

## Kingston Planning Board

February 18, 2020

### Public Hearing

### Minutes

Mr. Coppelman called the hearing to order at 6:48 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  
Chris Bashaw  
Lynne Merrill  
Ellen Faulconer, alternate/admin. asst.

Members Absent: Robin Duguay

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

Mr. Coppelman introduced the Board. He stated that Mr. Padfield would be a voting member this evening.

**Joseph Falzone, Applicant**

**Hazel Hanson heirs, Property Owner**

**53 Marshall Road**

**Tax Map: R41 Lot 07**

**And**

**Gabriel and Debra Escobar**

**51 Marshall Road**

**Tax Map: R41 Lot 8K**

(This hearing began at 6:50) Mr. Coppelman read the public notice; he explained that there were two proposals that went together; the first is a lot line adjustment (LLA) between the Hanson and Escobar property. Scott Cole of Beals and Associates was present representing Mr. Falzone; Mr. Escobar was in the audience. Mr. Escobar stated that Mr. Falzone's surveyor questioned the validity of his 1980 survey; this LLA gave the house corral and improvements to the Escobars.

Mr. Greenwood read his comments that had been provided to the Board. He stated that the proposed monumentation does not meet regulations; all corner monuments must be concrete or granite; this correction needs to be shown on the plan. He added that Note 2 on 1 of 3 should indicate the proposed parcel size in square feet and acres for the Hansen parcel as a result of the LLA; currently only the Escobar revised information is presented. Ms. Merrill noted that "Debra" has been spelled incorrectly and should be fixed. There was no public comment.

**MM&S to grant the application of the LLA as presented conditional upon the changes as noted in Mr. Greenwood's comments dated 2/18/2020 regarding the monumentation requirements and the corrected parcel size information and correct the name on the plan set. (Motion by Ms. Merrill,**

second by Mr. Coombs) **PUNA** (Passed Unanimously) Mr. Coppelman stated that the applicant has 90 days to meet the conditions unless the Board stated otherwise. (This hearing ended at 7:00.)

**Joseph Falzone, Applicant**  
**Hazel Hanson heirs, Property Owner**  
**53 Marshall Road**  
**Tax Map: R41 Lot 07**

(This hearing began at 7:00) Mr. Coppelman explained that this was the second part of the proposal; it was the subdivision piece. He added that there had been a previous proposal for a subdivision that had been withdrawn with the applicant coming in with a different plan. Mr. Cole briefly reviewed the previous application concluding with the new application of a standard frontage of a 7 lot subdivision. He stated that there are three common driveways proposed; he has applied to Division 6 a few weeks back and doesn't know the current status of that application. He added that he had received the comment letters from Mr. Greenwood and Mr. Quintal.

Mr. Greenwood reviewed his comments dated 2/18/2020 which noted that this was the first public hearing for the new proposal. The nine comments included: the plan needs to be compliant with Town monumentation requirements; page showing wetland delineations need to be stamped by a wetland scientist; 100 ft. well radius's going over property boundaries (lots 2 and 3) require easements; proposed lots are to be lettered, not numbered; Planning Board needs to take action re: shared driveways and setback requirements; abutter buildings, well and septic within 100 ft. of boundaries need to be depicted; question regarding NHDOT and easements; plan note detailing the existing and anticipated impervious area; test pits for lot 6 are not within the 4000 sq. ft. area as required by regulation.

Mr. Cole responded to Mr. Greenwood's comments: #1 – they will do; #2 – will add the stamp; #3 – there is room to maneuver the wells and they were changed to get the 100 ft. radius out of the adjacent buildable land; #4 – will do this; #5 – shared driveways have to cross property setbacks but they can slide so the entrance is 20 ft. off the property line; #6 – they think that have everything except the Escobars but they will re-look at this issue; #7 – they don't have the decision from Division 6 yet; #8 – this will be added; #9 – they will address with their changes.

Mr. Quintal reviewed his comments dated February 18, 2020 that included 13 items: #1 - Functional wetland value analysis; #2 – driveway requirements including a profile and cross-section details; #3 – question regarding multiple driveways; #4 – driveways conforming to Town Standard Entrance Detail and drainage requirements; #5 – question regarding preservation of existing features; #6 – hydrant requirements; #7 – mail box approval from Post Office; #8 – approval of lot numbers by BOS (Board of Selectmen); #9 – denote sheets to be recorded with required stamps; #10 – State permits; #11 – compliance with required monumentation; #12 – explanation of Note 12 and bench marks requirements need to be met; #13 – questions regarding trail system.

Mr. Cole addressed the wetland value setbacks stating that they were done at the beginning of the initial project back in May, 2019; Mr. Quintal says that the setback shown is 50 feet but the value, labeled B should be an 85 foot setback; Mr. Cole will look at that. He will look at item #2 and amend after getting information from DOT; he agreed with Mr. Quintal comments adding that the PB can decide to allow shared driveways; he will look into item #4; #5 - Mr. Falzone did not want to change the design to address any concerns raised by Mr. Quintal regarding an alternative lot design; #6 – Mr.

Falzone stated that all the buildings will be sprinkled and a note will be added to the plan confirming that; #7 – they will contact the local Postmaster re: the location of the mailboxes; #8 – they will address the numbering. Mr. Greenwood explained that the review includes notation using letters with the mylar having the new numbering as approved by the BOS office. Mr. Cole continued with his response: #9 – they will do this; #10 – this is pending; #11 – he will relay the information to the surveyor and will ask to waive the requirement to placement of monumentation to 400 or 500 ft. along the long, straight lot lines. Mr. Coppelman said that they will need to submit a written waiver request. Mr. Bakie said that all the angles appear to be marked. Mr. Coffin and Ms. Merrill suggested that there could be issues with monumentation in the wetland buffers. Mr. Greenwood said that he likes as clear monumentation as possible. Mr. Quintal said that there have been issues in the past with encroachments regarding property lines. Mr. Falzone said he is willing to do the monumentation every 200 ft. Ms. Faulconer said that there should be a compromise between the requirement of 200 feet and a request for every 500 feet rather than approve two and a half times the normal requirement. Ms. Merrill was concerned with marking the wetlands with the 200 ft. requirement. Mr. Cole continued: #12 – he will address; #13 – Mr. Falzone explained that the title shows that no one has any deeded access to the trails and no one has any legal rights on the land. Mr. Falzone explained the issue with the swing set reviewed during the initial hearing process had been addressed by his granting a permanent easement that will expire when the current owner sells the property.

Mr. Coppelman read the Department comments: Conservation Commission - noted that there was no placement for the buildings but it appeared that lot 7-1 falls within the wetland buffer. Mr. Greenwood agreed that the lot has the smallest buildable area that seems like it could be a constrained area but he thinks there is room for buildable area outside of the wetlands. Mr. Coppelman continued: Fire - driveways must comply with NFPA and comply with Fire Protection regulations for subdivisions. Mr. Coombs said that the Road Agent and Fire Department both need to confirm compliance with driveway requirements. Mr. Coppelman read comments from Health - per page 6, the proposed well has a 75 ft. and 100 ft. setback – the legend is incorrect; Mr. Cole agreed to amend; Highway – no impact on Town roads and detailed driveway plans need to be submitted with the application. Mr. Cole asked that copies of Department comments be forwarded to him.

Mr. Coppelman explained what “jurisdiction” means for the public’s benefit.

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

There was no public comment.

The Board reviewed the current plan regarding the long, linear lots. Mr. Bashaw said the applicant had tried a different approach and this looks like his best effort based on the results of the previous plan; lot values were discussed; similar lots within the community was mentioned; variance options necessary for the original proposal were reviewed. Mr. Falzone stated that the current comments are minor compared to concerns for the previous proposal. There was discussion regarding motions required for the proposed driveways.

**MM&S to accept the driveway proposal to allow two doubles, for lots 1 and 2 and for lots 3 and 4, and one triple (for lots 5,6,7) in order to minimize driveway improvements on a public right-of-way (ROW), waiving the 20 ft. setback on those lots affected as shown on the plan set dated January, 2020; the**

**individual sheet is dated January 2020 on sheets 7,8 and 9 of 9; pending state approval.** (Motion by Mr. Coombs, second by Mr. Bakie) **PUNA**

Mr. Bakie questioned the requirement of #8 on Mr. Greenwood's list detailing existing and anticipated impervious area on the lot; he asked if it should just be a note that says the amount of impervious allowed on the lot. Mr. Greenwood explained that it is part of the subdivision requirements to be able to be tracked if asked for the information by DES. (Department of Environmental Services) He said that we ask for an estimate and is the same requirement in site plan review. There was further discussion about the requirement; possibly removing it and adding it to Building permit requirements; site plan having the requirement with the information being reviewed being more precise. Mr. Greenwood explained that a subdivision plan doesn't limit building permits; a more definitive number could be received if it was added as a requirement on the building permit. Ms. Merrill said that sometimes if something doesn't come forward, we don't have the clear impact.

Mr. Falzone suggested a conditional approval. Mr. Coppelman noted needing a response from the Postal Service. Ms. Faulconer reminded the Board that it has another hearing scheduled in two weeks. Mr. Bashaw stated that if the applicant is okay to return in two weeks there would be fewer conditions for an approval.

**MM&S to continue to March 3<sup>rd</sup> with new plans in by noon on Feb. 22<sup>nd</sup>.** (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

(The hearing ended at 8:10)

**Bresnahan Moving and Storage, Co.**  
**7 Marshall Road**  
**Tax Map R41 Lo 7-2**

(This hearing began at 8:15) Mr. Coppelman read the public notice. Charlie Zilch of SEC and Associates, stated that there had been a site walk on January 5<sup>th</sup> with a request to continue until this date. Mr. Zilch introduced Mr. Bresnahan and his attorney, Mr. McKittrick.

Mr. Zilch said that a plan had been submitted to re-vegetate; he reviewed the history of the overcutting on the lot putting the site into non-compliance with the approved plan which became an enforcement action.

Mr. Greenwood said that both Mr. Jordan, the forester and Mr. Cuomo, wetland scientist and soil scientist from RCCD (Rockingham County Conservation District) were invited and available to attend however, only Mr. Cuomo was present. Mr. Cuomo addressed the Board adding that he had attended a site walk to review overcutting near vernal pools; he submitted a letter with his recommendations. He stated that regardless of who did the overcutting, the applicant is responsible for work done on the property. He referred the Board to his letter; he stated that the saplings are not related to the buffer violations; he disagrees with the argument that the buffer will protect the pool; native shrubs are the preferred vegetation; sapling sizes don't provide adequate shading. Mr. Bakie asked if Mr. Cuomo had read the forester's letter; he answered that he had not. Mr. Zilch said that they would adopt everything as recommended in the forester's letter. Mr. Bashaw said that the applicant had been responsive regarding the violations; there were two different proposals by two experts. Mr. Coffin reviewed the

forester's report; he noted that the forester concentrated more on the species which Mr. Cuomo agreed with; he continued that the area of disagreement is on the vernal pool area; there needs to have some sort of monitoring to check the survival rate; he questioned the size of the saplings. Mr. Coffin suggested a hybrid approach by accepting the forester's suggested species and have a discussion regarding soils disturbance from Mr. Cuomo. Mr. Cuomo said that the primary disagreement is on the understory; Mr. Jordan did not discuss how to monitor and follow-up. Mr. Zilch stated that he thought the plan is a hybrid as presented. Mr. Coffin expressed concern that none of the plantings occurred on the South side; no plantings were shown at the vernal pools. Mr. Zilch said that the vernal pool buffers were cut down; there is no need to disturb the site any further. Mr. Coffin reviewed the notation of the visual screens; Mr. Zilch said that 2 tree lines were shown on the plan. Ms. Faulconer suggested that the Board not need to adopt an either/or approach to the two reports but rather take the best recommendations based on the expertise of both in their specific areas; the forester's recommendations on species and the wetland scientist's recommendations for the vernal pools. Mr. Coppelman stated that he didn't read that Mr. Jordan accepted the presented plan; neither expert endorsed the presented plan. Mr. Cuomo said that he would work with Mr. Jordan to meet him somewhere in the middle; they come from different perspectives. Mr. McKittrick said that it is not unusual for experts to disagree; he stated that it is almost March and springtime is coming and planting should start. He said that from the leanings of the BOS, the Board should make a decision tonight to be done with it and have a fixed plan. Mr. Coombs said that the BOS recognized it was not their decision to make and brought it back to the Planning Board. He clarified that at the time, the Board was only looking at the trees and that buffer but they are not experts on vernal pools. He stated that he doesn't think it is too much to ask to get the site restored; the forester hasn't made specific recommendations on the number of trees and their locations; he continued that a buffer area needs to be restored under the plan of a competent professional with the two professionals working together.

Mr. Bresnahan commented on a paper road that didn't have trees; he questioned whether the Board knew what trees were even there or removed. Ms. Merrill said that one thing she noted was for more trees on the southern side of the vernal pools to keep the sun out; she didn't see any of those trees being replaced. Mr. Bresnahan continued that the stumps didn't come from the whole area; the stumps were placed there.

Ms. Faulconer stated that she liked what Mr. Cuomo said about working with the forester and Mr. Zilch to come up with a plan. Mr. Coppelman agreed with the proposal to work together to come up with a joint recommendation. He suggested that if the Board didn't take that step, anything short of a full reclamation wouldn't be recommended by him. Ms. Merrill said that Mr. Zilch had his expert look over things and he or Mr. Zilch could be involved in the discussion with Mr. Cuomo and Mr. Jordan. Mr. Coffin said that this would be a good approach; Mr. Cuomo said that it would be fair to the applicant. Mr. Bresnahan questioned who would be paying for this review. Mr. Greenwood said that it would be the applicant's responsibility. Mr. Coombs noted that the current plan doesn't address the issues. Mr. Zilch said that this is the same plan provided prior to seeing the experts. Mr. Coombs stated that the Board could not reach a decision this evening as there is not a plan addressing either of the two experts' comments; the Board will have to continue to another meeting. Mr. Zilch suggested that they could move some of the trees around to address issues with the vernal pools. Ms. Faulconer stated that all the plantings may not be trees; they may be native shrubs to provide the undercover to prevent invasive species growth in the cleared areas around the vernal pools. Mr. Coffin said it was up to the applicant as to whether to include their original soil scientist. Mr. Zilch stated that Mr. Bresnahan had already planted approximately 87 trees. Mr. Coffin asked about the timeframe. Mr. Zilch noted that at \$300 a

tree, they were talking about \$300,000 for the distribution of 100 – 150 trees. Mr. Coffin stated that the Board can't designate the amount of trees at this point adding that how Mr. Bresnahan recovers his expenses from the subcontractor is up to Mr. Bresnahan. He added that there is a need to protect vernal pools and abutters need to have confirmation of growth. Mr. Merrill said that it appears that the forester agrees with the planting but how they are planted and watered and inspected needs to be determined as well as if anything lower should be added to the plantings and there should be a plan regarding the inspections. She said that she supports the concept of plan adding that she doesn't think the parties are that far off.

There was no public comment.

A possible motion to continue was reviewed. Mr. Coppelman addressed Mr. Zilch's previous comments about the price and cost involved with the restoration by stating that he was sorry about the cost but this was directly caused by someone working for the applicant. Mr. Bresnahan vehemently expressed his displeasure.

**MM&S to continue to March 17, 2020 with the request that Mike Cuomo and Greg Jordan come up with a plan for the restoration of vernal pools and buffer zone with an addition of representative(s) of the applicant; Mr. Greenwood to organize this; the reports due by the end of the first week of March with the proposal to Mr. Zilch by March 6<sup>th</sup>; new plans due to the office by noon on March 12<sup>th</sup>. Mr. Greenwood will work with Mr. Zilch as well to get this moving. (Motion by Mr. Coffin, second by Mr. Coppelman) PUNA**

There was discussion about the jurisdiction timeline. Mr. Zilch said there was no problem with extending the jurisdiction timeframe to March 17<sup>th</sup>.  
(The hearing ended at 9:20)

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

**New England Automation, LLC**  
**4 Main Street**  
**Tax Map R21 Lot 22**

<Board note: This hearing started at 9:30 PM.> Mr. Coppelman read the public notice. Jeffrey Green, Land Surveyor, represented the applicant, Hicham Mziguir, who was also present. Mr. Green reviewed the previous hearing; the submitted plan still shows a 75 foot well radius but he has corrected it on his plan to show the full radius; the dumpster has been moved to the storage building in back of the parking lot, it will be enclosed with a concrete base and he will add that detail to the final plan. He apologized for leaving his note sheet in his office. He is not proposing any additional landscaping; there are three existing spots; note 17 refers to the one in the front of the building. Mr. Green said the snow storage area is near one of those locations. He stated that a Knox box will be added to the southernmost building. Mr. Green said in reference to the questions regarding the drainage system, he got a letter from someone hired by Mr. Dudek who did a report on the clean-out of the system which is in working order. Mr. Coppelman noted that the Board had received the report. He stated that he hadn't put the setbacks on the plan; he had the functional value of the wetlands done and he needs a 45 foot setback that is now shown on his corrected plan.

Mr. Greenwood reviewed his comments: detail of dumpster to be added; he deferred to Mr. Quintal for Stormwater Management requirements.

Mr. Quintal reviewed his 14 comments: 1 – plans need to comply with registry requirements; 2 – show buffer limitations by physical feature; 3- permanent benchmark required; 4 – recommends long-term inspection and maintenance plan for stormwater mgmt. system; 5 – type of building, location of entrances; 6 – 100 ft. well radius requirement; sewer inspection report (Mr. Green stated that this was done and will provided); 7 – landscaping was addressed; 8 – buffer requirements for the Board to approve; 9 – detail needed for dumpster; 10- parking scheme; 11 – parking on pavement, cross-section detail required; 12 – FD requirements; 13 – Performance guarantee prior to approval and prior to construction.

Mr. Quintal stated that most of his comments are drafting items. Mr. Green stated that they are not asking for any additional parking; the owner has no intention of being a landlord. There was discussion about marking the setback areas; Mr. Green noted that there is no intention of parking in the buffer. Mr. Coffin suggested it might be wise to prevent construction or parking in the area. Mr. Coppelman added that there is to be no activity within the 45 foot buffer; it is considered an extension of the wetland. Mr. Green stated that that area of the site is closest to the residential area and is not having any commercial activity. Mr. Coppelman stated that it has to be marked on the plan. Mr. Green will add a note: No activity within the 45 ft. buffer.

Mr. Coppelman read the Department comments. Fire: Knox Box with keys; comply with NFPA 1 and 101; shall have a complete fire alarm system. There were “no comments” from BOS, Health and Building. Mr. Coppelman reviewed the Business Occupancy Permit (BOP) process.

Notes need to be added regarding complying with the Lighting and Sign Ordinances. Mr. Green suggested that the existing sign does not need to comply as it is an existing sign. Mr. Coombs said that would only apply to a legally existing sign; the current sign was put in illegally and received a cease and desist from the BOS. Mr. Green said that it will be brought into conformance. Mr. Green confirmed that he was clear that the sign was not legally conforming and it can’t be continued. Mr. Coffin double checked that the neighbor was okay with the fence. Mr. Green said that it was actually on the neighbor’s property; there is a note on the plan that the placement provides maintenance ability. They will get the fence in good condition and then the neighbor will maintain it. Mr. Green stated that the Lighting will be ordinance compliant. Mr. Coffin asked about “Figure 1” which was missing in the stormwater management report; Mr. Green will see if the information is available to get for the Town’s files. Mr. Green showed a picture of the proposed fencing. Items missing were reviewed.

**MM&S to grant approval with the following conditions:**

- **Permanent benchmark with USGS Datum**
- **Well radius of 100 ft. on the plan**
- **Dumpster detail with fence and location**
- **Soil borings (“Figure 1”) to be sent to the Board**
- **Inspection and Maintenance plan is placed on file and recorded at the Registry**
- **Septic system report placed on file**
- **Note: All Lighting and Signs will comply with Town Ordinances**
- **Meet all FD requirements**

- **Note: No activity in Wetland buffer**
- **90 days to meet the conditions**

(Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**

(The hearing ended at 10:20)

#### **Board Business**

##### **Correspondence:**

- Bond Balance List
- Letter sent to Mr. Kalil per the Board's request

**MM&S to accept the January 21, 2020 minutes as amended.** (spelling of lean-to) (Motion by Ms. Merrill, second by Mr. Coombs) **PUNA**

**ADU Conditional Use Permit:** Ms. Merrill noted that the document needs to have square footage of entire unit added.

Mr. Coppelman confirmed that the Letter to the Editor had been sent to the paper and to the Board members for their review.

**MM&S to adjourn at 10:24 PM.** (Motion by Mr. Coombs, second by Mr. Padfield) **PUNA**