

## Kingston Planning Board

### July 16, 2019 Public Hearing Minutes

Mr. Coppelman called the hearing to order at 6:50 PM; there were no challenges to the legality of the hearing.

Members present:

Glenn Coppelman, Chair  
Peter Coffin, Vice Chair  
Lynne Merrill  
Chris Bashaw  
Phil Coombs, BOS rep.

Peter Bakie  
Robin Duguay  
Steve Padfield, alternate  
Ellen Faulconer, admin. asst., alternate

Also present: Glenn Greenwood, Town Planner; Dennis Quintal, Town Engineer

Mr. Coppelman introduced the Board. He announced that there was a request to continue the Pryor subdivision to the 3<sup>rd</sup> Tuesday in August for the benefit for anyone present for that hearing. Agendas were available for the public.

**Mark G. Mitchell**  
**15 Exeter Road**  
**Tax Map R34 Lot 61**

Mr. Coppelman read the public notice; this hearing began at 6:55 PM. Comments from the Planner and Town Engineer were distributed. Jim Franklin, the land surveyor, and Mark Mitchell, owner, introduced themselves to the Board. Mr. Franklin said he did his best to do the requested changes.

Mr. Greenwood said that only one of his comments from the last meeting remained and that is to indicate the proposed impervious coverage after construction for lot "A".

Mr. Quintal reviewed the plan dated 7/2/19; his comments removed any of the completed comments from the last hearing. His current comments included: confirm with the registry that the plan can be recorded as presented; stamp plans; set bounds; proper tax map number needs to be put on the plan; existing well needs an easement if serving the parent lot; amend note #5 – the "proposed" lot not in the Flood Zone; #7 has a spelling error.

Mr. Coppelman read the Department comments: Health – no septic system approved or on file; Building and Fire – no comments. Mr. Franklin said that he met with the Fire Dept. and added note #7 stating that they will comply with the Fire regulations and there will be a sprinkler system.

Mr. Franklin stated that he brought the proposed plans to the registry and they won't accept it; they won't accept site plans without distances; he has an 11 x 17 plan that can be recorded that shows the required information. Mr. Quintal said that it can be a condition of approval to add noted to the plan being recorded. Mr. Franklin added that he would be recording both sheets. Mr. Quintal stated that as

1

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Accepted as amended; p. 6, 2<sup>nd</sup> Paragraph, line 3 "Mr. Coffin agreed"

long as the notes are on the plan, it would be acceptable; the topo. will be on file and can be re-labeled on that file; the recorded plan can refer to it; there would be one plan with the boundary lines and then have a note referring to the other sheets on file with the Town. He said that the correct tax map number needs to be on the plan and that number is usually done by the Assessing Department. Mr. Franklin says that the existing well serves the parent lot; Note #6 is for the racetrack; he brought the release form for the protective well radius to be recorded at the registry. Mr. Quintal said that there needs to be a maintenance agreement to be able to maintain and access the well; it needs a protective zone easement and a note on the plan. Mr. Franklin questioned the well extending onto the proposed lot from lot 62 and asked how to handle that. Mr. Quintal replied that a well protection easement would be needed; he explained that the release is for the owner of the well; the new property owner needs to have the easement to know that there is a restriction and that they can't do anything within the easement. Mr. Greenwood added that the easement language has to be referred to on the plan being recorded. Mr. Franklin agreed.

There was no public comment.

**MM&S to conditionally approve the plan dated 7/2/19 with the following conditions required prior to signing the mylar:**

- Add the correct tax map # for the new lot
- Approved easement language on the plan
- Language to be approved by the Town's Planner
- Correct notation: "proposed" lot not in the flood zone
- Correct spelling error(s) in note #7
- Add lot coverage (as discussed) for lot "A"
- "topo" plan on file with the Town
- 90 days to meet the conditions

(Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**

<This hearing ended at 7:15 PM>

**Donald and Phillip Pryor**  
**61 North Road**  
**Tax Map R32 Lot 9A**

Mr. Coppelman read the public notice. He read a letter sent by the applicant's engineer, dated 7/15/19, requesting a continuance to the Board's next hearing date.

**MM&S to continue to August 20, 2019 at 6:45 PM; new plans are to be received by August 8<sup>th</sup> at noon.**

(Motion by Mr. Bashaw, second by Mr. Coffin) Discussion: Mr. Coffin asked about scheduling a new site walk. Mr. Coppelman said that would be an action to discuss at the August hearing. Vote on the motion: **PUNA**

**Hazel Hanson Property**  
**Applicant: Joseph Falzone**  
**53 Marshall Road**  
**Tax Map R41 Lot 7**

(The hearing began at 7:18 PM)

Mr. Coppelman read the public notice for the Design Review. Scott Cole, engineer from Beals and Associates, introduced himself to the Board. Mr. Greenwood reviewed an issue with an abutter letter being returned as the address/lack of address was undeliverable. He explained that normally he would counsel the Board that the hearing should be defaulted but the information the applicant received was directly from Brentwood and it wasn't noticed that the information did not actually include an address; they used the label as it appeared on the Assessing card which did not include a street address; the applicant did use a proper source of information for the label. He explained that this forum this evening was a non-binding discussion that didn't allow for any Board decisions. The abutters, the Ladds, were not able to be part of tonight's discussion; they were not notified. Mr. Coppelman stated that he would normally agree with the default position if this was a binding discussion. Mr. Bashaw added that since this was not a hearing where decisions would be made and there was a lot of interest with people in attendance he felt that the Board should go forward unless it was found to be very appropriate to default. Ms. Faulconer stated that she assumed that all efforts to get the address for these abutters prior to submitting for any future public hearing would be made and that the information regarding this meeting and the associated minutes would be sent to the abutters. Mr. Greenwood agreed adding that he would personally reach out to the Ladds and would drop the minutes off to the Brentwood Town Hall if that was more convenient for them. Mr. Coppelman suggested getting the minutes and both sets of the proposed plans to them.

**MM&S to move forward with the public hearing of the Design Review, knowing that an abutter was not notified; the minutes of this meeting and plans will be provided to them.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

Mr. Cole introduced Mr. Falzone to the Board. He pointed out the plan's location in relation to Marshall Road, the Brentwood/Kingston Town line, Brookhaven Road. He reviewed the plan: 54.7 acres with one historic residence and gravel driveway; 6.37 acres of wetlands, approximately 11% of the parcel. He said that there were two proposals, one is a conventional subdivision with 13 lots in the Aquifer Protection Zone (APZ), each with a minimum of 3 acres with 60,000 sq. ft. of buildable area, and the road system goes from Marshall Road to Brookhaven Road through an existing Right-of-Way (ROW). The "open space" plan was reviewed. Mr. Coppelman explained that Innovative zoning requires a minimum of 20 acres. Mr. Cole described the "open space" plan as having the same number of lots on a "U" shaped roadway; they will remove the existing structure; there will be thirteen one-acre lots leaving 33.5 acres of open space; a 1400 ft. roadway versus a 2400+ ft. roadway; this creates less disturbance and protects natural features and requires no wetland impacts; there will be two access points on the roadway. Mr. Cole noted that with "open space" there is a 22 acre requirement, this plan provides 33 acres. He said there should be no conflicts with headlights on existing properties. He said that there are two separate issues of encroachment to be worked out with abutters: one is a horse corral which might require a lot line adjustment (LLA) and the other is a swing set/play area which is a little more complicated as it is within the 100 ft. buffer requirement and that has to be worked out with the abutter. Mr. Coppelman read from the Innovative Zoning Ordinance that requires a 200 ft. buffer along Marshall Road, so it is "tucked" in and a 100 ft. buffer around the property.

Ms. Faulconer asked who would be in charge of the Open Space. There was discussion as to the possible holders of Open Space: a Homeowner's Association (HOA), Conservation Commission (ConsCom) or other group; limited activities on the space was discussed. Mr. Coppelman read that the Board can approve the holder of Open Space rights: HOA, ConsCom, or other public organization (including the Town).

Mr. Quintal questioned whether the wetland and stream on the property might be considered a tributary that required additional setbacks and might reduce the lot yield by 2 or 3 lots; he suggested this be evaluated for clarification to evaluate the yield; he referenced Article 205, Shoreland Protection District regarding setbacks of Shoreline and tributaries.

Mr. Quintal suggested that rather than having an additional dead-end street, there may be a possibility of purchasing an existing lot/home on Brookhaven to make a better connection and have just the one additional access point on Marshall Road; this would eliminate the dead-end street Brookhaven as well. Mr. Bakie asked why they development was 200 ft. setback from Marshall Road. Mr. Falzone answered that it was a requirement; he added that there was no reason for a cluster development to include a longer road; abutters don't want people going through their neighborhood; people may have bought on a cul-de-sac not knowing of the 60 foot easement; that 60 feet has been maintained by someone. Mr. Coppelman said that he understands Mr. Falzone's comment but that approval may not have been to leave the cul-de-sac; the Town's position is that cul-de-sac's are considered "temporary". He added that he is not saying that there isn't a desirability and value to cul-de-sacs; some details get forgotten over a period of time and can be disruptive to people who are used to liking the cul-de-sac.

Mr. Coppelman opened the hearing up to public comment.

Rick Russman stated that he liked the horseshoe design; it made sense for Open Space; he suggested eliminating one or two lots adding that "less is more"; he suggested that there be a balance achieved by negotiating for one or two less lots versus the costs of two wetland crossings and the cost of the longer length of road. He added that the HOA owning the "open space" was not a good option and suggested ownership by either the ConsCom or Southeast Land Trust (SELT) to add to their other properties for recreational use.

Laurie McKinnon, 54 Marshall Road, spoke in opposition to the "Open Space" plan stating that it wrecks the historic look to the road due to not having 3-acre lots; she lives across the street and the headlights would directly impact her.

Beverly Coombs of Brookhaven Road expressed concern with traffic if the road connects to Brookhaven.

Debbie Payne, 20 Ladd Road in Brentwood, and the engineer representing her, Thomas Burns, asked for clarification on the Open Space plan specifically that it would include a 100-foot "no disturb" buffer to her lot. There was a question regarding the lot density calculations, they asked if the Board is asking to verify this. Mr. Coppelman answered that if the Town Engineer makes a comment or request, they should expect the Board to concur with that request. Their preference was to connect with the larger house lots; they preferred that any "open space" be looked at as conservation land. Mr. Coppelman said that, regardless of ownership, "open space" can't be developed or subdivided.

Peter Broderick, 12 Brookhaven Road, said that it was his property that had the easement. He asked of the Board was doing a site walk. Mr. Coppelman explained that this is a non-binding discussion that ends this evening; a site walk could be addressed once there was a formal application submitted. Mr. Broderick stated that he has reviewed the hills on the road as Brookhaven goes into Marshall; there is a 90 degree turn going toward his home; he doesn't recommend connecting the roads. He continued that the wetland is substantial; there is a steep drop with quickly flowing water; he expects that any

crossing would be costly. He added that Kings Landing is about ½ mile away and that already has a horseshoe roadway with houses. Mr. Broderick stated that he thinks, safety-wise and environmentally, the “open space” plan outweighs the longer, connecting road option. He invited anyone to his house to see the backyard and mud and wetland to confirm that it is not the best alternative.

Chuck Lloyd, 8 Brookhaven, stated that he likes the “open space” plan; he has grandchildren riding their bikes; previous owners allowed people to use the property for snowmobiling. He expressed concern with traffic for the kids; he would like the “open space” plan for the future.

Mike Morris, 10 Brookhaven, explained he is one of the abutters with the encroachment; he has had the swing set for 20 years and would prefer not to move it; he was told that the lot line would not be able to be moved; he supports the Innovative Design so people’s kids can ride their bikes on the cul-de-sac. He questioned the financial ability of the developer and also the water quality due to the additional houses. Mr. Coppelman said that this will all get discussed during the application. He also wanted to clarify that the applicant was not currently working with him on the encroachment. Mr. Coppelman said the financial wherewithal is not typically part of the discussion; there are performance bonds posted regarding items such as the road network and stabilization of the property. Mr. Morris questioned the types of houses that might be proposed as they might negatively impact Brookhaven.

Gabriel Escobar of 51 Marshall Road stated that he was the other abutter with a possible encroachment; they are in basic agreement on how to correct the issue; he prefers the “open space” idea. He is concerned with the impact to his well and wants no flooding into their paddock or on their property. He agrees that Brookhaven Road can be dangerous; it is very treacherous in the beginning near Marshall Road.

Marghi Bean, representing the Conservation Commission and a neighbor in the area, agreed that Brookhaven’s site line is not good and can be dangerous; she added that the ConsCom preferred the cluster zoning proposal. She asked about the “brown patch area” on the proposal as the development seems to run right through the wetlands. Mr. Cole said that they didn’t need the wetland area for the development of the house and they could amend the lot a bit.

Ernie Landry stated that he was in favor of the cluster as it was better for the environment, wildlife habitat and wetlands; the other proposal will impact those things and the cluster is less of a negative impact.

Ralph Dutton, 3 Brookhaven, stated that he and his wife, Stephanie, were in favor of the “open space” concept design due to the traffic and safety issues that had already been discussed. He asked how many of the driveways would come out onto Rte. 107. Mr. Cole said that there were no driveways on 107, there were two road entrances with the “open space” plan; the conventional plan had 4 potential driveways.

Email Comment received by the Board: Charles Ethier, Brookhaven sent an email that was read into the record; Mr. Ethier preferred the cluster development due to the poor site distance on Marshall Road and the horizontal and vertical curve between 3 and 7 Brookhaven; also due to the necessary stream crossing and wetland disturbance.

There were no further public comments. Mr. Coffin asked Mr. Cole to answer some of the questions raised by the public. Mr. Cole stated, in response to headlight concerns, that he would align the entrances with the property lines so houses are on either side; he will have the surveyor go out for more precision to eliminate any headlight impact. He said that they are going to propose a LLA (lot line adjustment) for the house with the corral; the property with the swing set needs to be worked out as there is a small wetland pocket with a setback that can't be worked out with a LLA. Mr. Falzone said it is within the 100 ft. buffer, he said he would leave it but the Board doesn't allow it. Mr. Coombs asked about an easement; Ms. Merrill said that wouldn't address the buffer issue; Mr. Greenwood confirmed that it would address the swing set issue but not the buffer requirement, it would need to go to the ZBA. Mr. Quintal said that, in listening to how dangerous Brookhaven is, since most of the cluster is fairly flat, having the change of location of the access by talking with the easement's property owner, might make a hazardous situation better and eliminates a dead-end street; with it being so hazardous, it is unlikely that the new development traffic would use Brookhaven as access; it is more likely people on Brookhaven would use the new development's road. The applicant would need to speak with Mr. Broderick. Mr. Coombs said he would request input from the Road Agent. Mr. Falzone said that he doesn't have the rights for what Mr. Quintal is suggesting and it changes the setbacks; he doesn't see how he could move the easement/road as it was part of an original HOA. He will gladly meet with the Town Engineer. Ms. Merrill noted that homeowners on Brookhaven, aware of the ROW, might have issues with suddenly moving the ROW; for example, while the homeowner of #12 might be aware of a potential ROS, the homeowner of #10 would not have any idea of a potential ROW. There was discussion on the ROW, access to Open Space, access to trails; the probability of a HOA not allowing snowmobiling due to the liability. Ms. Faulconer asked if Mr. Falzone would consider speaking with SELT. He answered that he had donated a lot of land to SELT and he would contact them. Mr. Greenwood addressed the financial solvency question by stating that he has worked with Mr. Falzone on multiple occasions; Mr. Falzone has done a lot of Open Space protection in Rockingham and Stafford Counties.

Mr. Coppelman clarified that no decisions or continuances take place during a Design Review; the Board can only give direction and the meeting and discussion is non-binding. Ms. Merrill said that she believed the Innovative Proposal was the only way to go; Mr. Coffin agreed. Mr. Coombs stated that the Open Space was beneficial. Mr. Bashaw said that whenever possible, he defers to the applicant and abutters and it was 11-2 in favor of the Open Space. Mr. Bakie favored the Innovative Design adding that he uses the back part of the property. Ms. Duguay was in favor of the Innovative Design. Ms. Faulconer stated that while she was an advocate of road connectivity, in this case, the Open Space outweighed that need. Mr. Padfield was in favor of the Innovative Design. Mr. Coppelman stated that it was a tough decision as it was important to promote road connectivity with cul-de-sacs being temporary but in this instance, the Open Space outweighs the intent.

Mr. Falzone stated that a hydro. study had been done and will be submitted. The submission dates were reviewed. (This hearing ended at 8:45 PM)

*<Board note: a brief recess was called at this time; the meeting resumed at 8:55 PM.>*

## **Board Business**

### **Correspondence:**

- Letter received from the SRSD (Sanborn Regional School District) re: office space use at 51 Church Street. <Board note: Ms. Merrill recused herself; Mr. Padfield will vote in place of Ms. Merrill.>

**MM&S that no further PB review is required per the description in the letter dated 7/11/2019; Business Occupancy Permit (BOP) and Sign Permits will still be required.** (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**

- Letter, dated 7/14/19, was received from Heidi Corson, “Down to Earth Garden Shop” with a proposed use at 167 Main Street, Unit 1

**MM&S that no further PB review is required per the information in the 7/14/19 letter; BOP and Sign permits required.** (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

- Letter for USPS (United States Postal Service) about regulations regarding mail box placement for site plan and subdivision.

**ACTION ITEM:** Add this letter/requirements to site plan and subdivision

- Letter received from Register of Deeds re: partial payments; not pertinent to the Board.
- Town Engineer invoice received – signed
- Bond Balance sheet received
- Air Permit application from Torromeo site

**ACTION ITEM:** Mr. Greenwood will review for the Board.

- “note” on part of an envelope received for Thomas LLA, condition of approval, from Mr. Viens

**ACTION ITEM:** Mr. Greenwood will type up more acceptable paperwork for the applicant to bring to Mr. Viens to sign.

- CIP request packet received; Mr. Greenwood confirmed that they had been sent out to all Departments/Boards
- Reports from Town Engineer and Danna Truslow, hydrogeologist re: AAAL (All American Assisted Living) informational only.

Mr. Coombs explained that the BOS had met with them last night; a limited Certificate of Occupancy was issued as AAL has agreed to work on the punch lists from the Town Engineer, Danna Truslow and Rich St. Hilaire and will keep their bond on file until complete.

- Letter from NH DOT (Dept. of Transportation) re: roadway resurfacing and mitigation questions.

**ACTION ITEM:** Mr. Greenwood will review.

- Question from ATF re: Costa Arms and compliance with local regulations.

**ACTION ITEM:** Mr. Greenwood will contact Costa Arms re: question of addressing any unapproved sign/flags and will then contact the ATF rep.

- Letter from Attorneys asking for information re: Safeway, etc. Reply already sent.
- Letter from Jakki Clark date stamped 7/8/19 re: 138 Main Street; currently massage practice asking for additional use of esthetician – 5-7 PM, 9 AM-2 PM on weekends.

**MM&S that no further PB review is required per the description of the use in the letter date-stamped 7/8/19; BOP and Sign permits required, HDC approval required.** (Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**

- Changes to RSA’s regarding PB and ZBA (Zoning Board of Adjustment) were read
- ZBA hearing scheduled for Thursday has a request to continue to August by the applicant.
- Hayden award from RPC given to FOKUS
- Town and City magazine received

MM&S to accept the June 4, 2019 minutes as written. (Motion by Ms. Merrill, second by Mr. Coffin) Motion passed 6-0-1 with Mr. Bashaw abstaining.

Ms. Merrill noted that at the NHMA training, Steve Buckley made it clear that a Board member doesn't have to abstain if they weren't at a meeting. She added that she thought it was a great training session and very educational. Mr. Coppelman added that he had received positive feedback and a school board member, at a BOS meeting, thank the Town. Mr. Greenwood asked for a copy of the materials; Ms. Faulconer said she had them in the office; he will make a copy.

The Board discussed the minutes of June 18<sup>th</sup> – Mr. Coppelman had a correction – p. 4 – bottom, bulleted section – 5 bullets from the bottom – change “Mr. Coppelman’s memo” to “Mr. Greenwood’s memo”.

**MM&S to accept the minutes of June 18<sup>th</sup> as amended.** (Motion by Ms. Merrill, second by Mr. Coffin)  
**PUNA**

Ms. Merrill questioned some of the information that the Board could use in making a decision. She mentioned the financial impact to the Town and whether that could be used. Mr. Greenwood said that the Board can ask for a fiscal analysis of a project but that requiring the solvency of an applicant is not something for the Board to review. Mr. Bashaw said that with changes, it is important to keep zoning and regulations up-to-date. Ms. Merrill continued with some other questions she had regarding Board procedures. She questioned whether the number of invoices to be paid monthly should just have one manifest; the discussion at this point was that there weren't that many to warrant it. She asked about the by-laws specifically regarding a controversy that had occurred at the BOS meeting; she stated that she agreed with everything that Mr. Coppelman had said regarding the issue but asked about any specific policy for the future. Mr. Coffin said that Mr. Coppelman was just discussing facts for the BOS and had the minutes to back up any comments. Mr. Bashaw said that he felt that Mr. Coppelman has done a good job and he has always asked the Board before speaking on the Board's behalf. Ms. Merrill agreed that he has represented the Board well; she didn't object to anything Mr. Coppelman had done in this regard, she just questioned whether there should be a policy for the future. Mr. Bashaw had no problem with Mr. Coppelman going before the BOS without asking the PB first as long as the information he provided was statement of fact. Mr. Coppelman explained that if the timing had been different, he would have come to the Board first but as it wasn't, he was clear before the BOS that he was not introducing himself as a Planning Board person but he did want some items to be on the public record for a specific application that had been addressed by the BOS. Ms. Merrill said that Mr. Coppelman's discussion was well done and he should have been speaking as Chair of the Planning Board. Ms. Faulconer said that other Board's policies are clear that it is the Chair that speaks for the Board. Mr. Greenwood said that it is helpful to look at processes and come back to see if anything should be added. Ms. Merrill said that she thinks it should be put in the by-laws.

Ms. Faulconer clarified that an issue that seemed to cause some confusion at the BOS meeting regarding research was not a request from Mr. Greenwood to do research but was the research that had been requested by Mr. Coombs at an Inspector's meeting. Mr. Coombs stated that he realized that after the meeting.

Mr. Greenwood received permission to speak to Town Counsel regarding a recent submission.

**MM&S to adjourn at 9:50 PM.** (Motion by Mr. Coombs, second by Mr. Bashaw) **PUNA**



