

**KINGSTON PLANNING BOARD**  
**June 1, 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, currently alone	Ellen Faulconer, Alternate, alone in room
Robin Duguay, alone	Steve Padfield, Alternate, alone
Richard Wilson, Board of Selectmen (BOS) rep., alone	

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

Mr. Coppelman reviewed the process for the Board going into non-public session. Attendees to the Zoom meeting were asked to leave and come back which would put them in the "waiting room"; when the Board was out of non-public session, they would be re-admitted to the meeting.

**MM&S to go into non-public session under Paragraph L, Section 2 of RSA 91:A:3 which allows the Board to go into non-public session to discuss advice of legal counsel even when legal counsel is not present.** (Motion by Mr. Coffin, second by Mr. Wilson) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to come out of non-public and seal that portion of the minutes indefinitely.** (Motion by Mr. Wilson, second by Mr. Coffin) Roll Call vote:

1

*PB Hearing*

*June 1, 2021*

*Accepted as corrected 6/15/2021*

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

Mr. Coppelman noted that the Board came out of non-public session at 7:09; Mr. Greenwood brought attendees into the meeting from the “waiting room”.

**Sarnia Properties, Inc.  
53 Church Street  
Tax Map R34 Lot 01**

Mr. Coppelman read the legal notice for the application. James Kenney stated that he was present in support of the project and controls the Plaza. Mr. Coppelman added that the Board was in receipt of a letter explaining the use of Vanguard Key Clubs; he read that letter for the record. Mr. Kenney described the proposed expedited review to add a handicap ramp connecting the two units; he explained the “pie-shaped” addition.

Mr. Greenwood read his comments also confirming that the Board could accept for jurisdiction. Mr. Quintal read his comments that included there being no impact to Stormwater Management; he noted that they are not able to interfere with subsurface piping and wastewater disposal tanks. Mr. Coppelman read the Fire Department comments that included the need for additional information if alterations are done to the interior. Fire Chief Pellerin added that components of monitoring systems have to meet NFPA; he offered to meet with the applicant to review any proposed changes. Mr. Coppelman stated that the applicant would have to work closely with Fire and Building Departments. Mr. Coppelman read the Highway comments that asked if the tanks and piping are all appropriately rated. Mr. Wilson explained that Mr. St. Hilaire thought this was for parking so his comments related to something determined to not be an issue.

**MM&S to invoke jurisdiction.** (Motion by Mr. Coffin, second by Ms. Duguay) Roll Call vote:  
Rich Wilson – yes      Peter Coffin – yes      Robin Duguay – yes  
Peter Bakie – yes      Chris Bashaw – yes      Lynne Merrill – yes  
Glenn Coppelman – yes      **Motion carries unanimously (PUNA)**

Mr. Coppelman explained “jurisdiction”. There were no further Board comments at this time. Mr. Coppelman opened up the hearing for public comment; there were none and public comment was closed at 7:31.

**MM&S that this is a similar use to one of the previous uses; accept the plans with the understanding that no septic system is interfered with and NFPA is adhered to.** (Motion by Mr. Coffin, second by Mr. Bashaw) Discussion: Mr. Greenwood confirmed Mr. Coppelman’s assessment that this met all the requirements for an expedited review which allows for two and this is the second one. Roll Call vote on the motion:

Rich Wilson – yes

Peter Coffin – yes

Robin Duguay – yes

Peter Bakie – yes

Chris Bashaw – yes

Lynne Merrill – yes

Glenn Coppelman – yes

**Motion carries unanimously (PUNA)**

This hearing ended at 7:36 PM. <Board note: The Board took a 5-minute break.>

**Berkshire Dominion Holdings (Saddle Up Saloon)**

**92 Rte. 125**

**Tax Map R8-40 and 40-A**

This hearing began at 7:41 with Mr. Coppelman reading the legal notice for the application. Charlie Zilch, SEC and Associates, and Mr. Waters, the property owner and Mr. Pagliarullo were in attendance. Mr. Zilch said that the engineering consultants were still reviewing the Floating Dock for bar service and patrons but the comments had not been received yet; he contacted Eben Lewis at DES regarding any required permits for the floating dock.

Mr. Greenwood read his comments dated 5/27/2021 that included noting that this was the third hearing. Mr. Coppelman asked if the plans had been modified to reflect the removal of 9200 square feet of pavement for the entire parking lot area. Mr. Zilch confirmed that it is noted on the plan. Mr. Greenwood recommended undertaking the requests for CUP's (Conditional Use permits) this evening. Mr. Greenwood explained that the CUP for Aquifer requires a hydro study but the Board can determine that it doesn't apply as level of effluent is the same as that which has been historically on site and is therefore grandfathered. He stated the Board needs to have that discussion. He continued with his other comments that included: landscaping, snow storage, 50 ft. buffer required; more detail for the Shoreline, parking landscaping; he noted that event parking area is subject to this as it is not pre-existing like the front area; he continued: the floating dock is still being reviewed by SFC and he hasn't seen the review yet. Mr. Quintal stated that his outstanding issue of #12 is the Floating Dock and had questions of that permit. Mr. Coppelman stated that those issues were "nuts and bolts" but the "use" issues haven't been addressed; he stated that the jurisdiction continuance was de facto granted based on the applicant's request for the continuance.

Mr. Coffin addressed an item that he said had been brought up before concerning the Board not usually reviewing for an amended site plan on non-conforming sites; he stated there had been no effort to comply with the existing site plan so what rules are the Board going by to go forward with the review. Mr. Coppelman said that the Board is trying to deal with a situation as it is with the BOS's non-compliance concerns and enforcement and came up with the applicant submitting an amended site plan for review. Mr. Wilson said the BOS are trying to get the site into compliance and resolve the issues. Mr. Zilch said they had incorporated many notes and site changes that were non-compliant.

Mr. Coppelman read Department comments: Building had 5 comments: 1) signage needs compliance 2) ice cream window needs to be permitted first and then get a building permit

for it <Mr. Zilch noted that they are proposing to remove the window and its use.> 3) the "ramp from the gazebo" is noted as handicap accessible but the Inspector questioned about the accessibility of the gazebo and path of travel to it; he noted bar construction on the gazebo without any permits or approval <Mr. Zilch said that they are having SFC do the review and will be relying on their opinion. Mr. Waters said that the construction noted by the Building Inspector on the gazebo was inaccurate; there was no construction of a bar on the gazebo, it has been there for 35 years. Mr. Wilson said that he was actually sitting in the restaurant about a year ago and watched the construction in the gazebo and saw work being done. Mr. Waters said that if that was true, Mr. Wilson should sign an affidavit and file an action in court. He said that if work was being done without a permit, they needed a cease and desist then and he suggested that the BOS should have issues a cease and desist at that time. Mr. Waters suggested moving forward and not going backward unless the Town was going to take action on those issues. >4) second floor for office and storage space approval is needed prior to permits; the Fire Department needs to approve the use of the untreated pine lumber 5) event parking – address stormwater management component; Fire: SFC Engineering is being retained as a third party consultant. <Chief Pellerin stated that he did receive comments from SFC; he stated that the untreated wood is okay for use as office and storage only for the second floor; the Fire Department recommended replacing the pre-existing staircase on the south side of the building. Chief Pellerin read SFC's draft comments: egress details require additional information; floating dock needs guard IBD and NFF; handicap accessibility of the ramp requires additional information as additional requirements must be met so further information is needed; NFPA #28 re: "not marine terminal" require specific consideration for compliance so additional information is needed for property review; need clarification on parking requirements. Mr. Pellerin will forward the review to the Board; SFC needs to re-look at plans with further information. > Mr. Coppelmann continued review of the Fire Department's (FD) comments from April, Chief Pellerin believed most of those were addressed; he added that the FD was recommending putting the staircase back as another egress.

The parking lot re-designation was questioned. Mr. Coffin said that it would need to meet setbacks and stormwater management requirements. Mr. Quintal said it would be fine as long as the grades don't change and the stormwater features are working and valid. It was proposed to change "event" parking to "additional" parking. Mr. Coffin suggested that amending the parking would be fine but it should comply as it is not grandfathered; there should be a 50 ft. setback and appropriate buffer. Mr. Bakie suggested that the Board has leverage on waiving those rules adding that the parking lot has been used for 40 years; he asked if the Board could waive the expectations; they will bring it back to a gravel parking lot. Mr. Zilch stated that it is about 12 feet away from the parking lot and asking for a 50 ft. buffer will lose more parking. Mr. Bakie said that the parking lot hasn't increased; the owner put down recycled asphalt which he is removing. Mr. Coffin noted that the entrance to the overflow parking is shared with the abutting property which would limit the buffering; he stated that there should be an attempt for some visual screening.

**MM&S to change the name of “event” parking to “Additional” parking.** (Motion by Mr. Wilson, second by Mr. Bashaw) Discussion: Mr. Coffin suggesting adding in the removal of the 9200 sq. ft. of asphalt and the requirement that the stormwater management devices remain in effect. Roll Call vote on the motion:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	
Glenn Coppelman – yes	<b>Motion carries unanimously, 6-0(PUNA)</b>	<Board note: Ms. Merrill was having internet trouble and not available for this vote.>

Mr. Coffin brought up a note on the plan that appeared to be referring to potential parking that was just addressed by the parking name vote. Mr. Zilch will remove Note #16 as it is no longer needed.

Mr. Bakie stated that he would like to waive the requirement for additional plantings in the parking lot. Mr. Coffin said that the Board would need a waiver to act on. Mr. Greenwood said that if the upper parking lot is in its same state other than the resurfacing that is being removed and that it has existed all this time and therefore has had grandfathered status. Mr. Greenwood confirmed that this would include buffering as the issue with the upper parking lot was the resurfacing.

**MM&S that all both the parking lots are grandfathered with all issues.** (Motion by Mr. Wilson, second by Mr. Bakie) Discussion: Mr. Coppelman noted that this would include buffering. Mr. Coffin stated that this motion was too vague. Roll Call vote:

Rich Wilson – yes	Peter Coffin – no	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – no	<b>Motion carries 5-2.</b>	Mr. Coppelman explained he voted no as he didn't agree with not having the buffering discussion prior to the vote. Mr. Greenwood confirmed for Mr. Zilch that the last motion included landscaping for the parking lot requirements.

Mr. Greenwood said that one of his remaining issues was snow storage but he would defer to Mr. Quintal if he is comfortable that stormwater management won't be messed up with snow storage and the signage about this is adequate. Mr. Zilch said that it also includes fenced areas adjacent to the outflows. Mr. Quintal said that it is an existing operation with the applicant doing the best they can; the Board doesn't want the snow stored near the rivers; the fences will keep snow from being pushed into the streams and is a good resolution to the snow storage. Mr. Wilson said that he believes that if the snow gets too bad, the owner would have to have it removed for customer parking. Mr. Greenwood said that he could strike comment #8; the CUP's (Conditional Use Permits) were still required. Ms. Duguay read the CUP requirements as noted in Article 205 (B) and Mr. Zilch noted his responses to the requirements that he had previously supplied to the Board in writing.

**MM&S to affirm Article 205.6 (B) 1 as the proposed use will not detrimentally affect the surface water quality of the adjacent Great Pond, river or tributary or otherwise result in unhealthful conditions as the new site plan improves the conditions of water run-off.** (Motion by Ms. Merrill, second by Mr. Wilson) Roll call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to affirm Article 205.6(B)2 that the proposed use will discharge no waste water on site other than normally discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of hazardous or toxic wastes as herein defined.** (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to affirm that Article 205.6(B)3 that the proposed use will not result in undue damage to spawning grounds and other wildlife habitat.** (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: Ms. Duguay questioned whether Conservation had brought up any issues about this. Mr. Zilch said that they commented on snow storage and stormwater management; Ms. Faulconer stated that they had expressed concerns about the fountain in the pond and confirmation with the State that a permit was required. Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

Ms. Duguay read the requirements of section 205.4 as noted in Article 205.6(B)4; the Board noted that this was a pre-existing lot; Mr. Zilch noted that lot 40A's lot coverage was being reduced as discussed earlier.

**MM&S to affirm that Article 205.6(B)4 as issues in Article 205.4 are grandfathered or addressed with the new site plan.** (Motion by Ms. Merrill, second by Mr. Bashaw) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

The Board reviewed Article 205.1 as noted in Article 205.6(B)5.

**MM&S to affirm Article 205.6(B)5 that the design and construction of the proposed use will be consistent with the intent and purposes set forth in Section 205.1 as the design and construction of the proposed use will be greatly improved with the new**

**site plan and consistent with Section 205.1.** (Motion by Ms. Merrill, second by Mr. Wilson)

Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to grant the CUP for the proposed use in the Shoreland Protection District.**

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

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

Mr. Greenwood referred the Board to Article 201.4(G) for the conditions for the CUP in the Aquifer Protection District (APD) which has five conditions to vote on. He referenced Article 201.4(G)e that required a hydrogeologic study for any septic system designed for greater than 2400 gpd (gallons per day). He explained that there were two ways for the Board to deal with this issue: determine that the effluent volume has been unchanged and in place before this standard and therefore grandfathered or so to the ZBA for a variance as the Board just can't waive this requirement as it is an ordinance. Ms. Duguay read the requirements; Mr. Zilch read his responses that had previously been submitted to the Board in writing.

**MM&S to affirm that article 201.4(G)a in that the proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants as the new site plan improves stormwater discharge and the water supply is tested regularly.** (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to affirm Article 201.4(G)b as the proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer as there has been a long-standing use of the property which is not changing.** (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to affirm Article 201.4(G)c that the proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as defined**

**because the disposal system in use has adequately supported the site.** (Motion by Ms. Merrill, second by Mr. Bashaw) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to affirm Article 201.4(G)d as the proposal is a long-standing use and the new site plan improves the protection of the Aquifer.** (Motion by Ms. Merrill, second by Mr. Bashaw) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

The Board discussed Article 201.4(G)e requiring a hydrogeologic study.

**MM&S to affirm Article 201.4(G)e as there is an existing septic system that has handled the same amount of disposal for decades with no adverse effect to the Aquifer.** (Motion by Ms. Merrill, second by Mr. Bashaw) Discussion: Mr. Coppelman asked if there was any knowledge that the system is functioning well. Mr. Zilch said that the owner routinely pumps the septic tanks and he is unaware of any issues. Mr. Waters confirmed that it was pumped every three months and no issues have been identified. Mr. Coffin returned to Mr. Greenwood's comments; he noted that "e" uses the word "shall" and asked if "shall" provides any wiggle room to the Board. Mr. Greenwood explained that paragraph "e" asks for the study and the follow-up allows the PB to ask for additional study; he added that this is a legally existing non-conforming use where the volume has not changed. Ms. Duguay asked if the Board could have it verified that the volume hasn't changed. Mr. Water referred to the seating capacity noting that the occupancy load hadn't increased or changed. Mr. Coppelman asked if the septic size had been expanded. Mr. Waters said that 1999 was the last plan and that was when the chamber system was put in. Ms. Duguay said that the ordinance was established on March 14, 1989 and did they verify that the load on the system hadn't changed. Mr. Greenwood assumed a State approved septic system for the Pondview existed either in Town files or with the State DES (Department of Environmental Services). Mr. Zilch said that the plans showing replacement chambers predates the late 1990's. Mr. Waters said that the 1987 septic design looks like what is there now; Mr. Greenwood asked if there was anything showing the gpd. Mr. Waters said the he could see a note saying 6500 gpd which is lower but greatly exceeds the amount that is specified. Ms. Duguay said that it far exceeded the 2000 gpd in 1987 which was before the ordinance. Roll Call vote on the motion:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

**MM&S to grant the CUP for the APD of 201.4(G) because the property is a non-conforming, pre-existing grandfathered use with a new site plan that improves stormwater run-off, disposal of domestic waste water with no increased adverse effect on the Aquifer.** (Motion by Ms. Merrill, second by Mr. Wilson) Roll Call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

Mr. Greenwood stated that the only thing left on the current list is the floating dock. Mr. Zilch said that they will have to confer with SFC to bring it up to code. Mr. Waters said that they may look at keeping it as a service bar only and may modify their request and make it no public access, just a place where servers can get drinks. Mr. Coffin said that it was on State property; Mr. Waters said it was on their property; Mr. Coffin stated that the State owns the pond; Mr. Waters said that they own a good portion of the pond; he agreed they had to comply with State rules. <Board note: Mr. Coppelman stepped away for 5 minutes.> Mr. Quintal said that his issues are addressed except for the floating dock. Outside uses were questioned. Ms. Merrill suggested those be addressed now as there are a lot of people here probably for that issue. The Board looked at reviewing the request for outside uses. Mr. Zilch said that the intent is in Note #4 on Sheet 1 with the proposed outside music limited to 10 PM, 7 days a week. Mr. Waters stated that they aren't looking for 7 days a week, they are asking for Fridays, Saturdays and Sundays; they want to make sure that the decibel levels don't exceed the Sound Ordinance and bring some comfort to the abutters. He said that they had solicited letters from abutters; Mr. Coppelman said that if he wanted them in the record, he should get them to the Board; he stated that the Board had received about a dozen letters and there were a lot of individuals on the call. He opened the hearing to accept public comment.

Kim Donahue, 33 Morning Dove Road, had written a letter to the Board in opposition, she paraphrased her letter. She stated that she was a customer of the restaurant but could not support the request as the music is excessively loud and a nuisance; she could hear the music word for word. Ms. Donahue continued that there had not been prior approval for outdoor use; it impacts the enjoyment of their home and property; she stated that she should be able to sit in her yard and not hear outdoor entertainment regardless of the end time as it is too invasive.

Stacy and Tom Dion, 30 Morning Dove Road, read the letter they submitted in opposition to the outdoor music; they noted that the area was a quiet, wooded location and they were patient and understanding during COVID but they are able to hear drunken arguments and loud music when seated not only outside but inside their homes with windows and doors closed; they noted that sound travels across the water and they are 100% opposed to an outdoor music venue that was never approved nor intended for this use adding that it has a negative impact to property values; the Board should allow neighbors to continue enjoying

their homes. Ms. Dion continued that they are very impacted at their location; they reiterated being patient during the COVID pandemic but they couldn't hear the TV in their own house and respectfully asked that outdoor music not be allowed.

George and Kathleen Leate, Rte. 125, had sent a letter to the Board; they agreed with the previous speakers adding that the music was loud and annoying and they can't enjoy the comforts of their own homes; they asked that no outside music be allowed including indoor music with outside speakers.

Susan and Richard Jewitt, 27 Morning Dove Road had a letter read by Mr. Coppelman that was in opposition stating that the business is a restaurant and not an outdoor music venue; the unapproved music is in violation of their site plan; they didn't buy a home adjacent to an outside music venue; they support the restaurant but not any outside music.

Debra Krockland, 6 Newton Junction Road, provided a letter read by Mr. Coppelman in opposition to outside music; she can't watch TV or enjoy her backyard; she begged the Board to not allow so she can enjoy her property.

Jeff and Ree Sluder, 13 Hunt Road, provided a letter that Mr. Sluder read requesting the Board deny the request for outside music as it was very disruptive, loud and intrusive; they couldn't enjoy their patio or conversation; the tranquility of their neighborhood would be lost if this was approved; they have been at this location for 17 years.

David Krockland, 6 Newton Junction Road, added that he had lived at this location for 40 years and was opposed to outside music; the prior use did not include outside entertainment; his grandchildren can't sleep over due to the loud, late music regardless of the end time.

David and Karen Miele, 5 Mill Road, opposed to outside music regardless of the end time.

Alexandra Solerno/Styles had provided a letter with no address so it was not read into the record.

Anita Fowler, 28 West Shore Park Road, was in support of outside music as she can hear it from her house and enjoys the ambience.

Richard Shaw, 5 Hunt Road, suggested that music until 9 PM on a few nights would be okay, not every night.

Caleb and Robin Fowler, 9 Newton Junction Road, asked that the Board not approve outdoor music at it is very loud at this address.

Paul Brisson, 40 Morning Dove Road, read his letter sent to the Board; it is a good restaurant with the issue being how it is acceptable to neighbors; he noted that surrounding neighbors have perceived degradation to their property due to loud music and suggested plausible solutions such as sound barriers. He stated that he personally was in favor of restrictive days and times; he understands that the business owners want it but there is no reason for others to be duly inconvenienced by it.

Mr. Water sent an email with letters from abutters; since it was a form letter, Mr. Coppelman read one letter and then the names of those who had signed them. The letter stated that "at no time had activities impinged on my use of my property; there was no shrillness from Saddle Up"; the letters were all dated from October, 2020. Signers included: Ronald Hilchey, 88 Rte. 125; Joss Stanley, 3 Old Coach Road, Shane McKeen, 89 Rte. 125, Richard Childs, 84 Rte. 125, George Leate, 90 Rte. 125. Mr. Waters conceded that Mr. Leate's current comments would be what the Board should go by as the one he submitted was from an older date.

Pam Laprell, 4A Old Coach Road, stated that she had lived there for about a year and she had no problem with the music and could barely hear it; the traffic on Rte. 125 was worse than the music.

Janice Kirata, 1 Kinneret Drive, was never contacted by anyone about how she felt about the music; she stated that Saddle Up is a great restaurant but she didn't move in to listen to the music; weekends is when she has family over and she wants to enjoy the backyard; she wouldn't have moved it if there was outside music. She continued that during the pandemic, she realized that the restaurant was trying to survive and didn't complain but now it is a detriment to the neighborhood; the old establishments at this location didn't create this kind of disturbance. She respectfully requested that they keep the music inside.

Senator Bill Gannon, address of 107 North Main Street, Concord, NH sent a letter of support of local businesses in NH.

Charlie Snow, 32 Mill Road, stated that he has done events at Saddle Up usually with 2 or 3 people with 1 or 2 microphones; they invested a lot into the restaurant; he stated that he understands people not liking loud music; he hasn't experienced loud music; he is in full support of Bob and what he is doing.

Kevin Kalil, 39 Morning Dove Road, appreciated Saddle Up but was completely against outdoor music; it is very loud and he lives a good distance away; Friday, Saturday and Sunday are the days spent outdoors in the summer and it takes away from their enjoyment of their property. He hoped the Board did not grant access to outdoor music; he liked the outdoor dining.

Kara Dean, 35 Mill Road, expressed support of the live music; they don't hear it; the traffic leaving the restaurant is not an issue; her 4-year-old enjoys seeing the motorcycles go by; they enjoy seeing the live music. She noted that the establishment supports the Fire Department.

Patrick Donahue, 33 Morning Dove Road, noted that the people supporting the outdoor music aren't in the area to hear it; it does disturb them and disturbs their evenings.

Mr. Tirada added that he wished the restaurant success but it is a matter of people being able to enjoy their lives; the outside music interferes with people enjoying their peaceful life.

Jason Whitney, 26 Rte. 125, wrote in support of the live music.

There was no further public comment; Mr. Coppelman declared public comment closed at 10:45 PM.

Mr. Bakie said that he can agree with people not in favor of music as it does echo; he wanted to remind the Board that there are many other establishments with outside music; this is not setting a precedent for Saddle Up Saloon; these businesses have to be treated as an equal. He stated that there is a noise ordinance but the Town of Kingston has no physical means of recording for the noise ordinance. Mr. Wilson stated that the Police have access to a decibel meter. Mr. Bakie said that the Board shouldn't look at one situation where there are multiple entities having outside music. Ms. Duguay said that she heard people clearing saying that they were willing to deal with the noise during the pandemic and conformance couldn't be enforced during that time but she didn't see how outdoor music could comply due to the requirements in the Ordinance; the maximum comparison is soft music in homes and a refrigerator; she re-iterated that she was not sure how this could comply. Mr. Coppelman noted that the compliance is at the property boundaries. Mr. Coffin asked Mr. Wilson about any complaints; he noted a BOS meeting in which Road Agent Rich St. Hilaire, who lives over a hill between his home and the Saloon, was vociferous in his complaint of the noise level and that it was noted that there were complaints to the outdoor music. Mr. Wilson said that his phone would ring off the hook with complaints; he noted that he heard it in his yard and it was so loud and so clear that he could sing along to the music. Mr. Waters said that he was grateful to hear input and it was seemingly obvious that the issues are coming from Morning Dove Road and he appreciates their concerns about enjoying their homes. He suggested modifying their request for outdoor entertainment to Fri and Sat from 7 PM to 10 PM and Sunday afternoons from 12-7:00 PM. Mr. Waters said that they had been in violation of the sound ordinance previously but they have addressed those issues; if in violation again, they will stop if asked to stop by the BOS. Ms. Duguay read the parameters of the ordinance and the exceptions; she was trying to understand how an on-going activity complies with the exceptions that are only to be "occasional".

Ms. Merrill noted that there have been problems in this location and "once the horse is out of the barn, it is tough to get it back"; she questioned how severe the penalty would need to be if the decibel level was broken. She continued that it appears that Saddle Up wants to become a reasonable and thoughtful neighbor but the neighbors feel that it won't happen; she questioned whether a trial period could be possible prior to a Planning Board permanent decision. Mr. Waters thought this was a wonderful concept. Ms. Faulconer clarified a previous comment by noting that it was not only residents from Morning Dove that has had issues with the outdoor activities; she added that Mr. Leate had lived at his location for years and as a resident should also have grandfathered rights.

MM&S to continue for a month out; Mr. Wilson will speak with the BOS; the applicant will provide the police with a decibel meter and give them a basis to stay within the sound ordinance with the times restricted to the times they are currently asking for: Friday and Saturday 7 PM-10 PM and Sunday noon -7:00 PM. (Motion by Mr. Wilson, there was no second to this motion) Discussion: Ms. Faulconer explained that the Cease and Desist was an action by the BOS and suggested that it was not in the PB's purview to have a motion that directed the BOS.

Mr. Coffin stated that the current precedent is that when outdoor entertainment begins, the people are told to stop the activity. He continued that on May 14<sup>th</sup> at 8:00 PM, he could clearly hear "Only the Good Die Young" being played; his concern with enforcement is that the volume will go down when the police show up regarding a complaint; this type of thing is difficult to approve; he suggested that the Board just say "no outdoor entertainment". Mr. Coffin added that the problem with a trial period is that the level will drop as it gets tested. Mr. Bakie stated that there were three other businesses that have outside music and this action could then get their abutters to ask to have it stopped. Mr. Coppelman stated that they should go to the BOS for enforcement; he stated that if the BOS ends up granting a temporary period for this use, no matter the outcome, there is no guarantee that the Planning Board will approve it. Ms. Duguay questioned asking the BOS to continue something if it doesn't comply with the ordinance. Mr. Coffin stated that outdoor seating is not an approved use; the use was dependent on the Governor's orders and its expiration. Mr. Bakie clarified that the three businesses were the Vets Club, the VFW and Bolton's. Ms. Faulconer noted that none of them had outside music as an approved use. Mr. Wilson said that the VFW's outside music activity was shut down.

MM&S to continue to July 20<sup>th</sup> with new materials due by noon on Thursday, July 8<sup>th</sup> in the Planning Board office. (Motion by Mr. Wilson, second by Mr. Coffin) Part of the discussion of the motion included Mr. Wilson speaking with the BOS about this discussion.

Roll Call vote:

Rich Wilson – yes

Peter Coffin – yes

Robin Duguay – yes

Peter Bakie – yes

Chris Bashaw – yes

Lynne Merrill – yes

Glenn Coppelman – yes

**Motion carries unanimously (PUNA)**

**VFW Post 1088**  
**UpStreet Food Truck, LLP**  
**93 Route 125**  
**Tax Map R10 Lot 6**

Mr. Coppelman read the public notice. Ms. Celine Costa was present; she stated that she had found an alternate option and was working in Exeter. Mr. Coppelman stated that the Board had received three possible options as advice from Town Counsel and the Board needed to vote on the avenue they wished to take. Ms. Faulconer noted that an addition issue at the least hearing involved the site being in compliance per requirements of the expedited review process. She said that she hadn't received any information from the VFW; both she and Mr. Greenwood stated that the tent was still up on the property as of this afternoon.

**MM&S that based on advice from counsel, deny the application as the use is neither prohibited nor permitted and advise the applicant that they can seek relief from the ZBA.** (Motion by Mr. Coffin, second by Mr. Coppelman) Discussion: Mr. Padfield questioned if there was a possibility to grant the application for a year and have the PB develop an ordinance. Mr. Coppelman said that could be discussed pending the vote on the motion.

Roll call vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – no
Peter Bakie – no	Chris Bashaw – no	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries 4 to 3</b> with Ms. Duguay, Mr. Bakie and Mr. Bashaw opposed. Ms. Merrill explained that she voted in the affirmative as it is the Board's usual procedure and everyone should be treated equally. Mr. Coppelman said he appreciated Ms. Costa's perseverance and drive and thought that the Board will be looking at this type of use. Mr. Wilson said that she can appeal to the ZBA. Ms. Faulconer told Ms. Costa if she contacted the PB office, she would walk her through that application process.	

**Board Business**

Correspondence:

- Church St. Station – Bakery: Taryn Merrill at 34 Church Street; Mr. Greenwood asked if further review was required – there were no exterior changes to the building. Mr. Coffin suggested that it was similar to previous uses; Ms. Merrill said that it sounded like they were baking on site; Mr. Wilson said that, as Health Officer, he would have to confirm the septic. Mr. Coffin noted that it is up to the PB to review the use; it is up to Building and Health to review the rest. The Board questioned the hours of operation.

**MM&S that no further review (of the bakery) is required conditional upon receipt of hours of operation consistent with the approval of the hours that the plaza is open.** (Motion by Ms. Merrill, second by Mr. Coffin) Discussion of the motion: Ms. Faulconer will tell Ms. Merrill to contact the Health Department, Building Department, get a sign permit and meet the conditions of approval. Roll Call Vote:

Rich Wilson – yes	Peter Coffin – yes	Robin Duguay – yes
Peter Bakie – yes	Chris Bashaw – yes	Lynne Merrill – yes
Glenn Coppelman – yes	<b>Motion carries unanimously (PUNA)</b>	

Mr. Coppelman reviewed the meeting schedule in regards to the Governor's order being extended only 14 days to June 11<sup>th</sup> and the recommendation from the NHMA (New Hampshire Municipal Association) that meetings after that day should be held in person and re-noticed as necessary. The next meeting, June 15<sup>th</sup>, will be held in person at the Town Hall. Ms. Faulconer confirmed that the re-noticing had already been done.

Mr. Coffin asked Mr. Wilson for an update on the Fieldstone sign that is bigger than the ordinance allows and on Comcast's property. Mr. Wilson suggested that this was an issue between Fieldstone and Comcast. Mr. Coffin suggested notice to Comcast that a sign on their property was non-conforming to the Town's rules and regulations.

Mr. Coppelman declared the hearing adjourned at 11:55 PM.