

Kingston Planning Board

August 6, 2019 Public Meeting Minutes

Mr. Coppelman called the hearing to order at 6:46 PM; there were no challenges to the legality of the hearing.

Members present:

Glenn Coppelman, Chair	Lynne Merrill
Peter Coffin, Vice Chair	Chris Bashaw
Robin Duguay	Steve Padfield, alternate
Ellen Faulconer, admin. asst., alternate	

Absent: Peter Bakie, Phil Coombs, BOS (Board of Selectmen) rep.
Also present: Glenn Greenwood, Town Planner

Lewis Poore
Millbrook RV Park
99 Rte. 125
Kingston, NH
Tax Map R10 Lot 5

Mr. Coppelman read the public notice for the request for expedited review to install a propane tank filling station for use by the campers at the campground; the Board needs to determine if the proposal meets the parameters for an expedited review. Mr. Greenwood said that he believed this to be common use for a campground. He had reviewed the standards for an expedited review including having an existing site plan, having an increase of less than 1500 sq. ft or 7% of the building area, the site was in compliance. Mr. Greenwood said that due to the campground, he deferred to the 1500 sq. ft. requirement. Mr. Coffin asked if these items were regulated by the State like gas stations; Mr. Greenwood answered "no". Mr. Coppelman said that the Board had to determine whether it would meet the requirements for the expedited review prior to doing the review.

MM&S to accept the proposal as qualifying for the expedited review procedure. (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

A packet of information describing the proposal and the location was handed out to the Board. Mr. Coppelman read the letter dated July 29, 2019 explaining the proposal. Mr. Poore introduced himself to the Board and explained the process bringing him to the Board. Ms. Faulconer explained that Mr. Poore originally had planned on installing a propane filling station to sell to off-site customers; this was determined, by the Planner, to be an expansion of use that would require an amended site plan as an expansion of the commercial use. Mr. Greenwood had explained that an expedited site review would be able to be used for on-site campers only. Mr. Poore decided to move forward with the use only for use for the campground and would come back to the Board at a later date for the expansion of use. Mr. Poore added that he would return in the future as he would be looking to update the bathrooms and

may ask to add an ice vending machine. Mr. Poore noted the area in the parking area with the propane tank. He was not taking any required parking spaces. Mr. Padfield asked about the black chain link fence as one was shown in the photos: Mr. Poore said that there would be a gate for access. Mr. Coppelman asked about training or certification; Mr. Poore said that the propane company provides training for three staff and it will only be done by the trained staff; the gate and cabinet will be locked. Mr. Coppelman noted that there were no public present. Mr. Bashaw read the requirements for the expedited review, Article 904.2, a through f. He noted that there was an approved site plan on file (a), no change of use (b), no expansion greater than 7% of the structure/1500 sq. ft. (c), all requirements of the site plan are satisfied (d), all conform to the site plan (e), and 12 copies of the plan were received (f).

MM&S to waive a full site plan review as the requirements are met and to grant the approval as presented noting that the proposed filling station is already built but it was not the intent to circumvent the process. (Motion by Mr. Bashaw, second by Ms. Duguay) Discussion: Mr. Coppelman stated that there were comments sheets returned as “no comment” by Building, Health and Fire. Ms. Duguay questioned Mr. Poore’s future review procedure. Mr. Coppelman explained the need for an amended site plan as required for an expansion of use versus an expedited review. **Vote on the Motion: PUNA**

Board Business

Correspondence: Mr. Coppelman stated that the correspondence had been sent out to the Board to review ahead of time.

- Letter dated 6/10/19 sent to Mr. Hobbs at Jack’s Towing; no response received by the Board; no Business Occupancy Permit (BOP). Mr. Greenwood said that he should review that no changes had occurred since the letter was sent and confirm whether the site was still not in compliance and check on the BOP.

MM&S to authorize Mr. Greenwood to review the site and send an enforcement request to the BOS if the site was still having non-compliance issues. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

- Invoices from Town Engineer for Mitchell subdivision and Bluestone Development – signed by the Chair
- Letter dated 7/16/19 from Douglas Co. to BOS re: AAAL; no action required by the Board.
- Letter dated 6/19/19 re: Flood Maps – will put back in the file to review with Mr. Quintal at the 8/20/19 meeting.
- Letter dated 7/16/19 with complaints regarding creeping violations in the SFR (Single Family Residential) zone including increasing commercialization on Main Street ; Mr. Coppelman read the letter into the record which was broken down into three categories: Signage non-compliant with the Sign regulations, Outside Music with a reference to 2016 minutes adding that outside music is not a grandfathered use and questioning whether there is a permit within the SFR zone for outside music which is contrary to the spirit of the ordinance and Safety at the Mobil Station with a propane sales and storage area installed in area near gas filling with questions as to the grandfathering of this use or was it an expansion and if there was a permit. Mr. Greenwood suggested the Board review each category separately, as individual issues. The Board reviewed photos that had been included with the letter. Ms. Merrill said the signage at the private home for the “Giant” construction company was clearly in violation. The Board reviewed the signage at the municipal Recreation building. Ms. Merrill questioned whether it was exempt from the regulations as a Town building. Mr. Coppelman said that there were two issues and while there might be a municipal function, there was a private business sign on the fence. Mr. Coffin stated that that was improper. Ms. Merrill stated that there was really no need for the banner on the

fence, they really only needed the one sign. Mr. Coffin stated that the Selectmen consistently say that they prefer to follow the regulations; this is just a matter of bringing these items to their attention; business owners have had to take down fence signs. Mr. Bashaw asked about the possibility of commercial signage being located on private property. Several Board members clarified that commercial signs can only be placed at the place of the business. Reed v. Gilbert was discussed. Mr. Coffin stated that commercial speech is different from content speech and political speech. Ms. Merrill stated that she thought that the author of the letter had some very good points. The Board discussed possible options for action. Mr. Greenwood suggested that enforcement of the Sign Ordinance would fall to the BOS; Mr. Coffin suggested sending a letter to the BOS regarding the issues raised in the letter regarding signage. Mr. Coppelman asked if the Board had any further thoughts in particular as what might not be correct. Mr. Coffin suggested adding guidance to the BOS.

MM&S to refer the issues raised in the letter regarding “signage” to the Board of Selectmen for action as they deem appropriate; send guidance to the BOS that fence-mounted signs are not allowed (private lots and Recreation area) per the Sign Ordinance and signs for private business should not be on Town property and a commercial sign on private property does not meet the Ordinance. (Motion by Mr. Coffin, second y Mr. Padfield) Discussion: Ms. Merrill suggested that the Town should set a good example. Mr. Bashaw said that everything the BOS needs is in Article 303.6. **Vote on the motion: PUNA**

The Board reviewed the second issue in the letter regarding Outside Music. Mr. Coppelman referred to the attached minutes of June 21, 2016, pages 8 and 9 when this had been discussed by the Board. The motion at that time was that the Board said that a request for outside live entertainment required an amended site plan. Mr. Greenwood confirmed that the owner of Bolton’s did not come back with an amended site plan. Mr. Bashaw thought that the owner came back with a statement; Ms. Faulconer confirmed that he did. There was discussion regarding the suggestion from the owner that the Board speak with Town Counsel; the owner had stated that he has spoken with his attorney and with Town Counsel (Peter Loughlin). Ms. Merrill asked if anyone had spoken to the Town Attorney to clarify; if not, it was just hearsay; she stated the Board needed to contact the attorney. There was a question regarding any possible conflict with the attorney. Mr. Bashaw suggested contacting them and asking the question and see if they defer or not. Ms. Duguay asked about decibel levels and the noise ordinance. Ms. Merrill stated that the issue is whether outdoor music is part of the site plan or not; the Planning Board said that outdoor music is required to have a site plan. Mr. Coffin said that there have been “cease and desists” for others. Ms. Merrill said that this property needed to be treated the same as others that have had the same request. Mr. Coppelman said that the Board needs to deal with the zone and the impacts in that zone and whether it had been previously approved or not. There was discussion regarding the initial 5-0 vote for needing a site plan and that the continuation would be non-compliant and either go back to that or send for enforcement. The Board decided that the first step would be to contact Town Attorney and provide the background information. Mr. Greenwood asked if he should contact Attorney Kalman. Ms. Faulconer stated that the initial attorney contacted by the owner was Attorney Loughlin.

MM&S to authorize Glenn Greenwood to contact Sumner Kalman regarding guidance for the original vote taken in 7/2016 regarding outside music at Bolton’s Lake House, whether it was correct and could be pursued. (Motion by Mr. Coffin, second by Ms. Merrill) Discussion: Mr. Bashaw

referred to the minutes of 8/16/16 and read the comments regarding advice from Attorney Loughlin. The Board agreed to have Mr. Greenwood contact both attorneys; motion was amended:

MM&S to authorize Glenn Greenwood to contact Atty. Sumner Kalman and Atty. Peter Loughlin regarding guidance for the original vote taken in 7/2016 regarding outside music at Bolton's Lake House, whether it was correct and could be pursued. (Motion by Mr. Coffin, second by Ms. Merrill)
PUNA

Mr. Coppelman reviewed the third issue in the letter pertinent to activity at the Mobil Station on Main Street. The Board questioned whether the reference was to an exchange of containers or a propane filling station; there was a question as to whether this had existed or had been moved to a new location; it could be a similar set-up but now moved to a different location. The Board suggested that more information was needed.

MM&S, in reference to the safety issue concern at Mr. Mike's, to have Mr. Greenwood review the site, contact the Fire Department and report back to the Board at the next meeting. (Motion by Mr. Coffin, second by Mr. Padfield) **PUNA**

Regulation Amendments:

Proposed amendments for site plan and subdivision, to coincide with changes recently adopted in the bylaws, were distributed; these will be heard at the public hearing scheduled for 8/20/2019.

Accessory Dwelling Units:

Mr. Coppelman gave a quick summary of the intent of the changes with the objective being that an internal ADU in a SF residence with no exterior change would be handled by the Building Department; if in a detached structure or with outside modifications, it would require a Conditional Use Permit (CUP) from the Planning Board (PB); this removes the review from the ZBA. He said that those were the big changes. He added that if in a detached structure or modified the primary dwelling, the final result is to make it still look like a single family dwelling and maintain the look of a single family residence. Mr. Coppelman continued that another addition included that previous accessory family apartments with approval would be considered an ADU under the ordinance but provide documentation that it was a legal family apartment. Mr. Coffin suggested that "provide" be eliminated; a property owner should be able to go to the Building Inspector for a letter to go to the registry eliminating previous restrictions requiring a familial relationship and only being pertinent to the applying owner; there should just be form letter from the Town. Mr. Greenwood noted that the subcommittee had not yet developed the letter.

Ms. Merrill stated that she thought the proposal was very well done and thorough; she had two comments; the first being to clarify the septic section and have it parallel State law in that the septic design had exist or be provided to cover the current use and the use of the ADU; it didn't have to be installed until it failed or was replaced. Ms. Merrill continued that her second concern was that a dwelling less than 1200 sq. ft. couldn't do an ADU when, by creating space in an attic or basement, could increase the sq. footage. Mr. Greenwood, along with other members of the Board, explained that upon that expansion, the structure would be more than 1200 sq. ft. and therefore, the restriction would no longer be pertinent. The Board reviewed the possibility of putting forth a building permit with the expansion and the ADU presented at the same time and a conditional approval upon both being built; without the expansion a final occupancy permit would not be issued. Mr. Bashaw stated that he had a

problem with the work “original” regarding the SF dwelling. The words “primary’ and “existing” were reviewed; using the State language was suggested. Upon review, Mr. Coffin said the language for the State says “primary”; he noted that there was no maximum size in the current proposal. Mr. Greenwood said that not setting a limit was deliberate. Ms. Merrill recommended Mr. Greenwood doing a quick re-draft so the Board could vote on it at the next meeting to go forward to the public hearing.

ACTION ITEM: Mr. Greenwood will re-draft the ADU proposal and bring to the August hearing to review and move to the September hearing.

Other Board Business:

Mr. Coppelman wanted clarification regarding speaking for the Board. He asked if he was contacted by the BOS to be at their meeting for the Planning Board, if that was okay with the Board as there might not be a meeting to speak with the Board first. Mr. Bashaw said it would be fine but he should preface with a disclaimer if it is about an issue that the Board had not discussed; he suggested that, if time, he could request that Ms. Faulconer contact the Board. Mr. Coffin added that if it was an item already discussed they he could say what the Board discussed and the results. No one disagreed.

Ms. Faulconer stated that there was a ZBA hearing coming up that might need PB input and asked if Mr. Coppelman could attend as representing the Board; it was agreed by consensus.

MM&S to adjourn at 8:45 PM. (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**