

**Kingston Planning Board
Public Hearing
Minutes**

September 19, 2017

The Chairman called the meeting to order at 6:49 PM. There were no challenges to the legality of the meeting.

Members in attendance:

Glenn Coppelman, Chair

Peter Coffin, V. Chair

Mark Heitz, BoS rep.

Ernie Landry, alternate

Ellen Faulconer, alternate/admin. assist.

Chris Bashaw

Peter Bakie

Lynne Merrill

Robert Pellegrino, alternate

Members absent: Carol Croteau

Also in Attendance: Glenn Greenwood, Circuit Rider Planner

Mr. Coppelman introduced the Board; he announced that Mr. Landry would be a voting member this evening.

Robert Pellegrino

LeFevre Drive

Kingston, NH

Tax Map R6-13, R6-14-2, R6-14-6

Mr. Coppelman read the notice and explained the hearing process for the public. Tim Lavalle introduced himself to the Board; he explained that the plans had been completed by Paul Nichols and he was here representing Q&R Construction and the Ingalls Revocable Trust during the Board's review of the proposed 6 new lots on the end of LeFevre Drive. Mr. Lavalle continued that this would include a permanent cul-de-sac; the applicant acquired more land to continue the subdivision. He stated that five waivers were requested and explained aspects of the plan. Mr. Lavalle stated that they are working to get the Alteration of Terrain (AoT) permit from DES. He continued describing the property as kind of hilly, rolling hills; the roadway is designed to meet the grade requirements of the Town; the lots range in size from 2.5 acres to 4 acres; the property is not in the Aquifer; it is a straight-forward subdivision. He added that the 6 new lots are numbered from 6 to 12 and Lot 2 is newly configured. Mr. Pellegrino explained that the previous lots 2 and 6 are being adjusted; original lot 2 is now part of proposed lots 2 and 12; original lot 6 is now part of proposed lots 6 and 7; this creates 6 new lots but with 8 lots total.

Department comments were reviewed. Planner: Mr. Greenwood's comments were read; he explained that some of his previous concerns had been addressed and were crossed out on this

evening's comments; color aerial photos were not provided; there is a wetland scientist stamp but each page with soil delineations should be stamped; temporary benchmark is missing; proposed impervious coverage is missing; he noted that #28 on his comments could be crossed out.

Mr. Greenwood suggested that a site walk should be done before granting waivers for slope; Mr. Lavalley agreed that this was always a good idea. Mr. Pellegrino said he was going to propose that. Required state permits were reviewed: AoT, Wetland and subdivision approval.

Conservation Commission asked why the proposed drainage easement funneled into the wetland; they would like a certified wetland scientist to review the plan. Mr. Lavalley explained that the wetland is where any water naturally ends up; there will be a series of treatments such as treatment swales and stormwater management treatments done before going into the wetlands; he confirmed that these designs are in the plan set.

Fire Department review: all dwellings are to be equipped with approved NFPA 13D sprinkler systems. Mr. Pellegrino stated that all the houses are sprinkled; there is a note on plan page "A-2" about the requirement.

Health: no comments.

RCCD report on test pits: #116 "failed"; Mr. Lavalley said that test pit is not being used.

Building: Notes that the new driveway crosses a wetland connector; the wetlands delineated don't show the connector that was on the original plan.

ACTION ITEM: Ms. Faulconer suggested the Board bring Mr. Steward's comments and drawings with them on a site walk to better see what he is referring to rather than speculating about it. Mr. Lavalley agreed that would be a good idea.

Mr. Pellegrino reviewed the previous lot line adjustment. He stated that Mr. Ferwerda would be writing a letter to him that he would get to Mr. Steward about not crossing a wetland.

Town Engineer: Mr. Quintal's comments, dated 9/13/17, had been sent to the Board. These comments included: revision dated should be noted; spelling errors including reference to "Hampstead"; building setbacks should not be in the Town's easement; A-2 waiver: 905.6C, 905.10F, 905.11F with lots 10 and 11 having a common drive; 905.14C15 – error of closure; waiver for 905.14(C)35; stone bounds should be granite or concrete; project vesting must be discussed; wetland connection/vernal pool issue; drainage easement – culvert outlet; drainage to maintain culvert inlet; waiver required – all lots have 60,000 sq. ft. of dry contiguous of less than 15% slope; S-1 needs stamp by soil scientist; stamp of person who logged test pit data; no well within 100 ft. of septic – see lot 6; Stormwater data analysis; revised drainage calculations have not been provided; test pit data for 109 and 110 should be provided. Mr. Coffin clarified that on lot 7 there is only about 20 feet from the Lot 6 well radius (see page B-1). Mr. Lavalley said that Mr. Nichols will make the revisions – he is waiting for the AoT; he agreed to make the amendments as noted by Mr. Quintal.

Mr. Coffin asked about the woods road and the right-of-way noting that the 25 foot ROW is inside the setback. Mr. Lavalley agreed to revise the setback as obviously nothing can be built on the easement. Mr. Pellegrino discussed alternate access points to the Town's property. Mr. Coffin stated that he believed it was for fire truck access. There was discussion regarding the intent of the woods' road access. Mr. Heitz thought it was to access the Town forest for whatever purpose; Mr. Pellegrino thought it was to be able to use for logging purposes. Mr. Coffin asked for clarification; Mr. Heitz suggested going back to check the minutes and the approval. Easement concerns were reviewed. Mr. Pellegrino stated that he would clear the access if that is what the Town wanted.

ACTION ITEM: Ms. Faulconer will check the minutes regarding the decisions concerning the access to the Town Forest.

Mr. Heitz said that if it is an easement for logging, the company contracted to do that can clear a path however if it is for fire protection there would need to be immediate access and the Board would have to decide the type of access. There was a discussion about the how the easement was worded.

Public comment: Joey Fortin, 6 LeFevre Drive stated that he had come in previously during the first approval and was confused about the lot line adjustment. He expressed concern about previously approved lots that were a requirement for the first subdivision being changed and turned into two lots. He described debris from the "first" lot being dropped on his property creating a 30 foot high by 200 feet long debris "grudge" fence. He stated that he was 100% against subdividing the lot next his property. Mr. Greenwood explained that the applicant is not "splitting" the lot per se; he said that the original lot remains with some land from one lot being added to another large parcel and as long as the lot can meet the requirements of zoning, it can be done; he stated that he understands trying to keep buildings centered on the property but that isn't a requirement. He said that saying that the lot is becoming two lots is an alternative way to be looking at it but it doesn't take from the original requirements as Lot 6 still exists it just would be going from a 4 acre lot to a 2.8 acre lot; creating a new lot next to that lot which would be lot 7. Mr. Heitz added that the applicant acquired additional land to add to his land that allowed him the ability to reconfigure the lots. Mr. Fortin invited the Board to see what the applicant is doing on the site adding that the road is in and hasn't been approved yet. Mr. Heitz stated that if that is happening, the applicant does it at his own risk. He continued that there was clearly a neighborhood dispute adding that Mr. Fortin had roosters that Mr. Pellegrino didn't like; he reviewed property setbacks. Mr. Fortin said that he had no problem with the overall development other than what was mentioned. Mr. Coppelman said the Board will have a site walk which is a public meeting and the public can participate in the walk; the Board will walk the site and do a visual inspection.

Victoria Fortin, abutter, stated that guard rails had been promised for Phase I and they were not installed; markers for property lines were just laying on the ground; there were supposed to be two coats for driveways and their neighbors had to pave them themselves; she stated the "Bob" does not dispose of trees legally and he destroyed her garden. Ms. Fortin said that they purchased property next to a 4 acre lot that should remain a 4 acre lot.

An email from Dan Bartley was read into the record; questioned the approval for Solar Hills and a requirement for two driveways that had been on Hunt Road to be moved to Lefevre Drive adding that Mr. Ingalls driveway had not been moved from Hunt Road to Lefevre Drive.

ACTION ITEM: Ms. Faulconer will check the recorded plan and get back to the Board regarding Mr. Ingalls driveway location and any requirements on the plan.

Waiver requests: Mr. Coffin recommended going the site walk first. Mr. Pellegrino agreed that the Board should see the property first. Mr. Bakie confirmed that the applicant was fine with putting it off. Mr. Lavalley agreed adding that it always helps to see the site. Mr. Heitz said that it might be beneficial if they can show the square footage used to create the existing yards and houses for the site walk. Mr. Pellegrino stated that he could confirm that Mr. Fortin's lot got a waiver and he fit into his lot. Mr. Heitz re-iterated that the information might be beneficial to show the Board. The Board reviewed site walk dates and acceptance of jurisdiction. Mr. Greenwood noted his assumption that Mr. Heitz wouldn't be voting as he is a direct abutter.

<Board note: Mr. Heitz recused himself at this time.>

MM&S to invoke jurisdiction of the plan. (Motion by Mr. Coffin, second by Mr. Bashaw)
Motion carried 6-0.

MM&S to hold a site walk on Saturday, September 30, 2017 at 8:00 AM; the Board will meet at the end of the pavement on Lefevre Drive. (Motion by Mr. Coffin, second by Mr. Bashaw) **Motion carries 6-0.**

Mr. Coppelmann announced that anyone can attend the site walk; this is the notice, none will be sent in the mail.

Ms. Faulconer stated that during the previous Solar Hills review, the Board had Mike Cuomo of RCCD confirm the wetlands designation and if the Board was inclined to do this, the Board could determine this now and get the information to Mr. Cuomo rather than waiting until next month which would wind up being a delay for the applicant. Mr. Heitz confirmed with Ms. Faulconer that this was done the last time. Mr. Heitz asked if there were discrepancies previously and Ms. Faulconer confirmed that there were some.

MM&S that RCCD should confirm the wetlands evaluation/classification for the subdivision and also look into the issue described by Mr. Quintal regarding a possible discrepancy in the wetlands location between the initial plan and the revised plan. (Motion by Mr. Coffin, second by Mr. Coppelmann) Discussion on the motion: Mr. Bashaw said that he was not familiar enough with the issue. Mr. Coppelmann explained that there were questions regarding the wetlands designation the first time around and this application has been done by the same soil scientist and the same property; he added that the Town Engineer has already identified a discrepancy. Mr. Bashaw added that he liked what Ms. Faulconer was saying about acting now rather than prolonging the review. Mr. Coffin said the proposal now is for additional lots but there is a question about a discrepancy from the 2013 approval to now and he would like to have the proposal reviewed. Mr. Pellegrino agreed to having the new proposal checked out.

Mr. Lavalle appreciated Ms. Faulconer saying to contact RCCD now so as not to delay the review.

VOTE ON THE MOTION: Motion carried 6-0.

MM&S to continue to October 17 with this application being first on the agenda that will begin at 6:45. (Motion by Ms. Merrill, second by Mr. Coffin) **Motion carries 6-0.**

Mr. Coppelman explained that this was the notice of the next meeting; no other notices would go out by mail.

Jennifer Lynn Rodgers-Ward, owner
Kelly Ward, applicant
1 Meeks Road
Tax Map R13-7

The hearing process was reviewed. Charlie Zilch introduced himself and Mr. Ward; he described the parcel as a generally wooded 2 ½ acre parcel with 221 ft. of frontage on Meeks Road and 180 ft. on Rte. 125 within the CIII zone; the existing dwelling is currently uninhabited. He continued that the proposal includes driveway access on Meeks Road basically at the current location; the property is in the Aquifer Zone; the plan shows the wetlands and a vernal pool is shown on the plan; the proposal is for a 60 x 100 foot two-story “on-slab” building although there will be no second floor; there is a septic and well; the drainage is shown. Mr. Zilch said that the post-construction coverage will be 20%; there will be 5 employees: one administration and 4 in the shop. He added that there is a state permit for the septic in place. He stated that a Special Exception was granted for the use; it is an existing lot so the 3 acre requirement is not an issue.

Mr. Greenwood addressed the Special Exception that had been granted by the ZBA in 2014. He had confirmed that the State does set a time limit for approvals for Special Exceptions; the State limits the approval to two years after which the approval expires. He confirmed that this special exception was granted after the State law was in effect. He said the State law allows the Town to extend the deadline during the process but unless that was done, the two-years applies. He stated that the applicant needs to go back to the ZBA for a Special Exception. Mr. Greenwood reiterated that that unless the ZBA was specific in the length of time the special exception was in effect, the State law of expiring after two-years takes effect. Mr. Zilch asked if they would be going to the ZBA requesting a new special exception or discuss the lapsed timeframe as the issue. Mr. Greenwood explained that the special exception has already lapsed; they need to go back to “start” as the special exception has expired and no longer exists.

The Board reviewed its options for tonight’s hearing.

MM&S to recommend the applicant needs to apply for a special exception from the ZBA; in the meantime, the Board will review the plan but will not invoke jurisdiction until such time as a special exception is granted by the ZBA. (Motion by Mr. Heitz, second by Mr. Bakie) **Motion carries 6-0-1** with Mr. Coppelman opposed.

Department Comments were read. Conservation Commission (ConsCom) questioned the 20% lot coverage. Mr. Heitz stated that it can be 20% due to the treatment shown on the plan. Mr. Greenwood agreed. Mr. Zilch said they may need to ask for a waiver due to parking requirements as they need it to be “open” for turn-around, etc. Mr. Greenwood said it is a site plan requirement so it could be worked out with the Board. Mr. Coppelman asked if the lot abutted a residential lot; Mr. Zilch answered that it did. Mr. Coffin said that the northern portion should already have natural vegetation but questioned whether it addressed any sound concerns. Mr. Heitz thought the tree line should do that. Mr. Coffin confirmed that the 50 foot buffer was on the applicant’s property. Ms. Merrill stated that the ConsCom had questions regarding hazardous materials on site; Mr. Ward answered that there were no hazardous materials; he confirmed for Mr. Heitz that it is just fabricating metal and sending it out; there was no painting or coating. Mr. Coffin asked about solvents to clean metals; Mr. Ward said they don’t do that and that anything they use is biodegradable, there are no solvents or cutting fluids. Mr. Ward clarified that no work is done outside, there is no outside storage of materials; the amount of noise to the outside is minimal; they don’t work past 7:00 PM; the noise is contained by the doors and there is nothing egregious like an air hammer or constantly hammering outside. He added that they are trying to turn the building toward Rte. 125 to keep any noise away from the abutter. The driveway location was reviewed. Mr. Coppelman asked to review the type of traffic expected. Mr. Ward said that someone might drop off a trailer or custom machine work and then they work on it and ship it out; it is not a retail operation and would not be more than 3 or 4 people, at most, each day. He stated that it is usually a 26 ft. straight truck to deliver the steel but on occasion it could be larger. Mr. Ward confirmed that a tractor trailer would be able to get in on the site and turn-around on the property. Mr. Heitz asked if that was the reason for the gravel area; Mr. Zilch replied that it was. There was a discussion about the signage requirements and whether two signs would be allowed on the property. Mr. Greenwood read the ordinance “all businesses shall be limited to one free standing sign on the lot”. It was suggested that an address sign on Meeks Road might be allowed; Mr. Bakie suggested that Mr. Ward address this when he goes to the ZBA.

Fire Department comments were read into the record that addressed 4 requirements; the Town Engineer’s comments with 22 items were handed out to the applicant to address; Building and Health had no comments. The Conservation Commissions were reviewed again as their concerns seemed to be addressed during the discussion. The Commission was interested in the rationale behind the granting of the Special Exception. Mr. Coppelman said that, based on the circumstances, this could now be directly addressed with the ZBA.

One letter and one email were received from David and Marjorie Joy; both were read into the record. The letter included information that at the original meeting with the ZBA, the applicant said that he would maintain the existing house structure. He added that the Board members might want to visit the applicant’s current site in Plaistow due to its appearance. He suggested that the activity might be best suited to an industrial zone. The email referred to the granting of the special exception in 2014 and whether there was an expiration date; there was mention of an abutting property being labeled commercial in error and being changed back to residential the following year.

Mr. Coffin re-iterated the applicant going to the ZBA due to the use in the C-III zone but added that the Board would then have to deal with a Conditional Use permit due to its location in the Aquifer Protection District; the Board would have to review the checklist for this. Mr. Zilch said he would submit this; Mr. Coppelman said it should be by letter and include a description of how it meets the requirements. Mr. Coffin referenced Article 201.4 G regarding the requirements. He suggested that the Board decide whether a hydrologist's review would be required. Ms. Merrill suggested that if the applicant wants two signs, he could ask the ZBA. Mr. Coffin read from the Sign Ordinance that a directional sign at the driveway may be permitted and not need any ZBA action. Mr. Coppelman reminded the applicant that there is a Lighting Ordinance to comply with; all lights need shielding. The Board confirmed that the applicant had received Mr. Greenwood's comments. He re-iterated the need for a letter regarding the Conditional Use Permit and the need to provide justification. Mr. Coffin reviewed "demolition", advising the application to speak with the Building Department.

The applicant withdrew the request for a Technical Review. There was a waiver request for the Preliminary Review.

MM&S to grant the Preliminary Review waiver request. (Motion by Mr. Bakie, second by Mr. Coffin) **PUNA**

Mr. Coffin suggested that the application doesn't seem to meet the requirements for the hydro study. By consensus, there is no need to do one based on the current information.

Ms. Merrill asked about the aesthetics of the facility in Plaistow. Mr. Ward told her the location and invited the Board to come to it explaining that he is at this location temporarily and not all of the items at the facility belong to him; some of his items are outside as they don't fit in the current location. Mr. Greenwood confirmed that there is a building elevation shown on the plan. Mr. Pellegrino noted that it seemed that everyone was asking if the applicant would keep the place clean; Mr. Ward said he would.

Mr. Ward addressed the issue about keeping the house structure in the front as part of the application; he had a "structural" guy look at it and was told that it was unsafe; he added that it was a tough decision to not use it as his wife did want to keep it.

MM&S to continue to November 21, 2017 with this application being first on the agenda for the hearing starting at 6:45. (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

Board Business

- Mr. Coppelman announced the Historical Resources Master Plan meeting on Thursday at 7:00 PM asking that as many Planning Board members as possible attend.
- CIP meeting – Monday, Oct. 2nd at 6:30 PM; Ms. Faulconer will notify Ms. Croteau and Mr. Edelman
- Tracy Carr and Mike McInnerney spoke to the Board representing Eversource and the replacement of a pole in a wetland area; Ms. Carr thanked Ms. Faulconer and Mr. Greenwood for their help; she reviewed the proposed project. She explained that the

existing pole will be replaced with steel instead of wood to avoid future decay and woodpecker damage; there is a 6 inch increase from the height of the existing pole. Mr. McInnerney explained that is a weathered steel so there should be no change in appearance; they have an existing utility modification from the State. Mr. Greenwood explained the Board's jurisdiction.

MM&S to approve the proposal as presented per the "J147 Transmission Line Maintenance Project dated 09/18/2017". (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA**

Correspondence:

- Court decision vs. ECSI; Board's decision upheld; next steps discussed. Record revocation at the Registry; send enforcement action to BOS.
- DES letter of deficiencies re: Jesse Wright/ECSI
- Voluntary Lot Merger – okayed and signed by the Chairman.
- YMCA proposal for new structure reviewed for type of action that might be needed for them to proceed; the Board consensus is that it needs a site plan for new construction; the site plan does not need to be for the entire site; it is the area that is impacted that needs an amended site plan review; any changes need to be reflected on the site plan including any structure and/or changes to archery and its location on the plan.
- Fireplace Outlet letter reviewed – there is a new tenant; there are 58 parking spaces; they are adding U-Haul equipment that may take up between 2 and 20 spaces; there will be no impact on current parking. Mr. Heitz stated that this was an expansion of use; Mr. Coppelman said that this is an additional use for the business. Ms. Merrill asked if this changed anything such as hours or traffic. Mr. Coppelman answered that it changes the use and there are additional items. Mr. Bakie noted that the Board had the Trailer Place come in for site review and it was a similar change. Mr. Greenwood said it is a change of use and needs a public hearing. Board consensus: a site plan is required but as long as a current recorded plan exists, that plan can be used showing it marked up for parking; a public hearing is required.
- Town received notification of a development in Hampstead; they did not declare it as regional impact. Mr. Heitz noted that it should be the abutters who decide this, not the Town issuing the notice.
- GACIT hearing was discussed; Epping tried to encourage DOT to transfer money from Kingston's projects on Rte. 125 to Epping. Written comments will be received up to November 6, 2017.
- DES Dredge and Fill information on 23 Hooke Ave received.
- DES Shoreland Permit for 30 Circuit Drive received
- RPC dues request received – copy given by BOS.
- Master Plan meeting – Thursday at 7:00
- Transportation – 10 year plan – meeting in Kingston is done but there is one in Hampton on Oct. 16th.
- PB budget – legal ads – can talk about at next meeting. Expenses are higher than income.
- Bond Balance list received.
- Field Day Brochure received.
- Abutter notice sent to the Town – Dredge and Fill for Solar Hills – 770 sq. ft.

Minutes: Mr. Coppelman stated that reading through those minutes was as painful as sitting through the meeting and while he doesn't apologize for the tone he did apologize to the Board for some of the language he used. Mr. Pellegrino apologized to the Chairman and the Board members; he stated that he would try to control himself in the future and didn't want anything from that meeting to impact him as a member or his application.

MM&S to accept the August 15, 2017 minutes as written. (Motion by Mr. Coffin, second by Mr. Bashaw) **Motion carried 5-0-2** with Mr. Heitz and Mr. Landry abstaining.

Mr. Coppelman noted that the Board will do project updates on October 3rd. Ms. Faulconer and Mr. Greenwood will add the process for Lot Line Adjustments to the list of projects.

The Chairman declared the meeting adjourned at 10:35 PM.