

Kingston Planning Board

December 14, 2021

Public Hearing

Minutes

Mr. Coppelman called the hearing to order at 6:30 PM; there were no challenges to the legality of the hearing.

Members present:

Glenn Coppelman, Chair	Peter Bakie
Lynne Merrill, Vice Chair	Peter Coffin
Richard Wilson, BOS rep.	Robin Duguay (arrived with meeting in progress)
Steve Padfield, alternate	Ellen Faulconer, alternate/admin. asst.
Chris Bashaw (arrived with meeting in progress)	

Members Absent: Chris Bashaw

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

Mr. Coppelman announced that Mr. Padfield would be a voting member pending Board members arrival.

Alexander Morris and Jeremy Homolka

10 King Pine Way

Tax Map R39 Lot 46

Alexander Morris reviewed the ADU proposal for Mr. Homolka's parents; the ADA will look like a red barn with white trim. <Board note: Mr. Coppelman noted that Ms. Faulconer will also be a voting member pending Board members arrival.> Mr. Morris stated that a 2-D drawing was submitted; the style of the house is colonial; there are three bedrooms on site; Mr. Wilson stated that there was a 4-bedroom design on file. Mr. Quintal noted that the proposed ADU counts as 1 and ½ bedrooms for wastewater flow and they will need to have an appropriately sized septic design on file; he added that they may want to consider an additional 2 bedrooms for the septic design.

Mr. Greenwood explained that the proposal would need to be less than 899 sq. ft.; it is 880 sq. ft.; he added that he uses the "effective" square footage to determine the square footage. Ms. Merrill said that they (realtors) use the GLA (gross living area) square footage. <Board note: Ms. Duguay arrived at this time; Ms. Faulconer stepped down as a voting member.> Ms. Merrill explained that the GLA includes those areas that are heated or air conditioned. Mr. Greenwood said that the applicant needs to provide information that the existing septic system is capable of handling the additional demand created by the proposed ADU (Accessory Dwelling Unit). Mr. Greenwood briefly left the hearing to look at the property card for the GLA. He returned with the following information: GLA = 2380 sq. ft.; the ADU could be 793 sq. ft. Mr. Morris stated that when he bought the house he was told that there was 2700 sq. ft. of livable space. He also explained that regardless of the note on the plan, there was no intention of the ADU having 2 bedrooms. Mr.

Coppelman asked if there was State guidance of which standard to use in determining the available square footage. Ms. Merrill stated that appraisers and realtors use GLA; it was suggested that this needed to be clarified in the future but to use the effective space for this hearing for consistency as this was what Mr. Greenwood has used in the past.

Mr. Greenwood said that the applicant has checked all of the boxes except for verification of demand for the septic system. Mr. Wilson clarified that they would need a new plan for the septic; it didn't have to be installed, just to be on file. Mr. Bakie suggested that this could be a condition of approval. Mr. Wilson agreed.

MM&S to invoke jurisdiction. (Motion by Ms. Merrill, second by Mr. Coffin) Mr. Coppelman explained "jurisdiction". Vote on the motion: **PUNA** (Passed unanimously)

MM&S to grant the CUP (Conditional Use Permit) for an ADU as presented on the condition that they supply to the Town a septic design that is capable of supporting the additional demand. (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: It was confirmed that there is no evidence of a wetland on the property; Mr. Quintal stated that it would show up on the septic plan. **PUNA**

Teatad, LLC

Granite Fields Commercial Condominiums

Diamond Oaks Boulevard

Tax Map R3 Lot 4 Land Unit 1

(Mr. Coppelman noted that this hearing began at 7:05). He read the public notice adding that it was a continuation from August 3rd. Charlie Zilch of SEC and Associates appeared on behalf of Teatad; Jim Dufresne was also present. Mr. Zilch reviewed the proposal of the 2 on-slab buildings, one at 40 x 100 ft. and one at 36 x 100 ft. with 4 condo. units per building; the parking will be shared with Unit 3, the golf course and sports complex. He explained that the golf course uses the parking in the summer and the sports complex uses it in the winter; he noted the parking for the proposed units. Mr. Zilch explained that there was a common septic system and a shared well. Mr. Zilch reviewed the concerns raised in August about the wetland and wetland buffer; he stated that he met with Conservation and had the reports reviewed by Mike Cuomo and they met with Tim Ferwerda on site; there was a letter dated 10/18/21 from Mike Cuomo. Mr. Zilch said that the most noticeable change was shortening one of the buildings due to update the buffer to 60 ft.

Mr. Zilch stated that there were no major design changes of the plan set; Mr. Cuomo, Conservation and the Planning Board seems to want to see less impact in the woodland buffer area; the new design of the lower parking area with a retaining wall instead of the original design eliminated a lot of the previous impact on the woodland buffer. Mr. Zilch explained that they designed a wet pond instead of the infiltration pond; they created a smaller, deeper pond area which will have water in it most of the time; he explained that any overflow goes to the wetland but it would be pretty much treated water. He stated that there is currently no effective sheet flow and this will address that and create better control. It was confirmed that the Board did not take jurisdiction at the last hearing. Mr. Zilch noted that there were requests for a couple of waivers; no variances were requested.

Mr. Greenwood read his comments that included: applicant needs a CUP due to being in the Aquifer Protection District (APD); items 2 and 3 were addressed; shared parking is still an issue that the Board needs to address; CUP request for wetland needs input from the Conservation Commission (ConsCom) and the Board of Selectmen (BOS); a site walk would help with the landscaping plan; Board needs to determine substantial improvement threshold; how was Fire protection being provided to the new buildings. Mr. Bakie suggested the applicant contact the Fire Department regarding the nearest hydrant location.

Mr. Quintal read his comments that included: need to show dimensions for the wetland buffer zone, the line is shown but the dimensions were not included; establish and submit a Performance Bond; drainage design may need revised calculations and edit of the outlet structure detail (note 12) if the roof design changed, the sub-catchment needs revision; note forebay and infiltration basin on the plan; show length and width of rip-rap; address roof run-off over the walk-in doorways to prevent ice from the drip-edge falling onto people and cars. Mr. Zilch agreed and will take a look at this. Mr. Quintal suggested having a protective zone on the roofs. Mr. Zilch stated that he had spoken with Steve Cummings who agreed with Mr. Quintal's note #12. Mr. Quintal added one more comment regarding all detention basins needing to be out of the buffer zone by stating that it wouldn't be viable without getting rid of the lower parking which could be a detention area and not impact the buffer area at all; he said that this would be a possible alternative.

MM&S to invoke jurisdiction. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

Mr. Coppelman read Department and Board comments: Conservation Commission letter dated 12/14/21, that advised that any incursion into the buffer zone is not acceptable and supports Mike Cuomo's comments in the 10/18 letter. Ms. Merrill questioned ConsCom's comment about an already compromised river. Mr. Coffin suggested that the Little River had previous issues. Ms. Faulconer suggested asking ConsCom to clarify the comment rather than speculate. Mr. Coffin said that the existing development does not offer any protection; the proposed system of protection is better with this plan. Mr. Quintal reviewed the drainage and water level concerns. Mr. Wilson corrected the concerns of the development and compliance raised by the ConsCom. Mr. Coppelman said that input and comment is required from the ConsCom but the final decision rests with the Planning Board.

Mr. Coppelman read the 10/18/21 letter submitted by Mike Cuomo regarding the wetland buffer review: He agrees with the wetland buffer determinations adding that p.2 of the 2019 report has errors but the correct buffer is shown as yielding 7 points for a 60-foot wetland buffer. Mr. Coppelman noted that the Board doesn't know what his comments would look like based on the newly submitted design.

Mr. Coppelman continued reading Department comments: Highway: "refer to previous comments" which were "additional parking spaces needed based on observed actual daytime usage"; Building – questioned if there was enough parking; septic design is approved; the Board is in receipt of the condo. docs.

Ms. Merrill referred to the parking saying that the waiver request says there are 144 spaces but she only gets 95; Mr. Zilch referenced additional parking on Unit 3 and an area for 26 additional

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KPB

12/14/21

Accepted as submitted 1/18/22

parking spaces. Ms. Merrill said that it appears that the parking blocks the bay doors. Mr. Zilch said that those spaces will be assigned to the unit owners, signage is on p. 2. Ms. Merrill said that there should be something designating that the parking is for an individual unit; she said that there should be more “no parking” signs in the back.

Mr. Coppelman had the applicant confirm that the drainage analysis in the packet is based on the new revision. Mr. Wilson agreed with Mr. Bakie’s comment that the plan does a lot more to protect the wetlands. Mr. Bakie re-iterated that this is taking care of run-off on a large parking lot. Ms. Duguay asked if there was any fencing around the standing water of the wet pond. Mr. Coffin noted that a man-made pond has more requirements than a natural pond. Mr. Zilch said this was a good point. Mr. Quintal suggested that the snow storage which is shown in the parking area should be outside of the parking area; he wants confirmation that the Fire Department (FD) is ok with the current placement. Mr. Zilch stated that he will contact the FD and ask for their comments. Mr. Wilson suggested that he ask about fire suppression at the same time.

Mr. Coppelman read the waiver for the parking requirements that was submitted, dated 12/2/21 for 904.15(B)1 regarding off-street parking requirements with the justification being that the units will be marketed toward trade businesses and require 8 spaces per unit for a total of 32 parking units; there is an approved area, not built, that could accommodate an additional 26 spaces. Ms. Merrill asked at what point would it be determined that this area would need to be paved and utilized; she questioned whether Seacoast had signed off on the shared parking. Mr. Dufresne said they agreed when they bought the property. Mr. Coppelman said that the waiver is only for 3 spaces which is the difference between the required 35 and the proposed 32 spaces.

MM&S to grant the waiver from Article 904.15(B)1 as described in the submitted waiver request letter and per the Board’s discussion. (Motion by Mr. Wilson, second by Mr. Bakie)
PUNA

The Board reviewed the CUP (Conditional Use Permit) request dated 5/24/21 and revised 12/2/2021. <Board note: Mr. Bashaw arrived at this time; he stated that it would be appropriate for Mr. Padfield to continue to sit during this portion of the hearing since he had missed a lot of the discussion.> Ms. Duguay read Article 201.4(G)a; Mr. Coppelman read the applicant’s response to the requirement for granting the waiver.

MM&S that the Board affirm that special criteria (a) as the application shows improved drainage and better control of drainage. (Motion by Ms. Merrill, second by Mr. Wilson)
Discussion: Ms. Duguay asked if the condo. docs. clearly spell out prohibitive uses. Ms. Merrill suggested this could be a condition of approval; Ms. Duguay suggested that spelling it out explicitly may be a good idea. Mr. Zilch said he could expand Article 5 in the docs; Mr. Coffin suggested referring to the requirements by name instead of number in case the numbering changes in the future. Mr. Quintal suggested expanding note #24 on the first page to note the restrictions. Mr. Coffin suggested “no used prohibited by the APD can be permitted”. Mr. Coffin asked if the wet pond is sufficient. Mr. Quintal replied that the size needs to be calculated again and has to have the catch basin hold contaminants; he noted the fore bay and the wet pond as areas contaminants would need to go through before it reaches the discharge point and it provides treatment. The Board affirmed that the first standard had been met. Vote on the motion: **PUNA**

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KPB

12/14/21

Accepted as submitted 1/18/22

Ms. Duguay read #b and Mr. Coppelman read the applicant's response.

MM&S to affirm that 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 due to the proposed use only requiring a minimum of employees to operate the businesses; the limited use will ensure that there will be no reduction in long term volume of water and coverage of the lot will be considerably less than the amount allowed within the district. (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: Ms. Faulconer asked if the restrictions of type of use are noted in the condo. docs. Mr. Zilch said that uses are restricted by the number of parking spaces and the septic; he stated that if this is not in the condo. docs., he will add it. Vote on the Motion: **PUNA**

Ms. Duguay read # "c" of the Article; Mr. Coppelman read the applicant's response.

MM&S that the Board affirm that #c, 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 herein defined per the applicant's statement that the proposed use will not discharge waste water other than typical domestic waste and there are no floor drains proposed. (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: Mr. Coffin said that there needs to be a notation regarding the septic and businesses allowed versus those not allowed with the specifics. It was determined, upon review, that there already was a notation in the documents in Article 5 of the Condo. Docs, p. 23 under "Restriction on Use of Units": "any use needing more than 8 parking spaces of 150 gpd per unit". Vote on the Motion: **PUNA**

Ms. Duguay read the requirements for item (d).

MM&S that the proposed use complies with all other applicable sections of the ordinance per the Board's discussion and applicant's confirmation. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**

Ms. Duguay read item #(e). Mr. Coppelman read the applicant's response.

MM&S to affirm section (e), a hydrogeologic study shall be submitted for uses whose septic system is designed for more than 2,400 g.p.d. In Zone A, a study shall be submitted for any septic system designed for more than 2,000 g.p.d., is not required as the applicant confirms that the septic system is designed for a flow of 600 gallons per day maximum. (Motion by Ms. Merrill, second by Mr. Wilson) Discussion: Mr. Coppelman stated that the septic falls under the threshold for needing a hydro study. Vote on the motion: **PUNA**

MM&S to approve the CUP request with condition that comments as discussed are added to the plan and condo. docs as it meets requirements. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**

The Board discussed RCCD's comment letter from October, 2021. Mr. Quintal said that the stormwater detention area is primarily grassed slopes; they are removing the tree area but are establishing grass; once constructed, it will primarily be grass and pond area and won't cause an impact to the wetlands; the area won't impact the wetland; there is no net increase in run-off. Ms. Duguay confirmed that the snow storage and well is within the buffer. Mr. Greenwood explained that this design is the response to the Board asking that activities come out of the wetland buffer; if the snow storage in the buffer is removed then it is just the well within the wetland buffer which is not a problem. Mr. Zilch responded to the Board's request other than the snow storage. Mr. Zilch stated that he would remove the snow storage from the buffer. Ms. Merrill added that this could be a condition of the approval.

The Board addressed the Conditional Use Permit request for the proposed use within the wetlands buffer as required in Ordinance 202.8.B. Ms. Duguay read the first requirement. Mr. Zilch read his justification for the request from his letter of December 2, 2021.

MM&S that the Board affirm that the proposed use is essential to the productive use of land not within the Wetlands Conservation District as all of the proposed improvements/structures/impervious surfaces are designed outside of the allotted wetland buffer and the location of the site improvements is essential to the productive use of the land and with proper construction and maintenance will not adversely affect the quality of the buffer or the groundwater. (Motion by Ms. Merrill, second by Mr. Wilson) PUNA

Ms. Duguay read the second requirement. Mr. Zilch read the justification for the request.

MM&S that the Board affirms that the design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition as the drainage and erosion control plan consists of re-grading to direct stormwater flows to a catch basin with all collected stormwater flow directed to a proposed wet pond designed to treat run-off with erosion control placed at the limits of all disturbed areas that will be loamed and seeded; a comprehensive drainage report has been filed and maintenance of the system will be the responsibility of the condominium owners as documented on the plans and the condo. docs with periodic inspection by the Town. (Motion by Ms. Merrill, second by Mr. Wilson) PUNA

Ms. Duguay read the third requirement. Mr. Zilch read his response.

MM&S to affirm that requirement #3 requiring that no alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible has been met as the applicant's response confirms that areas currently not treated will be treated and is not crossing a wetland. (Motion by Ms. Merrill, second by Mr. Wilson) PUNA

MM&S to grant the CUP as the proposal is meeting the requirements per Article 202.8.B with the condition that the snow storage closest to the well is moved outside of the buffer. (Motion by Ms. Merrill, second by Mr. Wilson) PUNA

Mr. Zilch requested the Board continue to the hearing in January.

MM&S to continue the hearing to January 18, 2022 at 6:30 with new plans in to the Planning Board by noon on January 6, 2022. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**
<This hearing ended at 9:05.>

Summit Distributing, LLC
249 Route 125 and off of Rte. 125
Tax Map R40 Lot 16 and 15

Mr. Coppelman explained that due to a challenge to a ZBA decision regarding this proposal, this application was withdrawn at this time.

<Board note: the Board took a 5-minute recess at this time; returning at 9:10.>

Board Business

Correspondence:

- Invoices from Town Engineer for Alternative Sales and Teatad signed by the Chair
- Letter received from Sandy Maida re: Lone Tree Boy Scouts Camp
- Letter sent to BOS explaining Lighting Ordinance; action re: Bresnahan lighting still pending and will remain in correspondence pending action.
- Sign permit for new bank questioned; Mr. Wilson said that it was issued a permit; he was unable to confirm how it met the ordinance and received a permit
- Letter from Bill Gianopolous revoking letter sent 10/15/21
- Auto Inspection request for Viens; a questioned was raised whether it was only for his own vehicles; Mr. Coppelman stated that the request did not say that; Mr. Wilson suggested that the Board would need to have the request verified; the Board noted that the application no longer had an option to “defer” pending additional information so we need to recommend “deny” pending re-application with further information; the Board will forward the application to the Board of Selectmen.
- Town Engineer invoice for Saddle Up signed
- Letter received from Alternative Sales/John Lumnah noting that the building is almost complete but the site will not be complete until Spring due to weather and material issues and are asking to be able to use the building; Mr. Greenwood said that they have an approved activity and could grant some temporary storage; Ms. Merrill said that some leeway needs to be allowed due to COVID-related things like getting materials; Mr. Bakie noted that the driveway couldn’t be done due to the ground freezing and agreed that they should be allowed to use the building up to a certain date.

MM&S to allow temporary occupancy for the use of on-site storage for Ovitt, LLC until June 30, 2022. (Motion by Ms. Merrill, second by Mr. Padfield) **Motion passed 5-0-2** with Mr. Coppelman and Mr. Wilson abstaining.

At this point of the hearing, Mr. Bashaw stepped back onto the Board and Mr. Padfield returned to alternate/non-voting status.

MM&S to accept the 11/16/21 minutes as written. (Motion by Mr. Coffin, second by Ms. Duguay) **PUNA**

Mr. Greenwood asked Mr. Wilson to explain the BOS action/position on activity on a property on Shendoar. Mr. Wilson reviewed the issue of the property that is in the RR zone with a web-based business on site with material being stored in a camper; the owner was given a site plan packet and told to contact the Planning Board. Mr. Greenwood said that they had written a letter asking that they not be subject to site plan approval; his counsel is to have a site plan.

MM&S to deny the request re: the Shendoar property to waive the requirement for site plan review and an engineered plan. (Motion by Mr. Wilson, second by Mr. Coppelman) **PUNA**

Zoning Amendment Review:

- The Board had previously reviewed amendments for Requirements for Multi-family zoning and reviewed the proposed changes:

#4 – “structure” replaces “dwelling” and remove the last sentence after “24 dwelling units”.

#5 – delete “or (6)” prior to the word “bedrooms”

<Board note: Mr. Bakie briefly left the meeting and Mr. Padfield voted on the motion.>

MM&S to move the amended language forward to public hearing on January 4, 2022. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**

<Board note: Mr. Bakie returned at this time, Mr. Padfield returned to alternate status.>

- As discussed at a previous meeting, the Board reviewed the definition of “structure” in the APD and determined that that it should be the same as the one the Board changed.

MM&S to move forward with this amendment to the January 4th public hearing. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**

- Citizen’s Petitions: Ms. Faulconer noted that two citizen’s petitions had been received; the Board stated that these will be reviewed on January 4th for recommendations.
- Calculations for ADU were discussed by the Board for future clarification of the guidelines and consistency. Mr. Coppelman said that a number of his communities that he advises use the GLA guidelines instead of the effective area with GLA being anything under heat. The Board reviewed Article 206.4, ADU requirements, #E. After much discussion on the impacts of using GLA or “effective” guidelines, the proposal was to change the second line to read “the maximum size of the ADU shall not exceed 1/3 of the size of the Gross Living Area, aka GLA (heated or air-conditioned space), as defined in the Town’s tax card, of the primary single-family dwelling.”

MM&S to establish this proposed amended language. (Motion by Mr. Wilson, second by Ms. Merrill) **Motion passed 4-3** with Ms. Duguay, Mr. Bakie and Mr. Bashaw opposed.

MM&S to move this proposed amendment to the public hearing on January 4th. (Motion by Mr. Wilson, second by Ms. Merrill) **Motion carries 6-1** with Mr. Bashaw opposed.

Mr. Wilson and the Board briefly discussed ramifications and interpretation of abutter notification of properties with easements.

MM&S to adjourn at 10:25 PM. (Motion by Mr. Wilson, second by Mr. Bashaw) **PUNA**

