

Kingston Planning Board

October 15, 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
Phil Coombs, BOS rep.
Steve Padfield, alternate

Peter Bakie
Robin Duguay
Lynne Merrill

Members Absent: Chris Bashaw, Ellen Faulconer, admin.asst./alternate

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

Mr. Coppelman introduced the Board. He announced that Mr. Padfield would be a voting member due to Mr. Bashaw's absence.

Greenwood Pond, LLC

16 Church Street

Tax Map U10 Lot 17

Mr. Coppelman noted that this was a continuation from the previous month's hearing. He noted that no one seemed to be in attendance representing this application. Ms. Merrill read the previous minutes motion to continue required new plans and documents to be submitted by October 3rd; Mr. Coppelman confirmed that there had been no request for a continuation from the applicant. Mr. Greenwood added that they had actually requested to come in this evening. The Board decided to leave the hearing open until the end of the meeting in case they arrived.

Trisha Tidd

23 and 21 Mill Road and Back Parcel off Mill Road

Tax Maps: R11-18, R11-19, R12-14A

Mr. Coppelman read the public notice. <Board note: The hearing started at 6:50 PM> Charlie Zilch of SEC and associates represented the applicant; plans were distributed. Mr. Coppelman stated that there were department comments as well as comments from the Planner and Town Engineer. Mr. Zilch gave the presentation of the proposal to the Board for the consolidation and subdivision plan. He referred the Board to sheets 2 and 3 to walk them through the existing conditions of the three abutting properties which total 18.99 acres with a combined total frontage on Mill Road of a little over 1,000 feet; all are in the Rural Residential zone and the Aquifer Protection District. Mr. Zilch pointed out the wetlands on the property as identified by their wetland scientist, Tim Ferwerda. He asked the Board to turn to sheet 4 to review the proposal for the 4 lots; he reviewed sheet 6 regarding septic specifications for the properties to confirm that each proposed lot meets the siting requirements. He added that all lots have access through their own driveway; one access for each house lot. Mr. Zilch said that the only

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10/15/2019

Pending Acceptance

required State permit, State Subdivision approval for lots under 5 acres, has been granted for lots A, B and D.

Mr. Coppelman referred to sheet 6; it looks like the driveway is not 20 feet off the driveway; Mr. Zilch explained that there is an existing gravel driveway which will not be the primary driveway access; it is just used to get around to the back of the house; the driveway is on the right side; they will eliminate the other half that would loop toward lot B and create additional parking in front of the house.

Mr. Zilch said that there are no variances required for this proposal; the only waivers submitted was for a lessened engineering account which had been denied and to skip the preliminary review which was not required by the Board; there were no other waivers requested. Mr. Coppelman asked which sheet showed the monumentation for the final configuration; Mr. Zilch pointed it out on sheet 4; any new corners will be the required stone or concrete; there is an existing iron pipe at one of the corners.

Mr. Quintal to review his comments which had been provided to the Board; a copy was given to Mr. Zilch. Mr. Quintal stated that the plans were pretty complete; he read his few comments that he said were minor in nature. He talked about the standard driveway requirements for mailboxes which needed to be shown on the plan; he suggested reviewing with the postal service to see what they would be requiring for a subdivision; he said that the existing gravel driveway needed to be moved a bit to meet the requirements of 901.1 (C)3. Mr. Quintal continued that the 20 ft. easement along the highway must state that it is for drainage, maintenance and future road improvements dedicated to the Town and should be shown on the plan; define the easement by bearing/distance for the septic system on lot "B"; stormwater roof run-off recommendation to clearly note that the proposed drainage be directed away from the foundations with the houses with full cellars; the features to be inspected and installed prior to occupancy of the dwellings; prior to signing the mylar, the approved tax map and lot numbers shall be shown and the State subdivision approval number should be noted on Sheet 1.

Mr. Greenwood read his comments; he said that the Board discussed not needing the preliminary review so he suggested a formal motion to accept the waiver request so it can be specific on the plan note. He continued that there are extensive wetlands on the site and proposed lot D shows calculations for contiguous upland area of exactly 60,000 sq. ft. and relies upon the placement of the wetland delineation because this is the very edge of the zoning compliant lot size so some method of verifications seems appropriate; he suggested the possibility of confirmation by the Town's consulting soil scientist to confirm the zoning requirements. Mr. Greenwood said that the driveway proposed for Lot D seems to pass over a portion of the 4K area for the proposed septic system which should not be the case and suggests shifting the driveway 15 feet west to clear the conflict; due to the setbacks being constrained on lot D, he suggests that the proposed home location be shown; he is concerned about the delineated temporary easement for the septic system for Lot C, he would rather see it noted as a "proposed" easement, not a temporary easement to eliminate any confusion. Mr. Greenwood said that the impervious surface, both existing and proposed, need to be shown on the plan; the regulations also require that septic systems within 200 feet are supposed to be shown on the plan; note 15 says that the proposed new lot is subject to impact fees and he feels that in this instance there are actually two new lots in the subdivision as one initially was completely landlocked and had no potential development and it is being reconfigured totally and becoming a new lot and the note needs to be changed to reflect this. Mr. Greenwood's last note asked if the Board wanted to take a site walk for the proposal.

Mr. Coppelman read Department comments: Health – no septic designs were provided; Fire – no comments.

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

Mr. Coffin asked Mr. Greenwood if the plan was complete enough to accept jurisdiction. Mr. Greenwood said the only major concern was the 60,000 square foot requirement which he believed could be adjusted if needed so there would be no need to eliminate a proposed lot; the remaining comments were administrative and “unwieldy”. Mr. Coppelman noted that Mr. Quintal’s comments were also limited.

MM&S to accept the plan dated August 26, 2019 for jurisdiction. (Motion by Mr. Coffin, second by Ms. Merrill) **PUNA**

Mr. Coffin asked who the arbiter of the Impact Fees was; Mr. Greenwood said that if a lot existing prior to the ordinance, it wouldn’t be assessed an Impact Fee. He continued that the lot that existed prior to the Impact Fee is not the lot that is being accepted by this subdivision. Mr. Coffin said that, in theory, they are first merging all the lots into one and then subdividing into four, there are technically 4 new lots. Mr. Greenwood said that two of them already have homes on them. He agreed that those fees would be waived for those two lots. Mr. Zilch asked to “muddy” it a bit more by saying that if the consolidation and subdivision hadn’t been done, the two lots could have shared a lot line adjustment that would have given the backland frontage and a building area and start with two lots and end up with two lots. Mr. Greenwood clarified that this was not the proposal before the Board. Ms. Merrill asked who decided. Mr. Greenwood said that the assessment happened at the building stage but it was the Planning Board who was responsible that the applicant understands the responsibility for the Impact Fee. Mr. Bakie and Mr. Greenwood will talk about Impact Fees off-line.

Mr. Coffin thought the proposal was straight forward and wouldn’t need a site walk. Mr. Coppelman asked if there was any public present with a comment or question. There were none; he closed the public comment section of the hearing.

Mr. Zilch responded to the 60,000 foot concern addressed by Mr. Greenwood; that size was by design; it is a solid line at the base of the hill; he doesn’t think there will be any concerns by anyone else; the delineation is clear; he could have made it more but he wanted to leave more land for the other lots. Mr. Greenwood asked if there was any chance that the wetland flagging was out there when Mike Cuomo was reviewing the test pits. He said it was. Mr. Quintal stated that he just sketched out where a house, 28x36 with a 24x28 could go with all the requirements for the house, and there is plenty of room with close to a 100 ft. setback from the wetlands; the area is fairly flat, a lot of sand, with good soils for the whole area so he doesn’t think there is too much of a problem for building on that lot. Mr. Zilch said the leach fields would be built up due to the Aquifer requirements. Mr. Zilch confirmed that the note on the cover sheet complies with the new flood zone maps.

Mr. Coppelman stated that there are a number of punch list items if Mr. Quintal and Mr. Greenwood’s comments are combined; the Board needs to determine if they easily fit into a conditional approval or a continuance to see them prior to final action. Ms. Merrill suggested the notes are fairly easy to consider and to add to the plans as a conditional approval.

MM&S to conditionally approve the subdivision plan for tax map lots R11-18, R11-19, and R12-14A with the following conditions: mailboxes be delineated per the approval of the local postal service, the 20 ft. easement along the highway must state that it is for maintenance, drainage and future roadway improvements dedicated to the Town of Kingston, the stormwater roof run-off as proposed to recharge the groundwater by use of drip line trenches and dry wells, prior to signing the mylar, the approved tax map lot numbers are shown and indicated, define the bearing and distance for the septic easement location on lot "B", Ms. Merrill clarified that these conditions referred to Items 1, 3, 4, 5 and 6 of Mr. Quintal's comments); the impervious surface for the existing and proposed lots need to be shown on the plan and that the proposed two new lots be subject to impact fees and this be noted on the plan; the proposed driveway on Lot D not pass over any part of the 4K area for the septic system. (She clarified that the remaining conditions referred to Mr. Greenwood's notes, number 4, 6, 7, 9). (Motion by Ms. Merrill, second by Mr. Bakie) Discussion: Mr. Coffin asked about whether the condition of moving the driveway from over the 4K area was part of the motion. Ms. Merrill added that to her motion. For clarification, the Board stated that the motion was in reference to the specific items on Mr. Greenwood's comment sheet dated October 15, 2019 and Mr. Quintal's comments sheet dated October 15, 2019. The Board stated that the Conditional Approval was valid for 90 days. Vote on the Motion: **PUNA**

Mr. Zilch said that he had one question regarding the impervious area, he asked if a "plus or minus" number for proposed was acceptable. Mr. Greenwood said that would be fine. <Board note: this hearing concluded at 7:30.>

Joseph Falzone

Property Owner: Hazel M. Hanson, Heirs

53 Marshall Road

Tax Map: R41 Lot 07

<Board note: this hearing began at 7:32 PM>

Mr. Coppelman read the public notice for this portion of the hearing. Scott, an associate from Beals Associates introduced himself to the Board as representing Mr. Falzone; he reviewed the plan and a previous hearing regarding the Design Review. They are proposing an Open-Space subdivision of 13 lots with a "u-shaped" road. He noted that a hydrogeo study had been submitted to the Board; they have received comments today and has not reviewed them. They are asking the Board to accept the application as complete; there are a couple of comments they would like to review with the Board and then request a continuance to go back and do their homework and come back with a refreshed design.

Mr. Greenwood suggested that Mr. Quintal review his comments for their Board. Mr. Quintal corrected his cover sheet to say proposed subdivision not site plan. He reviewed his list of 37 comments which had been handed out to the Board that included: a question regarding the right of easement to BAE homes over property owned by Peter Broderick as it might impact the valid yield plan which might cause the project to not go forward as presented, zoning setbacks requirements not met by stormwater sediment and infiltration basins within the setback area that would disturb the existing natural features and preservation of natural screening, stormwater basins within the setback and within the well protective zone for lot 7-1; 4K area must be 100 ft. from wetlands not shown on lots 7-1 and 7-3, calculations require contiguous upland soils which is not noted, grading for community mailbox turn-out, soil test pit conducted in basin area and witnessed, stormwater event information incomplete, required easements, pre-construction meeting required and needed to add to the note, additional notes

for stormwater and other stabilization, all plans at same scale, 1 inch equals 80 is recommended; note to comply with Fire regulations, lot numbers provided by Board of Selectmen, culvert minimum is 18 inch, provide acceptable street name, performance bond required, spreadsheet with cost estimates for bond needs to be provided and reviewed, monumentation requirements, soil report water table is inaccurate when compared with test pit information, stabilization note says it will be complete within 60 days of breaking ground and Mr. Quintal is looking forward to hearing how this will be accomplished; treatment notes refer to "c" sheets and "e" sheets which have not been provided, note says AoT permit will be not required but due to the amount of disturbance, it will be required, infiltration value needs correction, test pit info. challenges water table information, watershed plan incomplete, stormwater management plan requirements, condo. conversion requirements for "Somersworth" is noted which is the wrong town, and hydrology report requirements should be on the plan. Mr. Quintal reviewed required information for infiltration basins and percolation tests; the value of ten versus the value of 3 which would require a bigger area for absorption.

Mr. Greenwood read his comments that included the requirement of a hydrogeologic study which has been prepared by Danna Truslow; he recommends a third party review as the Board has never not done one. He continued that there is now a proposal for a boundary line adjustment between the property and abutting parcel and the application was not noticed for subdivision and boundary line adjustment; the application submittal only indicated a proposal for an innovative zoning subdivision and there was nothing in the application materials for a boundary line adjustment with the abutters, the Escobars. He continued that the Board can not approve a boundary line adjustment that hadn't been noticed. He said that notices will have to be sent prior to the next hearing. He continued reviewing his comments that included: proposed lots come in with letters, not numbers to that needed to be changed, need clarification of "buildable" area as it should be "contiguous upland"; lot 13 has no information regarding building area and should be provided, well radius' concerns, plan note corrections, driveways need to be shown, septic reserve areas. *(The entire portion was not discernible by tape, for Mr. Greenwood's complete comments please refer to his comment sheet for this hearing.)* Mr. Greenwood's comments had been made available this afternoon; the engineer noted that they were not prepared to address them at this time.

"Scott" agreed with Mr. Greenwood about the abutter notification issue and will provide the required documentation to meet that requirement. He would like to address some of the design comments specific to the drainage structures in the setback from Marshall Road. He stated that since roadways are allowed and drainage features are integral to the roadway, they would like to discuss this with the Board as it is a major aspect of the project.

Mr. Coppelman read Department comments: Health Officer – no septic system design was provided; Fire – must comply with Fire Protection regulations. "Scott" said there had been discussion with the Fire Department about sprinklers in lieu of a different system. Mr. Coppelman read an email sent by Mr. Falzone with information regarding LLA for Escobar; he is unable to accommodate a LLA for the swing set on his land with another abutter, the swing set will need to be removed in 2020. There was a proposal for trails pending liability issues; SELT (Southeast Land Trust) has declined to accept ownership of the Open Space. Mr. Coppelman noted that the Hydrogeologic report had been sent out the Board. Mr. Greenwood confirmed that while it is a requirement to show a conventional subdivision for density and lot calculation, the current proposal is for an innovative subdivision. Mr. Greenwood noted that the Homeowner's association will own the Open Space. There was discussion about concerns with the conventional plan's yield plan. Mr. Coffin suggested that this needed to be addressed. Ms. Merrill

confirmed that BAE corporation has been dissolved. Mr. Greenwood said the easement says to "BAE and its assigns" and he doesn't have information about that. Mr. Greenwood says the easement is shown on the subdivision plan but not on the Town's tax maps. Mr. Coffin suggested that the BAE liquidation documents should be reviewed to see if the assets were turned over to another entity. Mr. Quintal said that the applicant can figure that issue out and bring back to the Board. Mr. Greenwood said that the Board was not interested in doing a subdivision connecting to Brookhaven; ownership of the easement would need to go to Town Counsel between this meeting and the next meeting. Ms. Merrill said that the issue is for the yield not whether to use Brookhaven as an entrance point. Mr. Coffin said the plan would have a different entrance which might change the yield based on a traditional plan. Mr. Bakie stated his belief that the easement exists regardless of who the easement was for. Mr. Greenwood said the easement was for BAE and BAE doesn't exist, so there is a wrinkle. There was discussion regarding homeowner's association, activity or lack of activity, continuation of the association. There was continued discussion regarding the previously approved plan, easement language, how the Board moved forward. Scott explained how they came up with the density. Ms. Merrill suggested that if the proposal, without the easement, met the requirements and yield, perhaps it didn't matter to the Board for this application. Mr. Greenwood reviewed the Innovative zone language and the formula regarding building density and the allowed number of building units. The Board reviewed the proposed density mathematically; determining lots for a conventional subdivision and an innovative zone. Mr. Greenwood's interpretation is they have met the requirement for showing the number of lots for a conventional subdivision. There was continued discussion regarding the easement approved on the Brookhaven subdivision and the current proposal, calculations to meet the ordinance. Mr. Coffin said that the easement is not an issue for the current proposal. The Board consensus is that they are comfortable with the yield plan and meets the spirit and intent of the ordinance and the technical nature of it.

Mr. Greenwood spoke about septic system requirements. Mr. Coppelman referred Scott to the stormwater treatment area within the setbacks noting that he will need Board direction. Scott referred to the proposed plan regarding this concern; they still have the 200 foot visual open area. Prior to the Board's discussion, Mr. Coppelman referred to p. 204 -2 and natural vegetation within the external setback areas "shall" be left undisturbed except for the purposes of providing access to public streets and ensuring proper sight distances as determined by the Kingston Road Agent. Mr. Coppelman said that it is not something that the Board has the opportunity to waive and if it doesn't meet the ordinance, the applicant would need to amend the design or seek a variance from the ZBA (Zoning Board of Adjustment). He said he understood the applicant's argument but the ordinance requires that it be undisturbed. Mr. Quintal said the detention basin is also within the well setback as well so if the basin stays in the area proposed, the well would have to move; it is not just a conflict with the setback issue but also a conflict with the well and the protective zone around it. Mr. Quintal said that the detention area captures stormwater run-off that has a lot of pollutants in it so it is not prudent to allow that within the protective well radius. Mr. Bakie wanted to know what the State required, he didn't think a topsoil detention area would pollute a well; he thought it was common practice as they look good as they have vegetation in them. Scott said that between them, along with Danna Truslow, the issue could be addressed. Ms. Merrill said that the zoning ordinance is clear that the area can not be disturbed; bringing detention basins in does disturb the area and while it could be brought back to the natural type field that it is now, the Board's hands are tied in that the Ordinance state that it can't be disturbed; it would have to go to the ZBA. Mr. Coppelman stated that it could also be a re-design depending on the flexibility. Mr. Greenwood added that it won't look the same as what is there now as it is manmade; Mr. Coppelman agreed. Mr. Greenwood said that one of the reasons that this was put in

the ordinance was so people from the street wouldn't see the change of the houses being closer from the street view. Mr. Bakie said that a road is allowed and there has to be drainage. Mr. Greenwood agreed but added that the drainage doesn't have to be in direct proximity to the road; water can be channeled. Scott agreed but said the contours from Marshall Road goes up. Mr. Coppelman said that the thought that the hydrogeologic report indicated that the lot sloped back toward the river. Scott said to a point but the half they are using goes up and then goes back toward the river so all the drainage is going forward. Mr. Coppelman said that he agrees with Ms. Merrill that the restrictions were put there for a reason, but it is what it is. Mr. Greenwood explained that the setback was a trade-off to get the closer density for an innovative development. Mr. Coppelman said the Board needed to give the applicant direction. Ms. Merrill said that the ordinance was clear that it was either a new design or a variance; Ms. Duguay agreed. Mr. Coppelman said it is not whether the Board agrees with the ordinance or not, but agrees that the ordinance is pretty clear. Mr. Padfield noticed an area on the map that might be appropriate for the new location. Mr. Coppelman said that would be up to the applicant. Mr. Coffin sees that they need to pursue one of the two options; the ordinance is clear. Mr. Coppelman asked the Board and by consensus, the ordinance is written that there is no disturbance leaving the applicant to either change the plan or seek a variance from the ZBA.

Mr. Coppelman said the next issue is the question of the peer review for the hydrogeologic study. Mr. Coffin asked for a vote to have the review done by another independent hydrogeologist; she suggested this be done with any other requirements the Board wants after public comment and done in one motion.

Public comment: Mike Morris, 10 Brookhaven Road, Kingston addressed the Board. He spoke about the 100 foot vegetation and asked about deed restrictions for the prospective new lot owners that clearly tells them that the 100 foot buffer can't be disturbed including RV's, swingsets, sheds, etc. so there is no issue in the future. He hopes that the deed restrictions are clear and unambiguous as to the 100 ft. buffer not being disturbed. Mr. Coppelman was not clear about restrictions in the deed. Ms. Merrill said that zoning changes which makes it difficult to put in a deed. Mr. Morris asked how a property owner would know about the buffer restrictions. Mr. Coppelman said that the final approved plan shows the restrictions. Mr. Greenwood stated that the subdivision plan shows the building setback and the building envelope is separate from the boundary; the building inspector permits construction but anything without a permit might be an issue but not construction. Mr. Morris says that doesn't address something that wasn't constructed. Mr. Coppelman said that it could be called out in a Homeowner's Association with documentation. Mr. Morris asked if the Board reviewed this. Mr. Coppelman said that it did. Mr. Morris said that the 100 ft. buffer is important to him and wants assurances to make sure it is maintained. Mr. Coppelman said that the BOS is the enforcing entity regarding activity not allowed within the setback. Mr. Morris would like it added to the HOA documents. Mr. Coombs suggested that this would add more relief than the Town as they can act quicker. Mr. Morris thought there was something in the ordinances about deed restrictions. Mr. Greenwood said there is discussion about deed language in the HOA docs. Mr. Greenwood said that the Board always sends to its attorney. Ms. Merrill said an HOA can require someone who clear cuts to pay for re-planting. Mr. Coppelman agreed that it would be clearer in an HOA. Mr. Quintal said that the wells themselves are also within the setbacks and would need to be moved to avoid disturbing the natural vegetation.

Peter Broderick, 12 Brookhaven Road, spoke about the easements on his property. He said he thought the instructions for the developer was for the “horseshoe” proposal and he questioned all the discussion regarding the easement. Mr. Coppelman explained that the discussion was simply for “yield” purposes.

Mr. Greenwood suggested that the Board not take jurisdiction at this point. There was disagreement from any Board member. Ms. Merrill asked how long it would take to bring updated plans back to the Board. Scott said there was some homework to do and would like to take a few weeks to go over the comments and prepare an additional application; they said it would take two to three weeks to submit plans to the Board. Mr. Greenwood suggested that the application be for the December meeting since being on the November agenda would require plans submitted two weeks before the hearing date. Mr. Coppelman said that the hearing would include the boundary line adjustment. Ms. Merrill said that the plans would need to be in on Nov. 25th for the Dec. 10th meeting date.

MM&S to continue to December 10th with plans due in the PB office by noon, Monday, Nov. 25th; notice the boundary line adjustment and send the hydrogeologic study out for peer review. (Motion by Ms. Merrill, second by Mr. Coffin) Discussion: Scott asked about how the procedure worked and asked if the Board determined that the application was complete. Mr. Coppelman stated it was the recommendation of the Planner not to invoke jurisdiction. Scott said that now that the yield plan was resolved, which was the main concern, he asked what would hold up, at least acceptance of the application, so the client knows that it is moving forward. Mr. Greenwood said that there are still a number of things that need to be addressed with the new plan before invoking jurisdiction but you can go forward knowing that your proposed density is something that the Board is comfortable with, but the will have to determine how they are addressing that and without that, the Board would not feel comfortable starting the 65-day clock. Mr. Coffin said that, especially with possibly needing to go the ZBA. Vote on the Motion: **PUNA** Mr. Coppelman added that this is the abutter’s notification for the continued hearing. <Board note: this hearing ended at 8:55 PM>

<Board note: The Board took a brief recess.>

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

Mr. Coppelman read the public notice; he reviewed the prior hearing and the Board granting a continuance one final time to move forward with the proposal. Mr. Pryor explained to the Board that he tried to get in touch with Mr. Lavalley today about tonight’s hearing; his call was not returned; he has tried multiple times this evening to get in touch with Mr. Lavalley. He asked for another continuance to try to get things done that need to get done. Mr. Coombs asked if we received updated plans. Mr. Greenwood said that there was an updated plan with minimal changes. Mr. Coombs did not think it was fair to the applicant that his retained professional is not giving him what he needs but we did receive something new .

MM&S to grant a continuance to the next hearing. (Motion by Mr. Coombs) Discussion: Mr. Coppelman asked if the applicant would prefer the December hearing to have more time. Mr. Greenwood said that going to another engineer would require him starting from scratch. Mr. Coppelman said that the plans would need to be in by November 4th for November 19th hearing. Mr. Quintal said that he had proposed one driveway for the project which would make the project a lot

better; this would require a significant amount of work to develop this type of plan but could be done within the timeframe. Mr. Pryor suggested that the December meeting would be the better timeframe.

Mr. Coombs revised his motion.

MM&S to continue to the Dec. 10th hearing with the submission of new plans due by noon on Nov. 25th. (Motion by Mr. Coombs, second by Mr. Coffin) **PUNA**

Greenwood Pond, LLC
16 Church Street
Tax map U10 Lot 17

Mr. Coppelman returned to the first hearing; there was discussion that no one appeared for the hearing and there was no request to continue and no new submission. Mr. Coombs suggested that due to the amount of activity before the Board and without any request from the applicant, the Board should deny without prejudice.

MM&S to deny without prejudice. (Motion by Mr. Coombs, second by Mr. Coffin) **PUNA**

Board Business:

Ms. Alessio, Chairman of the ZBA, asked to speak with the Board about Accessory Dwelling Units and the current ordinance requiring ZBA review and approval. Ms. Alessio said that when the Planning Board accepted the new ADU ordinance, it wasn't voted to have it start immediately. Mr. Greenwood said that normally if the proposal was less restrictive, it didn't go into effect until the Town meeting vote so the Board wanted clarity and asked him to speak with Peter Loughlin about the issue. He stated that Attorney Loughlin told him that since it is a procedural amendment that both processes are now in effect s Town meeting; so there would need to be a hearing with both Boards or there would need to a hearing with the ZBA and the Planning Board. Mr. Coppelman and Mr. Greenwood explained the proposed changes; so only the requirements of the external ADU's would need to go to both the ZBA and PB; if not external, it would go to the Building Inspector and the ZBA. Ms. Alessio asked if this had been discussed with the staff downstairs. Mr. Greenwood explained that this was the first meeting he had been able to discuss it with the Planning Board so they hadn't been able to speak to the staff about it yet. Mr. Greenwood will tell them to bring him downstairs whenever there is an ADU application so he can determine if just through the Building Inspector, the ZBA or a joint hearing.

Ms. Alessio wanted to let the Board know about their third variance request due to an expiration; there was one for 19 Page Road from Mr. Kalil. She stated that a variance in effect that hadn't expired, could grant an additional expiration. This one was already expired so she is expecting the applicant to start over again. She questioned whether there needed to be a regulation about this. Mr. Coppelman said that he didn't think she had a choice. Mr. Greenwood stated that extending an existing variance could be appropriate but, agreed, that once expired, the applicant had to start from the beginning.

Correspondence:

- Invoice from Town Engineer, signed by the Chair.
- Question from Conservation Commission re: Rowell Estates – Mr. Greenwood will review and address.

- Bond list
- PB budget transaction details with current expenditures through Oct. 1st ; Ms. Merrill asked if the Board was on track; Mr. Coppelman reviewed and stated that the Board is under-expended on every line.
- Letter from DOT re: meeting on Thursday regarding the new design for the Rte. 125 improvements from Plaistow line to Hunt Road. The place needs to be confirmed.

Ms. Merrill's name was misspelled on p. 3.

MM&S to accept the Sept. 17th minutes as amended. (Motion by Ms. Merrill, second by Mr. Coffin)
PUNA

Mr. Greenwood has not completed the Shoreland comparison and will send out on Thursday.

MM&S to adjourn. (Motion by Mr. Coombs, second by Ms. Merrill) **PUNA**