

**Kingston Planning Board  
Public Hearing  
Minutes**

**January 16, 2018**

The Chairperson called the meeting to order at 6:55 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Glenn Coppelman, Chair	Chris Bashaw
Peter Coffin, V. Chair	Peter Bakie
Mark Heitz, BoS. rep.	Lynne Merrill
Ellen Faulconer, alternate/admin. assist.	Robert Pellegrino, alternate

Members absent: Carol Croteau, Ernie Landry, alternate  
Also in Attendance: Glenn Greenwood, Circuit Rider Planner

Mr. Coppelman announced that Ms. Faulconer would be a voting member replacing Ms. Croteau this evening.

**Jennifer Lynn Rogers-Ward**  
**Kelly Ward**  
**1 Meeks Road**  
**Tax Map R13-7**

Mr. Coppelman read a letter from the applicant requesting a continuance to the next public hearing.

**MM&S to continue to February 20, 2018 with the applicant agreeing to extend the Board's time clock/review period by an additional 60 days.** (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA** (Passed Unanimously)

**Robert Pellegrino**  
**LeFevre Drive**  
**Tax Map R6-13, R6-14-2, R6-14-6**

As Mr. Coppelman opened the hearing, Mr. Bakie suggested opening the Bresnahan hearing first so people in the audience waiting for that hearing could be told of the continuance request.

**MM&S to take the Bresnahan hearing out of order.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA** Mr. Pellegrino agreed to let that hearing go before his.

**Bresnahan Moving and Storage**  
**7 Marshall Road**  
**Tax Map R41 Lot 7-2**

Mr. Coppelman read a letter requesting a continuance to the next hearing scheduled for February 6, 2018. Mr. Greenwood said that the date requested was due to the TRC (Technical Review Committee) not being scheduled prior to tonight's hearing. The TRC meeting is scheduled for Jan. 22, 2018 at 10:00 AM; this allows the information from the TRC to be gathered prior to the Board hearing the application. Mr. Greenwood added that the TRC meeting is a public meeting but not a public hearing; it is a staff level review not a review by the Planning Board.

**MM&S to continue the Bresnahan hearing to February 6, 2018.** (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

Mr. Coppelman explained that this was the notice of the continuation.

**Robert Pellegrino**  
**LeFevre Drive**  
**Tax Map R6-13, R6-14-2, R6-14-6**

The Board returned to this hearing; a proposed subdivision and lot line adjustment; this hearing had been continued pending clarification of the requirement of an easement or ROW (right of way). Mr. Greenwood confirmed that he had spoken with Attorney Kalman; his advice was that since a ROW is a subdivision regulation requirement, an easement is not an appropriate substitute especially if there is an abutter interested in the ROW, it binds the Board into working through that process; he added that the subdivision requirements are not cryptic about the requirement. Mr. Greenwood said that Attorney Kalman did say that it was okay to be creative about developing the ROW/easement around the cul-de-sac should it be abandoned; Attorney Kalman said it was a legitimate way of dealing with the issue of space requirements for a ROW. He added that while the ROW and abutting land didn't look exceedingly developable, the Board did not have any firm information to make that decision. Mr. Bakie asked if there was any further information from Ms. Alessio; Mr. Greenwood said he hadn't spoken with her. Mr. Coffin asked if the applicant had worked out anything with the abutter; Mr. Pellegrino said they were waiting to hear the information from the Town attorney. Mr. Pellegrino asked when the information was received from the attorney; Mr. Greenwood said he spoke with him the previous Wednesday. Mr. Greenwood explained that the point from the attorney was that if the request continues to be made for the waiver of the regulation, the Planning Board has at least one factor to think about according to its own regulation and that is the potential developability of the abutting parcel. Mr. Pellegrino asked if it was shown that it was not possible to connect, could he ask for a waiver from the regulation. He said if Ellie can't build the road and she won't know that until she talks to an engineer, because if it is shown that it can't connect would the Board give a waiver. He added that if he could connect with Ellie's land, he would. He stated that he feels that the Board is taking his land. He added that if he did give it away and work out the language for the cul-de-sac land going to the homeowners which was lot 9 in this case and would give him a buildable lot. Mr. Pellegrino asked if he could ask for a waiver for the size of the lot.

Mr. Coppelman said that the Planning Board couldn't make an adjustment on lot size; that would need to go to the ZBA; Mr. Greenwood agreed. Mr. Coppelman asked Mr. Greenwood for clarification on the subdivision regulations as they require a provision of a possible future connection so if not to a particular lot, in this case Ms. Alessio's, there still needs to be one shown unless there is a waiver granted for it. Mr. Greenwood agreed with the statement. Mr. Pellegrino asked who decides who gets the ROW through their property giving different possibilities. Mr. Coppelman said that from what he heard from Mr. Greenwood's discussion with the attorney, if a particular abutter was making the request, then that was the direction that the Board would be looking. Mr. Greenwood confirmed that. Mr. Coppelman continued that if that wasn't the logical connecting point, then another one needed to be shown. Mr. Greenwood said that the Town's regulations state that there is a potential future connection; although it goes back to a connection to what. Mr. Bakie said that the Board needs to approach Ms. Alessio and find out her status; she can't continue to drag this out; if she was going to look into this and get her input to find out what she had found out. Mr. Bakie continued that it appeared to him that a ROW has already been offered to the Town Forest; so that would constitute a ROW and be a future ROW. Mr. Coppelman said that it can't be to a parcel that has been protected like a forest or a conservation easement because you can't develop that piece. Mr. Bakie suggested looking into the other parcels as they are big parcels and are probably protected.

Ms. Faulconer referred to the last meeting stating that she thought that everyone seemed to be in agreement that if the ROW had to go through, it would be okay as long as the Town could go forward with Mr. Heitz's suggestion which was to not take the cul-de-sac as ownership but instead have an easement; that way should the ROW ever go through and the cul-de-sac eliminated, then the existing properties would have the proper road frontage. Ms. Faulconer said her understanding at the time was that all the parties including the applicant, Ms. Alessio and the Board all thought this was an acceptable conclusion. She added that is seemed per Mr. Greenwood's review of his discussion with the attorney that this was acceptable. Mr. Greenwood agreed that Attorney Kalman said that this would have no conflict with the regulations. Mr. Pellegrino said that he didn't want to shut Ms. Alessio out of her land and if the connection could go there, he would do it in a heartbeat; so if this could legally work he was fine with it; he said that any viable connection would need to come from lot 9 into her property; he said while it was possible he was not sure it was viable; he commented on endangered species in the wetland. He said that if Ms. Alessio feels she can build out there, she should come up with a plan; if it can be done he can come up with the language to keep himself and his partner, Dave Conant happy and Ms. Alessio happy. Ms. Faulconer said that she thought that had been the last meeting's decision that if everything could work out, Ms. Alessio would get the ROW as currently shown as an easement and that Mr. Pellegrino wouldn't lose out because if the ROW was ever used that it would be okay as the parcels would get the land from the cul-de-sac so no one lost anything and nothing became non-conforming; she added that the attorney has confirmed that this idea that Mr. Heitz came up with can be done so it seems the compromise everyone reached at the last meeting works for everyone; Ms. Alessio gets her requested ROW with no impact to the full development. Ms. Faulconer said that the Board can't really say to Ms. Alessio that she must spend money on an engineer to prove things and do a development; the Board can suggest it to get a better idea. Ms. Faulconer continued that the proposal to give Ms. Alessio the ROW and also provide protection for the development seemed to work for

everyone and allowed the Board to move forward from this issue; she added that it seemed that the attorney was saying that yes, Ms. Alessio gets her ROW and the Town can work with the applicant on the cul-de-sac easement so that is all set and everyone can move forward. Mr. Pellegrino asked about the type of language regarding the easement. Mr. Greenwood said there needs to be language shown on the plan about what the changed ownership would be should the cul-de-sac bulb be removed in favor of a through road to show that the frontages exist so the language for an approval can occur. Mr. Greenwood continued that this is the call for Mr. Lavalley to accomplish showing how the reconfiguration of the cul-de-sac bulb allows all the frontages as required by the zoning ordinance. Mr. Bashaw asked if the applicant was responsible for the language and then to work with Mr. Greenwood to then bring to the Town attorney. Mr. Greenwood agreed it could work that way. Mr. Coffin said that there needed to be two plans, one with the cul-de-sac and one showing the reconfiguration. Mr. Coppelman said this can be worked on between now and the continuation. Mr. Pellegrino agreed. Mr. Greenwood said he would reach out to Ms. Alessio to see if she has done anything. Mr. Coffin said that more communication was better. Ms. Faulconer said that when the cul-de-sac easement was proposed by Mr. Heitz, Ms. Alessio was in favor of it as she got her ROW and the applicant could continue with his development and future protections. Mr. Pellegrino said that they had just been waiting to hear from the attorney to make sure that it could happen; he asked for a continuation to the Feb. 20<sup>th</sup> hearing adding that he was sure that Mr. Lavalley could have a plan ready as he said that it would be reasonably easy for him to do. Mr. Pellegrino noted that a ninety-day extension had been granted at the previous hearing.

There was no public comment; there were no further questions from Mr. Pellegrino or the Board.

**MM&S to continue to February 20, 2018.** (Motion by Mr. Bashaw, second by Mr. Coffin)  
**Motion carried 6-0-1** with Mr. Heitz abstaining.

**Apache Trucking, LLC**  
**Corrado and Lucia Amenta**  
**231 Rte. 125**  
**Tax Map R29 Lot 2**

Mr. Coppelman read the notice and explained that this was for a Preliminary Design Review; the applicant get guidance from the Board but the hearing ends this evening. Charlie Zilch, SEC and Associates, stated that he was representing Corrado and Lucia Amenta. He described the property, the location and the zoning. He reminded the Board that a previous letter had been sent in May confirming that siting a warehouse was an allowed use in the zone. He explained the unique access to the property; the intent of the 50 foot ROW that had been granted by the State was to provide access in lieu of access to Rte. 125. He reviewed meetings he had with Division 6 of NHDOT (New Hampshire Dept. of Transportation). He added that the State of NH still owns the ROW; the Town and property owners have benefit of its use; he has been told that a road can be constructed but the State won't maintain it or relinquish ownership. Mr. Zilch noted that he has walked the property and there is a viable woods road; it is a 2300 foot ROW with no access to Rte. 125 although the State may provide an emergency, gated, controlled access point.

Mr. Zilch said that this was an exploratory discussion to decide what could be done on the property and review the access issues.

Mr. Coppelman read the Department comments: Road Agent – need 10 more feet to meet the 60 ft. ROW requirement; they would need to build the road and include the building of a cul-de-sac; he also asked what the plans would be for upgrading the road from Class VI to Class V; Building – asked about the frontage; BOS – the current class 6 road does not support the proposed usage; Health – no comment at this time.

Mr. Heitz stated that there has been a lot of discussion in the past about this area; the Town's point of view is that there is no desire to maintain dead-end roads with commercial traffic; the Town would prefer a private road maintained by the property owners; this raises issues of the required frontage on a Class V road; the Town doesn't want a 2200 ft. linear road with no connection to anything else. Mr. Coffin asked the nature of the business. The applicant answered that it is primarily a warehouse with truck delivery. Mr. Zilch stated that it is a fairly formidable size. Mr. Amenta stated approximately 100,000 sq. ft; the warehouse would be primarily dry goods and water as Poland Springs is a large customer of theirs. Ms. Merrill suggested that it would be similar to distribution centers in Brentwood that distributed alcohol. Mr. Zilch compared it to Sears Distribution Center. Mr. Greenwood added that it was in the Aquifer Protection Zone and reviewed previous interest on the site for a mall. He continued that the queuing at the intersection would be odd as there was 100 ft. or less from the light although not the traffic volume of a mall; if there were long trucks it could cause a big mess; there would need to be a real discussion on how the intersection would be worked. Mr. Coppelman added that where the frontage road comes out there is not a lot of room for queuing; there had been previous suggestions to get some easements to possibly have an entrance further down Depot Road although it would not be an easy track. Mr. Amenta said that it is pick-up and transport and there was not much traffic; there would be maybe one truck an hour. Mr. Coppelman said if going forward with an application, more concrete detail for trip traffic would be needed. Mr. Heitz suggested that the State would be interested in the impact of Rte. 107 and 125. Mr. Zilch questioned specifications for a private road. Mr. Coppelman stated that the Town's position is that private roads need to be built to Town specifications as there is always the possibility that the Town could one day be responsible for the road. Mr. Heitz said that the Town had allowed some development to not have the 60 feet but it had to always remain private; he added that the pavement and shoulder requirements might fit in the 50 feet; it did need to meet all other specifications but due to not being built to Town specs. it would need to remain private. Mr. Greenwood said this would require a waiver. Ms. Faulconer asked about one applicant waiving the rights for other abutters who might want all the specifications being met depending on their ideas of use of their property. Ms. Merrill said that with residential use, people can't get a mortgage without a private road agreement. Mr. Zilch agreed there would need to have other agreements in place.

Abutter comments: Michael Fosburg, one of 5 owners of Lot 4 and Marcia Bogart, one of the other owners said that they would be willing to consider deeding or selling the 10 ft. to the applicant; they recognized the benefit. Mr. Coppelman pointed out that lot 7 had a house on it and there had been previous concerns about screening when reviewing for previous proposals.

Linnhardt Hilfer, 20 Washington Way, tax map R35-45-18, addressed the Board with his concerns which included the capacity of 24 trucks daily, a 100,000 square foot footprint, the types of trucks, hours of operation, fuel storage, chemical or explosives storage, safety concerns regarding the entrance onto the roads and the 50 ft. ROW. The applicant answered that there was no fuel stored on site; no chemicals or explosives stored on site. Mr. Coppelman described the existing fully-lighted intersection off Rte. 107 entering onto Rte. 125; the access is a current woods road; there would not be a new entrance onto Rte. 125. Mr. Hilfer noted the wildlife in the area and asked if an environmental study had been done. Mr. Zilch answered that it had not been done as they were primarily concerned with the viability of access to the site prior to doing any other studies including environmental. Mr. Hilfer said that the abutting properties are in a nice part of Town and he is concerned with the impact on properties values; he bought in Kingston because of the area. He asked what the process was after the Preliminary Design review. Mr. Coppelman explained that the hearing ended this evening and it would be up to the applicant to decide to put forward a formal application that would include public notice and abutter notification; the formal application would include the details including buffers, setbacks, environmental studies, traffic, lighting and noise.

James Apicella, 22 Washington Way, tax map R35-45-17, confirmed his location and asked about the proposed timeframe of the project. Mr. Zilch said that moving forward with the application process would include needing to do a roadway and site design; there would be about a year of permitting and the build-out would take about another year making a total of 2 years. He expressed his concerns that included noise impact, environmental impact, type of noise being generated. Mr. Amenta said that the trucks do not sit idle; there are no back-up alarms on the trucks. Mr. Coppelman noted that there are specific buffer requirements when a residential area abuts non-residential use and the applicant would have to work on that. Mr. Apicella stated that he was concerned with environmental impacts and would like that taken into consideration. Mr. Greenwood suggested that the abutters go to the Town's web site to review the site plan requirements to confirm that the Planning Board has regulations touching on all of the things they are concerned about; these items are requirements for a site plan.

Mr. Fosburg asked about the location of abutters and questioned the map that had been distributed. The Board clarified the "yellow" line on the plan; Ms. Merrill re-iterated that the land for the "road" is owned by the State, not the Town, the Town owns lot 5. Mr. Heitz and members of the Board explained that there is a huge shoulder between Rte. 125 and the road; the line shown on the plan is the ROW not the road; the yellow line includes the shoulders and the woods road.

At this time, there were no further public comments; Mr. Greenwood had no additional comments.

Mr. Coffin said the biggest concern or consideration is the access on Depot Road and how close it is the intersection, especially with big trucks. He continued that even in the middle of day time, it is an annoying sound to have diesel trucks idling and it would affect Presidential Estates quite a bit and 50 feet of a natural vegetated buffer wouldn't stop that. Mr. Hilfer said that the deceleration of trucks to Rte. 111 is loud; they would hear that noise. Mr. Heitz agreed it is loud.

Mr. Amenta explained “j” brakes. Mr. Hilfer said that a flow rate of 24 trucks per day with these sounds 24 times per day and deceleration sounds would create an environment that would be significantly different from current conditions. Mr. Heitz added that the deceleration from 45 to zero won’t be expected on this side road. Mr. Bashaw said that 24 additional trucks is miniscule in relation to that already on Rte. 125. Mr. Amenta said the hours of operation would be 6:00 AM to 8:00 PM. Mr. Coffin stated he had concerns about on-site sound and traffic. Mr. Bashaw agreed with concerns with traffic as the intersection near the highway gets bound up; it will be a very different intersection with large trucks. Mr. Bakie said the State will play a large role in that decision. Mr. Zilch stated that they will need a traffic engineer to work on that issue. Mr. Heitz explained that this area used to be residential and the Planning Board identified it for potential commercial development and prohibited any new residential use; commercial brings trucks. Mr. Coppelman said that it is always tough when a proposal come forth with re-zoning. Ms. Faulconer noted that there is a large wetland system near the area that abuts Presidential Estates which could add to the buffer area between the two uses. Mr. Bashaw reviewed the Sears Logistics terminal which has a large warehouse that is heavily wooded around it noting that it is an indication of when things are done properly, they can be screened. Mr. Zilch stated that Ms. Faulconer had a good point about the large wetlands adding that in his experience the wetlands shown on the map is usually less than what is actually out there; the wetlands in the area is probably bigger and wider. He said that this lot has a nice area of land and if the property is developed it would be developed more on the south line, more near Rte. 125 than the residences. Mr. Coppelman described some of the actions that occurred in establishing the commercial zones; the intent is not to force traffic into residential zones. There was continued discussion concerning the buffering to the residential properties; Mr. Coppelman reinforced that the site is most buildable away from the housing development and provides more of a buffer; the topography and natural features are more favorable away from the housing; the advice to the engineer would be to build as far away from the housing as possible. The Board was asked about clearing of the space near the housing. Mr. Coppelman said that the part of the lot that abuts the residential area is a “not cut” zone which could be added to the plan. Mr. Zilch added that there is a setback from the wetlands and the distance is determined by the aspects of the wetland and would provide an additional buffer. Mr. Pellegrino stated that it looks like it is almost ¼ mile, 1000 feet away and not right on top of the area. The process of having the wetlands determined was described. Mr. Coppelman stated that it would be unlikely that there would be trucks accessing or turning around in their residential subdivision. Mr. Zilch added that the truck drivers would be the applicant’s employees and would know where they were driving. There were no further questions or comments from the public or the Board. Mr. Zilch also had no further questions and thanked the Board. Mr. Coppelman announced the conclusion of this hearing.

### **Warrant Article hearing**

Mr. Coppelman noted that there had been no continuation from the public hearing held for the warrant articles on Jan. 2, 2018. The warrant articles had already been voted on at that time.

### **Board Business**

#### **Critical Correspondence:**

- Letter dated 1/11/18 for self-defense school at 34 Church Street. The Board reviewed the times noting that Dunkin' Donuts is open at 5:00 AM. The Board determined that no further review was required for the activity as noted in the letter to the Board. Ms. Faulconer will contact the owner about needing a Business Occupancy Permit and a sign permit.
- Bond Balance list was reviewed; Ms. Faulconer will review for release for funds for applications no longer before the Board.
- Received a letter of interest from Karen Layne regarding an alternate position; Ms. Faulconer will send a letter of thanks and keep her letter on file should a position become available.
- Torromeo application for Air Permit from DES; the Board can decide to comment pending further notification and information.
- Minor amendment for State permit to operate for Torromeo – changing out type of equipment; the Board will wait for further information.
- Danna Truslow report for AAAL received; there is no Board action needed as there is no request before the Board. Ms. Merrill requested additional explanation of the report when it comes back to the Board. Mr. Greenwood confirmed that Ms. Truslow would come to the meeting and answer questions.
- CIP committee finished the work on the plan and is on the February 6<sup>th</sup> hearing to be adopted. Ms. Faulconer will send the plan out electronically to the Board.

**MM&S to accepted the December 12, 2018 minutes as written.** (Motion by Mr. Coffin, second by Ms. Faulconer) **Motion passed 6-0-1** with Mr. Heitz abstaining.

Ms. Merrill notified the Board about a bill before the legislature regarding State level review of local decisions.

Mr. Greenwood explained that there was a question about a lot merger involving a commercial lot and a residential lot; he would like clarification from Attorney Kalman about changing zoning by lot merger rather than by Town vote. The zone and original intent was reviewed. Ms. Merrill asked if there was the potential to go to the ZBA for use; Mr. Greenwood confirmed that this was a possibility. The Board authorized Mr. Greenwood to contact the attorney for clarification.

**MM&S to adjourn at 9:00 PM.** (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**