

Kingston Planning Board

March 15, 2022

Public Hearing

Minutes

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

Members present:

Glenn Coppelman, Chair

Peter Coffin

Richard Wilson, BOS representative

Peter Bakie

Robin Duguay (arrived with meeting in progress)

Steve Padfield (alternate)

Members Absent: Lynne Merrill, Chris Bashaw, Ellen Faulconer (alternate/admin. asst.)

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

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

Second Empire Homes

17 Page Road

Tax Map R22 Lot 33

Mr. Coppelman read the legal notice explaining that, per State law, a condo. conversion is a subdivision. Mr. Zilch of SEC and Associates was the engineer present representing the applicant. He explained the proposal and history of the lot which is located in the Rural Residential zone and is currently constructing a duplex with a new septic system with two tanks and a new well. The access is the original access for a previous mobile home; there is parking for three to four cars on each side of the duplex. Mr. Zilch stated that he provided condo. docs.; he was unsure if the Town Attorney had reviewed yet; all State approvals have been received. Mr. Greenwood suggested that sheets one and two be recorded to reflect the approval numbers. *<Board note: Ms. Duguay arrived at this time.>*

Mr. Greenwood read his comments that included recommending accepting jurisdiction; acceptance of waivers of \$5000 bond reduction and no pre-meeting; add language regarding the requirement of PB approval of any condo. doc. amendment; State subdivision approval number on the plan. Mr. Greenwood added that the Town Attorney does not want to review every submitted condo. doc. unless there is something significant/specific about the documents or the plan. Mr. Coffin confirmed with Mr. Greenwood that due to the Town Attorney's previous approval of the language regarding the requirement of Planning Board approval of any changes to the condo. docs., the Planning Board could require that for all condo. docs. without further attorney review. Mr. Greenwood continued reading his comments submitted for this review.

Mr. Quintal read his comments that included a correction of referenced ordinance; needing State subdivision approval on the plan; driveway entrance/edge of pavement/mailbox placement; 20 ft. setback from driveway appears to be short; question about minimum lot size requirements; placement from a hydrant would need Fire Department clarification; 4000 sq. ft. receiving area requirement was questioned; site specific soil map requirement may need a waiver; suggested bearings and distances

defined for LCA's (Limited Common Areas) to address any future disputes; no issues with stormwater management or snow storage.

Mr. Bakie confirmed with Mr. Zilch that the driveway was basically the same entry point as previously established. Mr. Coffin suggested that it could be made to meet the 20 ft. requirement. Mr. Bakie said a culvert would be impacted and the entrance has existed for quite a while; he believed that it would be grandfathered. Ms. Duguay asked about the #8 comment and not requiring a site specific soil map; Mr. Quintal said that it really is not necessary but should at least be waived as it is a requirement. Mr. Greenwood said that since they are not in the wetland, it wasn't necessary. Mr. Greenwood agreed with Mr. Quintal's suggestion about the LCA's being defined. Mr. Greenwood wanted to speak to comment #5- if no changes to the boundaries of the lot, then it is just seen as the existing lot and doesn't create a new lot outside of the condominium conversion. Mr. Coffin reviewed previous conversions and waivers. Mr. Zilch noted that DES required soil information to confirm ability to support the 6 bedrooms. Mr. Greenwood added that a building permit for a duplex was already issued. There was discussion about subdivision of land versus subdivision due to condominium ownership. Mr. Greenwood noted his assumption that approval of the duplex included a review of supporting the septic for both units. Mr. Bakie said that the lot was grandfathered at the 199 ft. of frontage and wouldn't need 400 ft. of frontage. Mr. Greenwood explained that the lot size for a condo. doesn't change; it remains in common ownership with use determined by LCA's and common areas. There was Board discussion on previous approvals and an existing lot of record. Mr. Zilch re-iterated that this lot had originally had 200 ft. of frontage and was minimally reduced to the expansion of the State road. Mr. Coffin does not think waivers for this issue are necessary.

MM&S to accept jurisdiction of the plan as presented to the Board. (Motion by Mr. Bakie, second by Mr. Coffin) **PUNA** (Passed Unanimously)

Mr. Quintal suggested reviewing the requirements for lot size for condo. conversions. There was Board discussion regarding condo. conversions and requirements and previous approvals.

Mr. Coppelman asked for any other issues. Mr. Greenwood noted that since the septic system is already approved, the well is 100 ft. away. Mr. Zilch said that it is. Mr. Coppelman questioned the locations of the propane tanks as the left tank is in the LCA while the right tank is in the common area which would mean that if something happened it would be the responsibility of both parties. Mr. Zilch agreed and stated that he could capture that by adjusting the LCA. Mr. Greenwood confirmed that the condo. docs. confirm who is responsible for the well and other issues.

Mr. Coppelman reviewed Department comments: Building – none; Highway – confirm with State DOT driveway regulations and must conform to Town driveway regulations. Mr. Coppelman noted that, per the discussion, it did not conform to the Town's regs.; Mr. Wilson suggested a waiver. Mr. Coppelman noted that there were no further department comments.

There was no public comment.

Waivers were reviewed.

MM&S to grant a waiver (for the approximate two feet) of the requirement of a 20 ft. property line setback for the driveway. (Motion by Mr. Wilson, second by Ms. Duguay) Mr. Coppelman noted that it really is just the end of the driveway nearest to the road as the driveway curves in. He added that the

Board did just receive the written request for the waiver which he read for the record. The Board reviewed the request and justification and the plan one more time. Vote on the motion: **PUNA**

Mr. Coppelman read the waiver request for preliminary review.

MM&S to grant the waiver request as written. (Motion by Ms. Duguay, second by Mr. Wilson) **PUNA**

Mr. Coppelman read the waiver request for the reduction of the engineering bond to \$2500.

MM&S to grant the reduction as requested based on the grounds that basically 90% of the work on site has been done already. (Motion by Mr. Wilson, second by Mr. Bakie) **PUNA**

Mr. Greenwood noted that all of the waivers had been addressed; he added that the 4K area should be added and not waived. Well area and placement were discussed; Mr. Quintal said there was plenty of room to add the 4K. Mr. Coffin said that the comment of Planning Board approval in the condo. docs. needed to be added. Mr. Greenwood asked the Board to decide whether to send to the Town Attorney. Mr. Greenwood and Mr. Coffin suggested adding the phrase "Any amendments to the condo. docs. require previous Planning Board approval prior to recording." Mr. Coffin noted that on pages 4 and 7 there are references to the wrong town and wrong county that should be changed to Kingston and Rockingham County; the county reference was wrong in other locations as well in the document.

Mr. Zilch said that he had seven items discussed by the Board:

- add State subdivision approval to the cover sheet
- amendment language to condo. docs and errors re: town and county
- check note 13, part Mr. Quintal's comments, to confirm correct regulation reference
- add metes and bounds to LCA's and tie to property line
- add driveway waiver note and date that other waivers were granted on the cover sheet
- add a little more LCA around the right side (propane tank) as discussed
- add 4K receiving area

Mr. Greenwood added that there needed to be confirmation from Fire Department of hydrant requirement, so that should be added to the list.

- Additional condition: Fire Department sign off regarding hydrant requirement
- The Board noted that the property needs a Town driveway permit.

There were no other Board comments or additions.

MM&S to approve the condo. plan dated 1/20/2022 with the following conditions:

- 1. add State subdivision approval to the cover sheet**
- 2. add driveway waiver note and date that other waivers were granted on the cover sheet for recording**
- 3. amendment language to condo. docs and errors re: town and county (name corrections)**
- 4. Fire Department sign off on hydrant requirement.**
- 5. Town driveway permit required**
- 6. check plan note 13, in reference to Mr. Quintal's comments, to confirm correct regulation reference**
- 7. add metes and bounds to LCA's (monumentation) and tie to property line**
- 8. add a little more LCA around the right side (propane tank) as discussed**
- 9. add 4K receiving area and distance from well to the septic area.**

(Motion by Mr. Coffin, second by Ms. Duguay) Mr. Coppelman noted that unless it was voted differently, the conditions would need to be met within 90 days. Vote on the motion: **PUNA**

<Mr. Coppelman noted that this hearing ended at 7:35 PM.>

Hawks Ridge of South Kingston, LLC
2,4,6,8,10 Bent Grass Circle
Kingston, NH 03848
Tax Map R3-4 Land Units 4001-4005

(Board note: this hearing began at 7:35)

Mr. Coppelman read the public notice. Charlie Zilch represented the applicant; plans were distributed. Mr. Coppelman noted that authorizations were received from three abutters/owners which Mr. Coppelman read for the record. He added that waiver requests were included with the application.

Mr. Greenwood confirmed that of the 5 houses on the plan, three were owned individually and two were owned by Hawks Ridge. Mr. Coffin questioned whether the Homeowner's Association (HOA) would be classified as owners, not just abutters, as owners of the common areas. There was discussion regarding ownership of common land. Mr. Bakie suggested asking the public that might be part of the HOA. Mark Pouliot, 6 Bent Grass Circle, confirmed that the common land had been handed over to the HOA; there are three lots within the circle that have common areas owned by the HOA; the HOA owns all the common areas including the Limited Common Areas (LCA). Discussion regarding ownership of common land continued. Mr. Coffin suggested it would put the Board in a cleaner position if there was an affidavit from the HOA. Discussion continued regarding ownership of property, common land ownership, limited common land ownership, deed language. Mr. Pouliot confirmed that he was not the president of the HOA. Mr. Zilch read from the deed. The Board confirmed that there was nothing specifically referring to LCA's. The Board continued discussing this issue. Mr. Zilch described the purpose of the plan; he described previous issues and problems associated with the development; the plan hopes to correct some of the previous mistakes. Mr. Wilson noted that without the association president present, nothing regarding their approval could be verified. The Board reviewed the plan as shown; questions were addressed regarding the lines showing the original approval and proposed changes; the Board asked for clarification on a plan; an overlay was suggested by Mr. Wilson. Mr. Zilch will address these recommendations. The Board discussed either the presence of the HOA president at a meeting or an affidavit similar to the ones in possession of the Board. Mr. Greenwood read further language in the deed; interpretations of the language were discussed. This brought up discussion regarding the interpretation of "land unit" as referenced in the deed and "land unit" per the notice, ownership, common area, descriptions in deeds and on the plan. There was not a consensus of the reference to "land unit". Mr. Coppelman stated that there is information that the Board needs to come to a consensus and we don't have that information. *<Board note: Mr. Greenwood left the meeting briefly at this time.>*

MM&S to continue this hearing to April 19th and seek legal advice on the ownership aspect of the common land; also to find out what if the HOA doesn't agree with the proposal; revised plans due in by noon on April 7th. (Motion by Mr. Wilson, second by Mr. Padfield) Discussion: Mr. Zilch suggested that the HOA be notified and they can get a letter of permission/authority from them while the Board contacts the attorney. *<Board note: Mr. Greenwood returned at this time.>* Mr. Greenwood asked the Board if the HOA should be notified during this time. Mr. Zilch reviewed his previous suggestion of them meeting with the HOA to get an affidavit sign-off in the meantime. Vote on the motion: **PUNA**
<Board note: Hearing ended at 8:20 PM>

Board Business

Correspondence:

- Request from Town Engineer regarding clarification re: Inspections which Mr. Quintal read, he asked the Board's input. Mr. Wilson suggested that the Inspectors (Health, Building, Code Enforcement) could keep him up-to-date about doing an inspection if that is what the Planning

Board wanted; Mr. Wilson suggested that a surprise visit is also helpful. Mr. Quintal just wanted direction to avoid complaints from a developer. Mr. Coppelman didn't think the Board was in a position to tell Mr. Quintal how many inspections were required. Ms. Duguay asked if he wasn't notified, who was responsible. Mr. Quintal thinks that errors are better caught in the beginning until after the fact; he got a call from Fieldstone to inspect but it was covered with snow and he hadn't gotten a call when culverts were put in. He said the pre-construction meeting is supposed to address these things but doesn't always happen. Mr. Greenwood said that the pre-construction schedule should include an inspection schedule. Mr. Quintal noted that he doesn't sign off on any inspections. Mr. Bakie suggested that these items be something that Mr. Quintal needs to sign off on and it be tied to other inspections or occupancy permit. Mr. Greenwood suggested that inspections are established during the pre-construction meeting and that release of any construction bonds are tied to his signing off on those inspections. Mr. Bakie added that there should be a signature required for each of these inspections. Mr. Wilson stated that there has been discussion of needing the Town Engineer's signature for final inspection of commercial properties and it sounds like this would be a good idea. Mr. Greenwood said that this has to be part of the pre-construction meeting and holding on to aspects of the bond. Mr. Quintal said that he wanted this discussion to make sure he is doing the right thing. Mr. Greenwood said this would be tied to having bond money returned based on inspections by the Town Engineer. Mr. Coffin asked if the inspections are milestone-based versus time-based. Inspections of specific items were discussed; items that are often missed was reviewed. Mr. Greenwood said that this has to be discussed right up front that the inspection schedule is tied to the bond; it is incumbent on the Town to make this known up front. Mr. Bakie said that any contract is tied to an inspection schedule and sign-offs. The Board agreed that this was a good procedure. Mr. Wilson said that it is important to also be clear for projects that a pre-construction meeting is required and discussed during the PB review process.

Mr. Wilson requested specifics/details regarding code enforcement. Mr. Greenwood stated that the PB usually tries to do that; Mr. Wilson agreed adding that it mostly pertains to other Boards but is mentioning it for all committees.

Mr. Coffin asked about written information from Comcast for Fieldstone. Mr. Greenwood said that would be a BOS issue at this point; Mr. Wilson will "spearhead" that.

Correspondence continued:

- Hand-out of PB bylaws
- Hand-out of page to be added to the Ordinance books re: performance guarantee
- email from 34 Church St., unit 10 (Fresh AF Bakery currently at unit 4) was read by Mr. Coppelman – **MM&S that no further review was required by the Planning Board.** (Motion by Mr. Bakie, second by Mr. Wilson) **PUNA** Mr. Coppelman noted that Inspections and Occupancy permits would still be required.
- Invoice from Town Engineer for Aloha Doors – signed by the Chair

Minutes were tabled; add to April meeting; Mr. Coppelman reminded the Board that re-organization of the Board would occur at the April 5th meeting.

- Letter from Nick Tripodi re: Impact Fee – the letter was read by Mr. Coppelman; Mr. Wilson explained that there were never any permits for a three family property; Mr. Coffin said that the ZBA approved a third unit with the condition of having site plan review for a multi-family property; it required certain items, such as egress, to become a legal dwelling unit; it was at that time that it became a third legal unit. Mr. Greenwood explained that they have a third legal apartment on-site through ZBA and PB action; it is through this action that there is a Town-accepted third unit; he questioned why the Board wouldn't require an Impact Fee. Ms. Duguay questioned the time-

line and whether it was done by a previous owner and whether the impact fee should have been charged to the previous owner. Mr. Coffin and Mr. Wilson stated that it was the use that determined the impact fee. The Board, by consensus, did not agree to waive the fee.

ACTION ITEM: Mr. Greenwood to write a letter to Mr. Tripodi after sitting with Mr. Steward and Mr. Wilson.

Mr. Bakie asked to review an aspect of the by-laws and the possibility of changing one word. Mr. Coppelman said that changes should be done at a meeting where it has been noticed. Mr. Greenwood asked what the word was in case it was just editorial. Mr. Bakie asked to address 12.5 “interrogation” and change to “inquisition”. There was discussion about the word and definition. Mr. Coffin said that “inquisition” has a negative connotation due to Spanish Inquisition. Possibilities were suggested; Mr. Coppelman suggested that the Board review prior to the next meeting for any other changes. Mr. Greenwood said changing “interrogation” to another phrase or word with a similar meaning would be editorial.

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