

Kingston Planning Board

April 19, 2022 Public Hearing Minutes

Ms. Merrill called the hearing to order at 6:34 PM; there were no challenges to the legality of the hearing.

Members present:

Lynne Merrill, Chair	Glenn Coppelman
Peter Coffin	Peter Bakie
Robin Duguay (arrived with meeting in progress)	Steve Padfield (alternate)
Chuck Hart, BOS representative	

Members Absent: Chris Bashaw, Ellen Faulconer (admin. asst.)

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

Ms. Merrill declared a quorum present and introduced the Board; she announced that Mr. Padfield would be a voting member this evening.

Ms. Merrill stated that she would be taking the agenda out of order to address the fourth scheduled hearing first.

Property Owner: SUSC Kingston, LLC

Applicant: Charm Sciences, LLC

8 Diamond Oaks Boulevard

Tax Map R3 Lot 4 Land Unit (LU) 5

Ms. Merrill read the public notice for this hearing. Charlie Zilch was present for the applicant. Ms. Merrill noted that an appeal was filed regarding the Zoning Board of Adjustment (ZBA) decision for this application. Mr. Zilch explained that a Special Exception (SE) was required to apply to the Planning Board (PB) for an amended site plan; the granting of the SE was appealed so the PB can't hear the application at this point. He asked for a continuance.

MM&S to continue to May 17th at 6:45 PM. (Motion by Mr. Coffin, second by Mr. Bakie) **PUNA** (Passed unanimously)

Hawks Ridge of S. Kingston, LLC

PO Box 175, Plaistow

Property Address:

2,4,6,8,10 Bent Grass Circle

Kingston, NH 03848

Additional Owners:

Residential Villages at Granite Fields Condo. Association

Tax Map R3-4 LU 4001-4005

Ms. Merrill read the public notice for the hearing. Charlie Zilch represented the applicant along with Jim Dufresne. Plans were distributed.

Mr. Zilch noted that they were at the PB last month and had gone through the history of the development and reviewed the proposal; they are trying to address past issues by amending the LCA's (Limited Common Areas). He continued that per the last discussion, they needed to have the condo. association weigh-in; they voted that they were in favor of the proposal; a letter was submitted to the Board. He added that the Board wanted the plan amended to separate out the old LCA lines from the proposed new ones. He reviewed the past issues which caused the need for the adjustment.

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

Mr. Quintal reviewed his comments that included questioning why there was a specified 20 ft. utility easement, recommending that there are "ties" to the monuments in case of future dispute.

Mr. Greenwood reviewed his comments that included a note that 3 previous comments had been addressed; he confirmed that there was information received from the condo. association that they are in favor of the proposal. Ms. Merrill read the letter from the condo. association that noted no objection. Ms. Merrill read the department comments: there were no comments from Fire, Highway, Building, Code Enforcement (CE) and Police.

Mr. Zilch explained that the notated utility easement was a recommendation from the Building Dept. to ensure that nothing gets built in that location; it essentially places a "blocker" so a building doesn't get moved back to that location.

There was no public comment.

Mr. Zilch, in response to Mr. Quintal's comments, agreed that no "ties" were shown on the plan and no monuments being set but he can put "ties" to the building corners for any future surveying.

The Board determined that waivers had not been addressed. *<Board note: Ms. Duguay arrived at this time.>*

MM&S to grant a waiver for 904.3.C for preliminary review. (Motion by Mr. Coffin, second by Mr. Coppelman) **PUNA**

MM&S to grant a waiver to 904.5.B for the \$5000 engineering review fee reduction to \$2500. (Motion by Mr. Coffin, second by Mr. Bakie) Discussion regarding this request: Mr. Greenwood and Mr. Quintal both agreed that this amount would be sufficient. Vote on the motion: **PUNA**

Mr. Zilch will add these waivers to the plan.

MM&S to approve the application to amend the site plan with the conditions that the 2 waivers be noted on the final plan and the survey tie points be added to the plan. (Motion by Mr. Coffin, second by Mr. Hart) **PUNA**

Alyssa Cynewski
8 South Road
Kingston, NH 03848
Tax Map R37 Lot 006E

Ms. Merrill read the public notice for this application for an ADU (Accessory Dwelling Unit); plans were distributed. The applicant explained the proposal.

Mr. Quintal read his comments that included: - plans don't show contours, grading, - a certified foundation plan should be required and provided, - stormwater run-off addressed, - approved septic plan should be required.

Mr. Greenwood's comments included: the Board should invoke jurisdiction, -the proposal meets the allowed footage, - certify no wetlands on site.

Ms. Merrill read department comments: None from Building, CE, Police; Fire: meet NFPA codes, heat detector, what will the address be of the ADU; Highway – do both driveways have State permits, both driveways need to be in compliance with Town and State requirements; Health – septic plan design of ADU on file.

There was Board discussion and confirmation regarding the GLA and the stairwell and sundeck. Mr. Coffin noted that the sundeck is excluded. The Board determined that the proposal, in terms of the stairs, met the regulations. Mr. Bakie questioned the second driveway. The applicant stated that there were not two driveways, they weren't putting in two driveways. It was determined that the "second driveway" was shown from an old plan but there is only one driveway with no intention of adding another driveway. Ms. Duguay asked about the requirements of an ADU in reference to Mr. Quintal's comments about run-off issues. Mr. Coffin said that the proposal would increase the lot coverage and run-off in conjunction with the location near the property line. Ms. Merrill explained that federal requirements were strict about stormwater management. Mr. Coffin clarified that there might be a concern with grading due to the structure being so close to the property line. The applicant stated that she has a draft septic plan. Mr. Coppelman questioned whether the footprint of the existing garage is getting closer to the property line. Mr. Greenwood said the vestibule complies with the setback line. Mr. Coppelman stated that he has a comment on the aesthetics of the proposal stating that it is a beautiful design and allowed by the ordinance but it does look like a second home on the property. Ms. Duguay said that she initially had the same thought but determined that if it was attached it would look like a single-family home. Mr. Coffin noted that the discharge from the roof appears to go toward the property line.

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

Mr. Quintal suggested that the contours and grading could be incorporated into a septic plan that was being drawn up and then this could confirm that there was no impact to abutters; this way the applicant wouldn't need a separate plan. The applicant confirmed that the septic plan is a brand new plan for both the house and the ADU.

There was no public comment.

MM&S to accept the plan as proposed with the condition that a State-approved septic plan be submitted that also shows contours and grades and show a type of stormwater management that does

3

KPB

4/19/2022

Accepted as written 5/17/22

not directly interfere with the neighbor; also need a foundation certification that conforms with the setback. (Motion by Mr. Bakie, second by Mr. Coffin) Ms. Merrill explained to the applicant what a conditional approval was. Vote on the motion: **Motion carries 6-0-1** with Mr. Coppelman opposed. Ms. Merrill explained that the conditions need to be met within 90 days.

Robert and Margaret Bean
44 Tucker Road
Tax Map R42 Lots 1 and 1A

Ms. Merrill read the public notice; plans were distributed. Eric Mitchell, who prepared the plan for a Lot Line Adjustment (LLA) for 2 existing lots, reviewed the proposal that did not create a new lot but adjusted the acreage for the 2 lots. He reviewed an existing NRCS Conservation Easement. Mr. Mitchell noted a submitted waiver request for the engineering fee from \$5000 to \$500 as this was a simple LLA; any additional fees above the \$500 will be provided as needed. Mr. Coppelman stated that there was a note regarding 110,000 sq. ft. as a minimum lot size; he asked if the property was in the APD (Aquifer Protection District) otherwise it would be 80,000 sq. ft. Mr. Mitchell commented that the lot is 4 acres so either way it conforms. Mr. Coffin asked if the easement holders were notified; Mr. Mitchell said they were. He added that easement rights and locations aren't changing, just the lot lines so the easement is still protected. Ms. Merrill confirmed that the property is not in the AOPD so 80,000 sq. ft. is all that is required so that note should be changed.

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

Mr. Quintal reviewed his comments that included: - note 9 regarding State approval for less than 5 acres, - show sanitary disposal system or 4000 sq. ft. receiving area and well location on lot with existing structures, - monumentation certification required, - Lot 1A is now a buildable lot and should show test pit, 4000 sq. ft. receiving area and well area, - building setbacks should be shown and meet the requirements as there now will be 2 buildable lots.

Mr. Greenwood reviewed his comments that included: - no new building lots are being created; all existing use is on lot 1, lot 1A already exists; can assume areas for septic and well and be required to get building permits; granite markers are required not just iron rods.

Mr. Bakie stated that these are two existing lots and with the LLA, that doesn't change the number of lots. Mr. Quintal explained that it now becomes a building lot and it previously wasn't due to the conservation easement on it. Mr. Mitchell said that "parcel A" is just that portion of lot 1 being deeded to lot 1A; it is not a separate lot but just is being identified as the acreage being deeded to lot 1; it is a temporary designation.

Department comments: Fire, Building, Police, CE, Health all have no comments. Highway: request a 20 ft. road maintenance easement on Tucker Road for both lots; same request for Back Road. Mr. St. Hilaire, Highway Road Agent, stated that this is a basic procedure for the past 35 years. He added that this is a new building lot being created; he noted that Back Road is not a Class V or better road.

Mr. Mitchell replied to Mr. Quintal's comment regarding Note 9 and subdivision by stating that this is not a subdivision, just a LLA and as long as there is no impact to well/septic does not require subdivision approval; there is an existing lot with no impact on well and septic. Ms. Merrill asked where the septic system was; Mr. Mitchell answered that it was right behind the house. Mr. Mitchell said that he will set

the boundaries which could be a condition of approval; a test pit was done and witnessed by the Town; he will need approvals for anything to do with health and building.

Mr. Mitchell said that a 20 ft. easement will take out the whole driveway on Lot 1; he will be glad to work with the Highway to address this. Mr. Coppelman asked for Mr. St. Hilaire's comment on this. Mr. St. Hilaire said that the Town doesn't want to destroy someone's property; the Town just wants the ability to maintain the road and always takes the opportunity to make a substandard road up to standard with these requests. There was discussion with Mr. St. Hilaire, Mr. Mitchell and the Board about road width, depth of maintenance easements and intent; Mr. Mitchell wanted clarification of the width that was being requested. Mr. Coppelman said that a 20 ft. maintenance easement is usually requested. Mr. St. Hilaire agreed. There was additional discussion regarding ROW width, determining the width from center, edge of property line, different road widths, pavement, maintenance easements, areas not paved.

Ms. Merrill questioned easements over existing easements such as the Conservation Easement and Power Line Easement. Mr. Quintal suggested getting the easement and then it being up to the Town to get permission when it was needed. Mr. Greenwood said that he would need to know more about the Conservation Easement. The Board did confirm that this easement request is something that has been requested consistently for years by the Road Agent. There was continued discussion about the easements. Mr. Bean stated that the Conservation Easement and Power Line Easement overlap. Mr. Coffin stated that it is his understanding that the NRCS easements are pretty strict. Mr. Mitchell said that he thought that there are very limited uses allowed and may be opposed to any building or disturbance. There was discussion regarding possible interpretation of the easement. Mr. Mitchell said that the easements on Tucker Road will probably be okay depending on the width but not on Back Road.

Mr. Greenwood suggested the Board come to a consensus based on the differences of interpretation between himself and Mr. Quintal. Mr. Bakie stated that for tonight's review, it is just a LLA; if they want to build a house on the property, they have to prove to the Town it can meet the requirements when applying for a building permit; the Board should just address the LLA.

Motion made by Mr. Bakie to accept the proposal as shown but to take into account Highway's comments with the applicant giving 10 ft. on both sides for an easement for drainage and safety. He stated that he is talking about a 10 ft. easement but this issue has to be addressed; but otherwise he suggests approving the plan as shown. Ms. Merrill added the plan needing granite markers; Mr. Greenwood added the need for a boundary certification. Mr. Quintal asked who would be confirming that; Mr. Greenwood suggested Mr. Quintal; Mr. Quintal wondered if the Code Enforcement Officer would be doing it; Mr. Greenwood suggested both doing the review for a while. Mr. Greenwood advised Mr. Mitchell that at the property corners, the Board requires granite markers. Mr. Coppelman added that intermediary markers along the property lines can be iron pipe. Mr. Mitchell said they will do that and add it to the plan. Ms. Merrill suggested putting the motion aside to do the waiver request. Mr. Greenwood asked if the amount was sufficient to cover Mr. Quintal's review of the monumentation. Mr. Quintal suggested accepting the \$500 and have the applicant add to the amount as needed. Mr. Mitchell said the applicant will pay any amount needed prior to the PB signing the mylar; monuments will be set prior to the PB signing the mylar. Mr. Quintal agreed that this would work; Ms. Duguay suggested adding that to the conditions. Ms. Duguay suggested approving the waiver request and adding these conditions to the original motion.

MM&S to grant the waiver request of 905.14 (A) 2 regarding the engineering fee request to provide \$500 instead of \$5000. (Motion by Ms. Duguay, second by Mr. Coppelman) PUNA

5

KPB

4/19/2022

Accepted as written 5/17/22

There was discussion about the specifics needed for an approval, specifically establishing a highway easement. Ms. Merrill reviewed the motion currently on the floor with the maintenance easement still undetermined. Mr. Greenwood re-iterated that he did not know the specifics of the Conservation Easement to fully comment. There was hypothetical discussion regarding potential easement and language. There was continued discussion regarding the possibility and effects of a 10 ft. easement. Mr. St. Hilaire discussed issues involving maintenance and road width. Mr. Mitchell noted that if the applicant didn't have the right to grant work within the Conservation easement, then he couldn't grant anything. Ms. Merrill suggested that the Board continue the hearing until the easement was clarified; she noted that the Board wouldn't want to approve something they couldn't legally approve. There was continued discussion about showing a 12 ft. easement where needed and expand to 20 ft. Ms. Merrill said that currently the Board is discussing the following: 12 ft. on Tucker Road, granite bounds on 4 corners, minimum lot area note changed. Mr. Greenwood stated that this will have to be continued as the maintenance easement is not administrative and the Board will have to weigh-in on this.

Mr. Bakie withdrew his motion.

MM&S to continue this hearing to May 3rd at 6:45 PM. (Motion by Ms. Duguay, second by Mr. Bakie)
PUNA

Board Business

Correspondence:

- Aquifer Maps text to be reviewed – this will be continued and reviewed at the next meeting. The Board okayed Danna Truslow to invoice the Board.
- Laurie Elwell, 59 Mill Road, re: dog training and request for home-based dog training. Ms. Merrill read the letter. Mr. Coppelman explained that with In-home Occupation, as long as it meets the requirement, there is no permit or PB approval; it is self-policing. He noted, however, that the Ordinance, Article 207.3(E), says that the use has to be entirely within an enclosed building. The letter references outside training. Mr. Greenwood agreed that the last paragraph says outside activity that does not comply with 207.3(E). Mr. Coppelman suggested that the Town notify her that it does not comply with the Ordinance. Mr. Greenwood added that as long as everything is done inside a building, it would comply. The Board checked the zoning, it was in the Single-Family Residential Zone (SFR) and would require action from the ZBA unless all the activity is done within the barn.

ACTION ITEM: Mr. Greenwood will contact Ms. Elwell regarding the Ordinance and all activity within the structure in order to comply.

- Application for a driveway permit, 53 Mill Road – Mr. St. Hilaire referred this to the Board; the property owner wants to move the driveway to 10 ft. off the lot line for safety purposes; it is currently 20 ft. off the lot line; this move, along with some tree cutting/brush clearing, would make the area safer. Mr. Coppelman noted that this is a regulation that the Board can waive. The property location and driveway proposal was reviewed by Mr. St. Hilaire. Mr. Greenwood stated if the Road Agent is saying that this makes for a safer situation, that is the purpose of regulations. Mr. Coffin suggested that the abutting property owner should be notified in some way. Mr. Quintal said that the lot line diverges away from the area so it is only a small area of impact. Mr. St. Hilaire also recommended that brush clearing be removed along with moving the location and should be part of the condition. Mr. Coffin re-iterated that the abutting property owner should at least be called.

MM&S that the driveway alteration be approved on condition that the abutter at 51 Mill Road not object and that the brush be cleared from the driveway along the front of the property. (Motion by Mr. Hart, second by Mr. Bakie) **PUNA**

ACTION ITEM: Mr. Greenwood will contact the property owner of 51 Mill Road to see if there are any objections.

- Engineering report from Mr. Quintal re: Solar Hills monumentation
- Engineering report from Mr. Quintal re: Bresnahan site: 4 white pine, 50 trees required, only 38, none of the 122 plantings, pole lights not installed, light shielding has not been done, lights are in different locations than that shown on the plan, inspection report from Seekamp is a requirement. Ms. Merrill noted that an extension had been granted until possibly June of this year. Mr. Coppelman said that he was aware that the deadline was approaching and thought Mr. Quintal should do an update for the Board. There was a question regarding the actual date of the deadline.

ACTION ITEM: Mr. Greenwood will review the file and the Board can discuss at the next meeting.

Ms. Duguay noted that lighting at this site keeps coming up as an issue; the Board was told that they were compliant and shielding wasn't needed. Mr. Coffin thought that perhaps Mr. Wilson seemed to have a misunderstanding of "dark sky" and the Town's ordinances; he stated that a light could be "dark sky compliant" but how it is mounted and shielded depends on whether it is actually compliant. Mr. Greenwood added that Mr. Wilson was told by the Town's Electrical Inspector that they were installed correctly. Mr. Coppelman said that when driving by you can still see the lights and they are not shielded. Ms. Merrill confirmed that the Board was talking about the exterior wall packs. Mr. Greenwood said that the Board's consistent concern has been that it doesn't comply with the Town's "dark-sky" ordinance. Mr. Quintal said, that upon his inspection, there is maybe a two-inch shield on the packs but the bulbs are below that, so they are not shielded and that design does not fulfill the intent of the Ordinance. Mr. Coppelman said that normally the Board gets a lighting detail; Mr. Quintal said that he did not recall seeing a lighting plan. Ms. Duguay said that it seems that the owner is getting mixed messages. Ms. Merrill said that the Town Electrical Inspector is saying one thing different; Mr. Greenwood noted that the Town Electrical Inspector is the one who installed them. Mr. Quintal stated that the light does shine out as an obstruction on Route 125. Mr. Greenwood added that he would hope an electrician would understand the intent of "dark-sky" compliance as it is not a new idea. Ms. Duguay suggested that someone should follow-up with the Electrical Inspector; she stated that she feels that the Planning Board's message about the lights has been consistent all along and the inconsistency seems to be with the Inspector; she again questioned whether the Board should follow-up with the Inspector. Mr. Greenwood said that he thought Mr. Wilson had been doing that; Ms. Merrill agreed that this was her understanding, as well. Ms. Duguay said that she is not sure that this is what happened. Ms. Merrill agreed that it seems that it is still not resolved. Mr. Quintal suggested that he might need to take photos in the evening.

ACTION ITEM: Ms. Merrill noted that the first issue is the plantings and deadlines that Mr. Greenwood will check into for the next meeting.

ACTION ITEM: The second issue is the lighting, Mr. Hart will follow-up with Mr. Wilson on this.

- Copy of enforcement request sent to the BOS re: Dan Parks' pond.

MM&S to approve the 3/15/22 minutes as amended (typo). (Motion by Mr. Coppelman, second by Ms. Duguay) **PUNA**

Mr. Greenwood brought forward a request from Berkshire-Dominion, aka Saddle Up, to grant a 30-day extension of their conditional approval while they obtain a bond.

MM&S to grant a 30-day extension and remind them that they are still under their original approval until the conditions of approval are met. (Motion by Mr. Coffin, second by Ms. Duguay) **PUNA**

ACTION ITEM: New Aquifer maps to be given to the Board members at the next meeting; they need to be posted in the Ordinance.

Mr. Greenwood informed the Board that he met with the Galloways, Code Enforcement Officer and Richard Wilson; they showed information from DES from 2015; they had copies of their existing site plan in 2008 that shows a material stockpile with no heights noted; they had photos from a series of dated photographs showing the pile and that it was a long-term feature of their business. Mr. Coffin suggested that some of the discussion concerned what the materials were. Mr. Greenwood wanted to let the Board know that he was putting a memo in the file.

Ms. Merrill wanted clarification on the Chairperson's role noting an action taken by Mr. Coppelman regarding a review by Mr. Quintal adding that she agreed it had to be done. She questioned whether there should be a list of things that needed to be checked so the Inspectors have it in regards to procedures. Ms. Duguay suggested that the Board had a resolution about this with checking on permits and releasing bonds. Ms. Merrill was thinking a bigger picture and not sure whether we needed to set up something for Inspectors and working with the Code Enforcement Officer. Mr. Greenwood said that the Selectmen are working on getting a procedure for working with the Code Enforcement Officer.

Concerns with excavations due to the site plan process were discussed. Mr. Quintal noted that Lewis Builders/Small Pox have requested a pre-construction meeting tomorrow if anyone wanted to join.

Ms. Merrill declared the meeting adjourned at 9:18 PM.