

## **Kingston Planning Board**

### **March 5, 2019 Public Hearing/Meeting Minutes**

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

Members present:

Glenn Coppelman, Chair  
Peter Coffin, Vice Chair  
Phil Coombs, BOS rep.

Lynne Merrill  
Peter Bakie (joined the meeting in progress)  
Robert Pellegrino, alternate

Members absent: Chris Bashaw, Ellen Faulconer, alternate; Steve Padfield, alternate

Also present: Glenn Greenwood, Town Planner (joined the meeting in progress) ; Dennis Quintal, Town Engineer

Mr. Coppelman announced that the meeting was being televised; he introduced the Board and noted that Mr. Pellegrino would be a voting member this evening.

#### **Dan Parks 7 Small Pox Road Tax Map R19 Lot 32**

Mr. Coppelman read the public notice for this hearing. He explained that this proposal falls under RSA 155:E. Mr. Parks was invited to address the Board.

*<Mr. Bakie joined the meeting at this time.>*

Mr. Parks said he was waiting to hear any comments since the revised plan was submitted; he did receive Mr. Greenwood's comments; he has nothing else pending comments. He referenced Mr. Greenwood's comments adding that an Alteration of Terrain (AoT) permit would be required by DES (Department of Environmental Services), which he said was news to him; he said that he had contacted DES who said he wouldn't need a permit. Mr. Parks said that when he then contacted DES, he was told that they hadn't realized the size of the pond and agreed that an AoT permit would be required. The process was explained to him by NHDES; his engineer will have to provide the required information with an approximate 30-day turnaround time by NHDES. He suggested the possibility of working on the first 2 acres, which wouldn't need a permit, while waiting for DES to grant the permit. He agrees with issues regarding truck traffic. Mr. Coppelman said the list that Mr. Parks was referring to came up during the Technical Review process and brought up by Town department heads. He understands truck traffic, hours of operation and the hydrant near the pond. Mr. Parks was unsure how important a "flagging agent" at New Boston Road was; the road wasn't that busy. Mr. Coppelman stated that it was probably due to the number of trucks. Mr. Coombs asked if that issue came up at the Technical Review Committee (TRC) and if the police brought it up. Mr. Quintal said that the issue came up from the Chief

of Police with the issue being the volume of trucks and the number of tricks per day. Mr. Parks said it isn't known how it is being handled yet. He stated that he understands the bond for the road and agrees with that; he said that it would be up to the person doing the hauling to post the bond to take care of the roads; he said that Mr. St. Hilaire suggested that to him. He said he put in 3:1 bank slopes in for 20 feet before it goes to 2:1 to make the bottom area bigger which he thought was better. He said that he didn't see anything else on the list that needs to be talked about yet.

Mr. Quintal reviewed his comments; copies had been distributed to the Board prior to the hearing; he said that he received a copy of the plan on February 2<sup>nd</sup> with a letter from Seekamp Environmental dated January 3<sup>rd</sup>. He reviewed the plans and the Town's regulations to come up with the list he had provided to the Board. He reviewed his comments that included issues regarding: locus map, benchmarks tied to USGS datum, zoning district shown, signature block, list of State and federal approvals, AoT permit, review of Heritage Bureau (NHB), hours of operation, dust control methods, stormwater management, surveyed property lines and monuments, details for reclamation and stabilization, performance bond, engineering bond, security bond for Town roads, video the road prior to beginning project, waivers, equipment refueling specifics and compliance, no blasting or rock-crushing allowed, limit of wetlands and survey from wetlands scientist, dredge and fill permit, stamp of wetlands soil scientist, 100 ft. setback to be staked prior to construction, dewatering methods plan, construction sequence and erosion control plan, typical cross-section of the pond required and gradual slope for safety, perimeter vehicle path for controls. Mr. Coombs asked was a locus map was; Mr. Coppelman explained that it is a little map that usually shows where the pond is located in relation to the area to be able to find it. Mr. Coppelman suggested the Mr. Parks provide Mr. Quintal's comments to his engineer; they are typical and the engineer should be able to respond to them. Mr. Parks explained Mr. Seekamp's letter about the wetlands near the driveway; there is no wetland in the middle of the area. Mr. Quintal read the letter re: staying at least 25 feet north of the driveway will keep the project more than 100 feet from the wetland associated with the tributary of the Pow Wow River; he said that this comment doesn't line up with where the setback from the wetlands shows on the plan. They reviewed the map/plan. Mr. Parks pointed out the driveway and the Pow Wow tributary; there was discussion of the wetlands and setbacks. Mr. Coffin asked where the Town road ended in relation to the driveway; Mr. Parks showed that on the plan.

*<Mr. Coffin noted that Mr. Greenwood arrived at 7:00 while Mr. Quintal was reviewing his comments.>*

Mr. Park said that the engineer can address all of the issues. Mr. Quintal reviewed fuel location details; spill containment; he said that pumping details/discharge details were important and important to keep out of the wetlands. Mr. Parks said that he expects that his engineer can deal with all of this; some has been discussed already.

Mr. Greenwood said that his two major concerns were the safety issues brought up at the TRC, affecting the road network and the process for the initial road inventory recommended by the Road Agent is an important thing to do although not done previously due to not having a project with this degree of expected trucking. Mr. Coppelman suggested that Mr. Greenwood speak with the Town Administrator in Hampton Falls due to a similar project. Mr. Parks suggested using a drone. Mr. Greenwood suggested road surface management through UNH (University of NH) and use of a template to determine the road inventory and the initial starting point of the roads. Mr. Quintal said other Towns have just taken a camera to take a video identifying the footage and stationing of the road and highlighting the areas disturbed prior to the project beginning. Mr. Parks asked about the typical cost; Mr. Quintal said that Mr. Parks' engineer should present that estimate to the Board. Mr. Parks asked

how to figure it out, was it a million dollars or something, or a percentage. Mr. Greenwood said that it would be pretty substantial due to it being thousands of trucks; Mr. Quintal said it was a long section of road that should it need to be completely rebuilt would be quite a bit of money. Different aspects of repair to the road, to come up with a bond amount, was discussed. Mr. Bakie said that the company doing the excavation has probably posted a bond before and, in conjunction with his engineer, can determine the amount. Mr. Parks reviewed the history of the paving of the road and a previous bond used to finish the road.

Mr. Greenwood said that he had reached out to Eversource twice with no response which was odd due to their initial interest. Mr. Coffin asked if Mr. Parks could directly contact them. Mr. Parks said that there were no poles on his property. Mr. Greenwood suggested that he would send a certified letter to show their receipt; Mr. Coffin suggested adding a deadline date to reply or the Board would assume that they have no issue/comment. Mr. Coppelman said that as long as the process was continuing, Eversource was not forfeiting any right to comment but a letter as discussed would be a good idea. Mr. Coombs asked if they could wait and weigh in on this proposal as any time. Mr. Coppelman said that as long as it was still on-going, they had the right to public comment.

**ACTION ITEM:** Mr. Greenwood will send a certified letter to Eversource per the Board's discussion.

Since Mr. Parks had already spoken to Mr. Greenwood's comments, Mr. Greenwood did not review his comments that had been distributed.

Mr. Coppelman read Department comments – Highway: establish road bond for Small Pox and New Boston Roads, establish a performance and engineering bond, film and document existing conditions of Town roads before construction begins; Building: what does Eversource have to say about a pond beneath their wires; Health – no comment; Conservation – will excavating a large deep area exceeding 100,000 sq. ft. in such close proximity to a wetland affect hydrology/hydrogeology of the wetland; would like assurances that the work would not cause draining or lowering of the water table of the wetland prior to this project being permitted. Mr. Coppelman asked if any work was proposed by a hydrogeologist; he asked if the Board was looking at this as a site plan review application merged with 155:E or another way. Mr. Greenwood said the only authority seemed to be through 155:E; site plan is for development of a site for non-residential purposes and this is not what this is; there is no activity going on resulting in an on-going business or enterprise after the end of the review process; the Board is reviewing the removal of earth materials. Mr. Coffin asked if the AoT review had any requirement to review nearby wetlands. Mr. Quintal said they look at stormwater management, planting schemes, no invasive species and associated comments; they might recommend it be reviewed by their wetland division although unlikely with no impact to the wetlands; AoT looks at the stability of the ground, erosion of the ground and not hydrology. He said that it probably wouldn't be done unless the Board had their own hydrogeologist take a brief look at it for her opinion of the impact to the wetlands. Mr. Coombs asked if the DES was charged with oversight of the wetlands and mandating needing an AoT and thought it was that review that would allow them to raise that issue. Mr. Greenwood said that the Wetlands Bureau was there to deal with direct impacts to wetlands and if not impacting the wetlands resource physically they are less likely to get involved. Mr. Coombs thought that would be the issue with going over the 2 ½ acre. Mr. Quintal said that AoT would not necessarily look toward the Wetlands Bureau for impact comments but they might look at the Groundwater Division of the State which is a separate division; that is more in their line than the Wetland Bureau. Mr. Greenwood said that Groundwater Bureau will be interested in not having a contamination but will not look at the pond as

de-watering. Mr. Coombs said that sand was being removed but the water is still there. Mr. Greenwood said that nothing being proposed was attempting to remove the water resource from the site. Mr. Coffin suggested that there might be a temporary effect due to hydrostatic pressure pushing water laterally; while they are de-watering to dig the pond, there will be a differential pressure but it will equalize. Mr. Coffin and Mr. Pellegrino suggested a hydrogeologist could clarify the issue.

Mr. Coppelman continued reading the Conservation Commission's comments: What adverse effects might be caused to the neighboring Atlantic White Cedar Yellow Birch Pepper Bush swamp as a result of de-watering and erosion; they understand once the AoT permit is granted, the NHB must be consulted; they encourage Mr. Parks to communicate with the NHB sooner, rather than later, to prepare info. re: species in the area. Mr. Quintal noted that it had to be done anyway as it was part of the NHB process.

Mr. Coppelman noted that there was no public available for public comment.

Mr. Coppelman asked for any Board comments. There were none. He asked if the next step was for Mr. Parks to get the information to his engineer for updated plans. Mr. Greenwood suggested a sit-down with Mr. Parks and his engineer and the Town Road Agent and Town Engineer with himself as this is an unusual application. Mr. Coombs said he was unclear as to why the meeting was needed; that Mr. Parks seems to be willing to address the issues and the "flagger" can be determined at the pre-construction meeting upon getting the trucking schedule. Mr. Coppelman said that the engineer hadn't met with the Board so the discussion might be helpful in getting a more complete plan from the engineer. Mr. Quintal said that contacting Eversource ASAP was important for this process; he suggested Mr. Parks' get his engineer to pursue that discussion. Ms. Merrill said that the applicant needed to do a bit more work and have a good discussion with the contractor that will be removing the material to get a good idea of the schedule; she suggested continuing to give the applicant enough time to find answers and provide new plans and make sure Eversource is responding. Mr. Coffin said that the Board should authorize a meeting with the principals and continue this. Ms. Merrill asked if there was a reason that the engineer hadn't been coming to the meetings. Mr. Parks said that "not really ; they were playing it by ear on how the Board felt about the plan; he has received more input this evening; he did not want to waste the engineer's time. Ms. Merrill thought it would be valuable for him to attend the next meeting. The discussion with the contractor regarding the number of trucks and associated costs was encouraged as the information would be needed. Ms. Merrill suggested that this plan would be needed before other items can be determined to be able to move forward. The continuation date and submission deadlines were reviewed.

**MM&S to continue this hearing to Tuesday, April 16<sup>th</sup> with plans due in to the Planning Board (by noon) on April 1<sup>st</sup> with the conditions that the (Town) Engineer, Planner, Road Agent, applicant and applicant's engineer have a meeting within the next 14 days to review all the comments and make certain that the plan set is prepared for the next meeting.** (Motion by Ms. Merrill, second by Mr. Coffin) Discussion: Mr. Coppelman noted that there was already a continuation on that date; this would be the second item on the agenda. **Vote on the motion: Motion carries 5-0-1** with Mr. Coombs abstaining.

**ACTION ITEM:** Mr. Greenwood will set-up the meeting mentioned in the motion to continue.

#### **Board Business**

#### **Correspondence:**

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KPB

03/05/2019

Accepted as written 4/16/19

- Notice of upcoming ZBA hearing – Diamond Oaks – Mr. Coppelman noted that neither he nor Mr. Greenwood were available to attend; he asked if a Planning Board member could attend; this was a use variance for residential uses in Commercial Zone III; he asked if the Board thought the Planning Board should be there to provide additional/background information to be presented to the ZBA or a letter/memo/input explaining the background information. Mr. Coombs was hoping to attend; he was not in support of the proposal. Ms. Merrill said she would attend if she was in Town, which was uncertain. Mr. Greenwood said he would put together a history as to the development of the ordinance.

**ACTION ITEM:** Mr. Greenwood would put together a memo for the ZBA and send out to the PB prior to getting to the ZBA.

- NHMA Town and City magazine article re: policies; hard copies were available that had also been sent by email.

**MM&S to postpone the discussion of procedures and by-laws until the first meeting in April, April 2<sup>nd</sup>, as there are 4 members (2 full members and 2 alternates) not present this evening so would be more beneficial at a later meeting.** (Motion by Ms. Merrill, second by Mr. Bakie) Mr. Coombs agreed adding that the full Board would be seated for that meeting. **PUNA**

Ms. Merrill suggested that projects for 2019 might be added to that same agenda. Mr. Coppelman added that to the agenda that already included the agritourism discussion. Mr. Coffin asked if there would be any value with any proposed changes for the April meeting being sent to the office to be distributed to the Board prior to the meeting. Ms. Merrill said most of her comments were items that would require discussion such as items that were not being followed that should either be removed or would prefer that they be followed such as, for example, one that people from the audience have a plan set to look at. Mr. Coffin talked about upgrading the process. Mr. Bakie said that, particularly as pertaining to tonight's meeting, he thought that the Board had talked about the applicant getting comments prior to this evening which might move things along; he said there has got to be a way to do this. Mr. Greenwood said that he would step up and take the blame for this one as he made it a point to get the TRC minutes to Mr. Parks in advance and he should have sent him along Mr. Quintal's memo and he didn't do that. He said that he has been in touch with Mr. Parks and he should have gotten the comments to him.

Mr. Quintal said that he has no problem submitting his comments directly to the applicant but this Board in the past has told him not to do that because it causes two sets of plans to be reviewed by the Board – the original plan and then a revised plan being brought in for the meeting which then causes confusion about the reviews that were done; it is important that the comments not be addressed the first time as perhaps the Board didn't agree with all of his comments. Mr. Bakie said that the applicant would be informed to not bother changing the plans to bring in for the hearing as that would be chaos. Mr. Quintal said that the decision to forward his comments would be a decision by Mr. Greenwood or Ms. Faulconer; Mr. Coffin agreed as did Mr. Bakie. Mr. Quintal clarified that the Board wasn't directing him to send his comments out to the applicant. Mr. Bakie agreed with Mr. Quintal. Ms. Merrill said that what is unusual with this particular application, the applicant needs answers from the contractor before the plans can really be finished; it is an unusual situation. Mr. Pellegrino suggested that having amended plans might be allowed; Mr. Coffin said that with that process, a whole set of another plans will be done and submitted prior to the Board reviewing and then adding in any changes. Mr. Coppelman clarified that the plans weren't just for the Board's review but for all the Town Departments to review and comment on. Ms. Merrill said that the applicant could get the feedback on the plans but

they shouldn't change the plans but just address the feedback as they should wait for the Planning Board feedback so they don't have to change the plans an additional time.

#### **Minutes:**

**MM&S to accept the December 11, 2018 minutes as written.** (Motion by Mr. Coffin, second by Mr. Coppelman) **Motion carries 3-0-3** (Ms. Merrill, Mr. Bakie, Mr. Pellegrino)

Mr. Pellegrino asked to amend the minutes of January 22, 2019 by adding comments he had prepared; he asked if he should read them off. Ms. Merrill asked if it was verbatim. Mr. Pellegrino answered that it was verbatim, but only a paragraph here and there, not his whole speech, not seventeen pages. Ms. Merrill suggested that the Board should have copies instead of Mr. Pellegrino just reading it. Mr. Pellegrino asked to just read it. Ms. Merrill suggested that the suggested additions would need to be verified. Mr. Coppelman agreed that it should be verified and Board members should have a chance to read them but in addition, he asked if the Board was comfortable taking that much information in and amending the minutes or add them as an addendum to the minutes. Mr. Coombs noted that both he and Mr. Coppelman were not at the meeting. Mr. Coffin said that he thought Mr. Pellegrino was going to submit any comments so they could be sent out to the Board members to read; he said that he hoped that they would be edited down; he said that it would probably be better if the people who were at the meeting were here to vote on them. He said that they could be submitted to the recording secretary to be distributed, reviewed and voted on at the next meeting. Mr. Pellegrino stated that it was just what he said. Mr. Coffin said that the Board did not want to set a precedent of isolating certain statements. Mr. Pellegrino said that the procedures are that it is to have a minimum, a brief description of the minimum but we don't have to be minimum all the time and this is not for every single meeting. Ms. Merrill stated that she has never heard of an addendum to minutes before and asked how that would work and what it would mean. Mr. Coombs reviewed the NHMA (New Hampshire Municipal Association) web site which described what minutes are: "when considering the brief summary of the subject matter discussed the Board may want to recall that the purpose of meeting minutes is to promote openness in government and to inform citizens about what the government is doing. Citizens should be able to read minutes of a meeting and get a good idea about what happened. This does not mean, however, that stenographic or verbatim minutes must be taken. Most Board's do not have staff with specialized stenographic skills nor is there any legal requirement to prepare minutes in this manner. Minutes should be fair and objective; they should not include insulting remarks even if such remarks are made during the meeting, the focus of the minutes should be to record the important and relevant things that occurred at the meeting, no bickering and insults." He continued that he read that as he has been on a few Boards and he didn't think he had ever seen minutes as detailed as this Planning Board produces; hands down. He said he understands Mr. Pellegrino's feeling but he wanted to put out there the guidelines on minutes so everyone had that information; he noted that the NHMA is typically the default for information. Mr. Coppelman thanked Mr. Coombs for the information. Mr. Coppelman, to return to Ms. Merrill's question, stated that he didn't know if it was legit to add an addendum to minutes although he thought it had been done before. He continued that this was more than clarification, it was substantial and if it was attached to the minutes with the notation that the Board member authored it, he wouldn't be uncomfortable with it. He said that he did have an issue with actually changing the minutes to be more verbatim that the Board had decided. Mr. Pellegrino said that the minutes are supposed to reflect the important part of the meeting, this was important; he said that it was not like he was putting on an addition to a house or a garage; brief minutes are okay with something like that but when there is a multi-million dollar project coming in, there needs to be more

detail than just a couple of paragraphs about a project in case an applicant comes back in years later. Mr. Pellegrino added that the Board needed to remember that it had its own power; he added that it is not a privilege for citizens to talk to the Selectboard, it is a right. Mr. Pellegrino added that he is not a politician and he will call out corruption and it is right there in the open and should be addressed. He suggested that the Board blocked him out at the last meeting. Mr. Coppelman said that Mr. Pellegrino was getting out of order.

**MM&S to accept the minutes as presented with the addendum presented by Board alternate Robert Pellegrino with an explanation to the minutes added for explanation purposes only: Board alternate Robert Pellegrino requested that the following verbatim comments be included as an addendum to the minutes.** (Motion by Ms. Merrill, second by Mr. Pellegrino) Discussion: Ms. Merrill explained that this way the verbatim is added, it is not part of the Board's normal procedures but it is identified as not part of the minutes. Mr. Coffin stated the addition of the first comment would have been a substantive change and he would have agreed with that amendment but there were no substantive changes further down in the list; he's okay as adding as an addendum per his request. Vote on the motion: **Motion carries: 4-1-1** with Mr. Coppelman abstaining and Mr. Coombs opposed.

**MM&S to accept the February 5, 2019 minutes as written with the exception that Mr. Coppelman opened the meeting.** (Motion by Mr. Coffin, second by Mr. Coppelman) **Motion carries 4-1-1** with Ms. Merrill abstaining, Mr. Pellegrino opposed.

Mr. Coombs will get an update for ECSI for the next meeting.

Mr. Coppelman reminded the Board of a site walk on Saturday; Mr. Coffin volunteered to take minutes of the site walk. Mr. Quintal suggested that a site walk with no snow on the ground was a better idea to see the conditions, catch basins, pervious vs. impervious surfaces. The Board discussed this issue and decided to postpone the site walk to the following Saturday.

**MM&S to postpone the site walk to Saturday, March 16<sup>th</sup> at 8:00 AM.** (Motion by Ms. Merrill, second by Mr. Pellegrino) **PUNA**

**ACTION ITEM:** Mr. Greenwood will call the engineer and the abutter about the postponement.

Mr. Greenwood questioned whether the Bluestone information was submitted in time for the next meeting. He will follow-up on this.

**MM&S to adjourn at 8:35 PM.** (Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**