

## Kingston Planning Board

### January 8, 2019 Public Hearing Minutes

The Chairperson called the hearing to order at 6:45 PM; there were no challenges to the legality of the hearing.

Members present:

Glenn Coppelman, Chairperson  
Peter Coffin, Vice Chair  
Lynne Merrill  
Phil Coombs, BoS rep.

Chris Bashaw  
Peter Bakie  
Ellen Faulconer, alternate/Admin. Asst.

Members absent: Robert Pellegrino, alternate.

Also present: Glenn Greenwood, Town Planner; Mark Heitz, BoS (Board of Selectmen) Chairperson

Mr. Greenwood confirmed that the Town Engineer would not be coming this evening. The Board was introduced by Mr. Coppelman; agendas, warrant articles and legal documents were distributed to the Board. Mr. Coppelman announced that Ms. Faulconer would be a voting member for this meeting.

#### **Public Hearing:** **Warrant Articles**

Mr. Greenwood stated that the proposed articles were voted to come to warrant at the December hearing. Ms. Faulconer noted that tonight's hearing was posted to review any changes and any petitioned articles; there were none submitted and only one change. Mr. Greenwood explained that the change had been legally addressed at the December hearing. The Board decided to review the previous votes so there could be no possible issues with the validity of the warrant. Mr. Greenwood noted the reasoning behind each of the warrants per the previous discussion in December. Articles 2 through 8 had no additional Board or public comment.

**MM&S to move Article 2 to warrant.** (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

**MM&S to move Article 3 to warrant.** (Motion by Mr. Coffin, second by Ms. Merrill) **PUNA**

**MM&S to move Article 4 to warrant.** (Motion by Mr. Coffin, second by Mr. Merrill) **PUNA**

**MM&S to move Articles 5,6,7 and 8 to warrant)** (Motion by Ms. Faulconer, second by Mr. Coffin) **PUNA**

Article 9 was reviewed. Mr. Heitz questioned if chickens were currently allowed in the SFR district and this was defeated would it add a prohibition to chickens. Mr. Greenwood stated that he was less sure that chickens are actually a permitted use in the zone at all. Mr. Bashaw noted that chickens were not specifically prohibited. There was discussion regarding prohibited uses versus permitted. Mr. Coombs said that the BoS does not currently look for non-compliance; the use is currently as clear as mud. Ms. Faulconer suggested that passage of the ordinance clears the issue up; failure keeps it just as muddy as it is now.

**MM&S to move Article 9 to warrant.** (Motion by Ms. Faulconer, second by Mr. Coffin) **Motion carries 4 in favor; 1 abstained (Mr. Coombs) ; 2 opposed (Mr. Bakie, Mr. Bashaw).**

**Bluestone Investments, LLC**  
**4 Marshall Road**  
**Tax Map R33-21**

Mr. Coppelman read the public hearing notice; the hearing began at 7:15. Mr. Geier reviewed the proposal. He noted that the plan had changed as NHDOT (New Hampshire Department of Transportation) only allowed 1 driveway entrance onto Marshall Road: one driveway, 1 “loop” – 1000 ft., 32 units, 112 parking spaces – 3 per unit plus 1 for every two units. He noted that he met with the Fire Chief regarding the relocated cistern; there is a trail to Library Lane; the stormwater is draining into the cul-de-sac. He added that the Town Engineer is okay with the proposal as shown so far adding that there are currently no complete engineered plans. Mr. Geier said that he would like input on the design prior to continuing with the details. Mr. Greenwood reviewed his comments noting that the re-design had to be done due to the DOT issue of granting the single entrance; the Board could not invoke jurisdiction on the plan as presented; currently there are no fatal flaws to the plan as presented. Mr. Coppelman stated that the Ordinance says that the proposal should try to maintain a natural setting and should try to work with the current landscape and there is a lot of clearing that bothers him. Mr. Greenwood agreed that there is substantial tree removal. Mr. Bakie stated that he is familiar with the property which is a mess and landscaping will improve it; he thinks it is a good plan. Ms. Faulconer reminded the applicant that the TRC (Technical Review Committee) was a requirement prior to the next hearing. Mr. Coppelman stated the Conservation Commission (ConsCom) asked to be included in the TRC review. Mr. Bashaw stated that it seems to be a better plan but there was still a lot to do. Mr. Coppelman read Department comments: ConsCom – wetlands issue seems to be addressed but would like to see a full set of plans; Mr. Geier stated that there may be a wetlands impact once the road is fully designed; Building- plan is incomplete; Health- no septic design is on file; Highway – road needs to be constructed to Town requirements and bonds must be in place; Police- questioned the date and time of the TRC; Fire – requests SFC engineering review (third party review). There was no public comment.

Mr. Coombs said the back side of the houses would be facing the road; he stated he would like to see some significant landscaping. Mr. Coffin asked to have elevations provided. Mr. Coppelman said there should be a separate landscaping plan provided showing the proposed landscaping for the full site. Mr. Greenwood said that landscaping is required in both site plans and Age-restricted development requirements. Ms. Merrill added that nice landscaping between the units and the street makes the site more attractive and the units more sale-able. Mr. Coppelman stated that new plans would need to be received by noon on Feb. 5<sup>th</sup> to be heard at the Feb. 19<sup>th</sup> hearing. Mr. Greenwood would be able to set up the TRC between those dates; he would try to set it up for the 12<sup>th</sup>; if Mr. Geier gets the plan in by Jan. 29<sup>th</sup>, he would be able to try for a sooner date for the TRC.

**MM&S to continue to Feb. 19, 2019 contingent on revised plans being submitted by noon on February 5<sup>th</sup>.** (Motion by Mr. Coffin, second by Ms. Merrill) **PUNA**

This hearing ended at 7:35 PM.  
**Diamond Oaks Golf Club (DOGC), LLC**  
**7 Rte. 125**  
**Tax Map R3 Lot 4 Land Unit 3**

2

KPB  
01/08/2019  
Pending Acceptance

Charlie Zilch introduced himself as representing the applicant. He explained that the intent is to seek a denial from the Board to allow the applicant to appear before the ZBA. He reviewed the proposal for residential apartments which is in the C-III zone; the intent is to convert the upper, second floor of the clubhouse into 7 one bedroom apartments ranging from 550 square feet to 840 square feet; he stated that it would be 55+ with the primary use being for veterans; handicap access would be provided to the second floor; the community well will support the additional use. Mr. Zilch clarified that this would not be federal housing; it will be age restricted; rental units. Ms. Faulconer asked if they had confirmed that the square footage proposed met current building standards; Mr. Zilch stated that had not been checked. Mr. Zilch stated that DOGC would be responsible for maintaining the age restriction; Mr. Coombs reviewed enforcement issues regarding keeping a site 55 or older; Mr. Zilch stated that he was sure that DOGC could keep the age-restriction enforced. Ms. Merrill stated that the Town can request and receive a census confirming the 55+ restrictions on the housing units. Ms. Merrill continued that there was no elevator shown on the plan. Mr. Zilch said there was space that could be converted for an elevator.

Mr. Coppelman read the Department comments: Building – Residential use is not allowed; what is the mechanism to verify use by veterans; questioned whether there was any VA assistance for the project; Highway – no impact on Town roads; Health – need verification that septic system is adequate for planned expansion of future use. Mr. Zilch stated that there is plenty of room for the septic use.

Public comment: Bob Britt, Hillside Road – he stated that apartments with less square footage supported lower rent with a different class of people and he didn't want low rent in his neighborhood to lower to property values; he questioned the impact on the septic and golf course that might impact the area. Mr. Coppelman said that the issues he was raising would be ZBA issues and the applicant's request for a variance; he suggested that this would be testimony to give to the ZBA. Mr. Britt also noted that, over the past 7 years, there had been multiple violations on this property and the "snowball" effect of violations. Mr. Coppelman repeated that right now the Planning Board can't act on the issues; the comments and concerns need to go to the ZBA.

Mr. Scarpone, 11 Mulligan Way asked if the applicant went to the ZBA and got a variance, if they needed to come back to the Planning Board. Mr. Coppelman explained that they would still need to come back for a full review if the variance was granted. He explained that the parcel was in the commercial zone and this was a request to add residential use to that zone. Mr. Zilch confirmed that the clubhouse was different from the residential condo. use. Ms. Merrill questioned the septic impact with the residential use and the use of the clubhouse; she asked about any restriction on occupation of the clubhouse. Mr. Zilch said that it is not really a restaurant, just a snack bar. Mr. Coffin suggested that there might be more requirements to review regarding the multiple uses. Mr. Bakie suggested that the Board not speak about any further details as the Board had no choice but to deny the proposed use.

**MM&S to deny the proposal as it is within 1,000 feet of the centerline of Rte. 125 and therefore is not a permitted use. (Motion by Mr. Bakie, second by Mr. Bashaw) PUNA**

This hearing ended at 8:04 PM. <Board note: the Board recessed at 8:15 PM.>

**Board Business:**

Mr. Heitz asked to address the Board on behalf of the Board of Selectmen. He stated that the Board was having issues with the subdivision at Solar Hills. He stated that there was currently a house being built without a permit; the BoS has noted that there appears to have some lots without monumentation being set; the BoS plan to engage the Town Engineer and Building Inspector to review the sites as the registered plan indicate that the bounds are set. He added that the requirements of subdivision are that there are to be monuments at all four corners, either stone or concrete bounds, and most do not appear to be set. Mr. Heitz continued that there also need to be verification that the buildings meet the setback requirements. He confirmed that the Town is still holding an engineering bond for the first part of the road; it appears that some of the properties have changed hands without the bounds being in place; there is only one certification of monumentation in the file for one specific lot. Mr. Heitz continued that the BoS was currently in the process of ascertaining who owned the lots and the one lot with the structure without the building permit; there is a title search being done to make sure the information is accurate. Mr. Heitz stated that the builder is aware that he has no permit; the BoS need to send a formal Cease and Desist to the owner of the property that might not be the builder of the structure. Mr. Heitz confirmed that the Town is still holding a \$116,000 bond for the road for the original approval; he stated that the ordinance requires that the road is supposed to be built to subgrade prior to receiving a building permit with the bond being for the remainder, after the subgrade.

Mr. Bakie stated that it is important to make sure that all developments are being built correctly. Mr. Heitz said that the Board is engaged in litigation for other projects and policies had been put in place for roadways. He stated that developers need to build the road and put in monumentation before receiving permits. He continued that at that point, the Town Engineer can confirm and inspect that the requirements had been met; he stated that the Town was not in the business of building roads; he suggested that some funds be added to bonds to address the final issues of roadways. Mr. Heitz stated that the Town had to hold to the ordinance in that the road has to be in and the drainage has to be in prior to getting building permits; this should address some of the issues. Mr. Coffin suggested better communication between the builder and the Town Engineer; Mr. Bakie suggested more inspections could stop issues from occurring. Mr. Heitz suggested making it clear at pre-construction meetings that if something is installed or built without inspection, it will be dug up or torn down so it can be inspected.

#### **Alternate Position:**

Steve Padfield was invited to address the Board. Mr. Coppelman said an alternate position was open due to a resignation. There was considerable discussion regarding the length of the Planning Board meetings. Mr. Bashaw noted that the Board had been trying to gain some efficiency. Ms. Merrill suggested adding a third meeting to the Board's monthly calendar. Ms. Faulconer suggested the budget may not support staffing those meetings; Ms. Merrill suggested getting a bigger budget. Mr. Bashaw suggested sending engineer's notes and planner notes to the applicants ahead of time. Mr. Coppelman said the risk that is run is the applicant will try to make changes to the plan and present at the meeting and none of the Departments will have had time to review the changes. Mr. Bashaw said that the Board should be clear that it won't be looking at changed plans. Mr. Coombs noted that month after month it had been the same six people. Ms. Faulconer suggested that the Board require the Preliminary Review in the regulations and then use the TRC so the applicant can return in two months with a revised plan that meets the Town's requirements. Mr. Coppelman added that the Preliminary Review was actually a requirement. Ms. Merrill added that the Board needs a mechanism to show the public the plans and other items being reviewed at the same time the Board is reviewing it which would save time during the public meeting. Mr. Bashaw said there is a desire to be more efficient but to still give the applicant the attention they deserve. Ms. Merrill suggested that the applicant could come back the first Tuesday

instead of the third. She added that the Board was spending so much time in being hung up on applications; it did not have enough time to be proactive about zoning. Mr. Coppelman suggested that Board members could work on the zoning separate from a Board meeting. Ms. Faulconer said that the problem with adding applicants to the first Tuesday was that eliminated the work sessions for the Board scheduled for the first Tuesday.

Mr. Greenwood pointed out that there were several projects in the last year that went through a normal process; easily watched the progression from the application to the approval; he added that there were two that worked the system to not work and bogged the Board down; he stated that one has become a lawsuit and one was withdrawn. He re-iterated that several went through smoothly.

Mr. Bashaw suggested using the Preliminary Review process. Mr. Greenwood suggested that he needs to be better at saying to the Board when he thinks that a proposal will go nowhere. Mr. Coppelman suggested that sometimes the Board gets so wrapped up in giving the applicant the benefit of the doubt that we wind up being our own worst enemy. Ms. Merrill suggested that this discussion was important for Mr. Padfield to know the Board's intentions as it moves forward. Mr. Coombs agreed that it is to find the shortest way to move forward. Mr. Bashaw re-iterated his belief that the Board does have a conscious effort to do this. Mr. Greenwood stated that the Board, when providing comments prior to the hearing, needs to be clear to the applicant that new plans should not be distributed to the Board at the hearing as they won't be accepted; he can get his comments out a week in advanced but the Board has to say "no" to receiving and reviewing new plans; getting the comments ahead of time should just give them time for answers to the comments, not new plans being submitted at the hearing. Ms. Merrill agreed with getting the comments out ahead of time and having the TRC meet.

Mr. Padfield stated he was still interested in the alternate position. Mr. Coppelman stated that remainder of the term of the open position was until March 9, 2021.

**MM&S to appoint Steve Padfield to the open alternate position through March 9, 2021.** (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**

**ACTION ITEM:** Ms. Faulconer will get him the Ordinance Book and Law Book.

#### **Training:**

Mr. Coppelman stated that he mentioned at the BudCom hearing that land use board members should have training; he recognized that off-site training was often hard for people to attend but it was possible for the NHMA to bring the training to the Town if requested for a reasonable fee. Ms. Merrill noted that everyone could benefit from this training. He suggested at the BudCom that multiple land use Boards could pitch in for this in-house training. Mr. Greenwood agreed the NHMA did a good job with this training. Mr. Coppelman suggested that after the election in March, this could be discussed again with the multiple land use boards picking a day that worked for the most people.

Certiorari Order distributed to the Board for the meeting on January 22<sup>nd</sup>.

#### **Correspondence:**

- Census from Kings Landing received – affidavits received that all occupants at least 55 years of age.
- Invoices – 2 received from Town Engineer for AAAL and Demers

- Dan Parks questioned requirements of plan for the Board – Mr. Greenwood will contact him to let him know that ½ size plans are not okay and speak to him about the status of his plan.
- Letter from Building Inspector re: issues at Solar Hills
- Town Report as prepared by Mr. Coppelman
- Copy of recent court update that had been sent out to the Board about no substituting personal ideas over professional testimony and ordinances; decisions must be factual.
- Town and Country magazine

**Sign Compliance:**

The Board agreed to add this item to the agenda on January 22<sup>nd</sup>.

**ACTION ITEM:** Ms. Faulconer will provide Mr. Coombs with the letters previously sent out by the Board; he will check on compliance and report back to the Board on the 22<sup>nd</sup>.

Mr. Coombs stated there was a meeting on residential recycling on Wednesday. He recommended watching a program he recently watched about a Town in Arizona that had no zoning which was a great argument for zoning.

**ACTION ITEM:** Ms. Merrill asked about follow-up on ECSI. Mr. Coombs stated that he was going to speak with the Building Inspector; he will follow-up on this.

**MM&S to adjourn at 9:10 PM.** (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**