

KINGSTON PLANNING BOARD
April 20, 2021
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, alone	Peter Bakie, alone
Chris Bashaw, alone	Ellen Faulconer, Alternate, alone in room
Richard Wilson, Board of Selectmen (BOS) rep., alone	

Members absent: Robin Duguay, Steve Padfield, Alternate

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

Mr. Coppelman announced that Ms. Faulconer would be a voting member due to Ms. Duguay's absence.

Board Business

Correspondence:

- Letter sent to the Board members from the BOS thanking the volunteers for their service.
- Reviewed an enforcement issue on Frontage Road; the BOS are dealing with it at this point.

Robert Kalil
19 Page Road
Tax Map R22 Lot 32

Mr. Coppelman read the legal notice for this hearing adding that the hearing was starting at 6:45 PM. Mr. Kalil stated that he was representing himself before the Board along with his daughter, Mackenzie Kalil. Ms. Alessio commented on the fabulous job he was doing with the exterior of the building; as Chair of the ZBA, she affirmed that the variance had been granted. Mr. Kalil said that he was proposing parking spots and using the site as it has been used.

Mr. Quintal reviewed his comments that included needed corrections due to writing over text; cited 901.1.C.3 regarding driveways being 20 ft. from the property line on the westerly side as it is gravel and can be corrected; add State approval number and number of approved bedrooms should be noted on the plan; there was some minor erosion on the east side of the lot that could be easily corrected; he noted that he had previously sent his comments and photos of the site.

Mr. Greenwood reviewed his comments that included the Board's need to invoke jurisdiction; a number of the lights around the building may need to eventually be dark-sky compliant as they are replaced; there are two driveways with one being close to the property line and intersection; he questioned whether the applicant would consider eliminating the most westerly one; there is an approved septic system for 6 bedrooms but the information should still be added to the plan per Mr. Quintal's comments; there are 4 parking spaces required per unit and the plan complies with that. *<Board note: there was a large explosion heard and felt by several Board members at this time.>*

Mr. Coppelman reviewed the Department comments: Health Officer – confirmed the septic was designed and built for 6 bedrooms; the approval is in the property file; Building Inspector – questioned what was the status of the 4th unit seen during a past inspection of the property. Mr. Kalil said that there are only three dwelling units on site; the area that used to be the fourth unit is now incorporated into the third unit. The Building Inspector's comments continued with questioning the boat storage on site. Mr. Kalil stated that they were his own personal boats that he stores on the site and they are shrink-wrapped and left there during the winter. Mr. Stewart questioned why they weren't shown on the plan; Ms. Faulconer suggested that the setback to the property line be shown to confirm that the boats are outside of the setback.

MM&S to accept for jurisdiction. (Motion by Mr. Coffin, second by Mr. Bashaw) Roll Call vote:

Mr. Wilson – yes

Mr. Bashaw – yes

Ms. Merrill - yes

Mr. Coffin – yes

Ms. Faulconer – yes

Mr. Coppelman - yes

Mr. Bakie – yes

Motion passes unanimously. (PUNA)

Mr. Coppelman continued reading Department comments: Conservation questioned the total percentage of impervious surface. Mr. Kalil said the parking area was not currently

paved and he has no plans to pave, he is going to use crushed stone. He stated that he may pave 25% of the driveway but may not due to the expense. Conservation's comments continued that the key shows a wetland but there is a note that there is no wetland on the property. Mr. Quintal explained that there could be a vernal pool but with the drought it is not necessarily a functional vernal pool and may actually be off the property but may be a little on the north side of the property when it rains. Mr. Greenwood said that he hadn't viewed the property; Conservation also questioned a broken line shown in bold; Mr. Quintal stated that it appeared to be a contour line at elevation 180. Mr. Coppelman reviewed Highway's comments: westerly drive is not per regulations and must be 20 ft. from the lot line; he questioned whether the owner had an approved DOT curb cut and State permit. Mr. Kalil did not know; he would like the 20 ft. setback waived; the third comment regarded a telephone pole in the middle of the westerly driveway which is not allowed by the electric/phone company. Mr. Kalil said that he has been told that the electric company has a ROW (Right-of-way) to service the poles in the back but he hasn't seen it documented. Mr. Coppelman suggested that it might be shown in the deed; it might have just been access to the utilities and morphed into a driveway. Ms. Merrill suggested that the driveway entrance may pre-date Rte. 111. Mr. Kalil said that it is a solid driveway and assumed that the electric company built it. Mr. Coppelman said that if there is an easement, it should be in the deed but the Board doesn't have a copy of it. Mr. Coppelman read the Fire Department comments: there is an outstanding permit to replace 2 oil tanks and there is an inspection needed on completion of the work. Mr. Kalil said that he replaced the tanks and he would fix the remaining issues on the tanks after the rest of the site is complete; it was not a big deal. Mr. Coppelman said that it appeared to be a big deal to the Fire Department. Ms. Faulconer asked when the permit was pulled; Mr. Kalil said the permit was pulled in 2018 and he is currently using the tanks for the apartments. Mr. Coppelman read the Fire Inspection of December 14, 2018 and a note dated 12/19/2018 regarding contact with Mr. Kalil that listed the items that needed to be corrected. Mr. Kalil said that what they needed fixed would only take 15 minutes. Mr. Coppelman said that it is an outstanding issue and will need to be resolved. Mr. Kalil said that he would take care of the issues.

Mr. Coppelman opened up the discussion for public comment; there was none. He opened up this section of the hearing for Board comment. Ms. Merrill said that she traced the deed to 1976 and there were no easement or ROW for utilities on the deed. There was Board discussion regarding the issues brought up by the Road Agent, Town Engineer and Planner on the driveway; there were suggestions of grandfathered use, ability to research a State permit and whether one was required due to the age of the drive. Ms. Merrill suggested that when the State widened Page Road it would have taken land and put in the driveway; she is sure the State either approved it or it pre-dated an approval. The Board reviewed having a single driveway and the consensus was that a single drive would make it worse and may actually create havoc and encourage someone backing out onto the highway. A motion was proposed by Ms. Merrill to grandfather the driveway. Discussion continued so there wasn't a second. Ms. Faulconer suggested that it would be cleaner and better for the applicant for

the Board to grant a waiver for the driveway. Mr. Quintal noted that according to the pictures, the driveway didn't go that far yet and the applicant could create the drive to go around the pole so the pole wouldn't be an obstacle to get to parking spaces 1, 2 and 3. Mr. Kalil said that this made sense and he would change it. Mr. Kalil requested that the Board grant a waiver for the existing driveway; he will ask for a waiver in writing as a condition of approval; Mr. Greenwood will send a waiver to Mr. Kalil to assist with the appropriate wording.

MM&S to grant a waiver from Article 901.1.C.3 regarding the driveway setbacks as it is an existing condition and per the Board's discussion, would be safer keeping it as it exists rather than create additional safety concerns. (Motion by Mr. Wilson, second by Ms. Merrill) Discussion: a note regarding this waiver needs to be added to the plan; Mr. Quintal reminded the applicant that the septic issues as previously discussed have to be added to the plan, too. Roll Call vote:

Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Bakie – yes	Motion passes unanimously. (PUNA)	

Ms. Merrill asked to make a note regarding the boat storage that she is not concerned with them being there as it is Mr. Kalil's property and his boats but she doesn't want it to be considered a storage area by any of the property's successors. Mr. Kalil re-iterated that it is not storage for anyone else, just his personal boats. She stated that she was amazed at the improvements.

Mr. Quintal and Mr. Greenwood reviewed whether the property was looked at as commercial or residential. Mr. Greenwood explained that the action of the ZBA created a circumstance for the Planning Board to review without being in the zone that would fit with that scheme; he stated that he had wrestled with this. Ms. Alessio explained the ZBA action. The definitions of residential units, commercial use and multi-family were reviewed.

MM&S to grant conditional approval of the application with the following conditions: receipt of the waiver request, septic approval number and waiver note added to the plan, comply with requirements of recording the plan, current outstanding permits have to be finalized. (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Bakie – yes	Motion passes unanimously. (PUNA)	

Mr. Wilson thanked Mr. Kalil, on behalf of the Town, for the improvement to the property.

<Board note: 8:00 PM, the Board took a 5-minute break.> <Board note: Upon the Board's return, Mr. Bakie announced he had to leave the meeting for a brief period of time, approximately 5 minutes.>

Mr. Leate, abutter, stated that he lost video but he had audio.

Berkshire-Dominion Holdings (AKA Saddle Up Saloon)

92 Rte. 125

Tax Map R80 Lots 40 and 40A

Mr. Coppelman read the legal notice for the application. Charlie Zilch was present representing the applicant, Robert Waters, who was also present. Mr. Zilch reviewed that Mr. Waters introduced the plan a few months ago and had received comments. He stated that he would be starting with Stormwater Management. He stated that the property was built before zoning and he was trying to improve existing conditions and was working with Civil Design Consultants; he stated that the 58 ft. long infiltration trench was added as an improvement. He discussed other areas of the site including an area of proposed outdoor seating where the foot traffic would cause an increase in run-off so alternatives were proposed to help alleviate this. Mr. Zilch spoke about the “event parking lot” where recycled asphalt had been introduced causing a slight increase in run-off that had not been treated; he explained the infiltration basin.

Mr. Quintal reviewed his comments stating that items 1 through 5 had been addressed. He expressed concern that the infiltration basin doesn’t get compacted to a point that it doesn’t allow infiltration. He noted that pavement extends into the buffer zone and is right up against the infiltration trench and questioned how plowing and snow will stay away from that area and how to police or control it. He continued reviewing his comments that included requiring inspections from a Town agent, an as-built should be required; compliance with Article 908.16.16 with a note on the plan regarding the long-term maintenance procedure; it should add the proper title and edit for recording; he questioned the floating dock and if it was permanent; he questioned whether the dock was part of the Shoreland permit which would need to be added to the plan. Mr. Quintal continued that a note regarding the Stormwater requirements per 908.11.1 should be added to the plan. Mr. Zilch agreed that there might be a tendency to plow snow into the trench and at the end of the parking area; he suggested adding a split-rail fence along the edge of the parking lot which might mean giving up some parking in the winter and add an additional snow storage area and mark it as winter storage with no parking in the winter. He explained that this site was developed in the early 70’s and perhaps pre-dates a lot of zoning and they will try to do the best they can. He noted the vegetated buffers on the edge of the pond and event parking; mentioned stormwater run-off; suggested possible options for snow storage including removing parts of a fence for snow storage; he suggested that snow machines could be brought in and stockpile snow there and would hate to remove it from the plan. Mr. Quintal agreed with a fence idea on the southerly side to prevent the snow from pushed in the trench and another fence at the north with a “no storage area” sign. Mr. Zilch stated that, in regards to Stormwater, they have done enough with this proposal and have picked up as much as they could. Mr. Quintal said that the “event parking” solution is good.

Mr. Greenwood said that not a lot of attempt has been made to answer his previous comments; he and Mr. Zilch had agreed that most of the discussion for this hearing would be regarding Stormwater Management. He said that the site issues mentioned previously remain; the site is rife with issues. Mr. Greenwood added that the parking is nowhere close to the Town's requirements and may need a waiver. He reviewed his 14 issues still needing to be addressed that included percentage of lot coverage which might need ZBA action; Mr. Zilch will bring back percentage of lot coverage for both lots; the need for a Conditional Use Permit (CUP) for the Shoreland Protection District; CUP for the Aquifer; clarify parking and sign located in the State ROW. Mr. Zilch will ask DOT for a response; Mr. Waters will see if he can find something in past records. Mr. Greenwood continued with his comments: Board needs to feel comfortable with dealing with the non-conformance of the landscaping due to the pre-existence of the lot; requirements for water and sewer; signage; 50 ft. buffer and Shoreland buffer needs more detail; need a waiver for required parking; need a waiver for parking landscape; need review and approval from Fire Department for Floating Dock. Mr. Zilch will move forward with the Fire Department on the dock. Ms. Merrill said that it would need to be inspected and safe; she questioned the need of a State permit for the dock. Mr. Zilch said the dock was not included in the Shoreland permit; he'll explore this issue. Mr. Wilson said that this was a problem area; all of the work was done without permits and a lot of the items on the proposed site plan has happened without any Town blessings; he feels a lot of what is being discussed this evening could have been done at a TRC; there is a lot happening on the site without approvals. Mr. Greenwood said that the Stormwater was critical to get through but all the other items are still on the table. Mr. Wilson said that complaints about outdoor music with no approvals are still an issue. Mr. Coppelman said that the Board will be working through the items. Ms. Faulconer commented that all of the items can't be gone through at this meeting. Mr. Wilson said that the TRC could have worked out the Stormwater issues and the Board could have gone over the comments addressed in the BOS letter which has a lot of concerns based on Department comments. Mr. Zilch said that they are still doing another round of review and his next response will go into the BOS letter more directly; he has spoken to the owner about not moving past its capacity and coming back into compliance; he noted the outside ice cream is an expansion that should be taken out and brought back into compliance.

Mr. Coppelman went through the Department comments: Building: replies in response to the SEC letter of 3/10/21: #8, p. 3 – re: snow storage areas per plan #D38701 which was never complied with; #14 – questioned ADA accessibility of dock; #4 and 5 on p. 4 – Mr. Zilch said that the ice cream window and modifications will go back to storage: Fire Department: the second floor office will say “no public access”; the deck off the office – office staff only with no public up there; SFC needs review of dock; there was an attached document re: review from Cummings and Association; Conservation Commission: per the State DES, aerators require a permit from DES prior to use; there were issues with snow storage and previous surface issues; Health Officer – no comment.

Public Comment: George Leate, 90 Rte. 125, as a direct abutter, he stated that he was concerned with the outdoor loud music; the applicant wants to have outdoor live entertainment until 10 PM every night and that affects a lot of people; people outside of the immediate neighborhood can hear it miles away. Mr. Coppelman said that it sounds like there will be more of a discussion with items such as this. Mr. Wilson said that the plan needs a lot of review; he suggested that there was no need to continue this evening. Mr. Bakie suggested continuing. Ms. Faulconer suggested that she get a copy of the BOS letter that was referred to and forward to the Board members for the next hearing so everyone would have it to refer to. Mr. Wilson made a comment regarding the difference between pre-existing and “legally” pre-existing. There was Board discussion regarding whether to continue the discussion or continue the hearing to another date. Mr. Zilch said that he did not speak directly to the BOS letter; he would like to do this so the BOS would see that review. Mr. Coppelman commented that it would be a much more productive meeting with Mr. Zilch’s comments of reply. Mr. Zilch said that he can address a lot of the comments to get the list cut down and it would be more productive than continuing tonight.

Mr. Bashaw questioned whether there was some decision from the BOS regarding the authorization of previous uses. Mr. Wilson said that previous approved activities were allowed but the last owner did some things in the past without approval. Ms. Faulconer explained that the BOS along with Mr. Coppelman and herself met with Attorney Loughlin about this issue and he clarified that continuation of a previous use had to have been an approved use. There was a discussion regarding the date of the continuation and the possibility of asking to continue that date. Mr. Wilson said that he wouldn’t want to see a date scheduled and then have the applicant ask for a continuance as there is bad public perception when that is done; he wants to talk about noise and outdoor seating; Ms. Merrill wants to review ASAP for the summer season. Mr. Zilch expressed concern about getting new plans ready by May 18th; he asked for a later date.

MM&S to continue to June 1, 2021 at 6:45 conditional upon receiving revised plans in to the Planning Board office by noon on May 20, 2021. (Motion by Mr. Wilson, second by Mr. Coffin)

Mr. Wilson – yes

Mr. Bashaw – yes

Ms. Merrill - yes

Mr. Coffin – yes

Ms. Faulconer – yes

Mr. Coppelman - yes

Mr. Bakie – yes

Motion passes unanimously. (PUNA)

Mr. Zilch asked to have the Department comments sent to him. Ms. Merrill asked that Ms. Faulconer forward the letter sent to Saddle Up from the BOS to the Board.

Board Business:

- Mr. Wilson announced that the explosion heard during the meeting was a gender reveal situation and Channel 9 and the State Police were involved.
- Release of the bond on R3-7, 1 and 2

MM&S to return the escrow balance for R3-7-1 and 2. (Motion by Ms. Merrill, second by Mr. Coffin) Roll Call vote:

Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Bakie – yes	Motion passes unanimously. (PUNA)	

Mr. Bakie – yes **Motion passes unanimously. (PUNA)**
Mr. Coppelman will sign and forward to Ms. Faulconer.

- Veterans Condo Docs. The Board reviewed the documents; Mr. Greenwood pointed out the section regarding requiring Board approval prior to any changes to the document. Mr. Coffin noted several changes that include compliance with the Towns Ordinances and needing yearly verification. Ms. Merrill stated that most Town's require that.

MM&S that the Declaration of Veterans Condos need the following amendments:

- **Item (Paragraph) #7 “Amendment of Declaration”, subparagraph (iv):** after “provisions of the Condominium Act” add in “and/or the Ordinances, Rules and Regulations of the Town of Kingston”.
- **Item (Paragraph) #7 – subparagraph (vi):** reference to Paragraph 7(c) should be 8(c) hereinbelow.
- **Additional item to be added:** “The Condominium Association must provide annual verification to the Town of Kingston that ALL occupants of each unit are age 55 or over and that at least one occupant of each unit is a Veteran of the United States Armed Forces.”

(Motion by Mr. Coffin, second by Ms. Faulconer) Roll Call vote:

Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Bakie – yes	Motion passes unanimously. (PUNA)	

Plan Registration: The Board reviewed the process for registering/recording plans.

MM&S to affirm that the standard procedure will be followed regarding recording plans. (Motion by Ms. Merrill, second by Mr. Coffin)

Mr. Wilson – yes	Mr. Bashaw – yes	Ms. Merrill - yes
Mr. Coffin – yes	Ms. Faulconer – yes	Mr. Coppelman - yes
Mr. Bakie – yes	Motion passes unanimously. (PUNA)	

Minutes:

MM&S to accept the Jan. 27, 2021 minutes as written. (Motion by Mr. Coffin, second by Mr. Bashaw) Roll Call vote:

Mr. Wilson – yes

Mr. Bashaw – yes

Ms. Merrill - yes

Mr. Coffin – yes

Ms. Faulconer – yes

Mr. Coppelman - yes

Mr. Bakie – yes

Motion passes unanimously. (PUNA)

MM&S to accept the March 16, 2021 minutes as written. (Motion by Ms. Merrill, second by Mr. Coffin) Roll Call vote:

Mr. Wilson – yes

Mr. Bashaw – yes

Ms. Merrill - yes

Mr. Coffin – yes

Ms. Faulconer – yes

Mr. Coppelman - yes

Mr. Bakie – yes

Motion passes unanimously. (PUNA)

Mr. Coppelman declared the meeting adjourned at 10:20 PM.