

## Kingston Planning Board

September 17, 2019

### Public Hearing

### Minutes

Mr. Coppelman called the hearing to order at 6:47 PM; there were no challenges to the legality of the hearing.

Members present:

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

Peter Bakie  
Robin Duguay  
Chris Bashaw  
Ellen Faulconer, admin. asst., alternate

Members Absent: Steve Padfield, alternate

Also present: Glenn Greenwood, Town Planner; Dennis Quintal, Town Engineer; Selectman Don Briggs, Jr.

Mr. Coppelman introduced the Board. He announced that two items scheduled for this hearing would not be happening this evening: the Pryor and Dufresne hearings.

#### **John's Truck and Auto Salvage**

**71 New Boston Road Realty Trust**

**71 New Boston Road**

**In Conjunction with the Kingston Board of Selectmen**

**Tax Map R18 Lots 22 and 23**

Mr. Coppelman noted that this hearing began at 6:50. He read the public notice; he stated that the Board needed to decide if the proposal qualified for expedited review. Mr. Greenwood explained that it meets the requirements as there is a site plan on file; there is a place for metal storage on the plan; it requires no new construction so the Board can hold an expedited review; he believes it meets the criteria. Ms. Faulconer noted that abutters had been notified and it was noticed in the newspaper even though it was not a requirement for expedited review.

Don Briggs, Jr. stated that there had been a lot of dumping in the woods and area around Town; this was not a municipal use, just a place for people to legally dump items at no cost. Mr. Coppelman said it was for residents to use that had been "blessed" by the Selectmen. Mr. Bakie asked if it was for Kingston residents only; the property owner, Rick Beauchayne, answered that anybody could use it. Mr. Coppelman cautioned that the Board should not get into a detailed discussion pending the decision about the expedited review.

**MM&S that the application meets the criteria for expedited review.** (Motion by Ms. Merrill, second by Mr. Bakie) **PUNA**

Selectman Briggs introduced the business owners, Rick Beauchayne and Steven Grace. He said that the BOS (Board of Selectmen) and the Highway Road Agent, Rich St. Hilaire, had discussions regarding the

amount of dumping occurring around Town that included batteries, tires, white goods, etc. He spoke with the owners of John's Truck and Auto and they agreed to take anything that could be recycled; they will accept and sort it out later. Selectman Briggs said that the idea would be to get items being illegally dumped brought here instead.

The Board reviewed the plan; the "orange" colored area on the plan is where the dumping area will be; currently it is a parking space; it will be good for the Town and it will be free to the residents. Mr. Beauchayne said it would be taken care of and addressed daily; Mr. Grace assured the Board that they will not let it become an eyesore. Selectman Briggs said there are cameras monitoring it; he confirmed that the Town will have no cost or financial burden associated with this. Mr. Greenwood said that the plan should indicate that the "orange block" as shown on the submitted plan is the area being used for this purpose. Mr. Beauchayne said the hours for this will be business hours; Mr. Clark clarified that they will leave it out there for people to dump at night; they will leave it outside for use and keep the area clean. Mr. Coppelman expressed concern about people coming at all hours of the night in relation to area abutters. Selectman Briggs explained that, people hearing it is free, will not have to come down late at night, he expects it to be utilized during the day or early evening and Saturday. He added that if it becomes a problem, they can move the dumpster in. Ms. Merrill stated that the hours on the plan are 7 AM to 9 PM weekdays and 7 AM to Noon on Saturday. Ms. Faulconer expressed concern about the items sitting around due to recent concerns with mosquitos; Mr. Clark said that they take care of the material on a regular basis. Mr. Quintal questioned whether there would be hazardous or environmentally hazardous material. Mr. Clark explained they are a "green" yard and they take care of the material.

There was no public comment.

Mr. Coppelman read Department comments: Conservation Commission (KCC) questioned how the recycling would be processed; whether it would be separate and kept in the area shown and if it was a dumpster in a parking space; how often the items would be collected; if there would be a significant increase in truck traffic; questioned petroleum based fluids. Mr. Coppelman said that many of the items had been addressed in the previous discussion. Selectman Briggs said that he didn't expect any change in truck traffic as most would be personal vehicles. Mr. Beauchayne said that they are mandated to dispose of petroleum properly and they have a plan in place for hazardous spills. Mr. Clark re-iterated that they are accepted by the State as a "green yard" and they have to follow specific guidelines; they are tested every 4 months for groundwater testing. Mr. Coombs explained that the BOS issues permits on a yearly basis and they view each site every year. The KCC questioned whether abutters had been notified; Mr. Coppelman stated that they had per the previous discussion. Mr. Coppelman read the remaining Departmental comments: Fire – no comment; Highway – "a welcome addition to Kingston"; Health – no comment. Mr. Greenwood stated that he distributed his comments to the Board adding that they didn't need to be read into the record; all his comments were addressed.

MM&S to approve the expedited plan as presented with the caveat of adding a note to the plan identifying the "orange square" as the dumpster. (Motion by Mr. Bashaw, second by Mr. Coombs)  
PUNA

<This hearing ended at 7:15 PM>

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

<This hearing began at 7:15.>

Mr. Coppelman read the public notice. He stated that the Board had received a request from Tim Lavallo requesting a continuance for the next hearing in October. Ms. Merrill noted that the applicant had not shown up for the scheduled site walk and has asked to continue three times for the same reason.

Mr. Pryor asked to speak to the Board. He stated that the communication between himself and the engineer had been lax; he did not know there was a request to continue and didn't know that the engineer had not been at the site walk and that the site walk had not gone forward. Mr. Coppelman explained that the Board could not go onto private property without permission. Mr. Pryor asked if a new site walk had been scheduled; Mr. Coppelman said that the only request at this time was to continue. Ms. Faulconer noted that the Board had not received an updated plan. Mr. Pryor said that he was told that the new plans had been delivered. Mr. Greenwood and Ms. Faulconer stated that they had not been received. Ms. Merrill suggested that due to the miscommunication explained by Mr. Pryor she would be inclined to continue to the next hearing.

**MM&S, that due to the miscommunication, to continue to October 15, plans that are complete enough to be put on the agenda are due into the Planning Board office by noon on October 3. The property owner should communicate to his engineer that the Board is not inclined to continue past that date without new plans.** (Motion by Ms. Merrill, second by Mr. Coffin) Discussion on the motion: Mr. Coombs said that this is the fourth request to continue; he stated that the residents are notified and with the multiple extensions, they stop coming to the hearings; he added that this was the 4<sup>th</sup> request to continue, they missed the site walk and he is opposed to the continuance and the Board should deny the request. Mr. Coffin said the Board should have said it wouldn't continue again at the last continuance. Mr. Coombs continued that there was no good faith effort from the engineer. Ms. Faulconer said that the request was received today; Mr. Greenwood has had to call each month and ask for the continuance due to new plans being received. Mr. Greenwood confirmed that he had to contact them; he left a message this time. **Vote on the motion:** Motion carries 5-2 with Mr. Coombs and Mr. Coppelman opposed. Mr. Greenwood will contact Mr. Lavallo about the motion. Mr. Pryor said that he will be speaking with Mr. Lavallo. Mr. Coppelman and Mr. Greenwood explained the process should the application be denied without prejudice.

<This hearing ended at 7:30.>

**Richard Early, Trustee of D&D Realty Trust**  
**3 West Shore Park Rd.**  
**Tax Map R9-20-1**

<This hearing started at 7:32>

Lynn Merrill recused herself from this hearing; she joined Mr. Early. Mr. Coppelman announced that Ms. Faulconer would be a voting member for this portion of the hearing. He read the public notice. Mr. Coppelman said that there had been some issues at the previous hearing that have re-worked with the newly submitted plans.

Mr. Quintal reviewed his comments noting a number of his previous comments had been addressed; the remaining comments included requiring monument certification prior to final approval; approval by Registry; proper tax map designation needs to be assigned through the assessor's office. He added that the driveway had been moved as suggested which was a good change to the plan.

Mr. Greenwood said that the majority of his items were addressed; the only one not done was adding in the percentage of impervious coverage; the engineer wants to submit a plan post-development but it is a requirement by the Town regulations. He suggested a condition of approval for information showing the exact amount. Mr. Coffin said that if the Board would allow for that then it should also stipulate that it would not exceed the square footage per the regulations; the maximum amount needs to be stipulated in the notes. Ms. Faulconer said that the number needs to be on the building permit in order to get the permit. Mr. Greenwood said that it could be addressed and it addresses the issue.

Mr. Coppelman read the Department comments – there were none. There was no public comment.

**MM&S to approve the subdivision as presented with the stipulation that prior to the building permit being issued that the impervious coverage area be defined and the lot coverage complies with current regulations for maximum impervious coverage; monument certification needs to be provided prior to final approval and signing of the mylar; the plan must be checked by Registry of Deeds for compliance prior to signing the mylar; and the plan must have the proper tax map designations (items 6, 8 and 9 of tonight's Town Engineer's comments).** (Motion by Mr. Coffin, second by Mr. Bashaw) **PUNA**  
<Hearing ended at 7:45.>

**James Dufresne**  
**Teatad, LLC**  
**Diamond Oaks Boulevard**  
**Tax Map R3 Lot 4 Land Unit 1**

Mr. Coppelman read the public notice. He noted that Ms. Merrill had re-joined the Board. He announced receipt of a letter asking for withdrawal of the application.

**MM&S to grant the withdrawal request without prejudice.** (Motion by Mr. Bashaw, second by Mr. Coffin) **PUNA**

**Greenwood Pond, LLC**  
**16 Church Street**  
**Tax Map U10 Lot 17**  
<The hearing began at 7:50>

Mr. Coppelman read the public notice. Jonathan King of Jones and Beach introduced himself and Tina Ratigan as representing the applicant. Mr. King reviewed the site which was the home of two offices; the intent is to separate into 2 land areas with distinct ownership, Abenaki Timber and Northland Forest products. He continued that each would own its own parking, leach fields, they would share a well; attorneys are currently writing the documents; they are not changing anything to the physical area and each would have its own driveway access. Ms. Ratigan clarified that she was representing Abenaki Timber; this proposal is being prepared to eliminate any complications with estate planning between 2 brothers; she stated that it would make it more beneficial to the Town tax-wise.

Mr. Greenwood reviewed his comments that included needing easements for the septic system and well; he doesn't see a septic system for the building up front; if there are two on the site, they should both be on the plan and it would need to be revised. Mr. King said the owner said that it had been there since the 70's and to not worry about it as it is where it is. He said that he would take the comments and work with them. Mr. Greenwood continued that the driveway easement should be reviewed by the Town's legal counsel; Ms. Radigan said they weren't recorded yet; the condo. docs. need to be reviewed; they have requested a waiver to \$1,000; waiver requests need to be addressed by the Board; the Health Officer has noted that the septic is too close to the marshland although it is existing.

Mr. Quintal read his comments that included:

- Wetland setback lines
- Leach field serving both buildings?
- New design is recommended for future replacement of the septic to meet setback regs.
- Should show septic tanks and water lines
- Show well protective zones for the existing and proposed flow
- Catch basins discrepancy
- Condo. docs. need to be provided
- Plans to comply with Condo. Act
- Need to show common areas
- Drainage easement
- Last revision was 11/29/17; updates?
- Topo survey required
- Show all easements, provide driveway access
- Show zoning designation
- Tax map, block and lot #
- Signature block
- Shoreland and subdivision approvals
- Hours of operation, use, # of employees
- Impervious areas, % of lot coverage
- Stormwater management
- Off street parking?
- Solid waste facilities
- Landscaping
- Note re: compliance with fire protection regs.
- Waivers listed on the plan
- Proper tax map # on the plan

Mr. Greenwood said that it was necessary to use subdivision regulations. Mr. Quintal stated that the site plan regulations are referenced in the subdivision regulations when they both apply. Mr. Greenwood added that the Board is looking at a built environment.

Mr. Coppelman read Department comments:

- Fire: proper ID with existing offices with unit #'s
- Highway – none
- Health – cited Board of Health rule - #1301.6 (B)2 – requirement to not be located less than 100 feet to a marsh; the regulation was included with the comment sheet.

- KCC – no comment yet; they will wait for the next set of plans to provide a comment.

Ms. Radigan said that the septic has been in its current location since 1970. Mr. Coppelman said it was an existing condition. Mr. Greenwood said that they need to figure out how to go forward with two land units. Mr. Coffin said they needed to find an area in event of a failure, to show a replacement system designed to meet current setbacks. He added that it didn't need to be built but it must be designed. Mr. King re-iterated that the intent was for estate planning purposes and to continue operating and functioning; they are waiting on what the Town needs and how to respond; he is not prepared to explain yet; he is taking notes and will speak with the applicants. Mr. Quintal said there is a concern for the current septic system as the property is also in the Aquifer Zone; he explained that when asking the Town for an approval, the Town can require improvements for wastewater and stormwater management. There was continuing discussion about an area for future replacement of a septic system. Ms. Merrill questioned common ownership of land, separate ownership of buildings. Mr. Greenwood noted that the plan is set up as 2 land units that fall along a line; it looks more like a subdivision; usually there are limited common areas (LCA's) and common areas; the current plan mimics a subdivision. There was discussion about the zoning ordinance not applying the same way as the condo. act as the Board is not looking at any LCA's and Common areas; the parcel is broken into 2 land units. There was continuing discussion about LCA's, land units, frontage required for a subdivision.

Public comment: Electra Alessio, 14 Church Street, has no objection other than logistics; she was interested in how this would progress as she also has two buildings on one property. She added that the proximity to water has to be part of the mitigating circumstances but she has no issue with the proposal.

Jane Christie stated that she had no comments; she understood the considerations before the Board.

Mr. Coffin said that Land Units and Common Areas are still a question; he questioned whether more information was needed for jurisdiction and did not think it was quite ready to accept jurisdiction. Mr. Bakie said the proposal was confusing to him as to why there were two different land masses; normally there would be land in common use and buildings with separate ownership. Mr. Coppelman stated that the land wouldn't meet requirements for a typical subdivision. Mr. Coffin agreed that for a condo., it is usually treated as one "lot", one land unit. Ms. Radigan explained that they wanted to avoid a "third" entity; through estate planning they wanted to create easier separation and future ownership. Mr. Bashaw said that it looks like a way to circumvent a subdivision, that wouldn't be allowed. Ms. Radigan stated that they have to deal with the existing two buildings; having a common area requires a third "entity". Mr. Coffin said having a condo. creates a third entity, a Condo. Association; he stated that there will always be a third entity which would be the Condo. Association. The Board reviewed other condominiums in the Town. Ms. Merrill said having easements were fine but there still has to be a condo. association with the two land units. Mr. Bashaw said that the proposal makes the ownership easier but appears to be skirting a subdivision. Ms. Faulconer asked about the condo. docs as they might help explain the proposal. Ms. Ratigan said that the attorneys are waiting for the Town's input.

Ms. Merrill stated that there were too many questions to accept for jurisdiction. Mr. Coppelman confirmed that this was the general consensus of the Board. Mr. Coppelman said that if not accepting for jurisdiction, the requested waivers could not be addressed. Mr. Bashaw said that for a condominium, he expected to see land ownership by one entity with individual ownership for the buildings. Mr. Coppelman said that putting in a sharp line that looks like a traditional subdivision makes him uncomfortable. Ms. Faulconer suggested that Mr. Greenwood's and Mr. Quintal's comments would

be guidance for the applicants. Continuances were reviewed. Mr. Coppelman said that anything being submitted needed to be in the office by October 3<sup>rd</sup>; the applicant can ask to come in to update without any new plans. Ms. Faulconer stated if plans and new documents were not submitted by October 3<sup>rd</sup>, departments and boards will not have reviewed for comments.

**MM&S to continue to October 15, 2019 at 6:45 with new information due in by noon on October 3<sup>rd</sup>.**

(Motion by Ms. Merrill, second by Ms. Duguay)

<This hearing ended at 8:50>

<Board note: the Board took a five-minute break; the meeting reconvened at 8:55.>

### **Public Hearing – Proposed Warrant Articles**

**Accessory Dwelling Unit (ADU):** The proposed changes to the article for ballot in March were handed out. Mr. Greenwood explained that the items in red were deleted, the green/blue color were proposed additions; currently the ordinance requires that a special exception is granted by the ZBA; it makes more sense for review to come from the Planning Board (PB) as it is a land use board use to land use issues. He clarified that going to the PB would only be required if it was a detached ADU or an addition to an existing structure; if it was an ADU inside the existing building, it would be within the Building Inspector's purview; he re-iterated that it would only come to the Planning Board if it was a change to the existing structure, like an add-on, or an additional structure; the ADU shouldn't change the general nature of the single family residential (SFR) structure. Mr. Greenwood added that a primary purpose of the PB having a hearing to review these ADU's was to also allow abutters' comments on the general appearance of a SFR structure and it relieves the Building Inspector for having to make these types of land use decisions. Mr. Greenwood continued that after the first look at the proposal, the Board made changes which he pointed out and reviewed.

Ms. Faulconer stated that, per discussions with the Building Inspector, she had expected that he would be here or would have provided comments; she stated that he had concerns that condos. needed to be defined as not SFR and therefore unable to have an ADU. Mr. Coffin said this had been addressed and our attorney said it wasn't necessary as they, by their nature, did not meet the standard for SFR housing. Mr. Coffin and Ms. Merrill said they would rather have the redundancy for clarity. Ms. Faulconer cautioned to make sure the language re: condos was clear regarding State regulations so it didn't appear to be something that could be granted a variance by the Zoning Board of Adjustment (ZBA).; she suggested placing definitions in the beginning definitions section of the Ordinance book. There was discussion regarding definitions of housing and placement within the Town's ordinances. Mr. Greenwood re-iterated that there is no instance where a condo. Is a single structure by virtue of what they are; ADU's are prohibited in multi-family units. Ms. Merrill noted a lack of definition of types of housing. Ordinances were reviewed for definitions within individual articles.

**ACTION ITEM:** Mr. Greenwood will develop definitions for SFR and condos and other multi-family housing; he will send out the definitions on Sept. 23<sup>rd</sup> for the Board to review prior to the October 1<sup>st</sup> meeting.

**MM&S to move the ADU ordinance as presented this evening, with minor grammar corrections, forward to the 2020 ballot.** (Motion by Ms. Merrill, second by Mr. Coppelman) **Motion carries 5-1-1** with Mr. Coffin opposed and Mr. Coombs abstaining.

There were questions regarding the ramifications of the posting of this ordinance prior to the warrant posting.

**MM&S to reconsider the vote just taken on the ADU.** (Motion by Mr. Coppelman, second by Mr. Bakie)  
**Motion carries 6-0-1** with Mr. Coombs abstaining.

**ACTION ITEM:** Mr. Greenwood will clarify the posting concerns and get back to the Board.

**MM&S to continue this public hearing to October 1, 2019.** (Motion by Ms. Merrill, second by Mr. Bakie)  
**PUNA**

**Rural Residential Ordinance amendment:**

**MM&S to continue this public hearing to October 1, 2019.** (Motion by Mr. Bakie, second by Mr. Coombs) **PUNA**

#### **Board Business**

##### **Correspondence:**

- Town Engineer invoice approved and signed
- Letter from “Shadowgear” at Carriage Towne Plaza describing activity

**MM&S that no further PB action is required.** (Motion by Mr. Bashaw, second by Mr. Bakie) **PUNA**

- Mitchell escrow return request – okay to release pending final review of charges
- Attorney letter received re: private property – no Board action required.
- “Permission Clause” paragraph provided by Ms. Faulconer per OEP to add to application forms.

**MM&S to authorize adding the clause to the PB application forms.** (Motion by Mr. Bashaw, second by Ms. Merrill) **PUNA**

- Town and City magazine; Mr. Coppelman noted that there were several articles pertinent to Planning issues.
- Lot line recommendations previously provided by the Town Engineer – will be added to Oct. 1<sup>st</sup> discussion.

**MM&S to approve August 6, 2019 minutes as presented.** (Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**

**MM&S to approve August 20, 2019 minutes as presented.** (Motion by Ms. Merrill, second by Mr. Coombs) **Motion carries 6-0-1** with Mr. Bashaw abstaining.

**Budget:** The proposed budget had been distributed. There was discussion regarding adding a projector and associated equipment in the Planning Board budget; Ms. Merrill noted that the Board had been waiting for the Board of Selectmen (BOS) to address this for multiple years. Mr. Coombs said that the BOS were working on a warrant article to address several issues in the meeting hall.

**MM&S to add \$3500 to the equipment line for projector and associated equipment to show the public presented plans.** (Motion by Ms. Merrill, second by Mr. Coffin) **Motion carries 6-1** with Mr. Coombs opposed.



**MM&S to approve a proposed budget of \$82,402.** (Motion by Ms. Merrill, second by Mr. Coffin)

Discussion: Mr. Coombs pointed out the increase over the 2018 budget. Ms. Merrill, recognizing the majority was due to the increase in the Planner's hours, explained that having the Planner protects the Town and its way of life while also helping the Town to move forward. **Vote on the motion: Motion carries 6-1** with Mr. Coombs opposed.

**Plan Review: Falzone/Marshall Road:** Plan received to add to the October agenda.

**MM&S that Mr. Greenwood can review to decide to add to the agenda.** (Motion by Mr. Coombs, second by Ms. Merrill) **PUNA**

**Tidd Subdivision:** Plan received to add to October agenda; okayed by Mr. Greenwood.

**Waiver requests received for engineering fee reduction and preliminary review.**

**MM&S to approve the request to waive the preliminary review.** (Motion by Mr. Coffin, second by Ms. Merrill) **PUNA**

**MM&S to not approve the waiver request to amend the engineering fee from \$5000 down to \$2500 per the Planner's recommendation.** (Motion by Mr. Coffin, second by Mr. Coombs) **PUNA**

**Other Business:** Ms. Merrill asked to review the Town's Shoreland Protection Ordinance in regards to the State's requirements. She said that the State has protections that the Town does not have; the State has a recent update in 2017. She will send the paperwork to the office; she is not qualified to make suggestions for changes.

**ACTION ITEM:** Mr. Greenwood will have information to the Board by October 15<sup>th</sup> to review on November 5<sup>th</sup>.

Ms. Merrill said that the State is in a massive housing shortage; she suggested looking at Newfield's "Conservation Density Ordinance" as a possibility for the Board to review. Mr. Greenwood noted their ordinance was on-line.

**MM&S to adjourn at 10:05 PM.** (Motion by Mr. Coombs, second by Mr. Bashaw) **PUNA**