

**Kingston Planning Board
Public Hearing
Minutes**

October 17, 2017

The Vice Chairperson called the meeting to order at 6:48 PM. There were no challenges to the legality of the meeting.

Members in attendance:

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| Peter Coffin, V. Chair | Peter Bakie |
| Mark Heitz, BoS rep. | Lynne Merrill |
| Ernie Landry, alternate | Robert Pellegrino, alternate |
| Carol Croteau | Ellen Faulconer, alternate/admin. assist. |
| Glenn Coppelman, Chair (arrived with meeting in progress) | |

Members absent: Chris Bashaw

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer

Mr. Coffin introduced the Board; he announced that Mr. Landry would be a voting member this evening replacing Mr. Bashaw and Ms. Faulconer would be a voting member pending Mr. Coppelman's arrival.

**Robert Pellegrino
LeFevre Drive
Kingston, NH
Tax Map R6-13, R6-14-2, R6-14-6**

Tim Lavalley addressed the Board; Mr. Pellegrino was also present. Mr. Lavalley noted the Ms. Faulconer had been asked to review items from the last hearing regarding the easement care and the driveway location per the originally approved Solar Hills plan. Ms. Faulconer provided a copy of the recorded plan that showed the driveway being moved from Hunt Road to Lefevre Drive; the minutes note that the easement to the Town Forest was to be cleared by Mr. Pellegrino. Mr. Lavalley will speak with the Road Agent about the driveway location; he would like to change it so it didn't need to be moved. Mr. Greenwood said it could be reviewed with this application; Mr. Coffin noted that the new plan doesn't have that location shown on it but it could be added to be shown on the plan. Ms. Faulconer suggested that the application should be re-noticed to have the accurate and appropriate description of the Board's review.

The easement was discussed and whether it would be cleared by the applicant; the August 6, 2013 minutes state that the easement will be cleared by Mr. Pellegrino. There was a question about getting around the corner; Mr. Lavalley will make sure the truck radius can be accommodated. It was noted that the wetlands and vernal pool questioned by the Building Inspector are shown on the original approved plan. Mr. Greenwood stated that Mike Cuomo

hasn't reviewed the plan set; he wants to meet with Mr. Ferwerda at some point on the site. Mr. Lavalley said that he hadn't thought the RCCD review would have been possible to be done by this hearing; they did get the easement answer they needed and he will give Mr. Ferwerda a "head's-up" about meeting with Mr. Cuomo.

Mr. Lavalley asked about the waiver request to use the numbers they have on the plan instead of the letters as now required; Ms. Faulconer suggested getting an okay from downstairs or the correct numbers if possible prior to granting the waiver. Mr. Lavalley will check with the office. Mr. Coffin thinks it is unlikely that the numbers of the plan will correspond with the street numbers.

Mr. Lavalley reviewed the waiver request for 905.6 (C) regarding perpendicular lot lines. *<Board note: Mr. Coppelman arrived at this time; Ms. Faulconer is no longer a voting member for this hearing; Mr. Coffin turned the meeting over to Mr. Coppelman.>* Mr. Lavalley said that he set up the driveways as close to radial as possible so they are asking for a waiver to that regulation.

Mr. Coppelman confirmed that both Mr. Pellegrino, as the applicant, and Mr. Heitz, as an abutter, had recused themselves from this hearing. Mr. Lavalley continued by adding that while not meeting the letter of the law, they were making the lots match with the existing lots. Mr. Coffin said that the line between lot 6 and lot 5 was an existing line for the first set of plans and includes an adjustment for lots 2 and 12. He continued that 6 through 2 are new lot lines excluding the northerly lot line on lot 6. Mr. Lavalley explained that it looks ugly on paper but when walking it, it follows the contours. Mr. Coffin stated that lot 7 and lot 8 has high and low angles. Mr. Lavalley reviewed lines that were radial. It was noted that new plans had just been submitted this evening; Mr. Coppelman thought the Board had expected new plans earlier; Mr. Coffin agreed. Mr. Lavalley said the plans have revisions per Mr. Quintal's letter and AoT (Alteration of Terrain) permit revisions which were just completed on Thursday; he brought them today but was not expecting the Board to review them. Mr. Quintal added that Paul Nichols had a lot of work to do for the State for the revisions they required for the AoT permit. He continued that it is probably okay to talk about the waivers; he'll look at the new plan for next month. Mr. Lavalley suggested that it would be okay to look at the new set for the waivers as a lot of revisions were made to the plan. Mr. Greenwood confirmed that the Board took the plan under jurisdiction at the 9/19/17 hearing. Mr. Coffin stated that none of the lot lines have changed since the first plan; he said that the Board's intent is to try to avoid lot lines that then have neighbor's looking into their neighbor's backyards due to crooked lot lines; lot line 7 and 8 make a small jog in the line. Mr. Coffin said that the Board is just trying to avoid "jury-rigging" the lines; the waiver is not out of the intent of the regulation adding that it is not a "Pillsbury Pasture" issue. Mr. Bakie agreed. Mr. Lavalley said that they tried for the spirit and intent instead of the letter.

MM&S to grant the waiver to 905.6 (C), Lot Line Perpendicular, to have the lines shown on the plan that was presented as Revision Date September 18. (Motion by Mr. Coffin, second by Mr. Bakie) Discussion: Ellie Alessio, abutter, asked if granting this motion would impact the lines regarding access to her property. Mr. Coppelman said that depending on the discussion with the Board, the lot line between lots 9 and 10 could wind up being different. Mr.

Coffin said that if another plan with easements showed different lines than they could request another waiver. Mr. Coffin clarified that the waiver was being granted for the lines shown on the Sept. 18 revision; another plan would need another waiver. Mr. Quintal asked if Ms. Alessio was looking for a right-of-way (ROW); Ms. Alessio confirmed she was looking for a ROW, not an easement. Mr. Coffin re-iterated that the waiver is for the lines shown on the plan and changes would require another waiver. Ms. Alessio stated that she wanted it brought up so this vote didn't affect her property.

Vote on the Motion: Motion carries 6-0. (Mr. Coppelman noted that Mr. Heitz had recused himself.)

Mr. Lavalley spoke to the waiver request for the road length; the regulation requires a maximum of 1,000 feet; he reviewed the specifics of the road as it continued and from Hunt Road. He stated that the applicant has agreed to sprinkle the houses so a lot of the safety issues pertinent to the road length have gone away. Mr. Coppelman asked if this had been discussed with the Fire Chief; Mr. Lavalley said that this request could be tabled and he would run it by the Fire Chief. The length to the cul-de-sac was reviewed; emergency access for people who live along the road and access issues were discussed. Mr. Lavalley stated that the road originally had a 100 ft. radius but now there is a 150 ft. radius specifically for Fire vehicles. Mr. Coppelman confirmed that the regulation is for 1000 feet, this is proposed at 1660 feet. Mr. Lavalley will ask the Fire Chief directly. Mr. Pellegrino confirmed that this was proposed as a Town road; the cul-de-sac size is requested by the Highway Department. Mr. Lavalley stated that they are tabling this waiver request for now.

Mr. Lavalley said that the regulation is that each lot shall have its own driveway but they are proposing a shared driveway on lots 10 and 11; page P1 shows this best. He continued that this minimizes the site disturbance; they could put in two driveways but there are wetlands; it will be steep; this creates less filling and less cutting of trees and it works better. Mr. Quintal cited driveway permit regulation 909(C) 5, that shared driveways are encouraged when deemed appropriate. Mr. Lavalley said that there would be less site disturbance and the privacy can be kept by the property owners better by not clearing trees. Mr. Coffin asked if there was a common clause for the deeds. Mr. Lavalley answered that driveway easements will encumber both lots. Mr. Coffin said it was important to balance advantages of common driveways so as not to be a problem later. Mr. Lavalley said it was up to Mr. Pellegrino to do the easement and agreement. Mr. Coppelman said that it was part of the approval. Mr. Greenwood added that usually the Board wanted to see the easement agreements. Ms. Merrill said that usually there was a need for a formal agreement for a shared driveway or there was trouble with a mortgage. Mr. Lavalley confirmed that the Board wanted to see the easement language. Mr. Coppelman said that won't keep the Board from voting from the waiver.

MM&S to grant the waiver request for a shared driveway between lots 10 & 11 as shown on the plan dated 9/18/2017. (Motion by Mr. Coffin, second by Mr. Bakie) Motion carries 5-0-1 with Mr. Coppelman opposed; Mr. Coppelman explained that shared driveways can cause dissension and shouldn't be done unless absolutely necessary.

Mr. Lavalle said that they need to discuss access with Ms. Alessio's property prior to reviewing the waiver request for the 60,000 requirement. Mr. Lavalle said that the lot line between lots 9 and 10 are only 249' from the cul-de-sac to her property; a 60 foot easement could be granted at the top of that lot; if continued, the cul-de-sac would be removed and that area would revert to lot 9; all the other lots would get bigger if the cul-de-sac was removed. There was discussion about the area including an area of a steep slope that Mr. Lavalle said looked bad on paper, but could work as it is just a small area; he said that a 60 foot access is nice and is thinking of this area for the easement if Ms. Alessio thinks it is okay; it has not been added to the plan yet. Mr. Greenwood said that he has only seen one cul-de-sac removed; he said removing it does eliminate 200 feet of frontage on some lots. Ms. Alessio clarified that she is not interested in an easement, she wants a ROW to her property; she cannot have proper access going through someone's driveway, on their private property. She continued that there is still a substantial amount of land for potential development; it is important to have a ROW; she does not want an easement to go over someone's property. Ms. Alessio added that she wants it done correctly from the beginning adding that postponing to have to meet with the applicant or to get an attorney was a possibility; she wanted the houses and driveways positioned correctly. There was discussion regarding the impact with the ROW and the frontage impact; it was clarified that an easement was just the way to cross over the property to access the abutting property. Issues concerning the impact of removing the cul-de-sac such as required frontage were discussed. Ms. Merrill asked if there was a requirement that said that the cul-de-sac had to be removed if there was an extension to the road; she said that other towns have kept them and the road extends further past them. Ms. Alessio said that she didn't think she should be required to know about her property's possible future development now. Mr. Coppelman said that the premise is that all cul-de-sacs area considered temporary with a requirement to show a potential future connecting point. Mr. Quintal said that road extensions off cul-de-sacs are done both ways; Southedge did away with the cul-de-sac and there was some reduction in frontage and those lots had to go to the Planning Board. He continued that Ms. Alessio is asking for a ROW and the cul-de-sac issue is an issue for a future Planning Board who could then decided to keep the cul-de-sac or sent to the ZBA for reduced frontage. Mr. Coffin stated the requirement is that the ROW to adjoining property shall be provided to adjoining property from the cul-de-sac. Mr. Lavalle questioned the possibility of a temporary easement for the cul-de-sac in trying to address issues with the future frontage; deeding requirements for a Town road seemed to find that to be a problem. Mr. Lavalle said that the location of the lot line seems to be the best place to access Ms. Alessio's property. Mr. Pellegrino questioned whether it was illegal to take someone's land. The Board re-iterated the requirement for the continuation off of a cul-de-sac. Mr. Quintal said that it would be hard to do away with the cul-de-sac due to the drainage easements for the cul-de-sac; if there was a future extension, the cul-de-sac could stay. Mr. Coppelman said that the future road and extension would not need to be designed at this time. Mr. Coppelman said that the plan needs to show the 60 foot ROW to the adjoining parcel of land; the applicant and the Board did not need to deal with the cul-de-sac and road expansion at this time. Mr. Bakie asked about the width of a driveway instead of a road. Mr. Heitz and Ms. Merrill both answered that it has to be a road width. Ms. Merrill said that there wouldn't be 200 feet of frontage for a driveway. Mr. Lavalle said that it would need a variance. Ms. Merrill questioned access to a proposed Hampstead development. Mr. Lavalle answered that it was further away. Mr. Coppelman suggested that

this issue had been discussed enough adding that they needed to come back with something that deals with the ROW issue; the applicant was encouraged to deal with the property owners.

Mr. Lavalle asked about the waiver request for the 60,000 sq. ft. lot requirement. Mr. Greenwood noted that note "E" needs to be changed to note "A". Mr. Lavalle explained that lots 6,7,8 and 9 have areas that have included 15% slope; these were shown on the site walk; he feels the lot size of lot 7 being 87,000, 80,000 for lots 8 and 9 and lot 6 being 121,000 is enough for development of about 30,000 sq. ft. needed for lawn, house and driveway. Mr. Lavalle said that they reviewed the State requirements; they think they meet the intent of the Town as there are only small inclusions; he referred the Board to pages B2 and C1 where the slopes are shown. Mr. Pellegrino said that he hoped that this answered Mr. Heitz's questions concerning the areas of 15%, 20 and 25% slopes. Mr. Pellegrino asked what other Town's have a 15% slope. Mr. Greenwood said he couldn't answer the question as he hadn't checked for that information; he explained that Brentwood, for example, doesn't have as many lakes as Kingston; Kingston's 15% is because SES soils were done on a larger scale; 15% was an important grade cut-off for the soils mapping and soil conservation soil scientists; it was an important thing for their frame of work. Mr. Quintal stated that if the ROW was going through the lots, these numbers might change and might impact the Board's voting. He noted that Lot 6, with 35,000 sq. ft, meets 80% of the requirement, lot 7 meets 89% of the requirement, lot 8 meets 34% of the requirement and lot 9 meets 56% of the requirement. He said if the areas were added up, using the areas less than 15% slope, the area would allow for 2.4 lots instead of 4 lots; if the waiver was turned down, there would be 2.4 lots. Mr. Lavalle said that they generally meet the rule with a couple of inclusions; he continued that if you look at the rule, why 15%; they meet the intent of the ordinance; it allows for groundwater recharge; in the cases of 15%, the areas are sparse; lot 14 have areas of 15% with short areas in the yard; he continued that lot 8 appears to be the worst of the lot and no one was huffing and puffing on the site walk. It was noted that there is a potential change which could change the numbers; it has the potential to change the area of the lot. Mr. Coffin said that it made sense to wait on the waiver request. Mr. Lavalle said that it fills the intent of the original rule; Lot 8 appears to have a depression so with that area of 15% the water will drain on the site so it is not just the slope or whether it runs off the property. Mr. Pellegrino confirmed that he has no intention to fill. Mr. Coffin said that he thinks the Board should wait to see the amended plan. Mr. Pellegrino reviewed the recharge on the site; he said the "valleys" might be filled up with the building and would stay on the property. Mr. Lavalle reviewed groundwater flow; he added that recharge doesn't happen as quickly as if the land was flat; he reviewed other towns and how they dealt with slope; he said it has to do with how quickly water recharges on the slopes. Mr. Pellegrino questioned whether the Board will ask Dennis for input. Mr. Coffin said we would get his input when he reviews the amended plan. Mr. Coppelman said that he was not prepared to vote on the waiver request until he can see the Town Engineer's review and comments. Mr. Coffin said he would want Mr. Quintal's review. Mr. Heitz said that the Board has to decide what the 15% is supposed to do; if it is because the Board doesn't was the terrain disturbed, that is different; otherwise he could come in and flatten the lot and meet the requirements and take out the slopes. Mr. Bakie said that it is not just this project, the Town has hills everywhere. Mr. Quintal asked if he should comment now. Mr. Coppelman said he wanted to see his review but if he had a comment now, he could share that. Mr. Quintal said that no one may be able to come up with the specific reason for the original Planning Board reason for the

15% requirements; he said it could be run-off, it could be maintaining features for wildlife as well, he is not a biologist but there might be other factors than run-off and wildlife. He said that a developer could come in and level off everything that wasn't a wetland, the Board could have that discussion; a developer could show what can be leveled off and graded and that might be more evidence to have a stronger argument for the Board to grant the waiver; there would be more evidence for the Board for a vote on the request. Ms. Merrill suggested tabling the waiver request for now until the plan are reviewed; this was agreed upon unanimously by Board consensus. Mr. Lavalley requested a continuance.

Jurisdiction concerns were discussed; the "clock" is 65 days. Mr. Coppelman noted that if the plan is not resolved at the next hearing, either a request to continue would be granted or a decision made.

Public Comment: none.

MM&S to continue to November 21, second on the agenda; proposed new plans must be received no later than November 9th; a note would be added to the notice regarding the possibility of not moving the driveway per the original approval; the abutter at tax map R6-18 will be notified by certified mail. (Motion by Mr. Coffin, second by Ms. Merrill)
PUNA

Ms. Faulconer will send out the certified mail; Mr. Pellegrino will bring in \$11.50 to the office to pay for this. Mr. Ingalls said he wants to keep the driveway where it is.

Mr. Coppelman announced that this was the public's notice of the continuation of the hearing.

Board Business

Correspondence: Letter sent per Board instructions; compliance will be reviewed prior to next meeting prior to seeking enforcement action by the Selectmen.

MM&S to approve the 9/19/17 minutes as written. (Motion by Mr. Coffin, second by Ms. Merrill) **Motion carries 3-0-4** with Mr. Landry, Mr. Bakie, Mr. Heitz and Ms. Croteau abstaining.

Project Updates

- Mr. Coppelman noted that Ms. Merrill was steaming ahead with the AV equipment as it had been reviewed at the CIP meeting.
- Mr. Heitz reviewed the ECSI property and his discussion with the Attorney Kalman. Activity on the site was reviewed that included unapproved storage and environmental concerns. The Building Inspector will be asked to check on activity regularly; Mr. Quintal will swing in and report back to the Selectmen as they need to know specifics to be able to send the enforcement.

MM&S to adjourn at 9:00 PM. (Motion by Mr. Bakie, second by Mr. Coffin) **PUNA**