

**Kingston Planning Board
Public Hearing
Minutes**

May 15, 2018

The Chairperson called the meeting to order at 6:45 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Glenn Coppelman, Chair	Lynne Merrill
Peter Coffin, V. Chair	Peter Bakie
Carol Croteau	Ellen Faulconer, alternate/admin. assist.
Phil Coombs, BOS rep.	Karen Layne, alternate
Robert Pellegrino, alternate (arrived with meeting in progress)	

Members absent: Chris Bashaw

Also in Attendance: Glenn Greenwood, Circuit Rider Planner, Dennis Quintal, Town Engineer

Mr. Coppelman introduced the Board; he welcomed Ms. Layne to the Board. He stated that Ms. Faulconer would be a voting member this evening due to Mr. Bashaw's absence.

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

Mr. Coppelman read the notice. Charlie Zilch and Jim Hanley introduced themselves as representing the applicant. Mr. Zilch stated that the updated plans had just recently been submitted without enough time for reviews but he wanted to update the Board on where the process currently stood and ask for a continuance. Mr. Zilch said that they were down to two issues dealing with the Department of Transportation (DOT) and the requested three entrances. He explained that while all parties agreed that the Rte. 107 entrance should be the Main entrance, there was a snag with the Bureau of Right-of-Way (ROW) due to the initial limited access prior to the reconfiguration of the highway/jug handle at that location; adjustments that were supposed to be done at that time that were not finalized/adjusted for a driveway on Rte. 107. He continued that a driveway was shown on the reconfiguration plan; they now have to "break" the ROW. He re-iterated that all the agencies involved agree with the main access being on Rte. 107 but now have to go through the process to have that finalized. He added that this process could take at least two months. They are also asking Division 6 to continue permitting the Rte. 125 accesses and working on getting the Rte. 107 access. Mr. Hanley reviewed testing that was required for the ponds; ponds 2 and 3 needed modification which is shown on the newly submitted plans.

Mr. Coppelman said that he was glad there was some discussion this evening as there was an issue he wanted to bring out in a public forum. He questioned the proposed multiple accesses on

Rte. 125 with a fully signalized intersection being proposed by another application that is being worked on. He continued that traffic flow and access management requirements would require limiting access onto Rte. 125 with the primary access being on Rte. 107 which is better; he asked if the applicant had any thoughts on one access on Rte. 125 and one on Rte. 107. Mr. Zilch said that he has discussed this with Mr. Bresnahan who feels it is vital to stay with the request for accesses onto Rte. 125. Mr. Coffin asked about the possibility of a northern access at Route 125 being further up as discussed at the site walk; he asked if this had been transmitted to him and discussed. Mr. Zilch said that this would be more site disturbance at a tougher spot cost-wise. Mr. Hanley said that they had met with Police and there was concern with site lines over the hill. Mr. Greenwood said the TRC (Technical Review Committee) wanted the primary access on Rte. 107; the Town supported the Rte. 107 entry. Ms. Faulconer suggested that the applicant continue to work on getting the Rte 107 access and not rush this review process forward just to get the easier approvals for the Rte. 125 access; she questioned why the review would continue without the State approval for the Rte. 107 access as it was not in the best interest of the Town for the safer access point. Mr. Zilch agreed that the Rte. 107 spot is the best access point. Mr. Coombs asked if a letter of support from the Town for the Rte. 107 access would be helpful. Mr. Zilch suggested it might be good for the Town to put that in writing. Mr. Coombs suggested that Mr. St. Hilaire could contact District 6. Ms. Croteau said that she had a lot of concern with vehicles crossing over Rte. 125. Mr. Zilch said the points on Rte. 125 are proposed as two-way traffic. Ms. Croteau asked if the Police Department (PD) had concerns with this cross-traffic. Mr. Greenwood said he would have to review the TRC minutes to see if that had been discussed. Ms. Croteau said that she agreed that the Rte. 107 access was best for the main entrance and expressed concern with accidents on vehicles crossing traffic at Rte. 125; she was concerned about the safety aspect of this. She questioned whether there was a possibility of those accesses being one way in and one way out. Mr. Zilch said he will take these comments into consideration.

Abutter comments: Ralph Fellows, Marshall Road, expressed concern about a passing zone at the area of this location that needs to be addressed. Mr. Coppelman said the Town's PD can request the DOT to reconsider the passing there adding that this was a good point and thanked Mr. Fellows for bringing it up. Mr. Coppelman asked Mr. Zilch about the passing zone which would be just north of the entrance. Mr. Zilch said it hadn't come up but he would bring it up in discussion with DOT. He will also check on the intentions of the possible updated intersection.

MM&S to continue the Bresnahan Moving and Storage hearing to June 19th; the hearing begins at 6:45. (Motion by Ms. Merrill, second by Ms. Croteau) **PUNA**

Stephen Rayner and Patrick Rayner
Pat's Truck Sales, LLC
A-2 Village Square, LLC
77 Route 125
Tax Map R9, Lot 1-9

Lynne Merrill recused herself from this discussion and stepped down from the Board. Mr. Coppelman announced that Mr. Pellegrino would be taking her place during this decision until she returned to the Board.

Christian Smith of Beals, Associates and Steve Rayner introduced themselves. Mr. Smith noted that this was currently a vacant auto sales lot; they did no on-the-ground survey for this plan; they have limited the parking to 60 spots. Mr. Quintal said that he had not reviewed this plan due to the submission. Mr. Greenwood explained that this was an unusual circumstance as the Board had guided them to prepare an existing conditions plan as there wasn't a plan for the site on file and this is not a change or expansion of use; he added that this was the same activity that has been the historical use of the property for approximately 20 years. Mr. Greenwood said that they were asked to show lighting, signage, extent of impervious surface, number of parking and display spaces shown and noted on the plan, hours of operation, number of employees. He added that the plan provides the Board with the operations on-site. Mr. Smith stated that a waiver for the checklist was submitted. Mr. Coppelman confirmed that this was a legally noticed hearing. Mr. Greenwood stated his belief that this was in the Aquifer and the display vehicles would need to be on paved surface. Mr. Coppelman asked how the run-off was handled. Mr. Smith answered that there are culverts under driveways that enter the roadway swale; they are not proposing to change anything. Mr. Quintal stated that while not having reviewed the plan due to the requested waivers, there is a high grass swale that does act as a filter; the activity on site has been there a long time with no issues in the past.

Abutter comments: Mark Pearson addressed the Board representing New Creation Healing Center (NCHC). He explained that NCHC is primarily a medical office and the well is near the road with the slope going down the driveway to the well; he stated that they had a letter from the Department of Environmental Services (DES) concerning contaminants. He said the well is tested regularly and wondered if there can be an accommodation to safeguard the well. Mr. Bakie asked if they had monitoring of the well and if there were any issues. Mr. Pearson said that they have had testing and there were no problems. Mr. Bakie said that the use had been there for 20 years with no problems with the NCHC well so far; continuing the safe practices that had been established would keep the well with no problems. Mr. Coppelman asked Mr. Quintal to give a sense of how the water flow works. Mr. Quintal explained that the water flow heads northerly toward Mill Stream; any source of pollution for NCHC would be cars along Rte. 125. He added that there are methods of controlling run-off which can be part of the approval including a note on the plan that it will comply with Stormwater Rules and Regulations. Mr. Bakie asked if the run-off continues and crosses under Rte. 125. Mr. Quintal said that it probably goes under West Shore Park Road and towards Mill Stream. Mr. Pellegrino asked why the applicant had to go through this process if the site has been used this way for 25 years. Mr. Coppelman explained the process the Board used to require the plan that included there being no plan on file adding that this memorializes the approval in the file. Mr. Greenwood added that normally the Board would probably say that is was okay as it was a continuation of use but there is the need to have a plan on file which is why the Board did not require a full plan that could be recorded. Ms. Faulconer said that during the initial review, the Board suggested that the dimensions of the building be shown which was not on the plan; she asked if the zone should be noted if it was in the Aquifer Protection Zone (APZ); add the note about complying with the

Stormwater rules and regulations. Mr. Coombs agreed that added the note about Stormwater adequately addresses the issue. Mr. Coppelman noted existing activity within the setback requirements. Mr. Coppelman confirmed that there were no other conflicts for Board members for this application.

MM&S to accept this plan for jurisdiction. (Motion by Mr. Coffin, second by Ms. Croteau)
PUNA

Mr. Greenwood reviewed the site for location in the APZ; he clarified that the property was not in the zone. Mr. Smith said that he would add the building dimensions to the plan. Mr. Quintal reviewed Stormwater Management (SM) requirements; he stated that all site plan should have the note regarding maintenance and inspections of SM. Mr. Coppelman asked about the types of vehicles being sold. Mr. Smith answered medium-size, passenger-size trucks; it could include medium-size dump trucks and passenger and commercial trucks; there would not be “off-road” construction vehicles. Mr. Pelletier asked if there will be vehicle washing on site. Mr. Rayner stated that detailing will be done inside the building; washing will occur outside the building but will only be for vehicles that they will be selling on-site. There was discussion on the wording of the motion.

MM&S to accept the plan as presented with the addition of the dimensions of the building adding a note that “all Inspections and Maintenance requirements per the Stormwater Management for the Town of Kingston will be followed”; any granted waivers will be added to the title block; 5 large plan sets will be provided. (Motion by Mr. Bakie, second by Mr. Pelletier) **PUNA**

The waiver request was read.

MM&S to waive \$4500 of the professional review fee of \$5000 as the review is limited in this case. (Motion by Ms. Croteau, second by Mr. Coffin) **PUNA**

MM&S to waive the full requirements of the checklist items due to the existing use. (Motion by Mr. Coffin, second by Ms. Croteau) **PUNA**

The applicant was told that any signs would need a new Sign Permit and a Business Occupancy Permit prior to operating.

<Board note: Ms. Merrill returned to the Board; Mr. Pellegrino returned to alternate status.>

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

<Board note: Mr. Pellegrino recused from the Board and was in the applicant’s seat.>

Mr. Pellegrino delivered a copy of the wetland permit, dated 5/11/18, to the Chair. He added that he was trying to get the legal easement language from Mr. Lavalley. He asked for a

conditional approval. Mr. Quintal explained that he got new plans on 5/1 and then another set on 5/8; there was still an issue regarding a note on the plan re: location of buried stumps; he spoke with Mr. Nichols and got the correct plans by email. Ms. Faulconer noted that only Mr. Quintal had new plans; the Board had not received any revised plans yet. She added that the Town did not have the easement language yet; the attorney wanted the proposal to come to the Town first and the submission to the attorney to come from the Town, not the applicant; she suggested that it be forwarded directly to the Planning Board. Mr. Pellegrino said that he was embarrassed as he thought this had been done already. Mr. Greenwood suggested that a conditional approval was not in Mr. Pellegrino's best interest due to the possibility of any changes to the conditions that would require the process starting all over again. Mr. Greenwood re-iterated getting the wording to the office as the attorney did want to be contacted directly from the Town. Mr. Coppelman confirmed that the rest of the Departments hadn't had the opportunity to review the revised plans. Mr. Coffin discussed the note about the stumps. Mr. Quintal said that his concern with the stumps was that there should be a plan that shows where the stumps are being buried on the site. He said the other possibilities are to either haul them away or grind them. Mr. Pelletier stated that most had already been hauled away. Mr. Pelletier asked if all of Mr. Quintal's concerns were addressed; Mr. Quintal said that he thinks they are all set but he will have to review again once receiving the full, final plan set. Ms. Faulconer stated that as a homeowner, she would prefer no stumps being buried on the property but if the State says it is okay, she wouldn't say "no" as long as there is a plan showing where they are buried. The Board reviewed that the Town still needed the new plans and the easement legal wording. Mr. Coppelman read the Wetlands Permit dated 5/11/18: it is a minor impact project; there is a 30 day window for comment from the Army Corps of Engineers (ACE); if nothing received from them within that time frame then the project is automatically approved but nothing can be done during that time which would be June 11th. Mr. Coffin said that due to that, the applicant needs to wait until June 11th. There was discussion about the continuation to either June 5th or June 19th. Mr. Coombs said that the Board is wasting a lot of time with this at every meeting; the ACE won't call him, they will just let the timeframe expire. Ms. Faulconer suggested that the Board give Mr. Pellegrino to June 1st to have all the required paperwork into the Board; if not received, Mr. Pellegrino will request a continuance in writing rather than meeting with the Board. Mr. Pellegrino agreed.

MM&S to continue this hearing to June 5th with the stipulation that if the new plans and easement is not received by June 1st, Mr. Pellegrino will request a continuance in writing rather than meeting with the Board to ask for the continuance. (Motion by Ms. Faulconer, second by Mr. Bakie) **PUNA**

Board Business:

- Mr. Coombs asked about the Torromeo permit update. Mr. Greenwood said that he spoke with the State and due to operation of a stationary plant that existed prior to 1989, he is exempt from gravel pit permitting but is not exempt from reclamation but incremental is not required, just when he is done. He said that he confirmed that Mr. Coombs can sign the form with a clear conscience. Mr. Greenwood will re-contact Mr. Torromeo that the issue has been resolved.

- ECSI – Mr. Coombs asked if Mr. Quintal had inspected the site recently; Ms. Faulconer said that the last time was around December; Mr. Quintal confirmed that he had taken pictures in 2017. Ms. Faulconer will forward the report to Mr. Coombs.

Correspondence:

- Letter from Timeless Treasure Antique Shop, 47-51 Rte. 125; the Board reviewed the file; read the recorded Facts and Findings; the recorded plan was in the file: D-34785. The history of the site was reviewed.

MM&S that no further PB review was required. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

ACTION ITEM: Ms. Faulconer will send letter to the applicant and attach the NOD to the letter.

- Access to Eversource from NH Fish and Game; no PB action required.
- Permit request from Ed Dudek, Murphy Auto recycling; the Board reviewed recent actions from the Board; by consensus: Ms. Faulconer will write a letter re: proper procedure for the permit for the Board of Selectmen to sign.
- Wetlands permit – 9 Penniman’s Grove – no PB action required.
- Letter from Building Inspector re: surveyor requirements for plans.
- Town and City Magazine – May/June 2018.

April 17, 2018 Minutes:

Mr. Bakie asked to amend the section re: the Martin subdivision to include comments he made regarding providing comments prior to the hearing. Ms. Faulconer will add the following sentence to the appropriate section of the minutes: “If the Town Engineer comments are available prior to the hearing, the applicant should have them.” Ms. Merrill asked to change 2nd line on p. 9 from “Ms. Merrill received” to “the Board members received”; add “Bent Grass” before “Circle” on p.5; p.6, first sentence of first full paragraph, change “plan” to “plans”.

MM&S to accept the 4/17/2018 minutes as amended. (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

Mr. Bakie asked to review the Board’s policy/practices about the concept of having feedback for the applicant prior to the hearing; he suggested requiring the comments a week prior to the hearing. Ms. Merrill added that it would be helpful to have copies of the plans sent to the Board members in advance; suggesting that the received plans could be reduced to 11x17 and emailed to the Board. Ms. Faulconer suggested requiring an electronic copy as part of the application; she expressed concern with getting the Department comments a week ahead of time to get comments to applicants based on the current submission requirements. Mr. Quintal and Mr. Greenwood explained their process/requirements. Mr. Greenwood said that the Planning Board has the right to disregard his comments so providing them to the applicant is not a service to the process. Mr. Coombs suggested distributing the comments would be at the Chairman’s discretion in case there was anything derogatory or controversial; this way it would be an elected representative making the decision to get the comments to the applicant; some items could be straight forward, some might need Board discussion first. Ms. Faulconer explained

that the comments weren't due until the Monday before the meeting; the one being discussed was received unusually early; the Town Engineer and Department Heads just need to get the comments to the Board the day before the meeting as the comments are addressed to the Board, not the public or the applicant. She continued that the comments aren't always received prior to the meeting, under those circumstances you would then have one engineer wondering why they didn't get the comments ahead of time when a different engineer did get them ahead of time. She re-iterated that the comments are for the Board's review and the applicant, public and abutters all hear the comments at the same time during the public process. Ms. Faulconer noted that it was up to the Board to decide to change the policy, however, she added that it might be difficult for Department Heads to get comments in a week ahead of time when the plans are received 10 to 14 days ahead of time. Ms. Merrill said that when the thoughts and comments from Departments come in, they may not be thoughts and comments that the Board agrees with and the applicant may be changing plans based on something the Board hasn't considered or discussed. Ms. Faulconer explained that the plan being discussed was unusual; Mr. Quintal provided comments two weeks ahead of time because the plan came in six weeks ahead of time which was uncommon. Mr. Quintal commented that it was unusual and if the applicant had taken a better look at the rules and regulations, there were a lot of little things that needed to be done on the plan that should have been done from the beginning. Mr. Quintal added that until jurisdiction is accepted, there is at least 65 days for the review; when he submits to a Town, he doesn't worry about getting comments back for the first meeting and he doesn't expect them as the Planning Board can take as long as they want to review a plan. He said an applicant and their consultant shouldn't expect an approval right away. Ms. Faulconer added that occasionally abutters come in to review the plan that they expect to be reviewed at the public hearing, not a new plan changed due to comments that haven't been heard yet; she said that this defeats some of the public process. Mr. Bakie said that he understood the issues being discussed but suggested when there are small grammatical issues or names being spelled incorrectly, they might be able to be addressed without the Board's discussion and not delay the process. He suggested that those small types of items could be given to the applicant with advance notice so they are not blind-sided when they come in. Mr. Coombs again suggested that for something received ahead of time with grammatical issues, the Chairman could decide to release the Town Engineer's comments. Mr. Coffin suggested that if there were technical errors that didn't need to be addressed by the Board, these could be sent along to Mr. Greenwood or Ms. Faulconer to pass along to the applicant so the Board didn't have to look at them during the meeting. Ms. Faulconer apologized for sounding critical but noted that the applicant's engineer got paid a lot of money to prepare a plan and for the plan being discussed, put the incorrect name as an abutter while the list was correct; she stated that the engineer "screwed up" and it is not up to the Town Engineer or the Planning Board staff to correct their errors on the plan they have submitted; the person is a professional and should be held to professional standards and the staff should not have to babysit him to have stupid items corrected. She said if the Board did not want to deal with these mistakes, they shouldn't accept the plan. Mr. Coppelman questioned the Board's action on that plan by noting that the Board did grant a conditional approval so there was no delay, the applicant didn't have to come back, they make the corrections and it is done. He added that perhaps if there had been more diligence done up front, there might not have been as many conditions of the approval. Ms. Faulconer added that the diligence would have been on the applicant's part. Ms. Faulconer said

that the Board should expect the applicant's engineer to be as professional as they expect the Board to be. Ms. Merrill said that the checklist was there to make sure that the big things weren't forgotten and perhaps that hasn't been in effect long enough to know how well it is going to work; hopefully things will go better with the checklist being used. Ms. Merrill recognized the frustration referenced by Mr. Bakie. Ms. Faulconer suggested the Board think about the issue a bit to see if they can come up with a procedure. Ms. Merrill suggested tabling the issue for a week or two. Mr. Coppelman agreed with the suggestion to add to other business for the next meeting. Ms. Merrill asked about the procedure to require plans by emails. Mr. Greenwood said that it would be a submission requirement that just required a public hearing. Ms. Faulconer asked if the Board wanted to move forward with electronic submission as a requirement. Ms. Croteau said that an 11 x 17 could be submitted in case of not having ability for electronic submission; she asked if the Board members had mail boxes in the past to get copies of the plans. Mr. Coppelman suggested coming to the office. Ms. Faulconer said that if this was an issue, they could be left in the Selectmen's office. Mr. Pellegrino said that, as an applicant, sending an electronic copy isn't a problem; as a Planning Board member, he agreed that it would be good to review prior to the meeting.

ACTION ITEM: Ms. Faulconer will add this to the hearing on the 19th.
<Board note: Mr. Quintal left the hearing at this time.>

Planning Services Review: Ms. Merrill explained the proposal prepared by Mr. Greenwood, Ms. Faulconer and herself. Ms. Merrill said that changes proposed by the Rockingham Planning Commission (RPC) spurred the Board looking at the planner position; she reviewed some of the aspects of the proposal. Ms. Faulconer reviewed the budget aspects of the possible proposals that included changing the current contract to include 4 Mondays/monthly and two night meetings; 4 Mondays, 2 night meetings and two additional 4 hour days of coverage; 4 Mondays, 2 night meetings and 4 additional days of 4 hours each day; costs, current budget and possible future budget requests were reviewed. Ms. Merrill also discussed the staff's recommendation of better tracking of Mr. Greenwood's hours to charge back to the applicant more accurately.

Mr. Pelletier said that development is happening and it is in the Town's best interest to have Mr. Greenwood in the office. Ms. Merrill said the Board had to answer questions about talking with RPC, retaining Mr. Greenwood's services, going to general bid and drafting an RFP. Mr. Coombs said that it was past the date for asking for bids; he said that the Board is dealing with capturing these issues in Town and they are having a working meeting to address many items including fee structures. He added that the proposal was well put together and provided a lot of data that was helpful in working to a decision. There was discussion regarding the Town's census population versus the State's; increased development; continuity; making a decision for the next meeting so as to address the issue with the Selectmen prior to the end of the contract at the end of June.

MM&S to adjourn at 10:17 pm. (Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**