

**Kingston Planning Board  
Public Hearing  
Minutes**

**August 21, 2018**

The Chairperson called the meeting to order at 6:49 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	Peter Bakie
Chris Bashaw	Ellen Faulconer, alternate/admin. assist.
Karen Layne, alternative	Robert Pellegrino, alternate
Phil Coombs, BOS rep. (arrived with mtg. in progress)	

Members absent: Carol Croteau

Also in Attendance: Dennis Quintal, Town Engineer

Mr. Coppelman announced that Ms. Faulconer would be a voting member this evening due to Ms. Croteau's absence. He noted that the Board's planner, Mr. Greenwood was unavailable for tonight's hearing.

**Mark Viens**  
**Diamond Oaks Boulevard**  
**Tax Map R3 Lot 4 Land Unit 2**

Mr. Coppelman read the public notice for this hearing. He stated that an amended plan had not been submitted and the Board had received a request to continue the hearing to the next available hearing date.

**MM&S to continue to September 18<sup>th</sup> with the condition that a new plan be received no later than noon on September 6, 2018.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA** (Passed unanimously)

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

*<Board note: Ms. Layne stepped down from the Board for this hearing.>*

Mr. Coppelman read the public notice for this hearing. Mr. Cummings appeared before the Board as the engineer representing Hawks Ridge of South Kingston for this project. The new plans, dated 7/31/18, were distributed to the Board. Mr. Cummings was invited to bring the Board up-to-date on any changes. He said the revised plans recently submitted was as a result of

his meeting with some of the members of the residents' association; there was another recent meeting that had suggestions that weren't able to be incorporated since the plan had already been submitted. He said that a few culverts, concrete curbing had been added and had tried to answer all of Mr. Quintal's previous comments in the letter he had written on August 6<sup>th</sup> that had been submitted with this plan. Mr. Coppelman confirmed that the Board had received that letter; Mr. Quintal confirmed that he also had received a copy. Mr. Coppelman referred to Mr. Greenwood's comments that deferred to Mr. Quintal's comments due to his working on behalf of the Town to move the project along. There were no new department comments; Ms. Faulconer noted that they were deferring to Mr. Quintal's reviews.

Mr. Coppelman asked Mr. Quintal to review his comments. Mr. Quintal began by noting that while he was unable to attend the last hearing he did review the minutes and wanted to clarify a couple of statements; the first was that Mr. Cummings stated that he wanted to get together with the HOA (Homeowner's Association), himself and Mr. Quintal to review the items; he wanted to state that he hadn't heard anything about any meeting; he hasn't been contacted nor involved in any discussions. He continued that Mr. Cummings stated that Mr. Quintal wasn't approving anything that wasn't an 8 foot ditch; Mr. Quintal said that this wasn't true as he has always said that he is willing to review an alternative design; there are other solutions besides a swale or ditch line that can be approved; he said he didn't want an impression left that he is narrow-minded enough to say that there is no other alternative.

Mr. Quintal reviewed his comments to the Board dated August 20, 2018. He noted that he had received for review a full size copy of the 5 sheet plan, the utility easement plan, the Aug. 6<sup>th</sup> letter and a rip-rap design apron for the outlet pipe behind unit 24. He comments included the following:

1. Cover sheet needs "proposed well" correction
2. Same previous comment #2: Utility access easements between units 2 and 3 and 6 and 7 to maintain the Sanitary Waste Disposal Effluent Disposal System; issue with heavy equipment passing through a narrow easement causing structural failure to foundations due to vibration and excessive weight of the equipment/loaded trucks; should be a note that heavy vehicles can't cross between 2 and 3; not constructing Unit 20 would provide optimum access.
3. Same previous comment #3: connecting sewer from unit 20 to manhole #7 by boring/jacking; construction details and directions must be provided (typical for standard engineering design).
4. Same previous comment #4: LCA for Unit 17 does not allow adequate access around the building; a recent response from the applicant states that all have access around the units via LCA or Common Land; this is inaccurate; can be amended to eliminate future conflicts.

5. Same previous comment #5: Maintenance logs for the BMP's (Best Management Practices); a requirement of the Long-term Stormwater Pollution Prevention Plan that it be maintained, monitored and reports executed; none have been logged. Mr. Quintal continued that he had visited the site on Saturday to see if there was any construction activity to correct the stormwater run-off deficiencies; none was observed; Stormwater Detention Basin, D1 has not been maintained and the outlet structure is not complete as mentioned in the December, 2017 report; the plan submitted in 2011 required Catch Basins to be inspected twice yearly; Detention Basins inspected annually. He recommended that the owner immediately complete the outlet structure, conduct required maintenance, and conduct inspections for all BMP's and prepare and submit a report to the Town.
6. Same as previous comment #7: The proposed change to the Approved Drainage scheme is unacceptable. He read the details for this statement that included the need for a waiver request from the Approved Plan. Proper engineered plans need to be provided to fulfill the intent of keeping surface stormwater from ponding or flowing on roadway or driveway pavement and directing it to the detention basins. Water ponding on driveway surface at units 6,7 and 8 has been observed by Mr. Quintal. Further details from his report on this issue were read.
7. Same as previous comment #8: The changes to the typical road cross section will require a waiver; the shallow swale is not deep enough. The full comments were read.
8. Same as previous comment #10: Issues with proposed culvert under the driveway for Unit #4 and the gravel shoulder. Recommended manhole structure and another pipe to address proper flow.
9. Same as previous comment #12: Proposed culvert in front of unit 27 does not meet Town minimum requirements.
10. Same as previous comment #14: recommendation of over-flow secondary outlet device between units 25 and 26. Drain culvert under Unit 25 is unacceptable.
11. Same as previous comment #15: Details of amended Alteration of Terrain permit, accepted by the State on 7/9/18 and expiring on 9/30/18 should be provided as part of the plan set. Needs to be constructed and stabilized as soon as possible. DMH (Drain Manhole) #4 was never installed; this was mentioned in the December 2017 report but never corrected; the water flows to the abutter property line.
12. The Amended Utility Plan, sheet #3 is inadequate; he reported the deficiencies with the plan.
13. The Amended Grading Plan, sheet #4 is inadequate; he reported the deficiencies.

*<Note: the full report is available in the Planning Board office.>*

Mr. Coppelman stated that there is still work to do on the plan. Ms. Faulconer suggested that, per Mr. Quintal's comments, there are alternatives that would make the plan acceptable for

Stormwater Management other than the swales that the property owners don't want. Mr. Quintal agreed saying that they might not comply with the Town's regulations but they could be done with waivers. Ms. Faulconer asked if they would ultimately have the same results. Mr. Quintal said that it would fulfill the intent of the design which is capturing the run-off from the road and the driveways and directing it to the stormwater detention basins. Ms. Faulconer asked if meeting the intent would protect the Town from being possibly fined by the State. Mr. Quintal said that if the run-off is not directed to the detention basins than it doesn't meet the State requirements either. Mr. Coppelman asked if Mr. Quintal's comments were followed would the State requirements be met. Mr. Quintal answered that it would to the degree that he showed but there were other areas that would need to be addressed; he didn't get into all of the issues but if the HOA and Mr. Cummings want to meet on the site and go over some of the options, some conclusions could be reached to be put on a plan and be acceptable with a waiver; that would be up to the Board. Mr. Quintal said that it was not his suggestion to meet but he would be willing to do that. Mr. Coppelman stated that it would probably help move things along.

Mr. Bakie said that he was under the impression that the meeting happened and that was why we were all here tonight again with this application. Mr. Cummings said that things got mixed up. Mr. Bakie said it was his impression that the meeting would take place before tonight and that was why we were having this meeting. Mr. Cummings said that he met with the HOA; he didn't know how it was overlooked that Mr. Quintal wasn't contacted. Mr. Cummings said that he wasn't sure that a lot of the items don't need to be discussed because this is a private road; what are the requirements for a private road and a private site; he said that he and the homeowners are adamant about not digging up the driveways any further. He said he would meet with Mr. Quintal anytime but thought he was available to Mr. Cummings but not to discuss things; he got comments back from the board that Mr. Quintal was not hired to design the plan/project so they didn't get together the way they should have. Mr. Coppelman agreed that Mr. Quintal was not hired to design the applicant's plan. Mr. Cummings said that he would refrain from talking about Mr. Quintal's comments until after meeting with him. Mr. Coppelman said that unless the Board waives requirements that private roads are to be built to Town standards. Mr. Cummings said that he knew that it was built as a private road and not all Town standards applied. He said that he would have to talk about the waivers so everybody is happy and the applicant can move forward.

Ms. Faulconer agreed that it was approved as a private road and if they wanted to continue forward building to the project's original approval then the Board didn't have to talk about it anymore. She continued that the applicant was here asking for changes to an approved plan because it wasn't built to the agreed upon specifications; even though it was a private road, drainage was included on the original approved plan and wasn't built appropriately. Mr. Cummings said drains are still taking place just not exactly as approved; the drainage still goes

pretty much where it is supposed to go; he continued that the drainage and the stormwater management plan is pretty much working as you don't see any run-off going off-site causing any consequences anywhere; basically the water runs down the road and may pond in some spots but it is not a catastrophe out on the site; it pretty much runs where it is supposed except for those areas where they pond. Ms. Faulconer said that her point is that Mr. Cummings continually brings up that it is a private road so therefore the Board should not be paying any attention to these issues and she is saying that there is an approved plan and if they had been able to comply with the approved plan then there would be no reason to be before the Board and talking about the required changes. Mr. Cummings said that is true and they have an amended plan and they want the amended plan to match what they have on the particular plan based on the various designs and talking with the homeowners. Mr. Cummings said that the Board is talking about certain requirements and he's presenting a plan that was talked about with the homeowners and the developer and this is what they want to have; maybe if it doesn't meet the regulations then he supposed that they would have to ask for a waiver or do whatever they need to do to try to get this resolved. He added that they are here for an amended plan that they are trying to get approved and try to get some things to work for everyone's satisfaction and they have a plan that is approvable either by the waiver process or by just the fact of allowing whatever happened to be allowed; there are no safety issues out there.

Ms. Merrill questioned whether the liability of the Town, for the MS4, was different whether it was a private road or public road; she confirmed that the Town was liable regardless of the road's status. Mr. Quintal said that if there is icing in the road and an accident there is liability that comes into play if the plan is accepted by the Town as adequate; if the plan doesn't meet engineering standards then it is inadequate and a liability to the Town. He commented that Mr. Cummings is saying that everything right now works and is directed to the right place; he disagreed. Mr. Quintal explained that all the run-off from Mulligan Way now is dumped onto the abutting property by a culvert because Drain Manhole 4 was never put in; that catch basin and manhole was identified last December; there was no reason that they couldn't have been put in to take the run-off the abutting property. Mr. Quintal said that every plan that keeps coming in is unacceptable and does not meet engineering design standards; he added that if Mr. Cummings thought it did then he should ask for a waiver from the Board. Mr. Coppelman added, re: the MS4, that site plan and subdivision process requires stormwater management (SWM) plan regardless of it being private or public. Ms. Merrill stated that this was her understanding as well adding that it is the "Feds" that regulate it for NH; she said not following through on proper SWM would put the Town in violation of the EPA (Environmental Protection Agency). Mr. Pellegrino asked Mr. Quintal if it was possible to get the drainage right with the HOA not wanting swales in front of their houses. Mr. Quintal said that there are certainly alternatives that serve as fulfilling the intent of addressing run-off but not meeting the intent is not acceptable; water shouldn't be running on the road or running off the site.

Public comment:

David Layne addressed the Board; Karen Layne distributed a list of concerns to the Board. He stated that he agreed with Mr. Cummings on one item which was to move along. He explained that the residents of Mulligan Way met (a list of those meeting was provided) about the proposal provided to them last Thursday. He reviewed their concerns that included: possible plow damage on the curbing proposed; they questioned the durability; water running down the road ending at the bottom of Mulligan Way does not seem to address the water once it gets down the hill; concerns were expressed on the impact of lot 23; electrical box on east side of circle in a depression that fills around the electrical box; standing puddle at end of culvert at lots 28 and 29; grading problem along the road at lot #26. He added that they are concerned with water coming off the berm and how the water is moved away. Mr. Bakie questioned the residents asking for curbing due to their issues with getting the water off the road. Mr. Layne clarified that the curbing is being proposed by the applicants, not the homeowners. Mr. Coppelman said that hopefully the homeowners, Mr. Cummings and Mr. Quintal will spend time on the site to address the issues. Mr. Layne explained that their comments are based on a plan and a meeting they had with Mr. Cummings; these are the problems they found after reviewing the plan.

Pam Roback, 15 Bent Grass Circle, had two questions: why wasn't this done before things were built and people moved in. Mr. Coppelman explained that the approved plan was ignored by the developer who chose not to build to the plan. She asked how much of the work that is needed to be done isn't being done due to the cease and desist order. Mr. Coppelman answered that none of the corrective action has been held up.

Glenn Powers, 17 Mulligan Way, had photos of water being captured on Mulligan Way that he gave to Mr. Quintal; water can be seen draining down Mulligan Way causing erosion and property damage; the driveway will continue to be eroded; the water has nowhere to go; it will eventually seep into the soil but the drainage has not been done to plan. He agrees with Mr. Bakie that the curbing in the winter could cause an ice issue causing a safety issue on the road surface. He asked that the Board look at the photos and keep them in mind if considering any future waivers. He said that worse case, he would like the original plan be met. Mr. Coppelman said that it is the decision of the developer to request an amended plan; the developer could have built it to the original approved plan but it wasn't and therefore is currently non-compliant with the Board being asked to make amendments to the plan that satisfy the requirements; that plan would then replace the original plan. He explained that it is one or the other. Mr. Powers is hoping for the best solution and asked that a tight schedule be put in place after a plan is determined; it's been two years. Mr. Coppelman said that the Board has been dealing with this month after month for close to a year at this point; if a plan was presented that had met engineering standards at the outset then this would have been done a long time ago. Mr. Powers

added that some corrective action needs to take place sooner rather than later. He provided photos to back-up Mr. Quintal's comments.

Jim Scarpone, 11 Mulligan Way, asked if he was hearing correctly that the SWM plan was not adhered to and is not going to be changed but might be able to be addressed. Mr. Coppelman explained that the Board is waiting for a plan from the applicant's engineer that allows the Town Engineer to confirm that it works and meets the Town's requirements and move forward. Mr. Scarpone referred to the Town Engineer's report and findings since December that has had no attempt to do them; he asked if it was the applicant's plan to not do these things ever. He asked if there was an enforcement action to get the applicant to get these things done. Mr. Coombs reviewed time spent on this proposal not only at the Planning Board but also as a Selectman and expressed his desire to have this finalized. He clarified that there was a notice of violation; the Board was not issuing any further Certificates of Occupancy until these items were addressed. Mr. Scarpone asked about the responsibility if any fines were assessed; Mr. Coombs said the fines would be on the Town and taxpayers. Mr. Coombs said that the applicant has received an AoT permit that satisfies the State's DES requirements but the Federal requirements have not been met because there isn't an amended site plan that addresses the Stormwater issues. Mr. Coombs stated that the primary concern of the BOS and Planning Board was the safety of the residents and items such as ice on the roads and flooding; the next issue is the MS4 and fines; he stated that there needs to be a plan to address this; there are penalties and fines associated with these issues. Mr. Cummings said that there was no real issue or damages due to missing items for SWM; the new AoT was done about a month ago but they were holding off in case there were other adjustments; they can do this within the next two weeks. Mr. Coombs said that efforts have been made to resolve the issues with the developer, HOA, and the Town; everyone is paddling in different directions and the boat is going nowhere. Mr. Coppelman agreed that there should be a tight schedule to get these things done; a timeframe can be done as part of the approval process.

Mr. Coffin, noting that not all the issues concerned SWM, referred to Mr. Quintal's comments regarding Unit 17 not having full access around the building. Mr. Coffin asked if the proposed amended plan was an accurate representation of the LCAs. Mr. Cummings said the ones shown have been recorded at the Registry. Mr. Cummings said that this issue was between the two landowners. Mr. Quintal said this could be an easy solution by getting a statement between the two landowners and resolve the issue. There was discussion about the plan and the LCA's being accurate for recording an amended plan.

Mr. Cummings noted that the original purpose of the plan was to move the units, address the units that were moved and they haven't been discussed; he would like to talk about those two units; the reason for the plan was because building 4 and 20 had been shifted so this plan shows a

new location for 4 and 20 and they are asking to amend the plan to allow building 4 and 20 to be placed where they are shown on the plan. He would like to get back on that line of thought. Ms. Faulconer said she wanted to discuss this issue as well; a new unit 20 was added to the plan and built but was changed by the applicant to be Unit 4; therefore Unit 20, which was moved from another location is not in everyone's best interest to allow that it be moved and squeezed into the location as it could cause future issues to homeowners and the houses that have been approved appropriately; unless the applicant can come up with something that addresses Mr. Quintal's concerns with the impacts on the foundations. She stated that currently, without Unit 20, there is plenty of access that won't impact any of the properties and leave the appropriate access for the center of the circle and the septic area; her concern is that with the additional house being built, the easement areas may cause problems with foundations of the approved, existing homes. She would ask that this be addressed with Mr. Quintal. Mr. Cummings said that there is an easement plan that shows the easements, between 6 and 7 is 35 feet wide and would be used for access for the leach field; access between 2 and 3 can't have any heavy equipment but there is plenty of room between 6 and 7 to get to the septic systems. Ms. Faulconer suggested Mr. Cummings address this with Mr. Quintal and return to the Board with a solution. He said that if it is a big problem, they would like to know about it right up front. He said that if they can't put 20 there, then 20 would have to go back. Mr. Coppelman said he would like this looked at by Mr. Quintal. Mr. Pellegrino said that when they first came in, it was discussed and they have certain land rights and they said that moving the house over did not impact SWM and was not a problem with septic; he said that if they have a right to move the house and there is a building envelope they can use. Mr. Coombs said that this is what started all of this; when the unit was moved, it was already built and is very close to the road and impacts the stormwater. Mr. Pellegrino said the Board had talked about this but if too close to the road, that would be different. Mr. Cummings suggested that they are not in violation as they have no setbacks for this project. Ms. Faulconer explained that the SWM drainage was in the area where they built the house.

Ms. Merrill said for the next meeting, before going forward with the planned easement between 2 and 3 and 6 and 7, she would like to hear from the owners of 3 and 6 and the potential owner of 7 to see how they feel about having the easement about their house. Mr. Cummings said that if the easement was executed, it would be between the unit owners. Ms. Merrill re-iterated that it would be nice to have their feedback. Ms. Merrill explained that units 3 and 6 are built and sold and it appears that unit 2 does not have a foundation but unit 7 is being constructed. Ms. Faulconer confirmed with Mr. Cummings that there are no easements from the property owners at this time.

Mr. Quintal clarified that he doesn't have a problem with the issues that need to be addressed, that are on the original plan, that are not going to be changed being done now like the completion of the structure on Detention Basin (DB) 1 and 2 which is recommended by the State to be done



right away; he doesn't have a full copy of the plans for DB 2 to review during the construction process; he would like the Board to require the applicant provide those details and direct the applicant to put those DB's in and the associated manhole in accordance with the approved plan by the State ASAP; that is accepting all the run-off from Mulligan Way and right now it goes into a direct pipe that goes to the edge of the abutters property and washes into that property. Ms. Faulconer asked the timeframe to accomplish this. Mr. Quintal said that it would be a few days to a week; definitely prior to the Board's next hearing. Mr. Quintal thought it would be nice to have this work done before the next hearing. Ms. Faulconer suggested that the Board could make it a condition of continuance; Mr. Quintal agreed that any work that needed to be done ahead of time that wasn't changing could be done. He re-iterated that he needed a copy of the plan approved by the State so he could monitor it during construction. Mr. Cummings will supply a plan; Mr. Quintal suggested that he could also contact the State.

Karen Layne, Mulligan Way, in reference to house numbers 4 and 20, houses have addresses on their deeds; the Fire Chief said that you can't have houses numbered "a" and "b"; she questioned what numbers they would become because now there was an extra house placed between existing numbers; people don't want to have to change their addresses and their deeds. Mr. Cummings said he believed that was a Fire Department issue.

Mr. Coffin requested that the BMP's and maintenance reports to the Town should be added to the plan notes to get that addressed. Mr. Quintal said it was part of the original approval; it is not required to be submitted to the Town but must be available upon request. There was some confusion as to whether the reports were done and available; Mr. Cummings said he has them. Mr. Quintal's recommendations about this are in his report. Mr. Cummings can make them available for review.

**MM&S to continue this application to September 18<sup>th</sup>; plans due by noon on September 6<sup>th</sup> and the completion of the Stormwater Management program/work that was on the original plan and is not going to change to be completed by September 17<sup>th</sup>; a meeting take place by August 31 between the HOA, Town Engineer and Project Engineer.** (Motion by Ms. Merrill, second by Mr. Bakie) Discussion: Specific items for completion included things such as DB 1 and 2, culvert under driveway 28, drainage in front of 6 and 7. Mr. Pellegrino noted that the Board just spent an hour and a half going over the same thing that the Board has gone over every month with this applicant; we go through the same meeting every month; is there any way the Board can tell them that unless all these things are done, the Board is not meeting to re-hash everything. Ms. Merrill said that this was the purpose of the motion.

**Vote on the Motion: PUNA**

*<Board note: this portion of the hearing ended at 8:12 PM; the Board took a brief recess.>*

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

Mr. Coppelman read the public notice. Charlie Zilch and Jim Hanley were present representing Mr. Bresnahan; Mr. Bresnahan was also present in the audience. Mr. Zilch informed the Board of the progress they had made including receipt of AoT (Alteration of Terrain) and septic design permits; he reviewed the progress regarding the Rte. 125 entrances with DOT (Department of Transportation) and the minimal progress for the Marshall Road access; he reviewed the issues with getting that access. He described the meeting that was held with Jim Dewitt of Division 6 on August 8<sup>th</sup> that included Mr. Greenwood and Mr. Coppelman; his interpretation of the meeting was that the 2 proposed entrances on Rte. 125 are considered safe entrances with enough frontage an separation and low traffic generation; if the access on Rte. 107 is approved through Concord, a permit would be issued but that could not be issued through Div. 6 due to the current information. Mr. Coppelman said that he did not have an alternate view of the meeting; he noted that Mr. Dewitt was unaware of the Town's Memorandum of Understanding that Kingston had in place with the State. He added that as far as DOT is concerned, the two Rte. 125 access points are fine and will be permitted; the possible upcoming intersection did not change their thinking one way or another. Mr. Zilch said that Div.6 agrees that there might have been a mistake made where they drew the line on the plan and there should be an access point as the limited access was not supposed to apply anymore but it would still have to go through the process that can take up to 18 months; the plan will move forward as proposed with all three access points; they would like to do this as a 2 phase project and get moving on the first phase and then continue trying to get the approval for the Rte. 107 access.

Ms. Faulconer informed Mr. Zilch that the Building Inspector wanted to make sure they were aware that the abutting property had put in for a permit to tear down the existing house in case that was an option for the applicant.

Mr. Coppelman asked about the possibility of one of the access points on Rte. 125 turning into an emergency access only if the Rte. 107 access was approved. Mr. Bashaw said that there was no contradictory information regarding the safety of the two access points on Rte. 125 and therefore he couldn't ask the applicant to close the access points granted by the State. Mr. Coombs said that once they are used, people get used to that and would wind up plowing right through the access if closed off. Ms. Faulconer said that she understood the Div. 6 suggested the Town would need the input of their State representatives to work on the Rte. 107 access and encouraged the Board of Selectmen to continue working with the applicant for this. Mr. Bresnahan said that the State engineer thinks that the 3 access points, with the added one on Rte. 107, is the safest proposal for the property. Mr. Bakie said that he read the TRC committee's

comments and it appeared that a lot of detail was missing from those minutes. Ms. Merrill noted that Sandown thinks Kingston is lucky to have Rte. 125 for commercial development and approves access for development on Rte. 125.

Mr. Quintal reviewed his comments that included: #4: re: encroachments, #5: required dimension of buffer, #9: driveway concerns, #34: bonding requirements, #35: construction sequence/pre-construction meeting, #38: move profiles/stationing, #39: corrections needed for recording, #46: CUP (conditional use permits); encroachment of neighbors. Ms. Faulconer suggested adding a note to the plan that allowing the encroachment did not imply any approval of rights for the abutting property owner. There was discussion as to how this would be accomplished. Mr. Coffin stated that he was not inclined to grant a waiver for the buffer requirements without something that encouraged its removal. Mr. Bakie said that he assumed that Mr. Bresnahan was trying to be a good neighbor by not making the abutter tear the structure down. Mr. Bashaw stated that it was not the applicant that was violating the buffer. There was continued discussion on this issue. Mr. Quintal suggested the property line should be established as the abutter may not realize where it is and this would bring it to their attention; it is an issue between the two owners. There was discussion regarding adverse possession.

Mr. Zilch reviewed the tree planting on the south side; they doubled it up; Mr. Quintal said the details of the planting including size of the trees should be on the detail part of the plan; Mr. Zilch will add the detail. Mr. Coffin asked why it was only 100 ft. Mr. Zilch answered that it ties into the existing tree line. Mr. Coppelman read Mr. Greenwood's comments that included formalizing the encroachment issue and voting on the CUP's. The email from the Conservation Commission was read that explained that the detention pond issues had been worked out with Fish and Game; they asked that the work be done in the late Fall/Winter to avoid the times of wildlife use.

Mr. Zilch provided copies of the CUP requests that had been previously submitted. Mr. Coppelman read the conditions per Article 202.8B and the responses justifying the request. Mr. Pellegrino recommended giving the applicant a waiver for the bond requirements.

**MM&S to accept #1 as read and it meets all requirements.** (Motion by Mr. Bakie, second by Ms. Merrill) **Motion passed 6-0-1** with Ms. Faulconer abstaining. Number 2 was read regarding design and construction and maintenance methods with the justification being that the controls have been designed per NHDES recommendations; insures that stormwater is captured and treated prior to discharge; the language in the letter was amended to correct "Sheet 6" to "Sheet 5". **MM&S that the conditions of B-2 have been met.** (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA** Condition #3 was read; the justification included that the initial design concept was developed and reviewed with NHDES and the Kingston Conservation Commission

(KCC). **MM&S that the terms of B-3 have been met.** (Motion by Ms. Merrill, second by Ms. Faulconer) **PUNA**

**MM&S to grant the CUP for Article 202.8 (B).** (Motion by Mr. Bashaw, second by Ms. Merrill) **PUNA**

The Board addressed the CUP request for 201.4G (1) a through e. Mr. Coffin read the conditions; Mr. Coppelman read the applicant's responses. Mr. Zilch confirmed that the property had 36% lot coverage.

**MM&S that the conditions for section "a" have been met.** (Motion by Mr. Coffin, second by Mr. Bashaw) **PUNA** The justification for "b" was read. **MM&S that the requirements of "b" are met.** (Motion by Mr. Coffin, second by Mr. Bashaw) **PUNA** The justification for "c" was read that included information that no toxic or hazardous waste will be stored on the property per the contract used by Mr. Bresnahan and all vehicles are stored on paved surfaces; a note will be added to the plan that clarifies that all vehicle storage will be on paved surface. **MM&S that the requirements for part "c" are met.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA** **MM&S that items "d" and "e" are met.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

**MM&S to grant the CUP to Article 201.4 G(1), a through e.** (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

Mr. Quintal read the list of outstanding issues: dimensions of trees, pre-construction meeting sheet, per 907.3(A)3 – performance guarantee needs to be set prior to conditional approval; moving stationing, meet the requirements for recording of the plans; pertinent notes need to be on the front sheet; label sheets 1,2,3 for recording. Mr. Hanley said that the lighting plan was submitted but it was not part of the full plan set. Mr. Coppelman said that a full plan set with the lighting plan included should be provided for future reference. There was discussion regarding the performance guarantee requirement. Ms. Merrill told the applicant that the Board was almost there for an approval; she suggested continuing the hearing to review the minutes to make sure all the conditions were captured. The Board continued reviewing the requirement for the performance guarantee. Mr. Zilch provided a waiver for the requirements of 907.3(A)3.

**MM&S to grant the waiver to 907.3(A)3 with the Planning Board designating the Town Engineer to approve the Construction and Inspection Bond prior to the approval of the mylar.** (Motion by Ms. Merrill, second by Mr. Coffin) Board discussion: Mr. Bashaw said that granting the waiver was meeting the intent of the requirement and protecting the Town and the project. Mr. Quintal noted that this requirement had been in his itemized list to the Board dated July 10<sup>th</sup> so the requirement should not have been a surprise to the applicant; he wanted to make

sure this didn't set a precedent for down the road. Due to the Board's upcoming schedule, Ms. Merrill retracted her statement about continuing the hearing. **Vote on the motion: Motion carried 4-2-1** with Mr. Coppelman and Mr. Coffin abstaining and Ms. Faulconer opposed. Ms. Faulconer explained that she was not opposed to the proposal just rushing to the approval. Mr. Quintal questioned if the buffering was all set. Mr. Zilch reviewed some of the issues that would go forward as conditions of approval that included satisfying the remaining comments of Mr. Quintal's letter, notes about the abutter's encroachment, all parking on pavement and adding the lighting plan to the plan set.

**MM&S to conditionally approve the plan, dated 8/10/18, with the conditions to be met within 6 months; the conditions are:**

- **Receipt of two driveway permits from DOT**
- **Continue to pursue Rte. 107 driveway**
- **Pre-construction meeting**
- **Meet recording requirements**
- **Add encroachment (buffer/property) note**
- **Add a note that all parking will be on paved surface only**
- **Add lighting plan to a complete plan set**
- **Construction bond requirements to be met**
- **Phasing of the project (for inspector's clarification)**
- **Timeframe to meet the conditions of approval – 6 months**
- **Threshold for substantial development will be to complete Phase I and Phase II as shown on the plan; this covers all of stormwater management (to be done within 24 months).**

(Motion by Mr. Bashaw, second by Ms. Merrill) **Motion carries 5-1-1** with Mr. Coppelman abstaining and Ms. Faulconer opposed.

*<Board note: this hearing ended at 10:15 PM>*

## **Berkshire-Dominion**

### **Saddle Up Saloon**

**92 Rte. 125**

### **Tax Map R8 Lots 40 and 40A**

Mr. Coppelman read the public notice for this hearing. He read Mr. Greenwood's comments that included the recommendation to continue or deny without prejudice due to not receiving an updated plan; there were questions about unapproved on-site activity. Mr. Quintal stated that he had no comments as he didn't have a new plan to review. Mr. Zilch reviewed the on-site meeting with DES and the Conservation Commission Chair, Evy Nathan. He said that they needed to make a Shoreland Application and would like to continue for a month. He reviewed

the August 7, 2018 comments from DES and the possibility of the conversion of the grass seating area to gravel needing a permit; if no expansion of use of the parking/driveway area than a permit would not be needed; buffer vegetation requirements were reviewed. Comments received by DES state that the goat pen was existing and updated; the Board's review indicated that they have not been there. Ms. Merrill noted that the previous owner of the Pondview Restaurant said there had been goats there at one time; Ms. Faulconer noted that it was not a continuous use and hadn't been there for a long time; uses are not considered grandfathered if they have not been continued uses. Mr. Coffin said that the site is not in compliance; he reiterated that there are many items not in compliance; he said that during the site walk it came up that the hours are not in compliance. He continued that the drainage from the original plan hadn't been built; the original site plan has not been complied with. Mr. Pellegrino questioned the definition of structure; Ms. Faulconer said that could be answered by the Building Inspector. Mr. Pellegrino asked if the applicant only needed a building permit for the goat pen and shed; Ms. Faulconer said an approved plan would be the first requirement. Ms. Merrill asked if they would need an approved manure plan for the goats; Best Management Practices were briefly discussed. Mr. Zilch said that he needed to update the plan and mitigate the area for outside seating; he said he thought the focus of the review was on Shoreland issues. Mr. Coombs said that there is a lot of concern that the approved site plan was not being followed. Mr. Coffin said that the site needed to be in compliance; there were questions about several items including snow storage. Mr. Coombs noted that parking has been brought up as an issue.

**MM&S to continue to October 16, 2018 conditional upon an approved Shoreland permit, address non-conformance by being in compliance with the existing site plan, receipt of new plans no later than noon on October 4<sup>th</sup>.** (Motion by Ms. Merrill, second by Mr. Bakie)

**PUNA**

*<Board note: this hearing ended at 10:45>*

**Rick Korn**

**143 Main Street**

**Tax Map U9 Lot 42**

Mr. Coppelman read the public notice for this hearing. Ms. Faulconer recused herself from this hearing; Mr. Coppelman stated that Mr. Pellegrino would be the voting member for this hearing.

Mr. Coppelman read Mr. Greenwood's comments that included the recommendation that the expedited review be entertained as there is an endorsed site plan agreement on file and the request for outdoor seating had been reviewed and approved by the HDC (Historic District Commission) through a formal review with abutter notification. It was noted that a requirement of any outdoor lighting would be "down-shielded" lighting. Mr. Greenwood's comments also

included a suggestion that the Board consider if the proposal would have parking for the site being negatively impacted; the requirement is that all parking be on-site.

Virginia Morse, Chair of the HDC, verified that abutters had been notified of the HDC review of this application; there had been one abutter with a page and a half of concerns but by the end of the hearing they said that all of their questions had been answered. She added that a “key detail sheet” was done by the HDC and it becomes part of the approval. Mr. Coffin stated that Ms. Morse answered his questions about abutter notification. Mr. Coppelman said that the Board needed to decide whether the expedited review was allowed. Mr. Coombs asked Mr. Korn about the number of abutters. Mr. Korn explained that there were 2 and non-built lots and Town lots. Mr. Coppelman read the requirements for expedited review in 904.2(D).

**MM&S that the conditions for expedited site plan have been met.** (Motion by Ms. Merrill, second by Mr. Pellegrino) Mr. Greenwood’s notes were referenced to explain “unendorsed site plan”. **Motion carried 6-0-1** with Mr. Bakie abstaining.

Mr. Korn explained the proposal: 24 x 26 patio in front of the building with pavers replacing pavement; the dining room will be closed while this area is open; open 11:30 AM to dusk; “soft music” will be outside through a speaker system at “conversation” level; there will be additional parking on the other side of the building or in the back to replace the spaces being lost due to the patio; all parking can be handled on the site. Mr. Korn said that patrons have utilized on-street parking; Mr. Coffin stated that the cross-streets off of Main Street are safe for parking. Ms. Morse spoke with Mr. St. Hilaire and Chief Briggs who had no problem with the proposed plan. Mr. Coombs questioned how customers and servers would be kept out of the parking area. Mr. Korn explained that they will use the existing stairs; customers would need to be seated, not just walk to an empty table. Ms. Morse said that the area is essentially fenced it with temporary fencing that will come down in the winter. Mr. Korn confirmed that the restaurant currently is approved for 99 seats with 49 in the dining room and 50 in the tavern; when using the patio, the dining room won’t be used; there will be fewer seats in the patio area than those in the dining room. Department comments were reviewed – “no comment” from Highway, Health, Building or Fire. Mr. Coppelman asked about lighting; Mr. Korn answered that the type of lighting would be “soft” such as Christmas lights that are there now and candles on the tables; candles, lanterns or Christmas lights. Mr. Morse confirmed that approved hours as 11:30 AM – 10:00 PM, Monday through Saturday and 11: 30 AM – 9:00 PM on Sunday. Mr. Korn said the last seating would at dusk, around 8:00 PM due to mosquitos. Mr. Pellegrino asked if he would then switch from outdoor seating to indoor seating at that time; Mr. Korn answered no; he would be using the tavern, not the dining room. Ms. Morse reviewed the HDC’s approval that included: umbrellas could be used at the tables but they could not have any advertising, they would be similar and red-toned; there could be yellow-tinted solar lights but no white piercing lights; no outdoor live music. Mr. Quintal questioned windy days and impacts on the umbrellas that would be near the

street; he asked about the grade; the pitch and catch basins were reviewed. Mr. Korn said that he will be putting down pavers and he will level the patio area. Commercial encouragements were discussed. Mr. Korn said he is hoping for a “bistro” look. Ms. Morse said that this falls in line with Envision Kingston II in making the area more inviting. She added that there were no approved changes to the existing sign. Mr. Coffin said it sounded like a good idea; his only concern was to make sure abutters get protection. Mr. Bashaw discussed concerns about parking and being consistent; pro-business attitudes need to be incorporated for other businesses and parking; there needs to be consistency. Mr. Coffin noted that this was a pre-existing condition unlike some other applications before the Board. Mr. Coppelman confirmed that the approval does not include off-site parking. Mr. Coombs added that Mr. Korn was creating 4 more spaces. Mr. Korn re-iterated that there was no live music being proposed for this activity, only background music. There was discussion comparing grandfathered locations, new businesses and requirements. Mr. Pellegrino stated that he, too, was a fellow business owner and suggested the Board should loosen up the reins for new and innovative ideas. Mr. Bashaw stated that he thinks the proposal is appropriate and hopes enthusiasm for it goes to other businesses. Mr. Coppelman re-iterated that the Board was not approving any off-site parking; the approval was for the activity with on-site parking only. Ms. Merrill stated that the additional parking spaces need to be shown on a plan; Mr. Coppelman agreed that it should show the outdoor seating and parking modification.

**MM&S to approve the plan as shown with the additional parking added to the plan and filed in the Planning Board office; the approval included the HDC certificate of approval and the conditions determined at the HDC hearing for this proposal.** (Motion by Mr. Pellegrino, second by Ms. Merrill) **PUNA**

### **Board Business**

#### **Correspondence:**

- 22 Rte. 125 – Whitney’s Garage LLC in the name of Robert and Jason Whitney– request for Recycling/Junkyard license – the Board determined that this was the jurisdiction of the Board of Selectmen and will be referred back to them. Additionally, a request for Retail Vehicle Dealer license was received for this location. Ms. Faulconer explained that, through conversation with Mr. Whitney, it was explained that he currently had dealer plates but needed this particular license to be able to put 20-day plates on vehicles and on his own vehicles; this was the reason for the license request; there would be no change to the property or change to the use or the activity on the property. Ms. Merrill noted the lengthy time period that this use has been in operation.

**MM&S to approve the application and forward to the BOS for approval.** (Motion by Ms. Merrill, second by Mr. Bakie) **Motion carried 6-0-1** with Mr. Coffin abstaining. Mr. Coppelman explained that this would now be forwarded to the BOS for their signature prior to going back to the DMV. Mr. Coombs explained that the Board of



Selectmen (BOS) had been doing site visits for all of the junkyard renewals; Mr. Whitney will be notified when the site walk is scheduled; the Planning Board will be notified. There was discussion about adding a Planning Board meeting next week. Mr. Coombs suggested that due to the late hour, the attention to detail might be lacking. The Board decided to review any correspondence that did not require any significant review to make a decision. Scheduling an additional meeting will be determined after correspondence is reviewed. .

- Automotive junkyard license was received; this is in the BOS purview; the Board did not address this.
- Renewable Oil Exchange (ROE) was not a permitted use and the ZBA granted them special exception for the use on the property. Mr. Coffin stated that the applicant requested oil from restaurants to be stored in in-door tanks until the oil could be recycled; the processing was not discussed or granted by the ZBA. The letter sent to the Planning Board from ROE was reviewed. The Board will consider a site plan for this. ***Ms. Faulconer will confirm the ZBA's action re: the granting of the special exception for ROE and report back to the Board to determine the type of review required by the Planning Board.***
- Melissa Burleigh letter reviewed: request for a Law Office at the plaza across from the Town Hall; regular hours of operation: 8 AM to 5 PM, M-F with limited hours outside that scope with the potential to open until 9 PM; weekends by appointment from 8 AM to 6 PM. The change of the sign was noted in the letter. Mr. Coppelman noted that the proposal hadn't been to the HDC yet; Ms. Faulconer stated that the applicant had applied to the HDC. Ms. Burleigh has been notified that the BOP(Business Occupancy Permit) is issued through the Selectmen's office.

**MM&S that the business be permitted without any additional Planning Board review, conditional upon approval from the HDC.** (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

- Langlois Auto and Truck request for inspection license: Ms. Faulconer reminded the Board that this has just recently been reviewed and approved by the Board on May 1<sup>st</sup> with no additional PB review being required. Mr. Coppelman signed the form, per the approved site plan, to return to the BOS for signing.
- Ms. Faulconer will notify the BOS that, due to the late hour of this meeting, the budget review will be delayed to the September hearing and submitted at that time.
- Invoice from Mr. Quintal for Pat's auto was approved and signed.
- Kings' Landing request for return of their escrow was approved.
- Letter re: in-home occupation from Laurie MacKinnon for a jewelry "boutique"; the Board needed additional information; ***Ms. Faulconer will invite her to come in to discuss the proposal with the Board.***

51 Rte. 125, proposal for an antique store; issue is a sign on the property for a landscaping business that was not approved by the Planning Board which could make this non-conforming but it might be on the lot right before this. Mr. Coombs noted that when the property owner came before the Board to approve their use for the other antique store, there was no mention of a landscape business. There was discussion regarding the addresses of the multiple properties and the structures on those properties. ***Ms. Faulconer will confirm whether the sign is on the property where this is being proposed.*** The Board decided that if the sign is not an issue for this property, then no further review is required by the Board.

<Board note: Mr. Coombs left at this time.>

- 255 Rte. 125 request for expansion from auto repair to include automotive sales; the Board has already reviewed similar proposals; as it is not a permitted use, any relief from the zone would need to be received through the ZBA.
- Voluntary lot line adjustment (LLA) on Marshall Road was signed by the Chair; Mr. Coffin expressed concerns that the form indicate that any lien holder be notified of the LLA; he suggested the Board modify the form. Ms. Faulconer explained that the paperwork and review come out of the BOS office; the Chairman simply signs the form and is returned to the BOS.
- Bond balance list was available for review.

Based on taking care of correspondence at this meeting, no additional meeting was scheduled. The next meeting will be on September 18, 2018 as scheduled.

The Chairman declared the meeting adjourned at 12:25 AM.