

**Kingston Planning Board
Public Hearing
Minutes**

June 19, 2018

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

Members in attendance:

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

Members absent: Peter Bakie

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

Mr. Coppelman announced that Ms. Faulconer would be a voting member this evening due to Mr. Bakie's absence.

**Hawks Ridge of South Kingston
Bent Grass Circle
Tax Map R3 Lot 4 Land Unit 4**

Mr. Coppelman noted that this portion of the hearing began at 6:50 PM; he read the public notice. Karen Layne recused herself from the Board for this portion of tonight's hearing and stepped away from the Board. Steve Cummings and Charles Cleary introduced themselves as representatives for the applicant. Mr. Cummings asked to distribute a revised set of plan; Mr. Coppelman stated that no one would have had a chance to review for comments; Mr. Quintal's comments were based on the plan previously submitted. Mr. Coffin added that the building inspector and department heads would not have seen the new plan to provide comments. Mr. Cummings added that a drainage report was also submitted; the newly submitted plans have been changed due to some of Mr. Quintal's report. Ms. Faulconer stated that the Board did get new plans submitted on June 1st for tonight's hearing. Mr. Coffin stated that the plans submitted on June 1st have been reviewed; new information can be presented during the discussion but the new drainage plans and new plans haven't been able to be reviewed by anyone.

Mr. Quintal reviewed his 22 comments in response to the applicant's response to the Board of Selectmen's (BOS) Notice of Violation (NOV). Mr. Quintal's comments included items such as the inadequate access to the leaching system at Bent Grass Circle and associated issues. He noted that the response letter to the BOS' Notice of Violation fell short of an acceptable plan. Mr. Quintal continued reviewing the non-compliant issues and missing details per his report that

included: the original plan had uniform limited common areas that now have changes that could cause conflicts; changes in the surface run-off swales which may affect the treatment of run-off if not designed and constructed properly; the details of the changes must be submitted for review and approval by the Town; manhole compliance needs verification; hoods for outlets of catch basins should have been installed a long time ago to capture pollutants less dense than water and should be installed as soon as possible. Mr. Quintal continued that the applicant's response to clean all catch basins once the work is completed is not acceptable as it is not compliant with the Town's Stormwater Management Plan and BMP's which was also part of the approval for the NH AoT (Alteration of Terrain) permit; a copy of the required maintenance log needs to be provided to the Town for review. Mr. Quintal stated that he disagrees with the applicant's statement that the roadway has been constructed per new plans; the applicant notes that roadway swales have been constructed in front of some buildings per the new "as-built" plans that have not been reviewed and approved prior to changes being made; swales have been installed at units 4 and 20 which is a change to the original plan that has not been reviewed and approved by the Planning Board; the applicant has submitted an alternate design for the electric boxes and Mr. Quintal has not seen that design. Mr. Quintal continued that response #15 from the applicant notes that the submitted plans shows drainage under certain driveways but not all; Mr. Quintal suggested that a detailed plan would be required showing a proposed alternative with a narrative explaining why they can't comply with the approved plan; items 16 and 17 are specific to the State's AoT permit. He continued with requirements for inspections and maintenance; drain, manhole and infiltration basin requirements; construction and stabilization of stormwater structures; pending grading issues require a more detailed plan to accurately show specific grades, structures, pipe inverts for proper design of erosion control. Mr. Quintal stated that Stormwater calculations must be provided to evaluate the proposed structures and prove that structures won't be flooded; a detailed plan with cross-sections to show stabilization and confirm a non-hazardous condition for unit 29 should be provided; any revised plan should show a proposed grade for all buildings and the current plan does not have that information; an issue with the retaining wall at unit 14 needs to be addressed. He concluded by re-iterating that the plans and response letter fall very short of what is needed and has been requested by the Town; the plan should not be 1:50 and should be 1:20; it appears to be more of an existing conditions plan without the proposed grading or proposed buildings; the revised plan needs to be approved by the Town and then constructed in accordance to the plan; then an as-built plan can be provided for certifying compliance with an approved, revised plan. Mr. Quintal described a catch basin and culvert that was installed not in compliance with the approved plans which was not inspected during construction. Mr. Quintal described a conversation with an excavating contractor on the site, Frank Gibbs, who stated that he did not have a copy of the approved plans and was following directions directly from, and being paid by, Bob Villella. He noted that he provided photos of some of the items per his comments.

Mr. Coppelman noted that the Town and the Planning Board had been trying to get a cleaned up plan so moving forward could happen. Ms. Faulconer explained that the Notice of Violation was based on Mr. Quintal's first list of non-compliance; the current plan and "answers" were received in response to that first list. Mr. Cleary stated that the NOV was dated 5/10/18. Mr. Quintal's current review was based on the plan set submitted in response to that. Mr. Coppelman said that he had been waiting to see a plan set that addressed the initial set of issues. Ms.

Faulconer said the comments reviewed by Mr. Quintal were based on the plan set the Board received for this hearing. *<Board note: Mr. Coombs arrived at this time.>* Per Mr. Coffin's request, Mr. Quintal described a drainage hood as similar to a grease trap that traps floating material that goes into the catch basin and is trapped to not flow into the wetlands. Mr. Cummings said that some of the items have taken place on the site and weren't pertinent. Mr. Coppelman said it is pertinent as it relates to the site plan that has been approved. Mr. Cummings said that some of the things have been corrected; some of the hoods have been installed or moved; not all have been completed; they are clean and have been inspected. He said stuff has been done and some of the items need clarification. Mr. Quintal responded by saying that when the roadway was first constructed, the swales were not built but they were lower than the pavement of the road; when the houses were built, there were no swales built and the approved plan clearly shows the edge of pavement with a three-foot gravel shoulder and 3:1 slope to a two-foot ditch which makes the ditch line at least two feet deep, 8 ½ feet from the edge of pavement; a lot of the project is not built according to the plan and the water is not running in the non-existent ditch line and is instead running on the surface of the road; if it is going to run on the pavement than there needs to be catch basins in the pavement to catch the water which might require curbing to keep the water on the pavement; this plan was not approved to have the water run on the pavement; it was approved with the swales. He continued that since it was not built that way, he can't agree that it was built to the approved plans; the applicant needs to show how the water is prevented from flowing on the edge of the road, prevents standing water in the driveways, and gets the water to drain like it is supposed to either by complying with the approved plans or providing a plan that clearly shows that it is not going to impact the surface of the road or the driveways to protect the residents and their property from failure of the pavement. Ms. Faulconer noted that the plan has been continued since December so that this all could be done correctly; she asked if the applicant has been able to submit a new plan that shows a current, proper drainage system that address the issues that came up since the first submitted amended plan. Mr. Cummings said that the plan the Board has is the submitted plan as the amended plan; he said that the drainage does flow along the road; the client has submitted the current plan as the new amended plan. He stated that the new plan submitted this evening had additional clarifications; he said that the original plan had received waivers to the construction of the road; he feels the plan submitted is an adequate plan; he re-iterated that the original plan received waivers to the design.

Mr. Pellegrino asked why the site wasn't built to the original plan; he stated that the applicant couldn't just add a catch basin; the State would have had to approve the plan; he stated that he couldn't just make up his own rules and change the drainage as they please. He continued that the applicant had been in a lot of times and the Board was expecting to see a plan that addressed all these issues to be fixed. He added that blaming the Building Inspector for the missing gutters was not legitimate; he noted that the Building Inspector did a lot for the Town. Mr. Pellegrino added that the Board had given them months to fix the issues; catch basins just can't be added contrary to the plan. Mr. Cummings said that the catch basin was a temporary fix; it resolved a lot of problems and may or may not be permanent. He explained that they are revising the drainage and going to the State about amending the AoT permit with the new drainage calculations and changes to the detention basin. He said the swales weren't put in because the houses were built closer to the road; he wanted to get the latest topography so the plan would

show the new topography and show where the water goes. Mr. Coppelman said that the Board shouldn't be trying to re-design the plan; the Board needs to be looking at a plan that is responsive to the NOV which is based on the Town Engineer's comments and notes; without that plan, the Board needs to continue until that plan is submitted.

Ms. Merrill stated that she knew nothing about drainage and reviewed the circumstances for clarity; there was an original plan which showed a certain amount of drainage and swales and that plan was not adhered; now that this was not done, it is her understanding that it now can't be built as originally designed for some reason; the issue now is to have a revised plan. Mr. Cummings said that they want to make something work; they want a compromise. Ms. Merrill continued that now the builder isn't building due to the inconvenience or other reasons; she added that she needs to be certain that there is a plan in place so that the Association is held harmless for the future and won't be replacing this road in another 2 or 3 years and have an immense expense and additional condo. fees; whatever needs to be done needs to be done properly and she will rely on the engineers to make that determination. Ms. Merrill added that she wants to see one set of plans that have been reviewed with an explanation as to why something can't be done and it can't be just because it is inconvenient as there were choices made after the fact; it has to be done properly so as not to stick homeowners' with additional future expenses and disruption. Mr. Cummings stated that he is trying to come up with a plan to please the client and the Town; he thought he had provided that type of plan; he is hoping to compromise. Mr. Cummings stated that he wasn't sure about the specifics of the waiver but there definitely was a waiver granted for the construction standards of the roadway and street construction. He said he wanted to work with the Town; he added that part of the delay was because he was away and couldn't get the correct topo. Ms. Merrill said that the waivers granted originally were based on a submitted plan that showed that the drainage; the plan had not been adhered to and therefore the waivers don't necessarily apply. Mr. Cummings re-stated that he is not sure what the waivers refer to so they should have some leeway as it specifically says a waiver to the road standards and it is not a Town road. Ms. Merrill said that the road still needed to be built to the standards that were approved on the plan.

Mr. Coffin noted that not all of the issues are drainage related; there are slope issues and stabilization concerns. Mr. Cummings explained that a lot is ledge. Mr. Coffin said it is a safety issue and he would defer to Mr. Quintal. Mr. Cummings said it could be addressed. Mr. Coffin stated that he wanted to clarify that a new plan should not just be addressing drainage issues; there were other concerns. Mr. Cummings said there would be a note on the plan that the slope issue would be addressed and if it didn't work they would do something else. He wants to take all the comments and come back with a plan; he will take back the plans he submitted this evening and come back with another plan that addressed the concerns.

Mr. Bashaw stated that there is a pathway to a compromise but the Planning Board relies on the professional opinion of the Town Engineer; he has provided the pathway with the outline of all the items that the applicant had chosen not to do from the original approved plan; he added that the applicant created the circumstances and it is their burden to provide the solutions and presenting the solution to the Town Engineer to review; he said the new plan needs to resolve and accommodate standards that can be recommended to the Planning Board for approval. Mr.

Bashaw explained that it is not the Board's job to hash out the problems after there was an approved plan to follow; there is now a list of non-compliance items and the applicant needs to articulate and explain why the plan wasn't followed; it is not that the Board isn't willing to compromise but that doesn't mean just getting an as-built and approving it. Mr. Cummings agreed; he said that people seem to be stuck on going back to the original plan and he doesn't see something else getting approved. Mr. Bashaw said that the Board hasn't received a plan that addresses the issues that need to be addressed due to the deviation of the original plan. Mr. Cummings said that they would like to have the Board grant authority for compromise and approval with the Town Engineer. Mr. Quintal stated that it seems that the discussion is going around in circles. He said that it is not his position to go out to the site and make a compromise out in the field; the process is to provide documentation either with a plan or memo submitted to the Planning Board which is then reviewed; he continued that it is not appropriate for an individual to go out and compromise or work directly with the applicant to design the project; it is the applicant's project and it should be designed to meet the intent of the approved plan. Selectmen Coombs discussed the BOS position that as long as a good faith effort was being made than the fines, etc. would not be initiated but if at a stalemate, the Board would re-assess; the NOV is still in effect; no fines are being initiated at this point but nothing has been lifted.

Department comments were reviewed; Building Inspector's comments included: the 6/1/18 plans have not been signed by a surveyor; multiple revisions were submitted without Planning Board approval, questioning if they were approved by the Board; he questioned how an as-built plan could be accepted for revised conditions that were never accepted.

Abutters' comments:

Jim Scarpone, 11 Mulligan Way, noted that he gets flooded almost once a month still; he has been asking Mr. Vilella to fix this issue since he moved in; he still doesn't have the gutters that were required. He would like the BOS to re-look at the actions of a "good faith effort". He added that the roadway is already cracking as only the binder is down; he re-iterated that he has water in the cellar almost monthly; Mr. Vilella told him that he has no intention of putting on gutters. Mr. Coombs stated that when the project is complete, if there are gutters on the plan then they will need to be installed; the NOV addresses the lot issues and drainage issues.

Dwayne Brown reviewed a catch basin on Mulligan Way that had a protective "birdcage" unit on top of it which has been removed and it is now a safety issue as there is water at the bottom of it; he stated that in the interim of it getting another "top" something should be put over it to keep people and pets from falling in. Mr. Cummings said that this was removed a couple of days ago and Mr. Vilella was told to cover it; he explained that this cover was removed and put on another one, he will remind him to cover it as it should have been done immediately. Mr. Cummings said that the tops that were moved around were not compatible. Mr. Brown added that there is a continuous water problem that flows down on Mulligan Way and doesn't appear to be going into the catch basin; there is overflow into basements and onto front yards; he added that it is tough to keep up on without a set of plans. Mr. Coppelman stated that the Board has been waiting for a set of plans. Mr. Brown asked if a set of plans could be provided to the Association. He said that people bought their homes as they were currently built and now the swale issue will be in their front yards and won't work. Mr. Cummings said that he will provide

a plan to the Association. Mr. Pellegrino asked for a timeframe to address the issues such as the gutters and the flooding basements. Mr. Cummings said he didn't know anything about flooding basements. Mr. Coppelman reiterated that the Board needed a set of plans. Mr. Pellegrino expressed concern for items that might not even be shown on the amended plan such as gutters and when they would be addressed for the residents. Mr. Coombs explained that upon submission of a new drainage plan, it would be a further alteration of an already approved site plan if the applicant tried to delete the gutters. Mr. Cummings was unsure about the issue of the site plan; Mr. Coombs suggested he review the approved plan for that requirement. Ms. Faulconer said that the approved plan has a note requiring that all the houses have gutters. Mr. Coppelman said that without the gutters, it is a violation of the approval.

Public comment continued: John Massaua spoke to the Board about hoping to purchase a house on one of the lots; he was hoping that he could get permission for his builder to proceed. The NOV was reviewed; Mr. Coppelman stated that it was not appropriate for the Planning Board to make adjustments to that decision. Ms. Faulconer explained that it was an overall plan and individual properties couldn't go forward without the Board knowing the total plan for drainage. Mr. Bashaw stated that the Board obviously empathized but the goal is to protect everyone's value with the resident's properties. Mr. Coppelman said that he understood that he was in a tough spot and apologized for the circumstances.

Kate McEachern, 11 Bent Grass, was here to speak on behalf of the owner of 16 Bent Grass who had been trying to sell her property for two months but was told that the property is not private enough; the house that was moved closer to her property is affecting the value; she is taking the house off the market until the issues can be addressed.

Karen Layne, 15 Mulligan Way, added to previous comments about the detention basin; the top was removed Friday AM and has filled with water; she questioned the liability and asked what the timeframe would be to cover it; it hasn't been covered for five days. Mr. Coppelman stated that the Planning Board was not the enforcing body for the Town. Ms. Layne stated that the Health Inspector had been notified Friday AM. Mr. Coombs said that he would have an answer for Ms. Layne tomorrow.

Mr. Coppelman said that the Board needs to have a plan that the Town Engineer can review to accomplish the goals of compliance with the approval. Mr. Bashaw said that the Board needs to set a date that the applicant can realistically supply a plan. The Board reviewed upcoming dates; Mr. Cummings agreed that they could have a plan in by July 3rd. Ms. Faulconer noted that a continuance was in no way a request to lift any part of the NOV. There was discussion that, should a plan not be submitted by the due date, the Board of Selectmen should consider pursuing their enforcement options.

MM&S to continue to July 17, 2018; the plan that addresses all the outstanding issues to be submitted by July 3, 2018. (Motion by Mr. Coffin, second by Ms. Merrill) **Motion carries 6-0-1** with Mr. Coombs abstaining.

This portion of the hearing ended at 8:14 PM.

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

Mr. Coppelman read the public notice; he noted that the hearing began at 8:15 PM. Charlie Zilch and Jim Hanley introduced themselves as representing the applicant; Mr. Zilch added that Mr. Bresnahan was present in the audience. Mr. Zilch stated that the on-going issue is with the Department of Transportation (DOT) and the driveway permit request on Rte. 107; the issue with this permit was addressed at the last hearing; Mr. Zilch briefly explained it again. Mr. Zilch explained that the frontage on Rte. 107 has both limited access and controlled access; the plan shown this evening was submitted to DOT with the entrance moved from the limited access section to the controlled access section that allows access, in hopes of expediting the process with DOT; he continued that District 6 said that the two access points on Rte. 125 are permissible but they can't deal with the Rte. 107 access until it is approved with the Bureau of Right-of-Way (ROW); he can't get a timeframe from anyone. Mr. Zilch said that he would like to move forward with the 2 access points on Rte. 125 with an option to construct the entrance on Rte. 107 if approved. He stated that everyone agreed that the main access should clearly be on Rte. 107; it is common sense but there was no way around the ROW process and it would be unfair to the applicant to go through this lengthy process with DOT. Mr. Hanley said that there was a significant change in the drainage, an infiltration pond was changed to a wet pond due to the results of some additional field testing; he had to respond back to AoT (Alteration of Terrain); a copy of the revisions were provided to the Board; they are now on the same page as Fish and Game in addressing AoT's comments.

Mr. Greenwood read his comments which were provided to the applicant: the new proposed drive, in their efforts to locate it better, requires a waiver due to encroachment on the setback; two Condition Use Permits (CUP) are required, one for consistency within the APZ (Aquifer Protection Zone); the one for the wetland and vernal pool encroachment with aspects of the Stormwater Management and access requires the Board to review several issues and also requires a formal response from the Conservation Commission. Mr. Greenwood said that the plan notes these requirements; requests for both have been submitted.

Mr. Quintal reviewed his comments that had also been provided to the applicant. His previous comments that were submitted still need some work; his current comments have deleted the previous items that have been addressed. He reviewed his list adding that the recordable sheets still need work due to areas that are not acceptable at the Registry; due to buffer encroachment, he recommends that property lines be clearly monumented to minimize conflicts; there seems to be an encroachment onto the property by lots 41, 14 and 15 which would require an easement if remaining, vegetated buffer adequacy that the Board should address; he recommends more plantings/shade trees be shown especially on the south side where the pavement is near the area near the wet pond and along Rte. 125 to enhance that vegetated buffer; determine threshold of active and substantial development and add that note to the plan; the access points for Rte. 125 are still an issue; the pipe between catch basin 8 and 9 appears to be sloping the wrong way; security lighting plan that was provided is unreadable and needs to be fixed; dimensions for energy dissipation need to be part of the plan; drainage legend needs to be corrected re:

numbering of infiltration basins; test pit numbering was confusing; all test pits and results need to be shown on the plan; question as to whether there is additional treatment needed for the vernal pool due to information provided re: run-off; refine “washed gravel”; wet pond’s BMP per Stormwater Manual requires 6 ft. and the one on the plan looks like it will be 2 ft. Mr. Quintal noted that the Town’s regs. refer to design requirements in the Stormwater Manual. Mr. Quintal continued his review that included: correct labeling of tables; require seed type specifications; label items shown near the office – two structures not identified; sanitary waste disposal plan must be provided prior to issuance of building permit; construction and inspection bond need to be submitted and finalized prior to approval; note compliance with Stormwater on the plan.

Mr. Coombs stated that the Board of Selectmen (BOS) sent a letter to DOT dated June 4, 2018 supporting the Rte. 107 entrance and requesting that the access on Rte. 107 be granted; he suggested that some time be taken to have it “work its magic”. Mr. Coppelman read the letter. Mr. Coombs stated that the BOS position is they want the Rte. 107 access to be the main access to the site. Mr. Coppelman noted that it would be in concurrence with the Town’s regulations encouraging the main access to be located on the least traveled road. Mr. Zilch asked for a copy of the letter sent by the BOS to forward to the Bureau of ROW; Mr. Coombs advised him to contact the BOS Administrative Assistant for a copy.

Mr. Coppelman read Department comments; the Building Inspector questioned driveway locations and whether Articles 901 and 904 pertained to the proposal. Mr. Greenwood noted that the site plan refers to subdivision but it is actually in the site plan regs; he said this was editorial and could be changed without public hearing; it still applied; in subdivision it is required, in site plan it is recommended; Mr. Coppelman suggested this be reviewed at some point. Mr. Coppelman referred to Town regulations regarding access on the less traveled way and the pertinence of Article 904; Ms. Faulconer said that this also is supported in the Access Management section of the Town’s Master Plan. Mr. Coppelman continued reading the Building Inspector’s comments that included information about the abutting property.

Ms. Faulconer suggested the applicant continue to work with the Bureau of ROW adding that, unfortunately, the Town could not speed up the State’s process; but the Town can say that best access is on Rte. 107 and the State has not turned down that request at this point. She continued that since they are still working to get this, it is reasonable to keep continuing to keep the process going for the applicant but the Planning Board has to work for the Town’s best interest which would be having the main access to the site off of Rte. 107; the Board has not yet determined whether it might only approve one access point, for example, on Rte. 125. She stated that it would be premature for the Board to act on the request for two access points on Rte. 125 when all are in agreement that the main access point should be on Rte. 107. Mr. Zilch asked what would happen if the DOT said “no”; Ms. Faulconer answered that the Board would review that issue at the time it was received. Ms. Faulconer said that, while trying to be sympathetic to the applicant, this information should have been available prior to coming to the Board. Mr. Zilch said that District 6 told him it was permit-able and then when going forward found out there was an issue with the Bureau of ROW. Ms. Faulconer stated that any hardship to the applicant was created by DOT, Division 6 and the Bureau of ROW, not the Town. Mr. Zilch agreed. She said she understood Mr. Bresnahan’s quandary but it is with two State agencies and the Town will

have to wait on their decision; she added that the Town has sent a letter encouraging granting the Rte. 107 access; she stated her belief that Town Department heads will do what was needed to get this approved. Mr. Zilch stated that he appreciated that but he could start building now rather than waiting for the Bureau of ROW. There was discussion about the Town working with the applicant to encourage the main access at Rte. 107 being approved. Mr. Zilch suggested trying to arrange a meeting with the Bureau of ROW. Ms. Faulconer suggested the BOS might be able to get involvement from our State reps.; she encouraged cooperation to get the best options for the Town and work with the applicant to get the best for both. Mr. Hanley expressed concern that they would like to iron out any other issues with the plan in front of the Board while waiting for the Rte. 125 access points. Ms. Faulconer suggested taking the next month to meet with the Conservation Commission to get any issues for issuing the CUP addressed for the next hearing. Mr. Greenwood stated that if Mr. Zilch could arrange a meeting with DOT, he would be willing to go on behalf of the Town to encourage granting the access to make it clear that the Town has a definite preference. Mr. Coppelman said he would also attend adding his belief that Mr. Zilch could probably get a lot of representation from the Town supporting the Rte. 107 access. Mr. Zilch questioned whether a revised location in the controlled access section would be supported by the Board; Mr. Coppelman suggested the possibility of purchasing the abutting property that was being demolished to get more room and access. He stated that if it meant getting the main entrance on Rte. 107, he personally would look favorably on the request for a waiver. He added that he feels that the access should only be on Rte. 107; if the proposal was for a waiver for the Rte. 107 location and two access points on Rte. 125, it might affect his decision on the waiver request. Mr. Coombs re-iterated that the BOS wants the Rte. 107 access point; he would talk with Department Heads re: representation/comments for a meeting with DOT; the Town supports the Route 107 endeavor. Mr. Coombs stated it is premature to plan for two access points onto Rte. 125. Mr. Hanley asked if the concerns were specific to traffic and safety. Mr. Coppelman said that there is a pending large commercial development and improvement of the intersection; there will be traffic queuing at a signalized intersection; there is traffic coming from the north at 50+ mph that would be a problem with two curb cuts right in this area. Ms. Merrill asked about the daily traffic. Mr. Zilch answered that he will provide the traffic report; it was very low volume and no improvements were required by DOT. Ms. Merrill stated that she had no objection to the entrances on Rte. 125; she noted the trucks going into Sears Logistics and there didn't seem to be any accidents along with the heavy volume of vehicles at the courthouse which don't appear to be creating any issues there; she added that she could be mistaken. Mr. Coombs corrected Ms. Merrill by explaining that there are at least 3 to 5 accidents from Marshall Road to the courthouse on a weekly basis. Ms. Croteau added that there were issues a little way up the road with Heavenly Donuts and people crossing over the traffic was a problem; Ms. Merrill agreed with that concern. Ms. Croteau added her previous suggestion that there be only one way access on an entrance on Rte. 125.

There was discussion about the proposed driveway's location on Rte. 107; Mr. Zilch said he was trying to keep the flair out of the limited access portion. Mr. Coffin suggested Mr. Zilch continue to work with DOT to get something concrete; in the meantime, there are still issues to address per Mr. Quintal's comments and they have to schedule to meet with the Conservation Commission. Issues concerning overflows from going into the vernal pools were reviewed; Mr.

Coffin asked why the infiltration basin was changed to the wet pond; Mr. Hanley said it was due to the elevation of the groundwater and the associated infiltration rate.

Mr. Zilch asked if the Board was comfortable with addressing the APZ CUP or wanted to wait until after they met with Conservation. Mr. Coppelman asked if there were any abutter comments.

Ms. Croteau asked about the request of having someone living on the property; Mr. Coppelman stated that Mr. Greenwood had rendered his opinion but the Board hadn't taken any action on that; he added that he agreed with Mr. Greenwood's assessment.

The Board considered addressing the Aquifer Protection Zone (APZ) CUP this evening. Mr. Coppelman reviewed the criteria in the ordinance necessary to grant the CUP. Mr. Coffin asked about restrictions regarding no hazardous materials being stored on site. Mr. Bresnahan stated that the contract says it; Mr. Zilch stated that a contract will be provided to the Board as confirmation. Ms. Croteau asked whether there would be outside storage of vehicles; Mr. Zilch answered that there are 2 buildings that are like pole barns for vehicle storage; there is a cement "floor" and a roof. Mr. Quintal said the stormwater management for this is appropriate.

The Board continued its discussion of the APZ CUP; motions to address the conditions were considered and reviewed.

Mr. Hanley returned to the discussion of the issues with DOT and the possibility that it could take 6-9 months to address the Rte. 107 access which is now a wild card; there are two accesses proposed on Rte. 125 that DOT could review sooner rather than later; he would like to continue to move forward as time is a real consideration; he suggested removing the Rte. 107 from the plan with it being a possibility for some time in the future and having a plan that only showed the access points on Rte. 125, taking the Rte. 107 access out of play but a condition to try to get that access in the future. Ms. Faulconer stated that unfortunately, that option might encourage the Town officials to go to DOT to argue against the Rte. 125 access instead of the Town officials working with the applicant to get the access. She reminded the applicant that the Department Heads were not in favor of the main access being on Rte. 125; she suggested the action might wind up "painting themselves into a corner" that might not work to their benefit. Mr. Bashaw said that it was his understanding that the Technical Review Committee (TRC) frowned upon the access on Rte. 125; it was his personal and professional experience that there are a lot of accidents at the Marshall Road entrance, the court house and Heavenly Donuts; he reviewed multiple access points on the opposite side of Rte. 125. He saw queuing issues at the light. He added that he expects that people using the location will rent box trucks to move things; his experience is that if someone misses their opportunity at one entrance, they will just turn-around where they are so he likes the two entrances on Rte. 125 with the main entrance on Marshall Road. He wondered if the TRC comments were inclusive of all the Department Heads or mixed. Mr. Quintal stated that he recalled that it was highly recommended not to use Rte. 125 by the committee; frowned upon by the Police and Fire Chiefs. Mr. Greenwood said that he recalled that there was no reason for two entrances on Rte. 125 with the Marshall Road entrance; he recalls that Chief Briggs did not want any entrance onto Rte. 125; overall was that there was no

reason for two entrances onto Rte. 125 with the recommendation to lose the southern one with the main entrance on Rte. 107.

Mr. Pellegrino asked the Board if it was fair to Mr. Bresnahan to limit his access where others across the street had multiple entrances. Ms. Faulconer said that, unfortunately for the applicant, earlier development occurred prior to planning and current traffic patterns as areas develop and highways expand. Mr. Coombs stated that the Rte. 107 entrance is the Town's preference and they are putting their collateral behind the one entrance due to safety issues and Department Head comments. Mr. Pellegrino wondered if a single Rte. 125 entrance could be considered for the applicant to move forward while they work through the Rte. 107 issues. Mr. Coppelman said that it is up to the applicant to present a plan that they want the Board to consider; they need to propose the plan and get the Board's vote.

The Board returned to reviewing the APZ CUP. Ms. Faulconer said that she would be abstaining; since the applicant had to meet with the Conservation Commission anyway for the other CUP, waiting to grant the APZ CUP did not create a delay; she would like to see if the Conservation Commission had any comments on the APZ request as well. Ms. Croteau stated that Ms. Faulconer made a good point; Mr. Coffin agreed. The ZBA process, should it be required in the future, was reviewed. Previous motion regarding the CUP approval was withdrawn.

Abutter comments: Ralph Fellows, abutter on Rte. 107 at 15 Marshall Road, stated that he would rather see all of the entrances on Rte. 125; he noted that no one lives on Rte. 125.

Mr. Hanley said that the two entrances had been discussed for about 6 months and if it wasn't important they wouldn't belabor it. There were no further comments.

Mr. Coffin suggested that both of the CUP requests should be submitted to the Conservation Commission for input. Ms. Faulconer suggested that before giving up on the Rte. 107 entrance, the applicant should work with Town officials to help facilitate getting this moving forward with the State. Mr. Zilch said he had no intention of giving up on Rte. 107; he will work on getting this moving forward and get back to the Town regarding any assistance. Mr. Greenwood suggested they have the meeting in Kingston to not only meet with officials but to actually view the site instead of just looking at a diagram. Ms. Faulconer suggested the BOS consider contacting elected State representatives to assist with this issue. Mr. Coppelman added that he assumed the applicant was taking the lead on this but will let the Town know what assistance might be needed.

Ms. Faulconer will send the traffic report to the Board once received from Mr. Zilch.

MM&S to continue to July 17, 2018 with the new plans due to the Board by July 3, 2018.
(Motion by Mr. Coffin, second by Mr. Bashaw) PUNA (Passed Unanimously)

This portion of the hearing ended at 9:30 PM.
<Board note: The Board took a brief recess.>

Berkshire-Dominion Holdings, LLC
Horns Up Inc.
Saddle Up Saloon
92 Route 125
Tax Map R8 Lots 40 and 40A

Mr. Coppelman read the public notice; he noted that the hearing began at 9:40 PM. Representing the applicant was Charlie Zilch, Colleen Johnson from Berkshire Development and Bob Pagliarullo, the property manager. He noted that the current plan was approved in 2015; they are looking to expand for a change of use to allow for entertainment at the site as well as the other proposed changes. Mr. Coppelman distributed plans for the Board's review; he noted there were multiple comment sheets from Highway, Building, Conservation, State of NH, Town Engineer and Planner. Mr. Quintal reviewed his comments for the Board that included whether existing buffers are adequate; outdoor seating and grilling is proposed within the buffer and traditionally would require a more stable surface than grass which would contribute to more surface run-off into the pond; a more detailed landscape plan should be required to the area within 50 feet of the shore of Mill Pond and the outflow; the applicant needs to require more detail for treatment of the Stormwater Mgmt.; the applicant to comply with Article 908 and have it noted on the plan.

Mr. Greenwood reviewed his comments that included that the site is intensely utilized and due to Department comments that he has reviewed is concerned that there is activity on the site not in compliance with the existing site plan; he recommends a site walk to determine the extent of the activity that is not in conformance with the existing site plan. He added that the Board needs to move cautiously with this property due to the proximity of Mill Pond, one of the Town's protected shorelines.

Mr. Coppelman confirmed that the Board members had no personal conflicts for this site. He read the Department comments. Highway: There is no parking allowed on Town/State road; parking was a problem all winter. Building Inspector had 11 comments that included: fence enclosure near floating dock – snow storage inaccessible; proposed outdoor seating area already constructed including two walkways with impervious pavers; R8-45 owned by State of NH being used for parking and parking on roadway; event parking lot and driveway paved on 2/22/2018, work was stopped due to lack of Stormwater Mgmt. plan and no driveway permit – the contractor, John Pandelina claimed the hot-top was recycled asphalt; the new plan does not show the paved event parking/driveway, distances to open water are 90+/- ft. and 30+/- ft. respectively; employee parking at the event lot not shown on the amended plan; parking on lot 40A is not addressed for patron and employees; is live entertainment inside or outside; parking space issues and lighting to illuminate the path from the event parking to the restaurant; R8-40A has a small shed is under construction, purpose unknown; site walk recommended. Conservation Commission comments included: Mill Pond lies in Shoreland Protection Zone, construction may have required permits, were any obtained; fence posts and shed within 50 feet of the shoreland; vegetative buffer from northern end has been removed; animal shed and corral within 50 ft. of northern stream; within 50 ft. of high water – paving has already been done, prior approvals were questioned; snow storage is problematic; event area is ideal for snow storage or area near

propane; proposed snow area would go into the stream/pond; berm proposed within 20 ft. of stream; plan for event parking area says gravel and it is covered with reclaimed asphalt which is an impervious surface; stormwater regs. must be met; parking space in ROW, lot 40A used for parking; is “event” parking seasonal or permanent; oil or sewer slick observed at side of the dam area; map of Shoreland protection area attached; photos of the issues at the site are attached. Comments from Eben Lewis in response to Ms. Nathan’s questions state that he is not aware of any permits for the site; expansion of pavement and structures require a NH Shoreland permit. Ms. Faulconer suggested continuing the review and scheduling a site walk to review the approved plan to the new plan and compare what has actually occurred on the site. Mr. Coffin suggested checking on compliance; he stated that an amended site plan can’t be approved if the site is not in compliance with the approved plan; he questioned whether sprinklers would be required. Ms. Johnson said that there is an approved life safety plan. Ms. Johnson explained that the outdoor seating will not expand the approved seating; the outdoor and indoor seating will total to the 250 seats. Mr. Coffin said that there are picnic tables outside next to the water already; there were many issues of non-compliance including the hours of operation. Mr. Pagliarullo said that last call was at midnight; Mr. Coffin said the approved hours end at midnight.

MM&S to schedule a site walk for 8:00 AM on Sunday, June 24, 2018; the Board will meet on the site. (Motion by Mr. Coffin, second by Ms. Croteau) **PUNA**

Abutter George Leate expressed concern about any outdoor music being loud and disruptive. Mr. Zilch said a note on the plan will state that it will comply with the noise ordinance.

MM&S to continue this hearing to July 17, 2018; new plans are to be submitted by July 3rd. (Motion by Ms. Faulconer, second by Mr. Coffin) **PUNA**

Mr. Coppelman noted that this hearing ended at 10:20.

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

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

Mr. Coppelman read the public notice; the hearing began at 10:20. Mr. Pellegrino explained that the wrong plans had been delivered for distribution; he stated that the correct plans had just been submitted and was in the Board’s possession; he noted that there had not been time for anyone to review them; the language for the attorney was just submitted to the Board and is expected to be sent to Mr. Greenwood via email for him to forward to the Town Attorney for review. Mr. Greenwood has spoken with Mr. Lavalley but had not received the electronic submission at this point. Mr. Pellegrino said the new plans should work and address the Board’s issues.

The Cost Estimate and Bond Reduction worksheet had been submitted for the Town Engineer’s review by Mr. Pellegrino. Mr. Quintal explained that the Board needed to approve it; he has reviewed it and has approved it. There was discussion regarding procedure in establishing the

bond and adjustments to the bond based on road paving and requirements needed to qualify for building permits. Ms. Faulconer questioned whether it was in the Planning Board's purview to make adjustments to the bond; the Planning Board approves the amount and then there is a pre-construction meeting and it is in the purview of the Board of Selectmen. Mr. Quintal also noted the specifics are worked out at the pre-construction meeting which is after the Planning Board process. Mr. Coombs noted that the BOS had signed the bond document for AAAL (All American Assisted Living).

MM&S to accept the Construction Cost Estimate and Bond Reduction for Solar Hills II as recommended by the Town Engineer. (Motion by Mr. Coffin, second by Ms. Croteau) **PUNA**

MM&S to continue to July 17, 2018; anything new is due in to the Board by July 3, 2018. (Motion by Mr. Bashaw, second by Ms. Croteau) **PUNA**

Mr. Coppelman noted that this hearing ended at 10:35.

<Board note: Mr. Bashaw left the hearing at this time; Mr. Pellegrino returned to the Board.> Mr. Coppelman announced that Mr. Pellegrino would now be a voting member to replace Mr. Bashaw for the remainder of the hearing.

Critical Correspondence:

- Bond estimate for AAAL needed Mr. Coppelman and Mr. Quintal's signatures – both signed the document.
- Dept. of Motor Vehicle license had previously been approved (property owned by Ray Durbin- Rte. 125); signed by the Chair to forward to the BOS.
- Wetland Permit application for Pow Wow Pond Council – no Board action required.
- Bond Balance sheet
- Evergreen Auto request for Junkyard license was sent back to the Board from the BOS – a memo will be sent to the BOS that used auto sales is not an approved use for the site; there is currently an unpermitted sign on the property advertising used auto sales; the sign needs to be removed to bring the site into compliance.

Review of May 15, 2018 minutes:

Ms. Faulconer noted that Mr. Coombs name needed to be amended; Ms. Merrill's amendments: her first name needed to be amended by adding an "e"; p. 2 – 12th line, remove "do" (near "get"); p. 3 – Shore Road should be West Shore Park Road; p. 4, add that Mr. Greenwood clarified that the property was not in the APZ.

MM&S to accept the May 15, 2018 minutes as amended. (Motion by Ms. Merrill, second by Mr. Coffin) **Motion carried 6-0-1** with Mr. Coombs abstaining.)

Submission Requirements: The Board had previously reviewed requiring electronic copies of plans for applications; this was posted for adoption at tonight's hearing.

MM&S to approve the new procedure as written. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

Mr. Coombs reviewed discussion that had been held with BOS re: Methuen Construction signs that had been posted around Town – the intent is to have them removed. He also suggested the Board send letters to Maroon’s Auto and the Tractor Place, similar to the one sent to Swings and Things, regarding “feather” banners as non-permitted; he added that each business had to be treated the same.

ACTION ITEM: Ms. Faulconer to send letters to Maroon’s Auto and the Tractor place re: removing non-permitted “feather” banners/signs.

MM&S to adjourn at 11:00 PM. (Motion by Mr. Coombs, second by Ms. Merrill) **PUNA**