

**Kingston Planning Board  
Public Meeting  
February 23, 2010**

Mr. Hurley called the meeting to order at 7:00 and introduced the Board members. The meeting was posted in two places; no one challenged the validity of the meeting.

Board members present this evening:

Norm Hurley, Chairman  
Richard Wilson, Vice Chairman  
Glenn Coppelman  
Mark Heitz, BOS rep.

Jay Alberts  
Ernie Landry  
Scott Ouellette  
Marilyn Bartlett, Alternate

Glenn Greenwood was absent due to illness.

Board Members absent: Richard St. Hilaire, Alternate.

**Board Business:**

**Critical Correspondence:**

- A letter from the Dealer Desk re: Kingston Foreign Auto, changing name to Kingston Foreign Auto and Truck; approved by the Board to forward to BOS for their signature.
- Letter to the Editor re: Water District; signatures confirmed; to be in next publication.
- Land Resource Management Workshops, NHDES

Ms. Bartlett stated that she attended the RPC workshop held at the Town Hall.

- Turf and Grounds Conference information

**CIP Update:**

Mr. Coppelman told the Board that the CIP committee attended a meeting held by the Board of Selectmen to review CIP submissions with the Fire Department and Highway Department. He added that there had been a previous meeting held by the Board of Selectmen with the Library and Police Department. He said that the CIP committee will be meeting at least one more time prior to returning to the Planning Board for adoption for the Board of Selectmen and Budget Committee to use as an advisory document. He added that it will be time to start this year's update.

- Mr. Hurley reminded the Board that there will be a Technical Review Committee meeting on Monday at 3:00 PM for Diamond Oaks. He stated that Town records and the Registry of Deeds seem to show conflicting documents

regarding the site that needs to be straightened out. He added that the Stormwater Management plan had not been submitted at the time the Board accepted jurisdiction.

### **Ordinance Book Update**

Dennis Quintal, Town Engineer, met with the Board to review his proposal for the update of the Ordinance Book.

Mr. Hurley referred to a comment from Ms. Faulconer that she preferred that the Table of Contents remain in the beginning of the book and not numbered as its own article; Mr. Hurley said the Board discussed this at the last meeting and agreed with that. He recommended that the Board review the list; one item at a time.

Mr. Hurley reminded the Board of the last discussion regarding “definitions”; he believes that one front section of definitions, right after the Table of Contents, would be a good thing to have but also, due to how they were adopted, keeping the definitions in the ordinances themselves. He noted that this way any conflicts could be called out and addressed as necessary. Mr. Quintal clarified that, if a definition was changed, it would need to be changed in both places. Mr. Hurley explained that the definitions wouldn’t necessarily be adopted separately, but adopted at the time the ordinance was adopted.

Mr. Quintal explained his process; reviewed areas that could be addressed by referencing state statutes. He said the numbering he proposed would change if Table of Contents and Definitions would be at the front of the book.

Statement of Authority: He explained that some towns have a lot written in this section; it would be up to the Board to work on and something that he didn’t have a lot of input on; he said the original book had different sections but thinks it could be incorporated into one place at the beginning of the book and not in two or three sections; currently in Excavation, Subdivision, Site Plan.

Mr. Quintal referenced Excavation Rules and Regulations and said that it should say that RSA 155E needs to be followed. Mr. Coppelman confirmed that Mr. Quintal’s suggestion is to have one statement of authority for the whole document; not for individual sections; he suggested that this would simplify things. While Mr. Hurley agreed, he cautioned that by simply referencing the RSA would require someone to research the RSA. Mr. Coppelman asked if the Board removed all of the individual Statements of Authority, was there a risk of missing something the Board should have; Mr. Quintal stated that he did not believe so. He thinks the Statement of Authority might need some work by the Board; it might need to be expanded.

Mr. Hurley was in favor of the Statement of Authority being in one section.

Mr. Quintal referred the Board to his section "904", "Declaration of Purpose"; he said that the purpose of the Planning Board is clearly defined by the RSA; the way it is currently written is about half of what is said in the RSA's. He asked if the Board wanted to repeat the RSA or simply say something simple about referencing the RSA. Mr. Coppelman said that by simply referencing the RSA, if the RSA changed, the Ordinance or Regulation is automatically updated to it without having to make the individual changes. Mr. Quintal said that "duties of the Planning Board" and "Master Plan Conformance" would be the same; they need to be said but can be referenced to another document (RSA's).

It was explained that the RSA's are all available on-line. There was discussion about making the document user friendly; keeping it clear.

Mr. Quintal explained that the proposal set up the document as progressive; beginning with Planning Board general purposes, procedures, conformance with Town rules and regulations and then get into the specifics of site plan, subdivision, erosion control and develop a pattern. He said when doing a project, it is necessary to know where to start, know what the procedures are.

Planning Board Procedures: He said to start with those procedures as defined in the RSA's: regular public meetings and how they are conducted, site investigation, engineering costs, bonding, decisions on completed applications, recording requirements, as-built plan changes and review requirements, failure to take action, waivers, active and substantial development and threshold requirement and establishment, conditions of approval checklist.

There was Board discussion on the completion of the site for Carriage Town Bible Church; bonding procedures; occupancy issues when the building is complete but the site is incomplete. Mr. Wilson said that rules should be the same for all applicants; the approved site plan should be followed regardless of the use.

Mr. Quintal continued with 905.11; he explained that he tried to put things in order and add things that should be in the book.

Application Procedure (906): Mr. Quintal said that the first part would refer to conformance with the RSA's that were spelled out in 1 through 4; list out existing requirements for submittal, the application form, fee worksheet and checklist. Language regarding application review and timing was discussed. Language for putting an applicant on the agenda needed to be reworked; timing of being placed on agenda; language if the agenda was already full; language describing notifying an applicant why an item wasn't added to the agenda. Mr. Hurley suggested that there be a checklist available to be used to determine if every requirement was provided by the applicant; if not complete, the plan shouldn't be accepted but returned with the list explaining those elements that are missing. Mr. Heitz said that unless the applicant brings it in on the deadline date, the applicant should be contacted about what was missing unless the items missing could be provided by

the deadline date. Mr. Wilson said that most applicants bring in the plan at the last date. Mr. Ouellette said that the purpose was to keep the process moving whenever possible. Mr. Quintal said that the rules and regulations are for the applicant to know their requirements, not regulating the Board's review process.

Mr. Quintal briefly reviewed the next section, Conformance with Additional Regulations; it is an acknowledgement that these regulations need to be complied with; it is a statement to make sure the applicant is aware of these regulations from the beginning of the application. Mr. Heitz suggested adding "Building and Health" as requirements; to make it clear. Other items such as Lighting should also be added; Fire Code could be added under State and Town. Mr. Quintal said that many of the items being discussed were also in "Zoning" which was mentioned first but mentioning them specifically could also be done or placed in parentheses with "zoning". Mr. Coppelman said a longer list in that section wouldn't hurt.

Site Plan Review Regulations (908): Mr. Quintal's suggestion was to put them in a sequence of events: beginning with Purpose; Mr. Quintal stated that he copied some language for the Board to look at; requirements. He commented on moving "Authority" to the front; a listing of items to put in "purpose" were reviewed that he suggested the Board review to either accept or make changes; exceptions for needing a review. The Board discussed the language suggested by Mr. Quintal requiring a site plan for changes to the site plan if the plan was beyond ten years. Mr. Wilson didn't disagree with the language, simply noted that it was not currently something required. Mr. Quintal said the Board should have a timeframe as things do change. Mr. Quintal stated that the intent of a recorded, approved site plan is to have documentation of what is there and what the use it; he said that over 10 years or more that there might be some changes (such as lighting) that would make it different; this triggers another review that might bring to the Board something that may need to be addressed. Mr. Wilson suggested language stating that "if the site plan on file is more than ten years, the Board has the right to ask for a full review". Mr. Quintal said that if the Board wanted to make the requirement vague, it could be done this way. Mr. Ouellette suggested removing the ten years requirement; there is language about the existing site plan being in compliance. Mr. Alberts asked to return to 908.01; he thinks that d and e are more of a mission statement and very subjective. Mr. Quintal said that these were items he got from another Town's ordinance and seemed that it was in for reference to fall back on, like a general Master Plan focus of attention; he suggested the Board change it if they wanted it removed. Mr. Wilson thought it was open to interpretation. Mr. Heitz said that was probably why it was in the other Town's ordinances; it gives more wiggle room, more latitude. Mr. Quintal suggested that the Board may want that. Mr. Alberts said that he didn't like those two sections. Mr. Hurley said that he liked the concept but not the language as presented. There was continued Board discussion on the concepts, the language, existing uses and language. Mr. Coppelman thought the language did complement the language in the Master Plan and links the document to the Master Plan in a nice way. Mr. Quintal explained if the zoning and its intent is strong then the language might not be necessary but if not, this might be included for the Board

to work with. Mr. Ouellette suggested adding the reference note to the Master Plan; he thought that “a through g” was fine; it is something the Planning Board is trying to do. Mr. Wilson said by keeping “d and e” would allow the Town to approve a movie theater while still saying no to a “XXX” movie theater. Mr. Quintal noted that there was a specific section for Master Plan conformance (in 904, Planning Board general purpose). Mr. Hurley said he is inclined to remove “d and e”. Mr. Coppelman said he could support removing “e” but felt that “d” was appropriate. Mr. Hurley asked for a vote.

**MM&S, Under 908.01, Purpose, to remove item “e”.** (Motion by Mr. Coppelman, second by Mr. Ouellette and Mr. Wilson) **PUNA**

**MM&S, under 908.01, to remove item “d”.** (Motion by Mr. Alberts, second by Mr. Wilson) Board discussion: Mr. Heitz clarified that Mr. Alberts concern was that it gave the Planning Board too much latitude to not allow something that he thinks should be allowed; Mr. Alberts agreed. Mr. Heitz said that if something was clearly allowed, this language would not give the Board the ability to exclude it. Mr. Quintal said that the intent is not to approve or disapprove something, but gives the Board the ability to make determinations on things that are not clearly defined, to make them more appealing; not to say that the site plan meets all the regulations but because we don’t like it, we’ll point to this and say it’s not harmonious; he said that is not the intent. Mr. Heitz said he wasn’t concerned about leaving this in. Mr. Coppelman said this allowed the Board more room for negotiations for things like aesthetics. Mr. Hurley was concerned that neighbors and public, not liking a proposal, will recite part of this every time they don’t like something; he said this was where the frivolous lawsuits would come from. Mr. Landry said the public has referred to “a” in the past in questioning a proposal; he said that people will take whatever tactic is necessary to get their point across so doesn’t think that “d” was any different from “a” as far as the potential for abutter comments. Mr. Wilson said that “d” was almost entirely opinion. **Motion failed 3-4** (Mr. Heitz, Mr. Coppelman, Mr. Ouellette, Mr. Landry opposed).

Site Plan discussion continued: “exceptions” was looked at again briefly. Mr. Landry addressed 908.3 for clarity, the old statement said ..... the plan meets “each” of the following conditions, the new language says “under the following” conditions; he expressed a concern that someone might misinterpret the new language that they are not all required; he suggested that the word “each” be added back in. Mr. Wilson agreed as did Mr. Ouellette.

**ACTION ITEM: Mr. Hurley stated the Board’s desire to add the word “each” into the language. (908.3)**

Site Plan Application Procedure was reviewed (906); the requirements of the plan for all plans; recordable plan requirements; it stated that it needs to be spelled out what part of the submitted plan is being recorded. Mr. Wilson said that the Board is requiring a disc for plans and as-builts; he questioned if this was the place for that

requirement. He asked Mr. Quintal where the requirements were listed for the final mylar and other requirements. Mr. Quintal said that the electronic file would have all of the submitted pages, not just the recorded portions; it would be received after the approval; a condition of approval would be to provide the electronic version. There was discussion as to the placement of the language for this requirement. Mr. Quintal suggested adding this to the final approval checklist as conditions of approval for both the original plan and as-built plans. Computer capability was discussed. The Board confirmed that the PDF/CD requirement was for the entire plan set, not just the recorded pages.

Directives/Plan Requirements: Mr. Quintal reviewed the list he made of the directives in addition to what needs to be put on the plans; general requirements so a designer or developer knows what their focus needs to be. Vehicle Sales and Service requirements were left basically as they currently exist; he added in the MSDS requirements; vehicle wash area requirements need to be added. Mr. Hurley said that any MSDS requirements need to be turned over to the Fire Department. Mr. Coppelman noted that Mr. Quintal stopped the requirements after “b” but the original had “c” through “f”; Mr. Quintal said that these items were covered by general procedures and was redundant; “d” was a requirement in “driveways”; he said that they can always be added back if the Board prefers. Mr. Coppelman asked about “utilize physical barriers to prevent parking of vehicles”; Mr. Quintal said that people are not supposed to park vehicles on the public highway right-of-way. Mr. Coppelman agreed but stated that the Town has traditionally had problems with this issue so that item was added requiring a barrier to provide a mechanism to define where the line was. Mr. Wilson said that it did provide a visual line to separate the property line from the State right-of-way.

**ACTION ITEM: Mr. Quintal to put the language back in the regulation regarding the physical barriers (existing 904.9 d) and the part about parking the vehicles for sale on the public highways right-of-way where the other parts are listed elsewhere; clearly identifying customer parking off the public right-of-way will also remain. “e”, defining employee and customer parking spaces requirements will also remain in the language.**

The Board reviewed that the other items in the previous language were captured elsewhere or in the new proposal for site review and as they were redundant, was not necessary.

Mr. Quintal explained that 904.10 is covered under the Health Ordinances and Regulations.

**ACTION ITEM: 908.09, Conformance with other regulations: Mr. Ouellette suggested to add in “such as, but not limited to”, the Board agreed.**

Subdivision: Mr. Quintal reviewed his proposal for subdivision. He noted a paragraph under “PURPOSE” referencing the regulations under the RSA in general

purpose which is a little bit different than what currently exists. He suggested that this is an area that the Board might want to talk about some more.

Mr. Wilson suggested that Mr. St. Hilaire should be involved in the discussion pertinent to “Stormwater” that is on the agenda; he suggested continuing the discussion for another date. The Board decided to continue the subdivision discussion.

Mr. Wilson asked to review 909.08 “d”; he suggested the language should say “when possible”. Mr. Quintal said the current regulation (905.5 “c”) says side lot lines in general shall be perpendicular to the street”. The intent of the ordinance was reviewed. The Board was reminded that the language, by having the words “in general” allowed for Board discretion. Mr. Hurley stated that the word “shall” meant a requirement. Mr. Wilson said that “e”, requiring street frontage now required all 200 feet on one road, not a corner lot with 100 feet on one road and 100 feet on the other. Mr. Ouellette thought that “e” was dealing with the width of the lot. The Board clarified that this section was dealing with width, not frontage; Mr. Wilson agreed. Mr. Quintal suggested that it was difficult to have a perpendicular line on a cul-de-sac; he stated that another Town dealing with this stated that the line had to be “tangent” to the curve. The Board discussed past issues with oddly configured lots that used to zoning that only dealt with frontage and area. The words “when possible” or “practical” were suggested. Mr. Quintal said that there is always the possibility of getting a waiver or variance if necessary; it currently exists in the regulations, the Board can think about amending and get back to this. The Board decided to leave as it is at this point.

Mr. Wilson referred the Board to 909.11; he thought that there needs to be something where the engineer certifies that it is installed. Mr. Quintal said that part of the approval process needs a bounds certification. Mr. Quintal said that the bounds go in after the road; it would be part of the bond process. There was discussion about materials used for bounds; requirements for “corner” bounds. Mr. Wilson suggested that all bounds need to have concrete or granite bounds; Mr. Quintal agreed that they need to be on all major bend points and iron points at every two hundred foot. Ms. Bartlett was not in favor of the material in the front of the corners, at the least, be made of granite, not concrete.

**ACTION ITEM: Remove the “four” requirement and change to “all corners”.**

The Board reviewed the “checklist” proposed by Mr. Quintal. Mr. Wilson commented that the items on the list may not always be applicable, such as a traffic study.

**ACTION ITEM: Add the language “Two copies of all supporting documents, that are applicable,”**

Mr. Quintal suggested that during the preliminary review, the Board could determine which documents would be required. There were additional suggestions to add, after “applicable”, as determined by the Board or Town Engineer.

Application Form: Mr. Ouellette and Mr. Coppelman noted that the proposal is missing zones: Industrial, Commercial I, II, III and HD I and II; Mr. Alberts noted Aquifer was missing; Wetlands was not noted. Mr. Wilson suggested not only having what the applicant is filling out but a checklist where someone has verified that the zoning shown is actual; Mr. Coppelman said the Board relied on the Circuit Rider to do that prior to the Board reviewing the application. Mr. Quintal said that would be part of the review process by either the Circuit Rider/Planner or Town Engineer. Mr. Alberts said the determination of the Aquifer on the application was important. Mr. Quintal asked if the Board wanted another set of lines besides “zoning districts” that said “confirmed by” to make sure the application is complete and accurate; there should be a line to note who filled out the application. Regarding the list of abutters, the Board confirmed that it is up to the applicant to confirm and provide that list. Mr. Quintal said that he believes that there is an RSA that it is the applicant’s position to verify and confirm that they have the proper abutter; he added that it is the applicant’s responsibility to make sure that the list is checked within a certain number of days of submittal that the list is correct. Mr. Wilson asked whether the definition of “abutter” was in the regulations or in an RSA; Mr. Ouellette said that it was clear in the RSA’s, it is the maps that sometimes make it unclear as to who is an abutter. The Board discussed specific areas of interpretation of “abutters”.

Mr. Hurley asked Mr. Quintal if all of the items to consider had been addressed; Mr. Quintal said he would review the notes from this meeting and meet again with the Board to continue the discussion; address the changes discussed this evening.

Mr. Coppelman noticed that the “Access Management” was pulled out and made a separate section; Mr. Quintal said that it was now under “Driveways”; Mr. Coppelman wanted to make sure that all of the original requirements were in the new proposal. Mr. Quintal referred the Board to Article 912. Mr. Ouellette said that originally it was in both site plan and subdivision and now it was in its own section; keeping it all in one place. Mr. Coppelman said that the original had a sketch included; there was a minimum distance between driveways. Mr. Quintal noted that the “sketch” was in ASHTO standards so it needed to make sure it was updated.

Mr. Wilson noted that an above ground pool had always been considered a permanent structure; he didn’t know if the Board wanted to change that. Mr. Quintal said that above-ground and below-ground pools were considered permanent structures. Mr. Quintal thought that Mr. Greenwood found the definition that said both above and below ground were considered structures.

Mr. Coppelman returned to the Access Management Section that was currently shown in Site Plan review, 904.10 “d” which talked about minimum distance between



driveways; he asked Mr. Quintal if this was shown in the new proposal. Mr. Quintal thought it was in site distance, by speed of the road; he said it is in the ASHTO book; referencing the current ASHTO standards. Mr. Coppelman said this issue was “spacing” not site distance. Mr. Ouellette asked about determining the “happy medium” between the ASHTO standard and putting something in the regulation to get the point across. Mr. Coppelman said it is guidance, not only for the applicant, but guidance for the Board. He asked if the Board will be referring to ASHTO standards.

**ACTION ITEM: Mr. Quintal will re-look at this section (Access Management) and get back to the Board.**

The Board stopped the discussion at this point; Mr. Quintal said it was important to not rush this along to fast, ask questions to make sure they are thoroughly discussed; to make a document easier to read. Mr. Hurley would like the Board to look through the documents again, look at the changes, meet with Mr. Quintal again. There was a discussion on speed limits on Town roads. Mr. Wilson asked if speed limits could be regulated through the process of a subdivision. Mr. Heitz questioned whether it was enforceable.

The Board thanked Mr. Quintal and commended him on the proposal.

### **Plan Review**

Mr. Hurley informed the Board that there was only one submission. Camp Lincoln has submitted a plan to be on the next public hearing pending action at the ZBA. Camp Lincoln will be added to the March public hearing.

Mr. Hurley reminded the Board that the next meeting is March 2, 2010.

**MM&S to accept the minutes of January 26, 2010.** (Motion by Mr. Wilson, second by Mr. Heitz) Motion carries 4-0-3.

**MM&S to adjourn at 9:35.** (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**