

Kingston Planning Board

August 17, 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 Coffin
Lynne Merrill, Vice Chair	Peter Bakie
Richard Wilson, BOS rep.	Chris Bashaw
Robin Duguay, arrived with mtg. in progress	Steve Padfield, alternate

Members Absent: Ellen Faulconer, alternate

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

Mr. Coppelman noted that Ms. Faulconer was not present and would be preparing the minutes from the audio recording; the hearing was not being televised or video-recorded. Mr. Padfield will be a voting member pending the arrival of the full Board.

Board Business

MM&S to approve the August 03, 2021 minutes as written. (Motion by Ms. Merrill, second by Mr. Coffin) **6-0-1 (Motion passed with 6 in favor and 1 abstention).**

Mr. Coppelman signed a Lot Line Adjustment for R23-8 and R23-9, 13 Half Moon Lane; given to Mr. Wilson to bring to the Assessor's office.

Capital Improvement Plan(CIP): Mr. Greenwood reviewed the process and submissions received from various departments during this year's update and answered questions from the Board.

MM&S to adopt the 2021-2026 CIP conditional upon any typographical corrections as noted by Ms. Duguay. (Motion by Ms. Merrill, second by Mr. Coffin) **PUNA**

This plan will be provided to the Town's Chief Financial Officer, the Budget Committee and any Board members requesting a copy from Mr. Greenwood. Mr. Coppelman explained the advisory nature of the CIP.

Campers Inn

154 Route 125

Tax Map R21 Lot 16

<This hearing began at 6:45.> Ms. Merrill recused herself from the Board for this hearing. The applicant's representative, Eric Poulin, introduced himself to the Board. Mr. Quintal provided a copy of his comments to the applicant's representative. Mr. Coppelman clarified that, currently, there would be 6 voting members.

Mr. Coppelman read the legal notice for this application which is a continuation from last month. The applicant's representative reviewed the current proposal addressing the previous comments from the Town's representatives; he reviewed the lot coverage and have adjusted the pavement to meet the requirements; a proposed monitoring well was added. *<Board note: Ms. Duguay arrived at this time; Mr. Padfield will remain as a sitting Board member in Ms. Merrill's place during this hearing.>* Mr. Coppelman took this opportunity to introduce the Board.

Mr. Greenwood read his comments that included the requirements for a Conditional Use Permit (CUP); the applicant had provided a support letter for those conditions found in Article 204.4.G. He continued that due to C-III zoning requirements, the applicant is voluntarily merging lots R21-16 and R21-15-1; the appropriate number of voluntary lot merger forms will need to be provided. He stated that sheet C-2 of the plan has been prepared for recording but will require a LLS (Licensed Land Surveyor) stamp.

Mr. Quintal reviewed his comments dated August 10, 2021. His comments included a recommendation for details regarding the Groundwater Test well as a guide for the Contractor's proper installation; the Operation and Maintenance Manual should detail the frequency when the well is tested and what specific test will be conducted with the results of the tests being submitted to the Town. Mr. Quintal continued with bonding requirements; he had suggested reviewing the paving estimate which was re-submitted to Mr. Quintal by Barry Geier and Mr. Quintal can now sign the cost estimate worksheet; the Operation and Maintenance manual shall be recorded by the applicant; the Stormwater Drainage Analysis incurred no objections. He added that permission is required from Public Service to work within their easement.

Eric Poulin addressed some of the comments at this time – the initial surveyor no longer works for the company and they are in discussion with the new owners of the company and nearing a solution for the work to be verified and stamped; if needed, Jones and Beach will have the survey team re-work it to stamp the plan appropriately. They will address the details for the Groundwater tests and frequency issues brought up by the Town Engineer; they will coordinate with Public Service re: the easement. Mr. Greenwood and Mr. Quintal explained the requirements and need for the information. Location of the test wells were discussed; the possibility of additional tests as needed pending results. Board questions were addressed at this time. Mr. Coffin brought up groundwater concerns. Eric Poulin reviewed Best Management Practices for salt application.

Mr. Coppelman asked for any public comments; there were none. He confirmed that jurisdiction had been invoked and suggested addressing the CUP request due to activity in the APZ (Aquifer Protection Zone), section 201.4.G. He read the specifics of the CUP pertinent to this application. Mr. Coppelman asked that the applicant address each requirement. Mr. Coppelman read each section of the CUP and the applicant addressed each item:

a) Stormwater will be treated via vegetated treatment swales and/or oil/water separator prior to directing to the infiltration basin; the applicant explained how the three sections would work together. Mr. Greenwood added that the monitoring well will help in meeting the requirements of (a).

MM&S to affirm that the criteria has been met for section "a" as noted in the responses provided by the applicant. (Motion by Mr. Bashaw, second by Mr. Wilson) **PUNA**

b) Proposed expansion does not include a well to withdraw water and the installation of impervious is offset by the installation of an infiltration basin. The applicant noted that this was not a traditional site plan in that there were no buildings proposed.

MM&S to affirm that the criteria has been met for section “b” as noted in the responses provided by the applicant. (Motion by Mr. Bashaw, second by Mr. Wilson) PUNA

c) Proposed project does not include septic system on the site and does not involve the storage or disposal of toxic or hazardous wastes. Board discussion confirmed that there was no vehicle maintenance, vehicle washing on this area; it was just inventory storage.

MM&S to affirm that the criteria has been met for section “c” as noted in the responses provided by the applicant. (Motion by Mr. Bashaw, second by Mr. Wilson) PUNA

d) Project will comply with all other sections of Article 201. Mr. Coppelman noted that Article 201 was the Aquifer Protection ordinance; Mr. Coffin said that it is not a prohibited use and is permitted with a CUP.

MM&S to affirm that the criteria has been met for section “d” as noted in the responses provided by the applicant and no conflicts to the ordinance were presented to the Board by its two advisors. (Motion by Mr. Bashaw, second by Mr. Wilson) PUNA

e) Proposal is for the expansion of the display area and does not include a septic system so no study is required.

MM&S to affirm that the criteria has been met for section “e” as noted in the responses provided by the applicant. (Motion by Mr. Bashaw, second by Mr. Wilson) PUNA

MM&S to grant the CUP as all 5 required items have been affirmed as able to be met. (Motion by Mr. Bashaw, second by Mr. Wilson) PUNA

MM&S to grant Conditional Approval based on the following conditions:

- **Completion of the pending lot merger**
- **Recording of the Conditional Use Permit as may be required upon the plan**
- **Boundary confirmation and LLS stamp being provided**
- **Operation and Maintenance Manual (test well) detailing frequency and other requirements as agreeable per the Town Planner; provided every quarter to the Town.**
- **Required permission from Public Service re: construction within their easement**
- **BMP's re: salt application included in the manual**
- **Revised Bond amount as noted and approved by Town Engineer and signed by the Planning Board – \$280,977.60 – dated received by the Town Engineer: 8/16/21.**
- **Recording of the Operation and Maintenance manual.**
- **Conditions to be met within 180 days.**

(Motion by Mr. Bashaw, second by Mr. Wilson) **PUNA**

Mr. Coppelman noted that Ms. Merrill returned to the Board and Mr. Padfield was now a non-voting member.

Small Pox Realty, LLC
Small Pox Road and off Route 125
Tax Map R19 Lots 30 and 31

<Hearing started at 7:30.> Mr. Coppelman read the legal notice for this application. Bill All introduced himself as representing the applicant; he reviewed the proposal including the location of the parcel and the affected zones. This proposal is for excavation and restoration; it has well-drained sand and gravel and is proposing the removal of approximately 55,000 cubic yards; they are requesting a waiver of Article 904.3. It is adjacent to the “Parks” property that was previously reviewed by the Board.

Mr. Greenwood reviewed his comments that included the requirement of a CUP as it is in the Aquifer Protection District (APD); AOT (Alteration of Terrain) permit is required from NHDES (NH Department of Environmental Services); proposal is for 7.5 ft. removal over the 5 acre site totally 77,000 cubic yards of material over two years with 5 trips/day, 6 days/week; the Board should establish a road bond for potential damage to either Small Pox Road and New Boson Road; require all trucks to exit to NH Rte. 125 via Small Pox Road and New Boston Road; consideration of a reclamation bond; grading proposed off the property requires Town approval.

Mr. Quintal reviewed his comments dated August 9, 2021 that included:

- Compliance with RSA 155-E
- Per RSA 155 – list the person doing the excavating
- Per RSA 155 – “No excavation is allowed within 50 ft. of disapproving abutter or within 10 ft. of approving abutter unless approval is requested by the abutter”; excavation work as shown begins at abutting property line
- Requirements of RSA 155:E 4 III were noted for granting a Special Exceptions (a) through (d)
- Per RSA 155:E – recommendation for designated staging area
- Reclamation Bond requirement; Performance Bond requirement that includes costs for Inspections; Security Bond for roadways and possible damage
- Address Stormwater management; elaborate on timing of construction and years as proposed
- Waivers, if approved, must be listed on the plan
- Spill Prevention and Response Plan required
- Note: No blasting or rock-crushing
- Construction sequence and Pre-construction meeting requirement
- Note which sheets are to be recorded
- Documentation from Public Service required re: working in their easement
- Bench Mark placed on a permanent feature
- Specify seed mixture on sheet 4

Additional: Re: Article 902: Minimize safety hazards and maintain environment; soil stabilization; Mr. Quintal stated that reclaiming the site with just seed probably does not meet the standard in this Ordinance in preserving the natural forest and wildlife; it may need additional planting for the reclamation.

Mr. Greenwood reviewed RSA 155-E and the Special Exception requirement; his interpretation is that it does not need ZBA approval; the Board reviewed the language and determined that the Planning Board could grant the permit. It was noted that this was a Rural Residential lot. Mr. Greenwood noted that it was a complete enough application to consider for jurisdiction.

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

Department Comments: Building – 6/15/2020 a variance for frontage was granted; variance only good for two years unless acted upon; projected timeframe for the AOT is two years and a new variance may be required if the residential house project is not started before the two-years is up. Mr. Greenwood said that the excavation permit has nothing to do with the residential construction; they are not related. Mr. Wilson and Mr. Greenwood agreed that this was information that the Building Inspector wanted to make the applicant aware of during this process. Mr. Coppelman said that was an “FYI” for the applicant.

Public comment: Dan Parks, 7 Small Pox Road, abutter asked to clarify the amount being removed; the applicant said that the letter said 55,000 cubic yards but the plan says 77,000 cubic yards; there was muffled discussion between Mr. Greenwood, Mr. Parks and the applicant with a final comment from Mr. Parks that it involved the entire lot which Mr. Greenwood agreed. There was discussion regarding the excavation setbacks per RSA 155-E; the length of time was questioned with an exact timeframe not provided but an approximation of 2 years discussed with 5 trips per day, 6 days per week being proposed. It was clarified that the trips would be in and out. Mr. Parks questioned the bond since he bonded for the whole road and whether he would be reimbursed for part of the road. Mr. Coffin said that it was allocated by the number of trips that had been proposed. There was discussion about the road bond. Mr. Quintal suggested reviewing the volume of trucks for each proposal and reviewing the percentage to establish the percentage from location of the parcels; it would have to be agreed upon that any damage of the road would be the responsibility of both parties and their specific percentage as there wouldn't be any way of determining where the damage came from. There was discussion on the sizes of trucks and other specifics in making any determination. Mr. Coppelman stated that this project would be adding more truck traffic so it could be argued that the damage would be additive and that both projects would be responsible for bonding. Mr. Wilson suggested apportioning based on the size of the trucks; the life of the excavation was discussed; the number of trucks over the time period was discussed. Mr. Coppelman stated that this would not be solved this evening. It was stated that there were a lot of factors in play. Mr. Parks suggested basing on the amount he has already removed; possibilities continued to be discussed. A TRC (Technical Review Committee) review was suggested prior to the next hearing date to review the bonding issue and any highway concerns; the next hearing date would be September 21st. A TRC meeting on September 13, 2021 at 10:00 AM at the Town Hall was proposed by Mr. Greenwood who will get the meeting together for that date. Mr. Coppelman closed the public comment portion of the hearing.

Mr. Coppelman stated that there was a waiver request dated June 23rd for 904.3 (A) requiring a preliminary review.

MM&S to grant the waiver request. (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

Mr. Coppelman asked to return to a comment made by the Town Engineer regarding the re-planting as part of the restoration of the site. Mr. Wilson thinks there should be re-plantings based on the site and possible need for a tree buffer due to the excavation and would it have to be approved by the Highway Division. There were multiple, simultaneous comments about this possibility. Mr. Bashaw thought that the existing tree buffer was part of DOT's land. Mr. Bashaw asked if someone was just going to put up a house, what would stop them from clear-cutting the property and seeding the lot; what would be the need to require plantings that would just be cut down for a residential lot. Mr. Wilson agreed. There was discussion about the probabilities and requirements for excavation, NH DOT, abutting land. Ms. Merrill asked if the excavation was going all the way to the edge of the ROW (right-of-way). The applicant answered that the intent was to leave a 10 ft. buffer. He reviewed the clearing of the site, the elevations and the swale. Excavation in the Town's ROW was reviewed; power line locations were discussed. Mr. Coffin said that an excavation site wasn't a permitted use in the RR district so it would have to go to the ZBA. Previous approvals were discussed regarding doing the same for one as for another. Ms. Merrill said that building a pond was not permitted and the Board didn't send Mr. Parks to the ZBA so she didn't see why this applicant would need to go to the ZBA for an excavation which was essentially the same thing. Mr. Bashaw said that there is a power point presentation by the State for municipalities and it says that the Town can have stricter standards but they bear the burden of defining it and prohibiting ahead of time

such as determining the difference between major and minor excavation. Mr. Coppelman stated that it sounded like the Board would be holding off on the CUP discussion to the next hearing; there was no disagreement. He asked for further questions noting that a TRC will be scheduled with the applicant having plenty to look at with Mr. Quintal's and Mr. Greenwood's comments. Copies were provided to the applicant.

MM&S to continue this hearing to Tuesday, September 21, 2021 at 6:45 PM with revised plans and new material due by noon, Thursday, September 9th. (Motion by Ms. Merrill, second by Mr. Wilson) **PUNA**
<Board note: the hearing ended at 8: 28.>

Heidi Campbell
19 Colby Road
Tax Map R7 Lot 20-7

<This hearing began at 8:30.> Mr. Coppelman read the legal notice for this application. Brett Allard, attorney for the applicant, introduced himself adding that he was here presenting the plan with his clients available to answer any questions. Plans were distributed to the Board members. Mr. Allard gave an overview of the proposal for the construction of an 864 sq. ft. ADU (Accessory Dwelling Unit) with additional storage and a small office; it is currently a three-bedroom home with a well and septic. He described the property and existing building. He provided information for the wetland setback of 50 feet as determined by CSA Environmental Consultants, LLC. He described the proposed addition. He corrected the application in that originally it would have a second story but have decided to only go one story; the height will remain the same so there will be no office space and instead have more open space. Mr. Allard said that the entire second story floor plan on the application is being removed and no longer part of the proposal; they are going with 36x24x6. He continued reviewing the proposal. There was discussion regarding the size of the plan being reviewed; buffers, wetland. Mr. Greenwood was comfortable with the wetland determination provided. Mr. Quintal stated that he had received a small copy of the revised plans which was hard to read; he noted that the wetland buffer must be determined by a Functional Analysis from a Soil Scientist and the use of Table A. Bedrooms and sizing was reviewed. Ms. Merrill noted that the Board did not receive any elevations. Mr. Coppelman said that while Mr. Allard was describing how it looks, the Board looks at elevations to make sure it still looks like a SF residential property and that is done by photos or renderings, per the requirements. Mr. Allard said that this was not submitted. Mr. Greenwood noted the requirements and referred to his comments that he would like to see the building elevation to feel confident that the structure maintained the appearance of a single family (SF) unit. The style of architecture of the site was reviewed. Mr. Allard said that they could provide elevations if the Board wanted them. Mr. Coppelman said not having elevations as part of the application would affect his vote as it was a requirement. Mr. Allard addressed the remaining requirements for an ADU.

Department comments received: Building – no comment. Health Officer will provide comments at a later date for review of existing septic. Mr. Allard said that total square footage of the home is 3,000 sq. ft.; Ms. Merrill said that according to Town records it is 2, 617 sq. ft. Ms. Merrill said that 3000 sq. ft. is the “effective”, not the square footage, it is what is taxed which includes the unheated garage and some decks but the square footage of the house is 2, 617 according to the Town. Mr. Coppelman explained that the size of the ADU is based on a percentage of the square footage of the primary dwelling. There was discussion regarding the appropriate sizing of the ADU. Mr. Coffin read the ordinance that included “Shall not exceed 1/3 of the size of the primary single family dwelling.” Ms. Merrill said the proposal exceeds the size allowed, but not by much. Mr. Coppelman noted it was an ordinance; Ms. Merrill said that the

Planning Board could not grant a waiver of an ordinance and they would need to reduce by 14 square feet somehow. There were multiple, simultaneous comments by the Board and applicant. Mr. Coppelman said that this was something else to be worked on by the applicant.

Mr. Greenwood read his comments dated August 16, 2021 that included comments regarding the wetland buffer, septic review by Health Officer, proposed elevation.

Mr. Quintal read his comments dated August 9, 2021 that included questions regarding the wetland buffer, the ADU must be subordinate and appears to be similar in size; the applicant needs to supply square footage of the dwelling and proposed addition; any changes to the driveway and parking spaces for the ADU; water and sanitary waste disposal provisions are required; CUP is required; Stormwater Management design plan should be provided for any work in the Wetland Buffer zone – this item no longer seems to be an issue based on the new setback design. Mr. Quintal said the owner, same last name, are different than the applicant.

Mr. Wilson suggested the applicant get a letter from the property owners giving them permission to speak on their behalf or add their names as owners to the plan.

Mr. Coppelman said that the Board might be looking for elevations or something visual.

MM&S to accept for jurisdiction for the plan for 19 Colby Road, Tax Map R7 Lot 20-7. (Motion by Ms. Duguay, second by Mr. Bashaw) **PUNA**

Mr. Allard reviewed the items that he would need to amend. Ms. Merrill suggested a correction to meet the square footage requirement. He had a question re: 206.4.J re: sanitary disposal plan and whether it came to the Town as he thought it would go to the State. He will check with the Town Health Officer.

MM&S to continue to September 21 at 6:45 with new plans due to the Town by noon on September 9th. (Motion by Ms. Merrill, second by Mr. Bashaw) **PUNA**

<Board note: This hearing ended at 9:10.>

Board Business, continued:

- **By-laws/Rules of Procedures:** Mr. Coppelman read the proposed language that had been sent to the Board and posted and available for review this evening. Mr. Coppelman noted that the new section would become section 12.7 “Adjournment”.

MM&S to adopt as presented. (Motion by Mr. Wilson, second by Mr. Bashaw) **PUNA**

Mr. Greenwood reviewed a business on Rte. 125 that needed a separate address for a second business but the Planning Board would need to review for two businesses on the one site; he thinks there should be a public process about two distinct business operations on the one site. Mr. Coppelman said that by adding another business, it was a change to the site plan and would need some type of review; he said that if there was a reasonable amount of information on the existing site plan there might be a possibility of adding a notation. Mr. Coppelman asked if he said how the signage might change; Mr. Greenwood said that he didn’t have that information. Mr. Coppelman would like to see that on the site plan review. Mr. Wilson would like information about the trailer on the site. Ms. Merrill added that the site would need to be in compliance; Mr. Greenwood re-iterated that he believed there needed to be a public process.

Mr. Bakie asked to address communication within the Board. He would like to make sure that the applicants have the comments prior to coming to the hearing as they did not have them this evening. Mr. Coffin said that Ms. Faulconer has permission to get the information to the applicant. Mr. Greenwood said that Ms. Faulconer was on vacation when the information came into the office and he probably should have been more cognizant of that and got the information to the applicants. Mr. Quintal said, on the other side of the discussion, that when comments are sent out ahead of time, the applicants can come in with a whole new set of plans that can then become very confusing for the Board as they are coming answering comments, that yes, might save time but it can get confusing as then sometimes his comments get ignored by the Board. Mr. Bashaw said that it needs to be clear that the Board is giving them the comments as the ones being reviewed by the Board at the hearing not to provide new information. Ms. Merrill hoped to get the plans in advance as well to review prior to the hearings. Mr. Greenwood said that if that was the case, the Board would need to change their submission policy. Ms. Merrill said electronically was fine; Mr. Coppelman agreed. Mr. Greenwood said that he believed the plans were on the Town's web site.

Mr. Coffin asked if the application for an AOT started the review of the historic artifacts; Mr. Quintal answered yes. Mr. Coffin briefly reviewed the history behind the naming of Small Pox Road.

Mr. Wilson noted the issue of the church on New Boston Road being converted to residential use without any permits or review.

Ms. Merrill asked about the status of the trees that were to be planted at the Bresnahan site. Mr. Greenwood stated that they had not been planted yet and is expecting a letter from Mr. Bresnahan requesting an extension. Questions were raised about exterior lighting compliance on the site: Mr. Wilson said that they were supposed to change the time clock. There was a question about the interior lighting; wall packs are supposed to be shielded downward. Mr. Greenwood will follow up on the tree issue pending receipt of the letter.

Ms. Merrill has been asked multiple times about the lack of mowing at All-AmEric Poulinan Assisted Living, particularly over the septic system which has "baby" trees growing over the septic system. Mr. Coppelman said that it came up at the HDC hearing as not following the plan.

With no further comments, Mr. Coppelman adjourned the hearing at 9:28 PM.

