

**KINGSTON PLANNING BOARD**  
**July 21, 2020**  
**Public Hearing**

**Minutes**

The Chairman called the hearing to order at 6:30 PM; he noted a quorum present through the Zoom platform for a remote hearing; there were no challenges to the validity of the hearing. Mr. Coppelman began the hearing by reading the Right-to-Know checklist explaining the requirements, workings and access information for the remote hearing via the Zoom platform; contacting the Planning Board through emails during the meeting was also noted as available. Mr. Coppelman explained that Glenn Greenwood was the host for the meeting.

A roll call vote of the Board members present occurred; each member noted that there was no one present with them in the room while attending this meeting.

**Members present:**

Glenn Coppelman, Chair	Chris Bashaw (joined the mtg. in progress)
Lynne Merrill, V.Chair	Peter Coffin
Peter Bakie	Robin Duguay
Richard Wilson, Board of Selectmen (BOS) rep.	Ellen Faulconer, alternate/admin. asst.

Members absent: Steve Padfield, alternate.

Also in attendance: Glenn Greenwood, Planner; Dennis Quintal, Town Engineer

Other Town officials in attendance: Electra Alessio, ZBA Chair/Selectperson, Graham Pellerin, Fire Chief

Mr. Coppelman announced that Ms. Faulconer would be a voting member pending Mr. Bashaw's arrival.

**Fire Station Building Committee**  
**New Fire Station**  
**148 Main Street/4 Rockrimmon Road**  
**Tax Maps U11-13, U11-14**

Mark Furlong, Chair of the Building Committee and Chief Pellerin were present; Anthony Mento, architect of the project was introduced. Kent Walker joined the discussion in progress. Dennis Quintal used the shared screen function to show the plan developed by the architect last Fall. He reviewed the internal plans for the building and the site plan. He noted there was an extensive drainage plan due to the amount of impervious surface pointing out catch basins and the leaching trench. He stated that he will be working with the architect on

changes; he noted that the subsurface drainage needs an enclosed pump that will need to move the building 10 to 15 feet closer to Main Street rather than change all the parking; some small changes may occur over the next few months. Mr. Quintal stated that a Lighting Plan is being designed; the Landscaping Plan is still up in the air. Elevation plans were reviewed. Mr. Quintal said that the final drawings will be done over the next few months and completed by October with construction expected to begin in early 2021. Mr. Mento stated that Mr. Quintal summarized the project and what is represented is substantially the project; he showed the full-color renderings. He added that the building is being prepared for a solar array but is not being installed initially but can be installed when the community wants it. He continued that there have been some minor changes to what was being shown. He confirmed that the lighting would be dark-sky compliant with the plan available for the Planning Board review at a later date. Mr. Greenwood asked about the building coverage for the lot. Mr. Mello answered that it was approximately 14,000 sq. ft. Mr. Quintal stated that he would get the impervious surface figure to the Board. Mr. Coppelman noted that the design is incorporating some nice architectural detail that blends well with the community. Mr. Mento explained that they wanted to reflect some of the architectural designs in buildings around the Town. Chief Pellerin stated that the Committee had reached out to the Historic District Commission for their review and want input from the Town Boards; he is available any time for questions. Mr. Furlong thanked the Board for their time; he added that all the issues with the land purchase were finalized in December.

**Capri Realty and Management, LLC**  
**6 Spruce Lane**  
**Tax Map R20 Lot 6**

Mr. Coppelman suggested taking this hearing out of order; new plans and revised condo. docs. were due to the Board by July 20<sup>th</sup>, none were received; the applicant asked for a continuance.

**MM&S to continue this hearing to August 18 at 6:45; revised plan and documents due by noon on Thursday, August. 6<sup>th</sup>.** (Motion by Ms. Merrill, second by Mr. Coffin) Roll call vote:

Mr. Coppelman – yes  
Mr. Wilson – yes  
Mr. Bakie – yes  
Ms. Faulconer – yes

Ms. Merrill – yes  
Mr. Coffin – yes  
Ms. Duguay – yes

Motion passed unanimously. **(PUNA)**

**Diamond Oaks Golf Club, LLC**  
**7 Route 125**  
**Tax Map R3 Lots 4 and 4 LU3**

Mr. Coppelman read the public notice. Jim Dufresne, property owner, Charles Cleary, attorney and Charlie Zilch, engineer were in attendance. Mr. Coppelman stated that normally he would ask the applicant to make their presentation to the Board but there was a threshold issue. Mr. Coppelman explained that this proposal originally came to the Planning Board in the C-III zone that didn't allow housing; the applicant received a variance with conditions attached to it that included that the housing could only be sold to Veterans. According to conversations with the Board's legal counsel, this requirement is problematic. Mr. Greenwood has been in discussion with Attorney Kalman; the applicant needed to provide indication of the legality of the variance. Mr. Greenwood explained that if the required condition was not a legal condition then the variance is suspect and without the variance, the Board would be back at square one as it falls within a zone where the use is not allowed. He stated that the applicant had been told that they needed to provide information that the condition is legal and that had not yet occurred. Mr. Greenwood added that an email had been received from Mr. Cleary indicating that the condition may not be legally enforceable; the Planning Board is in the position of looking at a proposal coming by way of a variance that may not be legal. *<Board note: Mr. Bashaw arrived at this time; Ms. Faulconer will no longer be a voting member for this hearing.>*

Mr. Cleary stated that he wasn't at the prior meeting and stated that this is the first he is hearing of a challenge. He continued that he is surprised that the Planning Board is trying to make an issue of the legality of another Board. He questioned who was saying that the variance is illegal. Mr. Coppelman clarified that it is the condition of the approval of the variance that is being questioned. Mr. Greenwood explained that during the last meeting with the Planning Board, the applicant was asked to provide information that the condition was legal. Mr. Cleary said he was not aware of that requirement. He asked why they had to prove why the condition was legal or not. Mr. Greenwood answered that the condo. docs. indicated that the units can only be sold to Veterans. Ms. Faulconer noted that the ZBA (Zoning Board of Adjustment) conditional approval included the Planning Board working out the details of the condo. docs. Mr. Greenwood explained that this is a Planning Board issue as the condo. docs. have a condition for the Board to adhere to and no one can tell the Board that it is a legal undertaking to comply with that condition; the question is not just about enforceability, if the condition is void, then the variance is void. He continued that the question was posed to the applicant to show the Board how the condition is lawful and enforceable.

Electra Alessio, ZBA Chair, explained that the ZBA clearly stipulated that the variance could go into effect as it would be restricted to Veterans. She continued that if that is not valid, it would make the variance illegal and put the Town at great risk. Ms. Alessio suggested that if the use couldn't be restricted to Veterans, then it would have to go back to the ZBA. She stated that the Town needs proof that this is legal to do this; she stated that if there is a statute that allows this to be restricted to Veterans, just tell the Town otherwise it puts the

Town at risk. She explained that the ZBA assumed it was legal and did not seek legal counsel; she stated that it was up to the applicant to put forward something that was legal.

Mr. Cleary noted that he had sent a suggestion to Mr. Greenwood. Mr. Greenwood stated that he had forwarded Mr. Cleary's email to the Board; he said that Mr. Cleary's suggestion to remove the language in the condo. docs. regarding Veterans and moving forward was not something the Board could do; the Board could not change or alter the conditions of the ZBA's variance. Mr. Cleary said he offered other alternatives such as his firm rendering an opinion to the Planning Board that the condition is legal or illegal if void or applying to the ZBA for relief. Mr. Coffin suggested that the last option, applying to the ZBA for relief might be best as it is their authority to grant a variance. He agreed the Veterans requirement was a key aspect of the variance approval. Mr. Cleary suggested that his firm would provide an opinion for the Board to have. Ms. Faulconer clarified that once that opinion was received, the Board's counsel would review. Mr. Bakie commented that this process seemed to be straightforward as the variance was for Veterans only and the Board had asked for case law to show it was legal; he continued that without it, it would cause a liability for the Town. He stated that the Board needed the case law to be able to move forward. Ms. Merrill asked if the applicant could go back to the ZBA without a denial. Mr. Coppelman asked the applicant if that would be more beneficial. Ms. Alessio explained that the ZBA's impression was that the applicant was proposing a legal act. Mr. Cleary stated that they will provide an opinion to the Board. Deadlines for the Planning Board and ZBA were noted.

Mr. Cleary stated that he can come up with justification with no further ZBA involvement. He said that his firm could find it to be a legal condition or an illegal condition that would make the condition void but that did not void the variance. Mr. Coppelman noted his disagreement of that statement.

Mr. Zilch asked for any comments of his re-submitted design. Mr. Greenwood said they weren't reviewed or distributed pending clarification of the variance conditions. Mr. Coppelman reviewed that three attorneys have been involved with this and none has provided information that the condition is legal. The Board agreed to distribute the plans for review in case the conditions of the variance are deemed to be legal. Mr. Greenwood's and Mr. Quintal's comments will be provided to the applicant.

MM&S to continue this hearing to August 18, 2020 at 6:45; new materials are due by noon on Aug. 6<sup>th</sup>. (Motion by Mr. Wilson, second by Ms. Merrill) Roll Call Vote:

Mr. Coppelman – yes  
Mr. Wilson – yes  
Mr. Bakie – yes  
Mr. Bashaw – yes

Ms. Merrill – yes  
Mr. Coffin – yes  
Ms. Duguay – yes

Motion passed unanimously. **(PUNA)**

**Board Business:**

**MM&S to accept the 6/16/2020 minutes as amended by the corrections sent by email.**  
(Motion by Mr. Coffin, second by Ms. Merrill) Roll Call vote:

Mr. Coppelman – yes	Ms. Merrill – yes
Mr. Wilson – yes	Mr. Coffin – yes
Mr. Bakie – yes	Ms. Duguay – yes
Mr. Bashaw – yes	

Motion passed unanimously. **(PUNA)**

**MM&S to accept the 6/23/2020 minutes as written.** (Motion by Mr. Coffin, second by Ms. Duguay) Roll Call vote:

Mr. Coppelman – yes	Ms. Merrill – yes
Mr. Wilson – yes	Mr. Coffin – yes
Mr. Bakie – yes	Ms. Duguay – yes
Mr. Bashaw – yes	

Motion passed unanimously. **(PUNA)**

The August 18<sup>th</sup> agenda was reviewed; there was no critical correspondence.

The Chair declared the meeting adjourned at 7:50 PM.