

**Kingston Planning Board
May 4, 2010
Public Hearing/Meeting**

Minutes

The Chairman called the meeting to order; there were no challenges to the validity of the meeting.

Members Present:

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| Norm Hurley, Chairman | Dan Mastroianni |
| Rich Wilson, Vice Chair | Jay Alberts |
| Ernie Landry | Glenn Coppelman |
| Chuck Hart, BOS rep. (arrived late) | Rich St. Hilaire, Alternate |

Members Absent: Marilyn Bartlett, Alternate

Also Present: Glenn Greenwood, Circuit Rider/Planner; Dennis Quintal, Town Engineer.

Board Business

Critical Correspondence:

- Memo received regarding scheduling Gravel Pit Site Walks. The Board scheduled site walks for Saturday morning at 8:00 AM for the Magnusson site and 9:00 AM for the Early site.

ACTION ITEM: Mr. St. Hilaire will contact Mr. Magnusson and Mr. Early regarding the site walks.

- Mr. Arata's request to waive the engineering bond was reviewed; Mr. Greenwood said there wasn't a need for the entire bond, he recommended accepting the waiver for all except \$250.

MM&S to waive all but \$250 of the engineering bond for the Arata Subdivision proposal. (Motion by Mr. Coppelman, second by Mr. Wilson) **PUNA**

- Contact information for Mr. St. Hilaire and Mr. Hart.
- Non-critical correspondence was available for Board review.

Minutes:

MM&S to accept the April 6, 2010 minutes as written. (Motion by Mr. Coppelman, second by Mr. Wilson) **Motion passed 5-0-1** (Mr. Hurley abstained).

Stormwater Management Discussion

Mr. Quintal reminded the Board that the last discussion left off with Section 908, number 17 that reflects the Industrial and Construction activities discharges and required submissions for notice of intent for the Town; he questioned whether this would be the only time for this type of submittal. Mr. Hurley added that the page being discussed was 908-22. Mr. Quintal said that his question was that after the definition section of inspections, requirements, maintenance of facilities on Commercial sites; the reference of notice of intent was only for Industrial Construction. He said that the previous discussion was inclusion of subdivisions, residential subdivisions and at this point, it would implement a program for doing inspections. He thought that the Board had agreed that the Inspection schedule would continue on: a program of Construction Inspections. He said that this is a little different that what is being talked about in the beginning with the drawings and inspections. He wanted to know where the process began for the existing facilities on the existing commercial sites; how the Board anticipated that it would work. He wanted to know once this was adopted, what triggers existing commercial sites.

Mr. Wilson asked about what existed that would be part of this, he mentioned gas stations; Mr. Hurley said that it would include almost everything as every parking lot had catch basins. Mr. Quintal said that some sort of a list would need to be made with certain inspections to be done to establish a baseline. Mr. Greenwood asked if Mr. Quintal knew the EPA's expectation; he suggested that they would expect it for every development. Mr. Quintal said that it is up to the Town to establish the program, not only for new applications but for existing sites. Mr. Greenwood said that this would put the Town in the awkward position of determining "grandfathered" sites. Mr. Hurley said that he needs to provide information in Seabrook on a yearly basis concerning whether catch basins on his site have been maintained. He suggested getting in touch with a community that already has something like this established and review their existing documentation.

ACTION ITEM: Mr. Hurley will double check his requirements in Seabrook and get back to the Board.

Mr. Wilson said that this type of procedure would be fine for commercial sites, but who monitors subdivisions. Mr. St. Hilaire replied that swales and catch basins on Town roads became the Town's responsibilities as long as an individual property owner was not doing something to discharge "bad stuff" into the Town's road system. Mr. St. Hilaire said that he (as Road Agent) has a list of catch basins, cross-pipes, and culverts. He said that this does not include commercial properties.

Mr. St. Hilaire stated that any development done within the last 30 years would have had some sort of drainage structure to catch stormwater as Kingston was relatively pro-active years ago as far as taking care of water and the discharge. Mr. Hurley said with the EPA standards it's now necessary to confirm that they are being maintained and nothing is being discharged into them; they want assurances.

Mr. Quintal noted that the reference to "Inspection Agent" is vague; there is reference further on to the Town Engineer. He discussed the maintenance plan and noted that it wasn't clear how to determine the implementation and when it gets to the responsibility of the Town Engineer. He said that the Town Engineer could be the Inspection Agent as

it could also be the Health Agent or Road Agent doing the inspections but the language does imply that a program will be implemented to review the existing situations.

Mr. Hurley re-iterated his suggestion that other communities' program be reviewed. Mr. St. Hilaire suggested it needed to be done sooner rather than later. Mr. Quintal said that adopting without specifics would not be wise.

The Board will continue the discussion after the scheduled public hearing.

MetroPCS Cell Tower Co-Location Public Hearing

Mr. Hurley opened the public hearing that had been continued from April 20th. He reminded the Board that the hearing had been continued while Mr. Greenwood reviewed the previous approval regarding the municipality's ability to be on the towers.

Mr. Greenwood informed the Board that he did research on both the Planning Board records and Property files for the three sites. In reviewing the file for the cell tower at the Shell site, he noted that there was very little information and suggested that the Planning Board may want to review the background of how that tower was approved initially. He noted the other two tower sites had pretty good documentation. He announced that only one of the approvals for the towers had, as a conditional approval, municipal location on the tower; it was the American Tower site at Northland Forest Products. He added that it is one of the stated conditions on the three page approval and it is also a plan note on the recorded site plan; it notes that there will be municipal space located on that site. He continued that the approval was finalized in 2000; the plan was finally recorded with the conditional approval in 2001, due to court action. He said that Town Counsel, in 2005, contacted ATC to comply by giving the municipality space on the Tower and there was no response from ATC. Mr. Greenwood said that the Town should be able to get a presence on that Tower; the approval process on the other two towers did not specify this.

Kate Rodman, the zoning manager and attorney with MetroPCS, spoke to the Board. She confirmed that she gave the leasing contact information to Mr. Greenwood. Mr. Hurley stated that the only real hang-up would be if the Board felt that ATC was living up to the Board's conditions. Mr. Hart said that the Chief of Police is interested in getting any tower space available. Mr. Coppelman said that his question to be would be whether it would preclude or interfere with the Town's use of the tower. Ms. Rodman felt that the answer would be "no". Mr. Hurley read the Police Chief's comments regarding the desire to have access to any tower available in Town.

Mr. Greenwood replied to Mr. Albert's questions regarding the "Shell Station" application process by saying that the Planning Board records were really thin about the process to get that Tower cited. There was Board discussion about the history of this site; permits and activity.

MM&S to approve the applicant's request as submitted for the 122 Rte. 125 (Shell Station) site. (Motion by Mr. Coppelman, second by Mr. Wilson) PUNA

MM&S to approve the applicant's request as submitted for 36 Depot Road, with one condition: that any work that is done will not impede or negatively impact the Town's ability to locate its communications on that Tower per the original site plan review. (Motion by Mr. Coppelman, second by Mr. Wilson) **PUNA**

MM&S to approve the applicant's request as submitted for 2 Granite Road. (Motion by Mr. Coppelman, second by Mr. Wilson). **PUNA**

Mr. Hart asked Mr. Greenwood what the procedure would be to pursue the Town's use of the cell tower. It was noted that the Planning Board had the ability to revoke the site plan for the Tower on the Northland Forest Products site due to non-compliance of a condition of the approval as noted on the plan, if necessary.

ACTION ITEM: Mr. Greenwood will send a letter to the BOS with all of the research information and contact information for the Town to follow-up on and negotiate as necessary.

Mr. St. Hilaire noted expansion at the Comcast Tower site, by the Early gravel pit on Rte. 125, including a generator outside of their permitted space. He said that he has noted that the old generator has been removed, there is a new generator outside of the pad area and he didn't recall seeing any permits or any review by the Planning Board.

ACTION ITEM: Mr. Hart suggested that the BOS would send Mr. Middlemiss up to review the Comcast site with a letter sent, as necessary. Mr. Hart to return to the Planning Board about action; Mr. Hurley was concerned that they should come before the Planning Board.

Stormwater Management, Continued

Mr. Wilson agreed with Mr. Quintal's concerns that in that one little area, there were three areas that the Board needed to deal with: existing commercial or industrial, new commercial and industrial and existing manholes and drainage throughout the Town. He suggested sending Commercial sites a letter asking for an affidavit that they haven't been dumping and have the property owners testify as to the maintenance on site. Mr. Hurley said that would be good but there needed to be follow-up to make sure the paperwork is returned.

Mr. Quintal read 908.3 "applicability": he said that it would be the Town's responsibility to come up with a program; starting with a "notice" with follow-up; determine if there is a need for inspections, set up a schedule which establishes a "program". Mr. Wilson said that there would need to be a paragraph added allowing the Town of Kingston to inspect the property at any time. Mr. Quintal said that the program would also want to have something that would cover the cost of sending an Inspecting Agent out to a site to do inspections; determining a fee schedule. Mr. Hurley suggested that someone not returning the form at a specified time would establish the need for an Inspecting Agent to go to the site with a fee.

The Board discussed the program as self-policing that would meet the guidelines for the government; each site could have a file with the appropriate paperwork; only those not complying with the paperwork would need an inspection with an associated \$250 fee, as an example.

Mr. St. Hilaire referred to the Board's previous discussion about the format of the current regulation and taking the whole thing and changing the format; with the definitions being added to the front of the book and being deleted from this section, so they are all in the same spot. He suggested that Ms. Faulconer take the regulation and re-format it. He said that this would have to be considered a "living document", changing as necessary to comply with Federal Regulations. He believed that eventually there would be a "Stormwater Department" with its own budget and personnel based on the Federal involvement.

ACTION ITEM: Ms. Faulconer to re-format the Stormwater Management regulation.

Mr. Hurley said the next step would be to develop a plan to implement this; Mr. Greenwood said that it would have to be the Planning Board's responsibility; he said that some may need some approval by the BOS but the bulk of establishing the process belongs to the Board. Mr. Greenwood said that he was aware of other Towns with Stormwater Management but they were not that far along. Mr. Quintal stated that the Town of Kingston is special due to the large Aquifer so it is critical that this is established. Mr. Hurley agreed with Mr. Greenwood's comments about the Planning Board's responsibility but added that it may need further BOS input especially regarding the budgetary process.

Plan Review

Diamond Oaks Golf Club submitted plans. Mr. Greenwood reviewed his comments concerning his initial review with the Board. He informed the Board that the hearing would not be heard on May 18th; the Board would need to have the hearing on the 25th due to notice requirements. Mr. Quintal did not have complete documents to review yet; he is meeting with the engineer on Wednesday. Mr. St. Hilaire referenced the Board's previous discussion about the need to reference Rte. 125 upgrades, as approved, on this plan.

MM&S to place Diamond Oaks Golf Club on the Board's public hearing agenda for May 25th at 7:30 PM. (Motion by Mr. Wilson, second by Mr. Alberts) Motion passed, 4-2 (Mr. Coppelman and Mr. Landry opposed).

Kennedy Driveway Application

Mr. St. Hilaire informed the Board that Mr. Kennedy would not be in to see the Board this evening; he will work within the Board's 10 foot waiver of the 20 foot setback requirement for this driveway.

Tupelo, LLC
Dan Mastroianni
Rte. 125

Mr. Mastroianni stepped down from the Board for this discussion. He explained to the Board that the current tenant would like to use the garage on the first floor for larger items that will be for sale from the garage which is on a separate lot. Mr. Wilson confirmed with Mr. Mastroianni that there is no approved business currently on this lot. Mr. Wilson said that this should go through the proper steps for review since there has never been an approved commercial use for this property. Mr. Coppelman asked if the residential use existed; Mr. Mastroianni said there were permits in place to make it a residential use; a septic plan had recently been re-submitted.; rather than make it two units, he would like to reconfigure it to a commercial use downstairs with a residence upstairs. Mr. Greenwood noted that residential construction was prohibited in C-III. Mr. Greenwood asked Mr. Mastroianni if the permits were issued recently; Mr. Mastroianni stated they were current until the end of this year. Mr. Wilson explained that a permit was good for two years but construction had to begin within the first year of being issued; if something wasn't done within a year, they were no good. There were questions raised as to how a building permit would be issued for residential construction in this zone. Mr. Mastroianni said they were permits that had been renewed. Mr. Greenwood noted that C-III was adopted in 2005. Mr. Wilson re-iterated his comments that building permits would need to be renewed if construction hadn't begun and questioned why they would be renewed in this zone. Mr. Landry commented on the process for extending a building permit in lieu of zoning changes as an item to consider for the future. Mr. Wilson stated that the problem was that someone should have known not to re-issue the permit. Mr. Wilson said that Mr. Mastroianni needed to come in for a site plan review as there had never been an approved business on this lot. The Board discussed Mr. Mastroianni using the surveyed plan he provided to the Board for the evening's review. Mr. Greenwood asked why the Board wouldn't be requiring an engineered plan for this review. Mr. Coppelman stated that if there wasn't an approved site plan for the site; it is a different parcel with a proposed commercial use which meant that it must go through the site plan review process.

Mr. Hurley asked if the plans that were available for review were adequate for a site plan review. Mr. Coppelman asked if all of the information required for anyone else coming to the Board was on that plan: parking, lighting, signage, the rest of the list for a site plan review. Mr. Wilson answered no, it showed well radius and septic. Mr. Mastroianni said it was an existing conditions plan with the exception that the septic was not currently installed; there was no signage proposed. Mr. Wilson re-iterated his point that it was not an approved commercial property which was the issue. Mr. St. Hilaire commented that it was an existing building on a site in the Commercial zone and the applicant has permits to build two bedroom units that have nothing to do with the business; he added that Mr. Coppelman's comments had a lot of merit as there has never been any commercial use approved for that lot; there is a checklist to review for a complete application. Mr. Hurley stated that it sounded like there was more information needed; he would need to apply for site plan review and could ask for waivers for certain requirements. Mr. Mastroianni wants to do what is necessary for an approval so if tenants change in the

future, that can happen and there isn't a problem in the future. Mr. Wilson said that Mr. Mastroianni needs to follow the list citing the requirements for site plan; Mr. Coppelman said that it could be found in the site plan review regulations and suggested that Mr. Mastroianni meet with Mr. Greenwood for any needed guidance. Mr. Hurley suggested that any waivers would be discussed at the time that the site plan was submitted. Mr. Wilson stated that adding the necessary items to the submitted plan would make it an engineered plan. Mr. Hurley ended the discussion by stating the Mr. Mastroianni would need to come in for a site plan review. The Health Officer's comments were read which noted that "if this was to be used as a "separate" business, then there is a septic issue. The "Stand-alone" business would need bathroom facilities".

Board Business, continued:

Fowler's Auto Body Repair

The Board had received a request for an inspection station. Mr. Coppelman reviewed the previous meeting's Action Items which included receiving Inspectors comments brought back to the Board. Mr. Greenwood explained that the Board can not sign off on the application as they usually do because the Board is aware of ordinances that are not being met; they are aware of an issue with the Health Inspection, so they can't check off the section that states that the proposal meets all Town Ordinances. They can add a note for the Selectmen that the Planning Board requirements can be met as long as there is compliance with the previously approved stipulations. He added that it is the Board of Selectmen who sign the form; the Planning Board just makes the recommendation to the Selectmen.

Workforce Housing

Mr. Greenwood said that paperwork had been distributed at last month's meeting for the Board to review this evening. He had more copies for any Board member who needed them. This will be added as a future agenda item.

NHMA Joint Meeting Dates for Board training: Mr. Greenwood had two possible dates for the Board: the last Wednesday or Thursday of May or June. The Board agreed upon June 24th for the meeting.

The Board discussed the Planning Board calendar.

Mr. Landry returned to the Workforce Housing discussion and asked if there was additional work to be done to support the regulation. Mr. Hurley suggested that there were issues concerning various stipulations regarding thresholds, length of time of keeping affordable, percentage of increase as well as other stipulations such as percentage of saleable units and rentable units. Mr. Landry doesn't want this missed as the Board has discussion regarding buffering. He doesn't want these requirements to linger before being adopted.

MM&S to adjourn. (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**