

KINGSTON PLANNING BOARD
December 1, 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 and phone 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 whether any one was present with them in the room while attending this meeting.

Members present:

Glenn Coppelman, Chair; alone Peter Coffin; alone
Lynne Merrill, V.Chair, joined the meeting in progress, alone
Peter Bakie, joined the meeting in progress, alone
Robin Duguay, alone Chris Bashaw, alone but with a full house
Richard Wilson, Board of Selectmen (BOS) rep., alone
Ellen Faulconer, alternate/admin. asst., alone in the room

Members absent: Steve Padfield, alternate.

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

Mr. Coppelman announced that Ms. Faulconer would be a voting member pending other Board members' arrivals; the full Board was present and voting at 6:37 PM.

Board Business

Mr. Greenwood addressed the Board explaining that he met with the owners of the 1686 House restaurant; they are interested in adding an additional use of a beauty shop to the property. He is questioning the Board on how much of a review would be required adding that he can't find a site plan on file; he expects that the proposal would trigger a need for a plan due to the new activity on the site. Mr. Coppelman said that it is a significantly different use; he expressed surprise that the Town didn't have some type of site plan on file. Mr. Greenwood said that there was a parking lot expansion probably 15 years ago. Ms. Merrill added that there was a LLA (lot line adjustment) not that long ago. Mr. Wilson said that there would be a major septic system issue. Mr. Coppelman said it was a completely different use.

Mr. Greenwood noted that it constituted a real change. Mr. Coppelman asked the Board if anyone had a different opinion; there was none.

Mr. Coppelman asked the Board if they had reviewed the letter that had been sent out; it will be discussed at the end of the meeting.

MM&S to approve the October 20, 2020 minutes as written. (Motion by Ms. Merrill, second by Mr. Coffin) Roll Call vote:

Mr. Coppelman – yes

Ms. Merrill – yes

Mr. Wilson – yes

Mr. Bakie – yes

Mr. Bashaw – abstain

Mr. Coffin – yes

Ms. Duguay – yes

Motion carries 6-0-1 with Mr. Bashaw abstaining.

Ken and Irena Anthony

3 Concannon Road

Kingston, NH

Tax Map U1 Lot 70

Mr. Coppelman read the legal notice for this hearing; he stated that the Board couldn't do much with this application this evening. Mr. Greenwood explained that a CUP (Conditional Use Permit) application was required from the Planning Board but it is on a non-conforming lot and would constitute an expansion of a non-conforming use which requires ZBA relief. The applicant is aware of this and has an upcoming hearing with the ZBA prior to the Board's next hearing date. Mr. Coffin questioned whether Newton needed notification; Mr. Greenwood said it was not necessary, it was just an endorsement block and we are only authorized to apply the rules in Kingston.

MM&S to continue to Dec. 15, 2020 at 6:45. (Motion by Mr. Coffin, second by Mr. Wilson)

Roll Call vote:

Mr. Coppelman – yes

Ms. Merrill – yes

Mr. Wilson – yes

Mr. Bakie – yes

Mr. Bashaw – yes

Mr. Coffin – yes

Ms. Duguay – yes

Motion carries PUNA The Board directed Ms. Faulconer to put this item first on that agenda. Mr. Greenwood will send comments to the applicant; Ms. Faulconer will get Conservation's information to them.

Berkshire-Dominion Holdings (aka Saddle Up Saloon)

92 Rte. 125

Kingston, NH

Tax Map R8 Lots 40 and 40A

Mr. Coppelman read the legal notice for this hearing; it was noted that the Board had received the Board of Selectmen's letter regarding issues for the site, current approved plan, comments sheets from Mr. Greenwood and Mr. Quintal and department comments. Rob Waters was present representing Berkshire-Dominion; Rob Pagliarullo was present with

him. Mr. Waters stated that the engineer on the plan was unable to attend but felt the plan could speak for itself. Mr. Coppelman explained the review process; Mr. Waters said that he didn't have any comments to make but would like to answer any questions. Mr. Coppelman noted that Mr. Greenwood's and Mr. Quintal's comments were extensive. Mr. Waters stated that everything was being run through Charlie Zilch, the engineer. Mr. Bakie questioned whether this hearing had been postponed; it was explained that this was the first public hearing scheduled for this proposal as the previous hearing date was full. Mr. Bakie questioned why they hadn't received comments earlier. Ms. Faulconer suggested that it was due to timing of the Thanksgiving holiday.

Mr. Quintal reviewed his comments dated November 25, 2020 that included:

- comparison of a 58 ft. infiltration trench proposal with a previously submitted plan with a trench that would provide additional stormwater detention storage volume for treatment and infiltration; Mr. Quintal recommends changing back to the previous detail.
- Concerns with the area west of the paved parking area "Fenced in Outdoor Grassed Seating" area for 20 tables and 80 seats which will compact the topsoil, minimizing the infiltration capacity of the surface and causing additional untreated stormwater runoff to the Pond; he suggested that the area should not be used for active pedestrian travel or a design needs to be provided to capture surface runoff with a device that will allow filtering and infiltration.
- A drywell was previously proposed to capture, treat and infiltrate stormwater runoff from a portion of the roof; needs to be an effective BM (best management) device designed to filter and infiltrate stormwater runoff.
- An area behind the restaurant shows crushed stone over sand; detail needs to be provided to verify treatment and infiltration.
- In reply to Galloway letter provided re: Recycled Asphalt, the State Department of Environmental Services (DES) Alteration of Terrain (AOT) Bureau considers compact gravel to have a 95-98% run-off and is therefore considered as an impervious surface. BM devices need to be designed to treat runoff from these impervious surfaces within the Buffer Zone of the Pond and its outlet stream.
- 904.6 D – appropriate buffers need evaluating: high percentage of impervious surface in the 50 ft. Shoreland Protective Buffer; proposal now includes expansion of outdoor seating and grilling in this buffer zone which would contribute to more surface runoff into the Pond; a more detailed landscape plan should be required for the area within 50 ft. of the shore of Mill Pond and its outflow. Every effort should be made to treat and infiltrate the stormwater runoff with the goal to improve the water quality of the pond.
- Typical Construction Sequence, Erosion Control Notes and Details are too general and should be site specific.
- 908.11 – the Applicant is showing limited BMP's for treatments of Stormwater runoff from impervious surfaces on the site; more can be done.

- Inspection of the proposed work should be required during construction; as-built plan should be required to verify compliance with any approved plan.
- Questioned if a performance guarantee should be provided.
- Recommend compliance with 908.16.6 and have it noted on the plan; the long-term Operation and Maintenance Procedures document must be recorded.

The Board okayed Mr. Zilch speaking directly with Mr. Quintal regarding the plan.

Mr. Greenwood reviewed his comments which were provided to the Board, they included:

- Shoreland Protection District has a maximum lot coverage of 20%; site note indicates the existing building coverage is 28.4%; the Board should acknowledge that the building size is not increasing and is an established existing condition that wouldn't need ZBA approval; any exterior new proposed activity would require ZBA approval.
- A CUP is required due to being in the Shoreland Protection District.
- A CUP is required as the property lies in the Aquifer Protection District.
- 110.11 requires 20% of the total lot be landscaped; Mr. Greenwood noted that this is an already developed lot and is not changing the existing standard on the lot; the Board has to decide if this requirement is to be applied
- Topographic intervals are not shown
- Building elevations or photographs are required.
- Parking on State property was questioned; easements required?
- Two areas are shown for snow storage; the one along the shoreline of Mill Pond is an environmentally poor location for parking lot snow storage. The second area abuts sections of the existing drainage network; Mr. Greenwood questions the efficacy of the location not intruding on the drainage features.
- The distances of existing water and sewer facilities to a distance of 200 ft. from existing facilities on abutting properties is not indicated
- Sign location? On State property? Relocate onto the property?
- A 50-ft. landscape buffer is required; it is not detailed on the plan set and would impact parking in the event parking area. The Shoreland Protection District requires monitoring of activities within 75 ft. of the shoreland; on lot 40, much of the activity is very close to the shoreline; more detail is required to confirm that the activity will not detrimentally affect Mill Pond. (904.6.D)
- Applicant to show the parking lot formula for number of spaces required; it seems that 202 are required, 49 are existing.
- Parking area landscaping is required.
- Proposal incorporates the use of the floating dock which was prohibited by the existing site plan; has the Kingston FD determined that it is suitable for such use?

Mr. Greenwood confirmed that he will reach out to Mr. Zilch with his comments.

Mr. Coppelman read Department comments. Conservation Commission expressed concerns with the snow storage plan and contamination and run-off to Bartlett Brook;

Ms. Nathan, Conservation Commission Chair, added that there is an issue with the aeration device in the pond which requires a permit; she added that there was no environmental reason for it and questioned whether permits were granted for its placement in the pond. Mr. Waters said there was a need for it due to built-up silt; he did not believe they received any permits; he said he would apply for them. Ms. Nathan said that she knew that a permit was required for the device and stated that she had no knowledge of the pond being eutrophic. Mr. Coppelman suggested that the applicant work with the Conservation Commission about this outside of this hearing: Ms. Nathan will get contact information from the Planning Board office.

Mr. Coppelman read the comments from the Building Inspector that included:

- Per Note 4 re: "outdoor service" and the Floating Dock – he has asked to have this use fully explained and compliance, including ADA requirements.
- All new signs on the property need to come into compliance with the ordinance, 303.2.
- Parking lot – new sign installed without a permit
- Need stormwater calculations on "events" parking surface.
- Ice Cream window installed without permits or Planning Board approval.
- Internal space for "office only" – now has liquor locker created and changing room created – all walls are untreated pine; no sprinklers; need PB approval.
- Outside bands
- Included as attachments: Sign Ordinance, picture from the applicant's web site showing bride in changing room, as noted in comments.

Mr. Greenwood confirmed sending comments to Mr. Zilch. The Board of Selectmen's letter of 6/16/2020 was referenced. Ms. Merrill said she was puzzled with seeing a boundary line through the pond; she is not sure the applicant meets DES's dock permitting requirements; she is not sure it complies with State standards. Mr. Bashaw said the he recognizes that there are some existing conditions and existing elements. Mr. Coffin said that anything that doesn't increase structures would be covered as existing but changes for permeability wouldn't and there would need to be a system to deal with run-offs and state requirements. There were questions regarding the original site plan and a 500-gallon dry well that wasn't installed.

Mr. Quintal said that he modeled his current comments on previous approvals; there needs to be more BMP's to curb some of the contaminants that would go into the pond; he stated that these came up during a previous site walk; they need to come up with BMP's for Stormwater Management.

Mr. Coffin returned to existing structures and impervious surfaces; he said that there would need to be an electric permit and a building permit for the water feature and it also needed State approval; he noted that this did not show up on the plan; he noted that this would be an increase of impervious surface coverage and the pavers on the north of the screen porch

were addressed in 2018 but nothing was done regarding full review or approval; he stated that this would need to go to the ZBA for additional hard pavers in the outside seating area added since the original restaurant. He noted a photography platform for brides that increases the impervious coverage which is also within 50 ft. of the pond; he added that it is a fairly new platform with archways. Mr. Waters said this can be addressed; he said that it was there and was surprised it wasn't on the plan. Mr. Coffin said that there had been a reworked gazebo on the plan but not the other structures. He had issues with the RAP paving in the overflow/event parking and with the snow and run-off concerns per Conservation and the Town Engineer's comments. He stated that if the applicant wasn't going to the ZBA for pre-existing issues, the new items would need ZBA approval. Ms. Merrill questioned how the Board would deal with those items that had existed since the 60's and what would be the proper way to deal with those issues. Mr. Greenwood said that CUP's should be voted on and addressing the pre-existing, non-conforming issues for the record would be helpful. Mr. Coppelman noted that the normal procedure would require the applicant addressing requests for CUP in writing for the Board to act on.

Ms. Duguay questioned the parking area and if there had been changes in 2015 to the current area or is the surface area the same. Mr. Greenwood explained that the areas are the same but the area for the event/overflow parking on Lot 40A had been resurfaced from dirt or gravel to an asphalt-type pavement. Mr. Wilson said that there had been construction done without permits and complaints received. He stated that the plan needs to show what is on the property, and approved, to be clear for the future. There was the discussion of possible current construction, documenting everything inside and outside with specific notes on the plan.

Mr. Waters said he was unclear on comments from the Building Inspector regarding the changes to the upstairs. He said that the Fire Department had no concerns and he was just instructed to apply for a permit which they did. Mr. Wilson said that they were fine with the upstairs as long as it was being used for nothing but not approved for people being up there. Mr. Wilson said there were photographs wheeling generators into the building. Mr. Waters said that there were no problems with the wall; he spoke directly to the Fire Department and there were no problems.

Mr. Coppelman suggested that when this application gets to the end, whatever plan is approved gets signed off and shows what is actually approved for the site. He stated that this hearing looked close to wrapping up; all comments had gone to Mr. Zilch to be addressed.

Mr. Quintal said that in clarification and along the lines of comparisons, he pulled out the 2014 plan that had been submitted for review and the gravel area has expanded on the new plan; they should show the expansion amount and the mitigation for the run-off; one could look at the 2014 plan and compare to this plan as a comparison of the existing to the expansion.

Mr. Coffin stated that the note showing “live entertainment” is proposed and should be modified to indicate “in-door” entertainment; this was not an approved use and needs clarification. Mr. Waters said that there is a sound ordinance controlling it and they are asking for outdoor entertainment, too but they will separate it into two requests. Mr. Coffin said that they may want to specify “amplified” or “not amplified”.

Public Comment: Electra Alessio, BOS, stated that she was viewing the meeting as she was curious as there were so many issues with the property that were needed to be addressed accordingly. There were no other comments.

Mr. Greenwood suggested invoking jurisdiction.

MM&S to invoke jurisdiction. (Motion by Mr. Bashaw, second by Mr. Coffin) Mr. Coppelman explained “jurisdiction” to Mr. Waters. Roll Call vote:

Mr. Coppelman – yes

Ms. Merrill – yes

Mr. Wilson – yes

Mr. Bakie – yes

Mr. Bashaw – yes

Mr. Coffin – yes

Ms. Duguay – yes

Motion PUNA (Passed Unanimously)

There was discussion on the amount of items needing attention on the plan; Mr. Waters stated that Mr. Zilch was extremely busy at this time and might need additional time to work on the plan. Jurisdiction timelines were discussed; Mr. Waters agreed to extending to 90 days.

MM&S to continue to 2/2/2021 at 6:45; revised plan need to be in no later than noon on January 21, 2021 with the jurisdiction time-clock extended to 90 days per the applicant, Rob Waters. (Motion by Mr. Wilson, second by Mr. Coffin) Roll call vote:

Mr. Coppelman – yes

Ms. Merrill – yes

Mr. Wilson – yes

Mr. Bakie – yes

Mr. Bashaw – yes

Mr. Coffin – yes

Ms. Duguay – yes

Motion PUNA

Board Business, continued

Correspondence:

- Letter from Thomas and Elizabeth Hopkinson, 2 Bob White Drive, dated 11/18/2020 regarding a small scale flower farm. Mr. Greenwood noted that it was in the SFR (Single Family Residential) zone. Mr. Wilson said, as described, it was not a hidden business by any means. There was discussion regarding permitting uses and agricultural uses that had been added to certain zones. Ms. Faulconer said that, upon a cursory review, it was added to all other zones but not in the SFR zone. Mr. Greenwood will let the Hopkinson’s know that the Board is working on providing

them with an answer; Mr. Greenwood and Ms. Faulconer will review/research to determine whether it is a permitted use in the zone.

The Board reviewed a previous hearing and purpose of the “chat” function for people requesting to provide public comment to the Board during the hearing; suggestions included disabling the chat function and have people use the “raise hand” function when asking to address the Board. Aspects of the chat function were reviewed. Mr. Wilson will contact the Town’s attorney for advice on the issue. Ms. Faulconer will refrain from posting the “chats”, public and private, pending attorney’s advice.

Ms. Duguay brought up the food truck discussion; Mr. Greenwood said that he received minimal replies from List Serve that showed that Newton and Fremont use it like a site plan review. As Ms. Duguay receives any information, she will send it to the Planning Board office for Ms. Faulconer to distribute to the Board.

Mr. Coppelman thanked Ms. Merrill for handling the previous hearing. Mr. Wilson noted the sale of the Town’s history books. Ms. Faulconer reminded the Board of the upcoming site walk.

Mr. Coppelman adjourned the hearing at 8:38 PM.