zone.
- Doesn't want his kids to be exposed to the radiation that towers can emit.

Public comment closed at 7:42 PM.

Board discussion:

Details of the **Bonding Agreement**. Mr. Quintal said one thing to consider for the removal bond is it could be 15, 20 years down the road and these numbers could change and could be adjusted later by a future Planning Board. Mr. Coffin commented that as long as we have as a precedent; is the bond amount you agree to, the base amount for the removal and that 25% is added for inflation plus 4% for post construction engineering reviews and this could be approved as a final bonding number. Ms. Merrill said possibly do something where it gets evaluated every five years.

Ms. Merrill brought up a **change that needs to be made to the abutters plan**. On Kingston tax map R1 Lots 6 and 7 were sold to the Town in December of 2022.

Ms. Duguay asked the applicant what the timeframe is they are looking at. Mr. Fredette said the May 21st meeting. **Ms. Duguay said the agreement for the shot clock would need to be finalized. Mr. Coffin noted that the tolling agreement needs to be signed before April 26, 2024.**

Mr. Greenwood asked for a consensus from the Board about the **camouflage tree** photo that was provided from the applicant. Mr. Coffin said he likes the ones that have the tree branches sticking out of them but that not an option.

Ms. Duguay opened the floor again at 7:50 PM for public comment by show of hands on whether the abutters in the audience had a preference on camouflage or no camouflage. Mr. Boule said he'd prefer camouflage with branches; another comment is that they did not like the bottle brush shaped tree camouflage that was being proposed. The audience was split adding camouflage to the tower.

Mr. Coffin said if there isn't a natural looking camouflage, he would prefer no camouflage. The Board took a consensus vote by show of hands and the majority (5-1) voted "no" camouflage.

MOTION made by Ms. Merrill to move to continue this hearing to May 21, 2024 at 6:45 PM (at the Kingston Town Hall) with plans due into the Town by noon on May 9th with all the issues discussed tonight will be completed, that we will have a consensus on the Bond as well. Seconded by, Mr. Coffin

AMENDED MOTION to include: With the condition that the tolling agreement for the 30 days (May 26, 2024) be signed and in at the Planning office before April 26, 2024.

A vote was taken, all were in favor, the motion passed. (6-0-0)

<Board note: this hearing ended at 7:58 PM>

(Ms. Merrill resumed as Chair and Ms. Duguay as Vice Chair.)

Planning Board Rules and Regulations:

Article 907: PERFORMANCE GUARANTEE PROCEDURES, section 4.A.

Amend the language for Bonding of road and utility work (907.4.A.). Proposed language for Bonding of road and utility work, section 907.4.A present language is as follows:

Existing language:

- A. The developer/owner/applicant must post a guarantee deemed acceptable by the Planning Board prior to the issuance of any building permits for the site. No construction shall take place on the site until the Performance Guarantee has been approved by the Planning Board and accepted by the Board of Selectmen.

Note: The second line of this section is vague and may lead one to believe that one cannot do roadway or utility work on site without the Bond being in place although that is not what the first line states. Reworking the section to read as follows will remove the ambiguity.

Proposed language (2nd paragraph A):

- A. The developer/owner/applicant must post a guarantee deemed acceptable by both the Planning Board and the Board of Selectmen prior to the issuance of any building permits for the site and prior to the sale of any parcel. Roadway and utility construction may begin without the establishment of the bond.

Article 907: PERFORMANCE GUARANTEE PROCEDURES, section 4.A. decision:

MOTION made by Mr. Coffin to accept the language as to amended in 2nd paragraph A. **Seconded** by, Ms. Duguay. **A vote was taken, 5 were in favor, 0 opposed, Mr. Romano abstained; the motion passed. (5-0-1)**

BOARD BUSINESS CONT.

Approval of the March 19, 2024 meeting minutes:

MOTION made by Ms. Duguay to accept the 03/19/2024 minutes as presented. **Seconded** by, Mr. Coffin.
A vote was taken, 5 were in favor, 0 opposed, Mr. Romano abstained; the motion passed. (5-0-1)

Correspondence:

a) **RE: SADDLE UP SALOON** (property owner Berkshire Dominion Holdings), **R8-40, 92 RT. 125:**

Ms. Merrill read a letter dated April 2, 2024 from Charlie Zilch, SEC Surveying regarding outdoor entertainment & site plan for Saddle Up.

Board discussion:

- Mr. Greenwood said an amended site plan will be needed.
- Ms. Alessio said Bob (Robert Waters, the property owner) has gone before the Select Board (BOS) to get approval for special events and the BOS limited him to 10. She explained that they have said to him consistently the he needs to go to the Planning Board and update the site plan that includes outdoor music.
- Ms. Duguay brought up that the property Mr. Waters has come before the Board before and was denied for this. Mr. Coffin said that he was given an opportunity to demonstrate he could do this within the Town zoning ordinance and even though he knew it was a trial period, the sound equipment demonstrated that he repeatedly exceeded the sound limit. When Saddle up first came to the Board, the Board did offer to allow unamplified acoustic outdoors and they specifically said that is not acceptable to them.
- Mr. Greenwood explained that this needs to be done through a noticed site plan review and that there is no requirement for new plans. What we are talking about is not a *ground plan* issue, it is a *use* issue and has to be done by a site plan hearing.
- Mr. Coffin brought up that the site plan would have to be updated because the Cigar Bar has never been shown on the site plan.
- Mr. Quintal said that one of the conditions of the site plan was to put up a fence and it has come down and needs to be fixed and make a better fence in both the North and South parking lot.

Ms. Alessio will look back at the details of Mr. Waters previous request for outdoor entertainment. Ms. Alessio recalls it being for 5 dates and the BOS approved the 5 dates because Mr. Waters couldn't go further because he wanted some flexibility because of weather, and he wanted loud music outside. Ms. Alessio commented that the problem is the loud music, it is not the acoustic. Mr. Greenwood mentioned that the pond is a problem with sound. Ms. Alessio added that the sound carries over to Morning Dove. Ms. Merrill mentioned that the people at Morning Dove testified that they had their air conditioning on with the windows closed and still couldn't hear the ball game on TV because the noise was so loud. **Ms. Alessio will**

check with Susan Ayers/BOS if there was any violation last year of noncompliance and report back to the Planning Board for notification to Mr. Waters if there was.
[A.I. 1-04.16.2024]

Mr. Greenwood will notify Mr. Zilch on behalf of Mr. Waters of the following:

- This is a particular requirement for the outdoor music, and it requires that they come back before the Planning Board for an amended site plan which means notification of abutters and a description that they have provide in a public hearing as to what they want to accomplish. This may result in a new note being put on the plan in which case S.E.C. would have to redraft the plan.
- The Board also instructed Mr. Greenwood to include that the Cigar bar should be added to the revised site plan; and
- TO notify Mr. Zilch that the fencing that is reflected on the site plan as providing a barrier to plowing into the pond and stream is not in place and needs to be reconstructed. [A.I. 2-04.16.2024]

- b) RE: **R9-88, 65 RT. 125** (property owner HT Properties, LLC): Ms. Merrill read correspondence received from Junior Mello dated April 9, 2024 regarding 65 RT 125 regarding an auto transport business and expanding their operations to encompass auto towing and repossession.

Board discussion:

- Mr. Coffin said this would require a site plan review, this is an impound lot.
- Mr. Greenwood said this is a different use and this is where the new zoning ordinance would come into effect for the Planning Board to make a call as to whether it's a similar use or not that requires a 1,000 buffer. Mr. Greenwood added it would require a site plan because it is a different use of the property.
- Mr. Coffin brought up that the lot would have to become compliant first with the 50-foot buffer zone because of the abutting residential properties.

Mr. Greenwood will follow up with Mr. Mellow and let him now that it appears that the use could be permitted but it's a full site plan review that's required for change of use.
[A.I. 3-04.16.2024]

- c) RE: **R2-13, 34 RT. 125** (property owner Fieldstone Meadow Realty, LLC): Ms. Merrill read the email from Robbie Nyugen, Skyline Coatings re 34 RT. 125 dated April 9, 2024. The scope of work would be:
- Industrial Spray Painting (mil-spec painting, gov/defense)
 - Powder coating (gov/defense, household items, restoration services, rails/stairs, alumium/steel)
 - Silk-screening (Same as t shirt printing, transferring ink onto aluminum/steel parts)
 - Pad Printing (method of transferring images/fonts to cnc machined parts)
 - Sandblasting/stripping parts (light sandblasting for etch profile with our indoor cabinet)
 - Assembling (some light assembly work for machined parts)
 - Future service -Clear film (a process of cleaning raw cnc machined parts that are aluminum, gets treated in water and soap and it prepares the surface for a proper coating finish, or it can be left treated with just the clear film, which acts as a protective barrier.

Board discussion:

- Mr. Coffin pointed out that this is the Fieldstone location. The reason the Board is getting this is because this is not specifically permitted or prohibited in this zone. Some of the considerations is the wetlands up there that are very close to the building.
- Mr. Greenwood questioned if this is more industrial than we thought in those units.
- Ms. Merrill said that one of the things they talked about is flammable liquid storage cabinets of various sizes, then they say to store the paint, alcohol washed thinners and her thought is any of this hazardous and during the washing cleaning process what happens with the liquid. Mr. Coffin said that is the trapping system and if the structures are already built how would this be done.
- Mr. Quintal said Mr. Nyugen is talking about stripping and sandblasting and that is a concern and he's saying they are going to be indoors, there are painting type odors that can transfer into other buildings so it might have an impact to the other units. Spray painting can be highly flammable.
- Mr. Greenwood noted that the Board considered these units to be for contractors and dry storage and this seems like industrial use.
- Ms. Merrill mentioned that this is the CIII zone, not the Industrial zone. Ms. Merrill commented that there is automobile painting across the street which is also flammable. Mr. Greenwood said that this was done through a site plan on that specific lot. Mr. Greenwood added that these condos were not proposed to be used this way.
- Mr. Greenwood mentioned that he could possibly do a new site plan to propose this use.
- Ms. Merrill asked if it has been turned over to the condo association or is it still Mr. Wilder? Mr. Greenwood replied he didn't know.
- Mr. Greenwood said at the very least this requires a site plan because these were not the uses that were talked about, and this is industrial. Granted there is a similar business across the street, but that was done under a separate site review for that use. This use hasn't been approved at Fieldstone.
- Mr. Coffin brought up that in CIII there is a Conditional Use Permit that requires certain criteria.

Mr. Greenwood will inform Mr. Nyugen that this industrial use would require a new site plan review for the entire property before they type of business he is requesting could go into this facility. **[A.I. 4-04.16.2024]**

- d) RE: **R10-5, 99 RT. 125** (property owner Hickory Grove 1 LLC):
The Board received two letters from David Schleyer regarding **Golden Acres Campground** (formerly Mill Brook RV Park) 1-Seasonal Food truck, 2-relocation of the propane filling station. Ms. Merrill read each of them.

Board discussion: The Board has more questions and will require more details from Mr. Schleyer on his requests.

- Ms. Merrill said the Board was clear before that they needed to come before the Board for a site plan review because they were talking about doing a little variety store to serve the people of the campground and informed them that if they were going to be opening this to the public they would have to come back to the Board because this would require another look at it. Ms. Merrill said that right now they seem to be filling the whole area near the river. Mr. Greenwood said he asked them about this, and they said that they have cleared things out of that area, but they have no fill. Mr. Coffin said there are now big boulders there and they have made it accessible to drive equipment around and onto what we used to call an island and in the wetlands conservation district.

- Mr. Greenwood mentioned that from the food truck perspective if they are doing more than one food truck then it has to be part of the new site plan review. Mr. Coffin brought up that this started out as a food store, that sounds like an accessory use to the campground. Mr. Greenwood said they were always going to reinstitute the store that has been an issue because apparently there wasn't a store there for a couple of years, but historically always had been a store.
- Mr. Greenwood recommended that they come before the Board in a public forum with more information. Mr. Greenwood asked the Board if they wanted to see a public process for changing the location of the propane, this is a change to the site plan. The Town rules are that it can be amended two times, and this would be second time for this site plan. The Board's consensus was that depending on what happens with the food truck they may not need to move the propane.

Mr. Greenwood will contact Mr. Schleyer and propose that they come to the May 7, 2024 meeting and provide more details. Ms. Merrill asked if they have any permits for the work being done near the wetlands. Mr. Greenwood said they do not and suggested that the Board ask questions when they come in. Mr. Greenwood will also notify Conservation that they will be coming in to talk with them. **[A.I. 5-04.16.2024]**

Articles of Interest:

- 1) Realtor Magazine article found on the NHAR website - SCOTUS Rules in Favor of Owners in Property Fee Dispute dated April 15, 2024.

Ms. Merrill mentioned that yesterday the Supreme Court of the United States ruled in favor of owners of property in a fee dispute. "The US Supreme Court rules unanimously on Friday that the government cannot demand hefty development fees from property owners in exchange for building permits." Ms. Merrill read the rest of the ruling and pointed out that nationally they said that the average impact fee on a single-family home exceeded \$13,627 in 2019 while the cost in some states stretched much higher. The Courts decision will now allow developers and home builders to challenge fees that are commonly imposed by cities and counties to pay for new public improvements and infrastructure. She mentioned that it looks like there may be something going on with the US Supreme Court that may be changing the **impact fees** and wanted the Board to be aware of this.

- 2) Article in the Union Leader (03/29/2024 issue) by Kathryn Marchocki regarding housing issues in the town of Brookline, NH. Ms. Merrill brought this article to the Board's attention and wanted to make the Board aware of this matter.

Topics of discussion for the May 7, 2024 Planning Board meeting:

- 1. AFFORDABLE HOUSING:** The Board talked about **affordable housing**. Mr. Coffin said that New Hampshire does have a definition of affordable housing and it's a formula. He went on to say is one of the things we did when we created this multifamily housing capability in the commercial zone is that we said it was to comply with New Hampshire regulations on affordable housing. We put a cap that says no more than 50% of the units can be affordable housing. The Board will review this at a work session meeting and discuss whether they want to maybe incentivize some more affordable housing by taking that restriction out.
- 2. DUPLEX VS TRIPLEX:** Ms. Merrill brought up that when the Board talked about defining multifamily as 3 units or more, what wasn't considered is the fact that multifamily can be clusters with 2 units in a building. These are all over the place. What we might want to

consider is for multifamily condominium projects that maybe we could do 2 units and change the zoning to be voted in March. So even though we might keep the definition at 3 units we might make an exception somehow in our zoning ordinances to allow for 2 units within a condo project or within a multifamily project.

3. OTHER ZONING / REGULATION CHANGES: Board members to bring ideas/ suggestions on what the Board may want to accomplish this year. [A.I. 6-04.16.2024]

Ms. Merrill mentioned that there is State legislation as far as housing is concerned that is going to pass and we are going to have to change our ordinances and regulations to mirror what is required.

Elections of Planning Board Officers and committee members:

Planning Board Chair.

MOTION made by Ms. Alesio to nominate Lynne Merrill as Chair of the Planning Board. **Seconded** by, Mr. Coffin. There were no other nominations.
A vote was taken, all were in favor, the motion passed. (6-0-0)

Planning Board Vice Chair.

MOTION made by Mr. Coffin to nominate Robin Duguay as Vice Chair of the Planning Board. **Seconded** by, Ms. Alessio. There were no other nominations.
A vote was taken, all were in favor, the motion passed. (6-0-0)

Transportation Advisory Council (TAC). Mr. Coffin has been attending these meetings. They are held at noon on the 3rd Thursday of the month.

MOTION made by Ms. Duguay to nominate Peter Coffin to sit on the TAC. **Seconded** by, Ms. Alessio. There were no other nominations.
A vote was taken, all were in favor, the motion passed. (6-0-0)

Rockingham Planning Commission (RPC). Ms. Duguay (Planning Board member) and Glenn Coppelman (Select Board member) are still representatives from the Town for the RPC.

Capital Improvement Plan (CIP) Committee.

MOTION made by Mr. Coffin to renominate Ms. Duguay as Planning Board Representative to the Capital Improvement Plan (CIP) Committee. Ms. Duguay nominated Mr. Coffin to serve on this Committee. **Seconded** by, Ms. Alessio.
A vote was taken, all were in favor, the vote passed. (6-0-0)

- The Board discussed starting the CIP process in June and July this year and have a September deadline. [A.I. 7-04.16.2024]

ADJOURNMENT

Ms. Merrill declared the meeting adjourned at **9:13 PM**.

Next Public Meeting is scheduled for Tuesday, May 7, 2024. Subject to change.*