

KINGSTON PLANNING BOARD
May 18, 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	Steve Padfield, Alternate, alone
Peter Bakie, alone	Ellen Faulconer, Alternate, alone in room
Chris Bashaw, alone	
Richard Wilson, Board of Selectmen (BOS) rep., alone	

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

Absent: Robin Duguay

Mr. Coppelman announced that Ms. Faulconer would be a voting member; Mr. Padfield will replace any recused Board member.

Board Business

MM&S to approve the minutes of April 20, 2021 as presented with a correction on p. 8 changing Channel 19 to Channel 9. (Motion by Mr. Coffin, second by Ms. Merrill) Roll Call

Vote:

Mr. Coppelman – yes	Mr. Coffin – yes	Mr. Bakie – yes
Ms. Merrill – yes	Ms. Faulconer – yes	Mr. Bashaw – yes
Mr. Wilson – yes	Motion Passes Unanimously (PUNA)	

Correspondence:

- RCCD witnessing of test pits dated 4/28 for R19-30

- Federal Regulatory Energy Commission (FREC) re: licensing at Methuen Hydroelectric; Mr. Greenwood will follow-up on any information; there is a contact person listed.

Alternative Sales Corp.

125 NH Rte. 125

Tax Map R13-10

Mr. Coppelman read the legal notice. Mr. Bashaw announced he was recusing himself from this portion of the hearing and was ending his video and muting himself (on the Zoom platform). Mr. Coppelman announced that Mr. Padfield would be voting on this application in Mr. Bashaw's place.

Charlie Zilch, SEC and Associates, introduced himself as representing the applicant as well as Jim Hanley of Civil Design who did the drainage and Bob Lumnah, the owner of Ovitt, LLC and Alternative Sales. Mr. Zilch stated that this was a business that sold new and pre-owned restaurant and food equipment. He reviewed Sheet 2 of the plan noting the acreage and frontage of Rte. 125 and Meeks Road. Mr. Zilch added that the property was in the C-III zone with a small portion in the Aquifer Protection District (APD) on the back of the property. He reviewed the two driveways off of Rte. 125; parking areas; limited gravel to the back of the building; there is access around the building. Mr. Zilch noted the daily use of 30 FT/PT/Transient workers, 8-10 tractor trailers, 8 regular trucks and 15-20 customers. He explained that business is good and they need more storage and want a better logistic travel pattern. He reviewed pages 3 and 4 of the plan set. He described the proposed building as having no bathroom, no kitchen, no septic, no sewer, it will be heated and have some office space; it will be primarily used for storage. Mr. Zilch stated that the traffic pattern will be slightly re-configured; tractor trailers will continue separately on the site through the southern access; two points will separate employees and customers from tractor trailers. He reviewed Sheet 4 that showed the stormwater treatment that included an infiltration basin that he described; the erosion control plan is in place as well as additional loam and seeding. He pointed out the additional handicap parking noting there would be more striping and more buffering; there was limited additional lighting at the bay doors. They have proposed upgrading the septic system; they have submitted plans to NHDOT (New Hampshire Dept. of Transportation) but they have no permit yet.

Mr. Coppelman stated that there are three waiver requests: preliminary review, property line buffers, parking requirements.

Mr. Greenwood reviewed his comments: invoking jurisdiction, 3 waivers requested, C-III zone that allows storage as an accessory use, portion in APD with a question of interpretation and applicability, wetlands notation, increased buffer in back near residential zone, waiver request for side boundary buffer requirements. Mr. Coppelman asked if this was where a

line of arborvitae was proposed; Mr. Greenwood confirmed this was the location. Mr. Greenwood continued by commenting on the parking setback to property lines; Article 110.6.B.2.E allows the Planning Board to have leeway; he noted that there will be 47 spaces with a waiver request for 17 less spaces than required. Mr. Greenwood asked that Mr. Zilch provide square footages of all warehousing sections of the existing buildings. Mr. Greenwood continued that he would need to see the lot coverage/build-out as it seems closer to 50% than 35%; he needs to see the total building height as the elevations don't provide this information; questions regarding the use of the sugar shack and whether it would be used commercially; establish active and substantial improvement; septic capacity was questioned; are two re-located dumpsters all that is required; amended access provided to NHDOT with traffic generation estimates provided; does the Board wish this reviewed by the traffic consultant.

Mr. Zilch noted that the Sugar Shack is for personal use, not commercial use. Mr. Lumnah confirmed that it was strictly for personal use and not for any sales.

Mr. Quintal read his review that included seven comments: Note 24 should be 908.16.6 not .9; provide seal for engineering design; bonding required to comply with Article 907; Detail sheet 5 for typical surface treatment does not comply with Town Regulations requiring 1.5" wearing and 2.5" base asphalt; the detail shows 1" wearing and 2.5" base, he added that he has no objection to a waiver for that requirement in this case; test pit data was provided but no information as to whether they were witnessed by the Town Agent; stormwater design seems adequate; no objection to the submitted waivers.

Mr. Coppelman asked Mr. Greenwood if the asphalt issue would require a submitted waiver. Mr. Greenwood said that it would; Mr. Zilch will work on it.

Mr. Coppelman read Department comments: Fire – comply with NFPA codes and all Kingston Ordinances; Health – no comment. Mr. Coppelman questioned if it was correct that the building appeared to be on the well. Mr. Wilson, in his position as Health Officer, said he had no issues; they did a bed bottom inspection and final inspection on the septic; he said that he thought that the well would be re-located. Mr. Zilch said that they would capture the well in the building; he explained that process. Mr. Wilson said that, while he wouldn't advise it, it is not an issue. Mr. Zilch clarified that it was a drilled well. Mr. Coppelman continued with the Department comments: Building – no comment. He asked if there were any Board comments at this point.

Mr. Zilch clarified that the parking in front of the building was using existing pavement so there was no new pavement, they were just proposing to stripe it. Mr. Coffin confirmed that it was just storage being increased, no increase in employees. Mr. Coffin said that he didn't think that it needed more than the proposed parking spaces as the site was just adding

storage. Mr. Coppelman explained the public comment procedure. Ms. Faulconer stated that the main issue residents had for the initial application had been lighting shining down into their properties, she stated that the additional lighting seemed nominal and asked Mr. Zilch to confirm that none would be shining toward Meeks Road. Mr. Zilch said that the lighting is shielded and directed downward at the bay doors and none would be toward Meeks Rd. or the southerly side of the site. Mr. Coppelman added that the original lighting might not need to comply with the Lighting Ordinance but any new lighting would. Mr. Greenwood said that there is a note on the plan to this effect. Mr. Coppelman noted that there was no public comment and he closed it at 7:25 PM.

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

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – yes

Mr. Padfield – yes

Mr. Wilson – yes

Motion Passes Unanimously (PUNA)

Mr. Coppelman stated that this started the 65-day clock for the review process. He noted that several issues had been raised and there was a possible 4th waiver request. The Board consensus was that this was a permitted Accessory Use. The Board discussed the APD concern. Mr. Wilson said that this part of Town is difficult to tell where the line is. Mr. Greenwood said that the use/disturbance appears minimal. Mr. Zilch said that they did some test pitting for drainage but it will also tell the type of soil; he believed that they were more “till” soils and the line is correct as shown but he will take a look and get back to Mr. Greenwood. Mr. Coppelman said that it could change the amount of impervious cover; Mr. Greenwood said that he thought it seemed more than 35% coverage; Mr. Zilch will double check. Mr. Coffin stated that he assumed that BMP’s (Best Management Practices) for barrier retention will be used during construction in the APD; he asked if it was required. Mr. Greenwood answered that it would have to happen regardless; Mr. Zilch said that Sheet 4 showed the erosion control measures and they are around the entire base of the basin. Mr. Coppelman re-iterated that at this point, Mr. Zilch will be checking on impervious coverage and report back to Mr. Greenwood; a note needs to be added to the plan that the Sugar Shack is for personal use. Mr. Zilch noted that he expects DOT comments soon. Mr. Coppelman also noted that a waiver request for the base and top coat couldn’t be acted on until it was received by the Board in writing.

Mr. Coppelman read the waiver requests as received by the Board; he began with the request to waive the preliminary review requirement.

MM&S to waive the requirement for Preliminary Review for the reasons stated in the waiver request. (Motion by Ms. Faulconer, second by Mr. Wilson) Roll Call vote:

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes
Mr. Wilson – yes

Ms. Faulconer – yes
Motion Passes Unanimously (PUNA)

Mr. Padfield – yes

Mr. Coppelman read the waiver request for 904.15.B.1 re: off-street parking requirements from 64 spaces to 47 spaces for the proposed warehouse.

MM&S to approve the waiver for the off-street parking requirements for the reasons stated in the waiver request with Mr. Wilson adding also due to his knowledge of the site as a shopper. (Motion by Mr. Wilson, second by Ms. Merrill) Roll Call vote:

Mr. Coppelman – yes
Ms. Merrill – yes
Mr. Wilson – yes

Mr. Coffin – yes
Ms. Faulconer – yes
Motion Passes Unanimously (PUNA)

Mr. Bakie – yes
Mr. Padfield – yes

Mr. Coppelman read the third waiver request regarding the landscaping/buffer being 30 ft. instead of 50 ft. with the addition of a dense buffer of arborvitae.

MM&S to waive the buffer zone requirement as shown on the plan with the reasons as stated in the waiver request and the addition of the arborvitae as shown on the plan. (Motion by Ms. Merrill, second by Mr. Coffin) Discussion: Ms. Faulconer questioned whether it could be noted that the buffer would need to be maintained as there had been some issues with other approvals where that had not occurred. Mr. Zilch said that he would add that note to the plan. Roll Call vote:

Mr. Coppelman – yes
Ms. Merrill – yes
Mr. Wilson – yes

Mr. Coffin – yes
Ms. Faulconer – yes
Motion Passes Unanimously (PUNA)

Mr. Bakie – yes
Mr. Padfield – yes

Mr. Coppelman noted that the three waiver requests had been granted. Mr. Zilch stated that he has a number of comments to address. Mr. Coffin stated that a receipt of a waiver request should not be a condition of approval. Ms. Faulconer suggested that with an outstanding question of the aquifer location, a condition of approval might not be in the applicant's best interest; if it changed any part of the plan, the applicant would have to start the process over from the beginning. Mr. Zilch said that they could return in a month and hopefully have the DOT permit by then. Ms. Merrill suggested that there was just a short list of items that could be finalized at the next meeting. Mr. Greenwood added that the Board needs to go on the record that the spaces in the front are addressed and state why; that the area is already paved and just striping is being added. Mr. Zilch explained that it is an existing parking lot; it is not in the DOT ROW (right-of-way) but it is close; there is some faded striping there already. Mr. Greenwood said that the minutes just needed to reflect this discussion. Mr. Coppelman reiterated that it has been this way for years and has been used for parking; it is now just being formalized with the striping. Mr. Greenwood added that this goes in support of the parking

waiver. Mr. Coppelman said that the testimony is that it is not impinging on the State's ROW; he noted no further Board discussion and no opposition raised by the Board.

MM&S to continue to June 15th at 6:45 with responses/plan amendments due by Thursday, June 3rd at noon. (Motion by Mr. Wilson, second by Mr. Coffin) Roll Call vote:

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – yes

Mr. Padfield – yes

Mr. Wilson – yes

Motion Passes Unanimously (PUNA)

Hawks Ridge of South Kingston, LLC

7 Route 125

Tax Map R3 Lot 4, Land Unit 4

Mr. Coppelman noted that Mr. Bashaw was back as a voting Board member; Mr. Padfield was an alternate, non-voting member. He read the public notice. Charlie Zilch was present representing the applicant, Jim Dufresne who was also present, as well as Jim Hanley to review any drainage/stormwater issues. Mr. Zilch said that this modified plan replaces the original design that had not been followed and was never corrected; this plan works on the issues created on Bent Grass and Mulligan Way. He continued that the applicant has been working with Town officials to correct the issues. He stated that in the Fall of 2020, the areas that could be corrected per the approved plan were done; they installed missing segments and drainage structures. He explained that a TRC (Technical Review Committee) was formed; there were several meetings to get the drainage to work per the intent of the original plan. He reviewed the amendments. He stated that he thinks this is a good job for corrections to the ponding and drainage in driveways and lawns and get the water to the drainage ponds. Mr. Zilch continued that lighting and landscaping was being put back in; he stated that this was not a recordable plan, it is more like a construction/field plan for the Town Engineer to review during construction. Mr. Greenwood stated that he deferred to Mr. Quintal for review as it was his hard work over the past two years to get to this point.

Mr. Quintal reviewed his 8 comments that include: 1)the title says “as-built and improvement plan” and it is not an “as-built” plan until the work is completed and the Board should not approve as completed according to note 3A, sheet 1; 2)Proposed culverts, swales and headwalls along Bent Grass should fulfill the intent of the approved (5-7-13) plan; light pole is shown per approval; 3) would support a waiver if required for the use of the Cape Cod berm on Mulligan Way as it does not follow the approved plan or the Town Road Construction requirements; proposed light pole shown; 4) Unit 20 can't be built and should not be shown on the plan; 5)basin over sewer pump station; 6) light pole shown at cul-de-sac; 7) Sediment Basin is intended to be an Infiltration Basin and should be re-labeled; safety fence should be proposed and installed; 8) okay to use nyloplast drainage basins noted on Sheet 5.

Mr. Coppelman read Department comments: Building – Sheet #2 of 5 shows Unit #4 in a location different from the approved plan, #D-37717. The Board discussed the locations of units 20 and 4. Ms. Faulconer noted that Building #20 was moved from its approved location to the site of the building that is currently labeled Number 4. She explained that the building labeled on the plan as building #4 is actually #20 that was moved to that location. Building #4 is actually the building that was removed as the Judge in the court decision stated that the area needed to remain clear for access to septic, etc. The Board consensus was to remove Unit #20 from the plan. Health – no comment; Fire – no comment. There were no Board comments at this time.

At 8:24, Mr. Coppelman opened the hearing for public comment; he explained the process of using the chat function to let the Board know that they wished to comment.

Duane Brown, 19 Bent Grass Circle, had a couple of issues from last year and work not done and not completed such as lawns and irrigation systems nor repaired and they have lived through this for a couple of years; he wants the issues addressed and the remaining issues fixed. Mr. Wilson said that this had been in the hands of the BOS; he did not attend the TRC meetings but added that when Mr. Quintal is happy with the project, he is happy. Mr. Quintal said that he had not been contacted by any of the Homeowners, nor asked to speak with any of them; he said that there had been site walks and it was clear that corrections and changes were needed. He added that he thinks that the applicant has done the best he can with limited disturbances; they have to meet the intent of the original plan and the drainage system. He stated that this wasn't built correctly to begin with. Mr. Zilch said that members of the Homeowner's Association were invited and Tony Vilingor and Mark Pouliot, Association members, did attend. Mr. Brown said that he sent an email to Mr. Zilch asking to be on an email list; he did get one email from him. Mr. Brown stated that he would like to get together with Mr. Zilch and Mr. Quintal to get some major points addressed; he said he was referring to the NE side of Bent Grass where swales are suggested; he stated that swales are not needed. He added that the last set of plans that the Association had received are not the current plans. He stated that he was willing to meet with anyone involved. Mr. Quintal said he reviews the plan for the original intent; if the Association wants to change the plans and get waivers, that is up to them; fulfilling the intent of the design is what is before the Board and he doesn't see any changes. Mr. Coppelman said that the Board is stuck with a development that was not built to plan and there are multiple drainage issues. Mr. Brown said that the residents have lived with this and they should have a voice; he would like to see concessions made. Mr. Coppelman answered that having members of the Association board there is participation in the process. Mr. Brown stated that he requested to be part of that and he wasn't contacted. Mr. Zilch stated that only those who attended the TRC would have gotten any information about the meetings. Mr. Brown said that the applicant met with people on Mulligan Way and he wasn't invited. Mr. Wilson suggested that part of the communication issue is through the Association board. Mr. Zilch explained that not fixing the drainage on the north side and allowing ponding water on the driveways will eventually

undermine the driveways and the roadway and future maintenance. Ms. Faulconer asked who was the owner of the areas needing repair; was it just Mr. Dufresne or was it the condo. association. Mr. Brown answered that the Association took it over four years ago and thinks they should have been involved.

Robert Wade, 10 Bent Grass Circle, asked what the requirement is to complete the two unfinished houses adding that one is in a state of deterioration. Mr. Coppelman deferred to Mr. Wilson clarifying that unit #20 as shown on this plan would not be able to be built. Mr. Wilson said that the drainage needs to be improved and the Building Inspector needs to be able to inspect the “deterioration” in order to continue. Public comment questioned requiring a performance bond instead; having the swales is inevitable and while the neighbors won’t like it, they will accept it.

Mr. Bruce Bourque, 13 Mulligan Way, also questioned the finalizing of the other buildings; he stated that the HOA (Homeowners Association) is responsible for the road.

Ken Halkin, 4 Mulligan Way noted as unit #19 on the plan, thanked for the Board for acknowledging that Unit #20 can’t be built; he stated that the plan as proposed shows Unit #20 across his driveway as well as drainage in the driveway.

Mr. Zilch said that he would be willing to remove unit #20 from the plan. Mr. Coppelman said that based on what has happened in the past and the court decision, it should be removed. Mr. Zilch agreed to remove that unit.

As there were no further public comments, Mr. Coppelman declared the public comment period closed. Ms. Faulconer asked for clarification on ownership of the areas involved in the plan. Mr. Zilch said it is the developer who has to go forward and is responsible to go forward with the new plan and getting approved; Mr. Wilson said that was his understanding as well and having the HOA there was a courtesy; Mr. Greenwood agreed that it was up to the developer to complete the roadwork as proposed.

Mr. Quintal stated his issue with the proposal having the title of “as-built” suggesting that it should be “roadway drainage improvement plan”; he explained that once completed, an “as-built” for the road and drainage is provided to allow construction work on the dwellings to continue. Mr. Coppelman re-iterated Mr. Quintal’s position. Mr. Zilch suggested that this could be condition of approval.

Mr. Coppelman asked if item #3 of Mr. Quintal’s comment regarding the Cape Cod berm needed a waiver as it doesn’t follow the Town’s requirements. Ms. Merrill suggested following Mr. Quintal’s advice on that and accepting a waiver request from Mr. Zilch via email so the Board could vote on it during this hearing. Mr. Coppelman reminded Mr. Zilch that another condition would be removing #20 from the plan. Mr. Quintal stated that a waiver

was not required for the nyoplast. Ms. Merrill suggesting doing a Conditional Approval to get the road repaired and the final permits allowed for construction.

MM&S to accept jurisdiction. (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – yes

Mr. Bashaw – yes

Mr. Wilson – yes

Motion Passes Unanimously (PUNA)

Mr. Zilch said that he will send the waiver request. Ms. Faulconer stated that it was received by the Board by email; she read the request for the waiver of the regulations as noted by the Mr. Quintal.

MM&S to grant the waiver as requested for the reasoning that it will fulfill the intent as explained by the Town Engineer. (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – yes

Mr. Bashaw – yes

Mr. Wilson – yes

Motion Passes Unanimously (PUNA)

MM&S to grant conditional approval of the plan dated 3/23/21 with the following conditions:

- **Re-label as “Roadway Improvement Plan”**
- **Final “as-built” plan to be submitted upon completion**
- **Unit #20 to be removed from the plan**
- **Add a note regarding the additional waiver**
- **Re-label basin as infiltration basin (as noted in Mr. Quintal’s comments)**
- **Fence around the basin to be labeled and installed around the basin**

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

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – abstained

Mr. Bashaw – yes

Mr. Wilson – yes

Motion Passes 6-0-1 with Ms. Faulconer abstaining.

Ms. Faulconer explained that she abstained as she was in favor of the plan but was unsure of the ownership of the property that would require changes. This hearing ended at 9:10.

<Board note: the Board took a 5-minute break.>

VFW Post 1088

Upstreet Food Truck, LLP

93 Rte. 125

Tax Map R10 Lot 6

Mr. Coppelman read the public notice. Celine Costa, owner of the food truck was present; she stated it was a Class D Mobile Food Unit that would be parked at the VFW. It was

confirmed that it was self-sustaining, all the prep is done in the mobile unit, none is done in the VFW. Derek Heinz, Commander of the VFW, confirmed that the truck is self-sustained for water and grease as well; they are just drawing a 50-amp power outlet and there will be a permit to be installed; the unit is completely autonomous other than the power outlet.

Mr. Greenwood read his comments; he stated that he felt it was really low impact and would require a letter of Facts and Findings; this would not be a recorded plan. He noted that he looked at the proposal differently than the Town Engineer.

Mr. Quintal stated that he reviewed the plan against the Town's regulations. He read his 14 items that included: 1)property address added 2)signature block 3)DES septic approval and DOT driveway permit 4)snow storage area 5)percent of lot coverage 6)stormwater BMP's 7)show all-natural features 8)details of existing and proposed building 9)gravel parking compliance 10)landscaping 11)lot line angles/monumentation 12)flood designation/FEMA 13)waivers shown on plan 14)wastewater collection specifics.

Mr. Coppelman read the Department comments: Health – met all State and Town Health requirements; has to register a commercial kitchen that they can use. Mr. Coppelman asked how they can rely on a commercial kitchen that they aren't actually using; Mr. Wilson said that the requirement is that they register with a commercial kitchen. Ms. Costa said that they are certified due to having 3 sinks; Fire – comply with NFPA and Town ordinances; Building – the plan submitted, approved in 1987, does not show existing conditions; a marked up plan with discrepancies was provided to the Board. Mr. Wilson stated that the site has no approval for outside use. Mr. Coppelman said that the Board usually requires the site plan to be in compliance for an amendment. Mr. Coppelman continued with comments: Police – concerned with accidents; entrance and exit; control of parking. Mr. Wilson said the Chief didn't want the truck parked up to Rte. 125. Mr. Coffin said that a review was required as it was a change of use. Ms. Faulconer stated that she did not find that this was something that the Board could review as it was not similar to an establishment as noted in the ordinance and was not a permitted use. The Planning Board talked about establishing regulations dealing with food trucks and didn't do it; she stated that the Town should have the opportunity to vote on this use. She wondered if existing businesses might have input for the Board about the issue. Mr. Greenwood stated that it was publicly noticed. The Board discussed past uses.

Ms. Merrill said that it was clear that the VFW has an entrance at the highway level and area around back with the food truck at the highway level and the customers in the parking lot. Mr. Heinz said that there are stairs from the bottom level; there is handicap parking at the upper level. Mr. Coppelman asked if there would be use of the hall at the same time that the truck is in operation. Mr. Heinz said that they would work with Ms. Costa and not impinge on the VFW. Mr. Heinz explained the location of the truck parking; he said that they could add "no parking" to the front island and signage to direct traffic. Mr. Coppelman explained

that they can't add flags and other distractions on Rte. 125. Mr. Heinz said that they will leave truck up front and will have tables at some point but not until the truck moves down to the bottom parking area; it was noted that this is not part of the current request. Mr. Bakie asked if Mr. Wilson had to go to the site over the weekend for a parking issue on Rte. 125. Mr. Wilson said that there was an event on Saturday that initiated a letter being sent from the BOS that there is no approval for outside events/entertainment/uses and the process for a special event permit.

MM&S to invoke jurisdiction. (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:
Mr. Coppelman – abstained Mr. Coffin – yes Mr. Bakie – yes
Ms. Merrill – yes Ms. Faulconer – no Mr. Bashaw – yes
Mr. Wilson – yes **Motion Carries 5-1-1** (with Mr. Coppelman abstaining,
Ms. Faulconer opposed)

Mr. Coffin said he hesitated on invoking jurisdiction as there has been discussion as to whether the site is in compliance which is an issue for an amended site plan. Mr. Coppelman stated that the event on Saturday was probably a one-time thing but the issues from the Building Inspector may be a concern. Mr. Heinz said that the event was caused by a promoter. Mr. Coppelman reminded him that the issue is the property owner's. Mr. Heinz said the picnic tables are not for the food truck use. Ms. Faulconer noted that the submitted plan says that it will be take-out only. Mr. Coppelman asked about the requirement of a Business Occupancy Permit; Ms. Faulconer said that wouldn't be required for a vehicle; Mr. Wilson agreed. There was discussion regarding the last review of the site. Mr. Greenwood said that he is not proposing that the Board look at this for an expedited review; he stated that this is a self-contained food truck on existing pavement for take-out food. He said food establishments are allowed in this zone. Mr. Coffin asked about review procedures for the activity; he suggested waiving all that it not applicable; the applicant should ask for waivers as would be done for other business reviews; he questioned why the Board would not require asking for waivers as it changes the entire site. Mr. Coppelman said that if the Board agrees with Mr. Greenwood's suggestion for the reasons he stated, the usual requirements under site plan review regulations are not applicable; he added that he was not sure that it is a legitimate way to do this. Mr. Bakie asked how a food truck gets permission at a location like the Plains; he suggested the possibility of expediting this issue with a special permit from the BOS which would allow the Planning Board the time to determine how to deal with this; he expressed concern that the Board would be setting a precedent with tonight's vote. Mr. Wilson said he could approach Town Counsel to get an opinion. Mr. Bakie added that this could be setting a precedent for the Town. Mr. Coffin added that he is not against the project but there needed to be clarity for the review process; he said that he is concerned that there are site plan regulations but they are not applicable. He would like an opinion from Town Counsel; he would like the questions answered about setting precedent and having everyone follow the same procedure. There was further discussion about the approved use, similar

use, other review of other sites for this use. Mr. Greenwood said that he finds that his take is in opposition to the majority of the Board and thinks the review is minimal.

MM&S to have Mr. Wilson confer with Attorney Kalman on the proposal before the Board. Discussion: Ms. Merrill agrees that it is a minimal use of the site but her issue is that it is a site plan review and the site is not in compliance and may set a precedent. Mr. Heinz said that they can take care of the issues not in compliance. Ms. Faulconer suggested that the applicant could be back at the next hearing instead of waiting a month. Mr. Wilson thought he could get an answer from the attorney fairly quickly. Motion addition: **Continue to June 1st at 6:45.** (Full motion by Ms. Merrill, second by Mr. Coffin) Discussion continued: Mr. Wilson suggested removing the fencing in the egress and tables to get the site in compliance. Mr. Coppelman explained that the Board is not supposed to review a plan for amendment unless the site is in compliance. Mr. Greenwood added that he had reviewed the file for the BOS compliance letter and there were no additional approvals for outdoor seating or any outdoor activity. Roll Call vote:

Mr. Coppelman – yes

Mr. Coffin – yes

Mr. Bakie – yes

Ms. Merrill – yes

Ms. Faulconer – yes

Mr. Bashaw – yes

Mr. Wilson – yes

Motion Passes Unanimously (PUNA)

Mr. Heinz thanked the Board for expediting the hearing and they will do what they can to get the site in compliance legally and ethically.

Board Business, continued

- There was a question about a use of a bakery at Church St. Station; Mr. Greenwood will make sure they get a letter to the Board.
- Mr. Wilson informed the Board that the Town buildings are at the “mask recommended” stage. Mr. Bakie asked when the Board will be meeting in the building again. Mr. Wilson said that they are waiting for one more step from the Governor.
- Ms. Merrill noted an upcoming review for Sarnia and suggested the Board also receive a letter regarding the specifics of the change of business; Mr. Greenwood will reach out to the business owner.
- Ms. Faulconer informed the Board of a change in the office hours; she will be working Friday AM instead of Monday afternoon which actually provides an additional day that the office is open to the public.

Mr. Coppelman declared the hearing adjourned at 10:36 PM