

**Kingston Planning Board
Public Hearing
Minutes**

October 16, 2018

The Chairperson called the meeting to order at 6:45 PM.

Members in attendance:

Glenn Coppelman, Chair
Peter Coffin, V. Chair
Phil Coombs, BOS rep.
Karen Layne, alternate

Lynne Merrill
Chris Bashaw
Peter Bakie
Ellen Faulconer, alternate/admin. asst.

Members absent: Carol Croteau, Robert Pellegrino, alternate

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

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

Berkshire Dominion/Saddle Up Saloon

92 Route 125

Tax Map R8 Lots 40 and 40A

Mr. Coppelman read a letter from Charlie Zilch, requesting a continuance on behalf of his client.

MM&S to continue to December 11th with the Board's hearing beginning at 6:45; all materials are to be submitted to the Planning Board by noon on Thursday, November 29, 2018; Mr. Zilch will be contacted regarding this motion. (Motion by Mr. Bakie, second by Mr. Coffin) **PUNA**

JASE Realty, LLC

AJA Auto Repair

52 Rte. 125

Tax Map R5 Lot 16

This portion of the hearing began at 6:55 PM; Mr. Coppelman read the public notice. Mr. Quintal introduced himself as the engineer for the proposal. Mr. Coppelman explained that the Board had previously approved Mr. Quintal working for this applicant due to a past association with the current plan. Mr. Quintal explained that the parcel was in zone C-III and in Shoreland Protection. He introduced the owner, Scott Barker; he added that the property was 4.22 acres between Rte. 125 and Bayberry Pond. Mr. Quintal noted that he had started work on the site in 1988; there is a 100 ft. buffer between the parking and wetland area. He continued that the original approved plan was similar to the one presented; Mr. Barker wants to put up a building. Mr. Quintal stated that it would be a 50 x 100 ft. building; once constructed, the 3 existing trailers and office trailer will be removed; there will be 10 employees; the septic system is more

than adequate; stormwater management has been provided. Mr. Quintal stated that the impervious surface goes from 37.3 to 38.3% but there will be removal of pavement over the front area making the impervious surface about the same. He reviewed landscaping that included proposed tree plantings and other plantings in front; a stockade fence on the north property line; there will be some additional lights that will all point downward. There will be two parking spaces for the residence, 126 for the lot, one handicapped parking space. Mr. Quintal noted that there would be a visible and environmental improvement for the site. Mr. Coppelman stated that the RCCD comments were available; Mr. Quintal will get a copy to address Mr. Greenwood's comments and the RCCD review.

Mr. Greenwood said that his main issue was the interplay between the development and the Shoreland as the use is "bumpy"; he said it is currently a legally existing, non-conforming use but the proposed expansion is not an allowed use within the Shoreland District; it would require a variance as the building constitutes an expansion of use. He stated that this sets the applicant on the path to needing ZBA action. There was discussion on the ability to continue the application with or without invoking jurisdiction. Mr. Greenwood cautioned about continuing without taking jurisdiction. There was discussion regarding the requirements of the Shoreland District including the difference between the district requirements and setback requirements. Mr. Coombs stated that this would be an improvement. Mr. Greenwood explained that the applicant had a 5 year window to do the substantial improvements; that window started in 2002.

Mr. Coppelman read the Conservation Commission's comments that included the question of needing ZBA action within the Shoreland Protection area. Mr. Bashaw stated that while it may be an improvement, to keep the process accurate and clean, it needs to go to the ZBA. Mr. Coffin agreed as did Mr. Bakie. Mr. Bashaw agreed to continuing the process.

MM&S to accept the plan for jurisdiction. (Motion by Mr. Bashaw, second by Mr. Coffin)
Mr. Greenwood explained that this just starts the process and allows the Board to continue the hearing and send to the ZBA. Vote on the motion: **PUNA**

The Board discussed needing ZBA action that included needing a use variance as auto repair is not allowed in the Shoreland; a legally existing non-conforming use cannot be expanded. Mr. Coombs asked about how much additional square footage was becoming impervious surface. Mr. Quintal explained that the building itself is the expansion of the repair of vehicles. Ms. Merrill stated that the impervious impact to the zone is not increasing. Mr. Greenwood added that the new 5,000 sq. ft. building is an expansion of the repairs on the property. Mr. Coppelman said it is a process issue; he asked if the upcoming motions should be all encompassing. Mr. Greenwood said the variance issue should be a separate motion. Mr. Coppelman added that this would set the stage for the continuance.

MM&S to refer this applicant to the ZBA for a variance for an expansion of a legally existing non-conforming use per 205.9 A. (Motion by Mr. Coffin, second by Mr. Bashaw)
Motion carries 6-1 with Mr. Coombs opposed.

The applicant was referred to the ZBA to apply for a variance.

The Board scheduled a site walk, pending the ZBA decision; if it is unfavorable, the site walk and continued hearing can be cancelled or rescheduled.

MM&S for a site walk on Saturday, November 10, 2018 at 8:00 AM provided that the variance request was heard by the ZBA prior to the site walk, with a favorable outcome. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

MM&S to continue this hearing to December 11, 2018; the Board's schedule for hearings that evening begins at 6:45. (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

This hearing ended at 7:40 PM.

Mark Viens
Diamond Oak Boulevard
Tax Map R3 Lot 4, Land Unit 2

This hearing began at 7:40 PM; Mr. Coppelman read the public notice. The current plan is labeled plan revision #3. Mr. Hatch stated that there was a small punch list of changes; there weren't any technical changes of any substance. Mr. Quintal's comments were addressed first; they included: easements requests without receiving easement language; copy of test pit data/septic system design plan not received although the receiving area is shown; recording of the Stormwater Maintenance Requirements should be a condition of approval; inspection requirements; fees for inspections; approval for excavation on Unit 3 is required; the rest of the previous comments were addressed. Mr. Hatch has the proposed deed that executes the easement and 20 foot encroachment; he provided copies to the Board noting that sheet 2 is to be recorded; the easements are noted on that plan in the location where they exist. Mr. Coffin said that no easement for the grading is shown for lot 3. Mr. Hatch said it is on the entire lot for the construction of the grading. Mr. Quintal clarified that it is only needed during the grading so it is temporary. Mr. Hatch said the easement for the grading will be gone shortly after the recording, but he can add the note. Mr. Coffin suggested adding the note to Sheet 7; Mr. Hatch agreed.

Mr. Greenwood suggested the Board deal with the 3 waiver requests. Mr. Coombs said that "private drive" is spelled incorrectly. Mr. Coffin said that all roads need to be built to Town standards. Mr. Bakie said the culvert is under the road already; Mr. Hatch said that the culvert is adequately sized for the drainage at 15" although the current standard is 18". Mr. Quintal stated that the drainage, as is, currently works.

MM&S to accept the plan for jurisdiction. (Motion by Mr. Coffin, second by Mr. Bakie)
PUNA

The waiver requests were reviewed:

#1: Waive Article 904.14.B.1 to allow 12 designated parking spaces where 14 are required as 12 are suitable with additional space if needed.

MM&S to grant the waiver to the requirements of Article 904.14.B.1 to allow 12 spaces instead of 14 based on the proposed reasoning in the waiver request. (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

#2: Waive article 904.14.B.4.b re: allow the loading/unloading area zone to be undesignated as there is no practical purpose for the development; the owner won't be receiving a lot of deliveries to warrant it. Mr. Greenwood explained the regulation adding that it is not needed for this site as there is one tenant and no conflict of use.

MM&S to grant the waiver to Article 904.14.B.4.b per the applicant's reasoning regarding the loading area. (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

#3: Waiver to allow the use of the existing culvert. Mr. Bakie stated that he didn't think the waiver needed to be addressed. Mr. Coffin stated that the applicant would want to have the waiver as a portion is under the driveway. Ms. Faulconer suggested granting the waiver eliminated any problems in the future.

MM&S to grant a waiver to allow the existing 15 inch culvert to be used on the proposed driveway since the Town Engineer says it is working adequately and the larger culvert is not needed to meet the intent. (Motion by Mr. Coffin, second by Ms. Faulconer) **PUNA**

Department comments were read. Fire comments included: driveway needs a minimum of 20 ft. in width; building needs a monitored fire alarm; Knox box requirement; build in accordance with NH State Fire Code; name of street is incorrect. Building and Health had no comments.

Public comments: Renee Speitel questioned the load rating and whether it was up to the heavy construction equipment; expressing concern with not being responsible for repairs leading up to the residential development. Mr. Hatch stated there would be minimal traffic and there is already extensive car traffic on the road. Mr. Quintal agreed with Mr. Hatch due to the construction of the golf course and residential development and the equipment already utilizing the road. He stated that he hasn't inspected the road but there would be no more impact than there is now. There was no further public comment.

Mr. Coppelman noted that lighting product sheets had been submitted; they are full cut-off, LED's and meet the Town's requirements.

The Board reviewed the outstanding concerns that included Stormwater items being recorded in the drainage report. Mr. Quintal stated that the bond worksheet was provided and approved; Mr. Coppelman read the list with the amount totaling \$19,523.50. Mr. Coppelman explained that the bond is to stabilize the site; Mr. Greenwood thought it should be increased by \$1500 for the Engineer's work; Mr. Quintal said the original \$1500 was sufficient confirming that it was enough to cover the pre-construction meeting.

MM&S to grant a conditional approval that includes the following conditions:

1. Temporary easement note added to Sheet 4

- 2. Change Sheet 2 Easements to say “granted” with the date.**
- 3. Stormwater Maintenance requirements to be recorded.**
- 4. Placement of Performance/Engineering Bond of \$19,523.50.**
- 5. All fees to the Town must be paid.**
- 6. Provide copies of recorded deeds with easements and restrictions to the Board prior to issuing a building permit.**
- 7. Threshold of substantive improvements for vesting will be the construction of the building.**

These conditions to be met within 120 days. (Motion by Mr. Coffin, second by Mr. Bashaw)
Motion carries 6-0-1 with Mr. Coppelman abstaining.

This hearing ended at 8:45; the Board took a brief recess.

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

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

The hearing began at 8:55 PM.

Mr. Coppelman read the public notice. He reminded the Board that jurisdiction was invoked last month to move forward to be looking at a plan that the Board could take action on. Mr. Cummings said that he thought that they had made progress. Mr. Coppelman stated that it has been about a year that the Board has been reviewing this and at the last hearing it was hoped that there would be a plan submitted that the Town’s engineer would find acceptable; he said that he had looked at Mr. Quintal’s comments and he doesn’t think we are there yet.

Mr. Quintal explained that he had received plan pages 106 and a response letter; he reviewed these plans with the Road Agent, conducted a site inspection and took pictures of his review of the site. He stated that he found that some drainage and construction had been done; manhole #4 had been installed. Mr. Quintal reviewed the comments in his review letter that included:

1. Easement plan shown but the easement language was not provided; he recommends keeping the density at 8 homes, not 9.
2. Re: LCA’s: the approved plan showed uniform spacing; response states an agreement has been prepared but it has not been received.
3. If #20 is not built, it is not an issue re: disturbing the road
4. Culvert/invert issue
5. Unapproved catch basin – no waiver request to review.
6. Not asked to witness the drainage work:
 - a. No rip-rap to prevent erosion
 - b. Must correct spillway
 - c. Berm width

- d. Basin side slopes should be 3:1; steeper – likely to erode.
- e. Infiltration basin – needs cemented top
- f. Basin to be properly constructed
- g. Safety fence is required
- h. Approved plan shows manhole #3 and culvert pipe #13 – these are no longer on the plan; needs to comply with original design
- 7. Asphalt berm – currently shows a stone-lined swale to receive run-off – unacceptable; proposal requires a waiver which was not requested.
- 8. S.I.B #2 - installed
- 9. Design change needs a waiver – not provided
 - a. Catalog cut sheet not provided; need specific grading
 - b. Centerline spot grades not provided; does not provide for proper run-off
 - c. Culverts at 6 and 7 are inaccurate and incomplete
- 10. Catch basin between 25 and 26 – outlet pipe is located under Unit 225; need property owner approval or move it.
- 11. Amended Utility Plan is inadequate – labeled incorrectly.
- 12. Amending Grading Plan is inadequate.
- 13. Stormwater BMP's not reported
- 14. Swales not clearly shown.
- 15. Bituminous curb
- 16. Infiltration basin needs inlet grates.

Mr. Quintal summarized by stating that there is not good communication from the design contractor regarding the plan; need to let him know when the work will be done and be clear for the contractor; if not sure, the contractor should call the engineer or himself to make sure the work is done correctly. Mr. Cummings stated that some of the comments mix up the old and new comments; Mr. Quintal wants more details that what is on the sheets; he re-iterated that they have made some progress. Mr. Cummings said that he didn't submit waivers as he was unsure what to ask for waivers since it is a private road and not a public road. Ms. Faulconer noted that the previous motion for continuance required the signed easements be submitted to the Board. Mr. Cummings stated that the signed easements are not here either. Mr. Quintal stated that comment #1 refers to #6 and #7, not 16 and 17. Mr. Coffin said that there have been a number of times that there is insufficient information and not having calls to the Town Engineer to review the construction; he added that there are swales that were supposed to be built and were replaced either smaller or at a different angle. Mr. Cummings said that it was not rocket science. Mr. Coppelman agreed that many of the items were not rocket science yet it has been about a year now; he added that the Board made a specific motion to continue that has specific requirements and those items haven't appeared.

Public comment:

Glenn Powers, 17 Mulligan Way: he said that he has one of the homes near Manhole #4; he wants it built functional to Dennis' requirements; he agrees with comment #7; the culvert is 22 feet from his foundation; is not cosmetically appealing along with the other issues mentioned by Mr. Quintal; he wants it built correctly.

Jim Scarpone, 11 Mulligan Way: he stated that he was with Dennis at the meeting; the builder and the engineer wanted a swale but Mr. Quintal said that the swale wouldn't work; it needed a manhole and then all of a sudden, a swale was there. He said that the drainage pond was full of water; it hasn't drained and was not safe; the height and slope, if erodes, will run into an abutter's property and doesn't look structurally safe.

There were no other public comments. Mr. Quintal suggested that it was time to "fish or cut bait".

Mr. Coombs said that there has been such a mish-mash of different plans; sarcastically adding that it looks like the applicant is just going to give the Board an "as-built". Mr. Coffin said that the option being given is to approve a plan after it is built that doesn't meet the Town's requirements; the areas needs to be built as designed. Mr. Quintal said that manhole #4 is on the original plan; has been an issue right from the beginning. He continued that the applicant has chosen to re-do the detention basin to an infiltration basin; it is supposed to be for recharging stormwater and supposed to drain within 72 hours; it is not draining; his concern with the material is to make sure it drains properly; the State is clear on the materials needed to use per the test pit data; with only 4 inches, the water goes over the berm and it will be a big expense for the property owner. Mr. Cummings said there is an overflow structure and a spillway. Mr. Quintal stated that it did not show on the plan. Mr. Bashaw explained that he is inclined to deny the plan; any progress made is not correct and not done how it needs to be done; the progress has been done the way the applicant wants, not what is right. Ms. Faulconer added that the plan is based on easements but the Board doesn't have the signed easements to show that they are viable. Mr. Coffin said that there has been no real need shown for the increased density of Bent Grass Circle; he wouldn't approve that change; if the original plans couldn't be built to the approval then the applicant needed to come to the Board and not keep constructing; he continued that the current proposal doesn't meet the Town's regulations; they need to build to the approved plans or come up with a new set that meets the Town's regulations. Ms. Faulconer stated that the density issue for the new plan was not adequately addressed with the information that has been currently submitted so she couldn't approve the 9 homes. Mr. Bashaw agreed with Ms. Faulconer that the current plans do not adequately address the issue. Mr. Cummings said that the area doesn't need the room; Ms. Faulconer said that the room was needed to access the leaching area. Mr. Cummings said that the Town would be taking a unit away from the developer. Ms. Faulconer said that the Town wasn't doing that; the developer did that by moving one of the houses contrary to the original approval.

MM&S to deny the plan per items reviewed at this hearing including, but not limited to, failing requirements for Article 904.5 (G), #22, #30, #31, #38 and General Standards in Article 904.6, C and I; also failing to provide the information noted at the last hearing's motion to continue that was contingent on going forward with this application. (Motion by Mr. Bashaw, second by Mr. Coffin) PUNA

Mr. Coppelman stated that a letter will be sent to the applicant per statutory requirements. He added that in the meantime, there is an approved plan for the site or a plan can be submitted that is more compliant than the plans the Board has seen in the past.

This hearing ended at 9:45 PM.

Dan Parks
7 Small Pox Road
Tax Map R19 Lot 32

The hearing began at 9:50 PM. Mr. Coppelman read the public notice.

Mr. Park described the property as very flat, not far from the water table; he wants to make a 5 acre fishing pond. He dug down a little area for his grandkids to play in and he knows it will fill up naturally; it will create more wetlands. He stated he lives on the property; there is a home and a barn. Mr. Greenwood said that the Town refers to the State's RSA and guidelines. He said that he is at a bit of a loss to give guidance; he gave Mr. Parks statutory guidance but it only seems to partially apply as there are features of a gravel pit per the amount of material being removed; he is concerned with trucks leaving the parcel and using Town roads. He said that, per the drawing, the pond seems bigger than a 5 acre pond; he is uncertain of the process; the RSA says a plan will be provided with setbacks and amount of material being removed. Mr. Coombs reference a similar activity at a neighboring Town that did need a Dredge and Fill and a Stormwater Management plan. Mr. Greenwood will contact Fremont to see what they did for a similar project. Mr. Coppelman questioned the depth; Mr. Parks said 30 feet. Mr. Bakie commented on the proposed size as drawn.

Mr. Quintal's comments dated 10/5/2018 were read: sketch appears to show an area of wetlands within the pond – the project requires a Dredge and Fill and further review as it changes a functional wetland; need a wetland scientist for this; need an accurate plan to show the profile; construction will require “de-watering”; estimated volume of material being removed will require approximately 6000 (six thousand) truckloads – a bond for possible road damage will be required; there are a lot of wetlands, not a lot of ponds – the process needs to be done properly. Mr. Parks said there are no wetlands in the pond area. Mr. Quintal explained that one wetland area shows in the plan submitted per the tax map; he needs to get a wetland scientist to stamp and plan and verify wetlands.

Department comments:

Health comments were: water in and out; stagnation; nitrogen build-up from waste; decaying food; decaying fish; mosquito activity.

Fire comments: would like to discuss possibility of fire hydrant for fire suppression. Mr. Park thought this would be awesome.

Highway comments: gravel permit required; post bond for Town roads; post bond from restoration and engineering; 5,000 tractor trailer loads on Town roads; need site plan review.

Conservation Commission comments: easement onto Eversource Property at the power lines; Ms. Faulconer suggested that Mr. Parks would need to look into this; questioned any impact on Atlantic White Cedar; clarify amount of material; de-watering plan and gauging impact on closest water supply wells; introduce non-native fish or nutrients into the water table from fish food and waste; suggested contacting Fish and Game.

Building comments: comply with 902; verify Intent to Cut was issued. Mr. Parks said the area was a field.

Mr. Coppelman noted that no public was present for public comment. Mr. Coffin said that the Board needed more answers regarding excavation and the other questions about what was required. Mr. Bakie reviewed specifics concerning the excavation of a pond; he said that it seemed like it would be closer to 7500 dump trailers; he suggested that Mr. Parks had a lot of homework left to do. Mr. Bashaw liked Mr. Coombs idea of reaching out to other towns. Mr. Coombs suggested that Mr. Parks reach out to NRCS (Natural Resources Conservation Service) as they may have programs to put in ponds; it was also suggested that he might need to contact a soil scientist. Mr. Greenwood would like to put together all the Town comments and contact Fremont. Ms. Merrill said that the Board would need a “proportional” plan similar to a proper survey showing setbacks to wetlands and neighbors. Mr. Greenwood said that this is a noticed public hearing, no clock starts but the Board can continue. Mr. Parks will contact the Board if he does not have all of the information needed for the next hearing and ask for a continuance at that time.

MM&S to continue to December 11th; the Board’s hearing begins at 6:45. (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

This hearing ended at 10:40 PM.

Board Business

Critical Correspondence:

- ZBA comment sheet re: 4 Main Street
- Email received from Charlie Zilch, dated 10/16/18 re: special exception/conditional use permit; Mr. Greenwood said that no PB action is required so no need for a dual hearing. Mr. Greenwood will contact Mr. Zilch and the ZBA Chairperson.
- RPC information re: dues
- Invoice from Town Engineer for meetings attended
- Invoice from RCCD re: engineering services for JASE review
- Ms. Faulconer reviewed information from Inspector’s meetings re: feather banners at Hunt Rd./Rte. 125 dealership; Mr. Coombs brought up similar banners at Maroun’s auto – Ms. Faulconer will send letters re: compliance; paving of parking area on property adjacent to Pat’s Auto: Mr. Greenwood will check the file and the site for compliance re: paving/parking; overnight stays at Camp Lincoln which is a safety concern raised by the Town’s Inspectors; Ms. Faulconer will send a letter that “overnight” use in not allowed.
- Invoices for August and September for Mr. Greenwood

MM&S to accept the July 22, 2018 minutes as written. (Motion by Mr. Coffin, second by Ms. Merrill) **Motion carries 4-0-3** with Mr. Bakie, Mr. Bashaw and Mr. Coombs abstaining.

The September 18, 2018 minutes will be tabled to the next meeting.

Mr. Coppelman read a resignation letter, dated 10/5/2018 from Carol Croteau, effective immediately. The Board accepted Ms. Croteau's resignation and authorized Mr. Coppelman to send a letter of thanks on behalf of the Board. There was a brief discussion on the impact of the resignation; Ms. Merrill suggested not filling the position as it would be for a limited time with limited meetings. Mr. Coppelman suggested the Board discuss at the next meeting.

MM&S to adjourn at 11:10. (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**