

**Kingston Planning Board
July 20, 2010
Public Hearing**

Minutes

The Chairman called the hearing to order at 7:00 PM; there were no challenges to the validity of the meeting.

Members Present:

Norm Hurley, Chairman
Richard Wilson, Vice Chair
Ernie Landry

Glenn Coppelman
Jay Alberts
Dan Mastroianni

Members Absent: Chuck Hart, BOS representative; Alternates Rich St. Hilaire and Marilyn Bartlett

Also present: Glenn Greenwood, Circuit Rider/Planner; Dennis Quintal, Town Engineer; Ellen Faulconer, Administrative Assistant

Board Business

Critical Correspondence:

- Letter received from Al Hutchins regarding commercial activity on the site owned by Wayne Kinney on Rte. 125; he apologized for opening an Antique Shop without permits; explained that the property owner had said that a business used to be located in the building and assumed it would be all right. The building is currently being used both commercially and residentially with an apartment in the back. Mr. Hurley noted that there was nothing in the file about a commercial approval for the building. Mr. Wilson noted that the property card listed the building as residential showing the number of bedrooms and apartments on the site. Mr. Coppelman stated that without some type of previous approval, some level of site plan review would be required; Mr. Wilson agreed. Mr. Hurley suggested he work with Mr. Coppelman or Mr. Quintal regarding site plan review. He added that an Occupancy Permit would be required which would need a site plan approval prior to operating the business. Mr. Wilson added that either the site plan or a letter of authorization would need to come from the owner of the property. Mr. Greenwood asked the Board to specify the degree of guidance he should provide to the applicant, specific to requiring an engineered plan. Mr. Wilson noted that the property was separated in parcels A and B. Mr. Mastroianni suggested that Mr. Hutchins speak to the Fire Department prior to going any further due to the requirements for separation between commercial and residential uses. Mr. Hurley added that the costs involved could wind up being prohibitive and strongly recommended speaking with the Fire Department first before incurring engineering costs. Mr. Coppelman commented

that if there was something already existing in the file that he would feel comfortable with a modification but without that there needed to be some type of plan submitted to the Board to review. There was no disagreement from the Board; Mr. Hurley referred Mr. Hutchins to the Fire Department, Mr. Greenwood and Mr. Quintal for further assistance.

Mr. Hurley announced that the Board would be continuing on with the agenda and return to Board Business later in the evening.

Lake Association Stormwater Grant Proposal

Mr. Hurley announced that the grant proposal had been sent to the Board members for their review by email.

<Board Note: Selectmen Mark Heitz and Peter Broderick joined the meeting in progress.> Mr. Landry introduced the members; explained the process in developing the draft for the Board's approval. Mr. Hurley stated that he was impressed with the proposal; Mr. Coppelman seconded the amount of work involved in the document. Mr. Landry stated that Board approval and the Chairman's signature was required to move the proposal forward. The importance of the watershed and supplying information to residents to make intelligent decisions regarding properties on the lake was reviewed. Mr. Lumnah commented on the importance of forming a watershed association. The Board suggested alternate ways of distributing information including utilization of the cable channel and the web site. Mr. Landry stated that the Master Plan addressed the possibility of the Planning Board developing a Watershed Protection Ordinance; he added that a Watershed Council could also be established to work in conjunction with the Planning Board in developing this. Mr. Hurley agreed with Mr. Landry that this would be a great idea.

MM&S for the Planning Board to accept the grant proposal as presented; to sign the proposal and send it to the Rockingham Planning Commission to then send to DES.
(Motion by Mr. Landry, second by Mr. Wilson) **PUNA**

Capital Improvement Plan Presentation

Mr. Greenwood distributed the final CIP to the Board members. Mr. Coppelman, Chairman of the CIP committee, introduced the members: BudCom reps: Ellen Faulconer, Vice Chair of the Committee, Lynn Gainty, Deb Powers (not present), Alternate Ron Conant; BOS rep. Peter Broderick; Planning Board reps: Ernie Landry and Rich Wilson. He explained the CIP process including the meeting process, field studies, interaction with the Department Heads and the Board of Selectmen; explained specifics within the document. He specified that this was a guiding document only. He explained that the CIP needs to be adopted by the Planning Board; it is a living document that needs to be updated; the next year's subcommittee needs to be established as soon as possible.

Mr. Greenwood re-iterated that this was an advisory document; all numbers are simply best guesses. Ms. Faulconer commented on the cooperation and communication with the Board of Selectmen and Department Heads. Mr. Alberts commented on the positive nature of the document and need for its approval. Mr. Coppelman thanked Mr. Greenwood for his yeoman's work in getting the document together. Ms. Gainty added that an additional benefit of the document was leveling out the requests to eliminate severe fluctuations in the tax rate. Mr. Wilson wanted clarification on the townspeople's ability to still vote on the requests. Ms. Faulconer explained that adoption of the document was not an approval of funding levels. Mr. Greenwood added that the document is a determination of department needs; voting an appropriation request down does not necessarily make the need go away it is just a decision that the Town may not agree to fund that item at a particular time. Mr. Heitz explained that the majority of the document was spearheaded by the CIP committee and the Department Heads; it would be up to the voters; he added that some of the items may be done by a warrant article; other items might be accomplished in other ways. Mr. Greenwood said that the Department Heads might need to make changes depending on annual votes. Mr. Hurley stated that was the reason to update the CIP annually and re-formulate as needed. Ms. Gainty added that another goal of the CIP would be to communicate the Town's needs and how to achieve them. Mr. Hurley summarized that this was a great accomplishment that was long overdue and thanked the Committee.

MM&S to adopt the Town of Kingston's Capital Improvement Plan 2010-2015, dated July 2010 as presented this evening. (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

Ms. Faulconer asked when the next CIP meeting would be; Mr. Hurley stated that the Planning Board should put forth members for the Committee and added that the hardest part of putting the first one forward was already done. Mr. Coppelman added that the BudCom and BOS would need to appoint members as well. Ms. Faulconer asked the BOS if a number of the CIP plan could be reproduced in color.

ACTION ITEM: The Board of Selectmen will address reproducing the CIP request at their next meeting.

ACTION ITEM: CIP membership to be added to the next agenda.

ACTION ITEM: Have the CIP added to the Town's web site.

<Board note: Selectmen Heitz and Broderick left the meeting after the CIP presentation. >

Armand and Charlotte Boutin
153 Route 125
Tax Map R20-26

Paul Nichols, the applicant's engineer, introduced himself and Mr. Boutin to the Board. Mr. Hurley read department comments from the Town Engineer, Conservation Commission, Building Inspector and Fire Department. Mr. Greenwood added that he had

no substantive comments; this was basically an as-built plan; he added that the applicant should be cognizant that upon completion of the site plan process, there were still Building issues that would need to be addressed. Mr. Landry noted that the activity “assembly” was not part of the submitted plan. Mr. Nichols explained that this was just an updated plan showing existing conditions; he could add the items noted by the Town engineer if needed regarding waste. Mr. Hurley agreed that getting the plan itself was the goal; he added that an Occupancy Permit would still be needed. He explained that while the Planning Board may accept the plan as an existing as-built plan that did not necessarily get the applicant where they wanted to be with regard to Occupancy Permits as they were handled by the Inspectors, not the Planning Board. Mr. Wilson noted that the upstairs of the building was clearly marked as “storage”; there was nothing to do with “assembly”.

Mr. Nichols explained that the washing takes place inside of the building, with the approval received by the State in 1998. He said that there was a 1,000 gallon tank with an alarm that lets the owner know when it is full and needs to be emptied. Mr. Boutin stated that the alarm had not been installed yet.

MM&S to accept jurisdiction of the Boutin plan. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

Per Mr. Quintal’s advice, Mr. Boutin submitted a waiver for 904.9.B, related to the paving of the parking area. Mr. Coppelman said that since this was based on an existing conditions plan with an approval already in place, it was an appropriate waiver request. Mr. Hurley agreed but added that the Board should limit the amount of cars on the site; if it changes in the future, the applicant should need to pave. Mr. Coppelman identified 9 spaces on the plan.

Mr. Hurley also clarified that vehicle sales were not being considered or allowed on this site during this review process.

MM&S to approve the waiver as requested with the condition that the limit of vehicles related to the reconditioning business is limited to a maximum of nine (9). (Motion by Mr. Coppelman, second by Mr. Wilson) **PUNA**

There was no public comment for this application.

MM&S to accept as an existing, up-to-date site plan with the condition that the buffers and dumpster storage area be added to the plan. (Motion by Mr. Wilson, second by Mr. Alberts) **PUNA**

Diamond Oaks Golf Club, LLC
NH Route 125 and Granite Road
R3-4, 4C and 13

Mr. Hurley opened the meeting; he asked that question and comments happen after the applicant’s presentation. Mr. Alberts noted that the comments from Attorney Loughlin

were dated today and it was the first time seeing that letter. Lynn Merrill introduced herself along with Attorney Kathy Sullivan and Steve Cummings as representatives for the applicant. Mr. Hurley noted receipt of lengthy comments received by the Town Engineer. Attorney Sullivan addressed comments from the last meeting and the on-going questions regarding the Open Space and use of the Golf Course as Open Space. She referred to additional changes made in the condo. documents; specific provisions regarding any changes needing approval from the Homeowner's Association and the Planning Board. She continued by referencing NH RSA 79:C regarding discretionary easements being consistent with NH practices regarding a golf course being open space as long as there are no buildings or pavement. Attorney Sullivan noted that she was seeing Attorney Loughlin's letter for the first time during the meeting; she commented on aspects of the letter and his analysis of the zoning. She noted discrepancies between their proposal and the Market Rate Elderly housing requirements; she suggested that some of the Market Rate specifics may be used as guidelines but not requirements.

Mr. Cummings explained that the plans are the same as the last time; the plan distributed to the Board this evening shows the land units and common areas that coincide with the language in the condo. documents. He stated that he had just received Mr. Quintal's comments on the plan today and he'll have to address some of them on the plan; he disagreed with Mr. Quintal's "subdivision" requirements and would like the Board to resolve that during the meeting so he can submit new plans for the next meeting; he wants direction regarding the Open Space and the Common Land.

Mr. Hurley asked Mr. Greenwood if the plan was complete enough for the Board to take jurisdiction. Mr. Greenwood replied no, there were still items missing; he was still waiting for information on density and how the 35 units was established; there are basic pieces of information that the Board needs before accepting jurisdiction; his previously submitted comments still stand. He added that he appreciated Attorney Loughlin's letter as it establishes parameters for the Board to use; while using Elderly Market Rate Housing may cause some issues, it is a cleaner way to move forward. He explained that while the Town Meeting vote allowed for age restricted residential use, no standards were established. Mr. Hurley stated that the Board has no problem continuing the discussion without accepting jurisdiction. Mr. Wilson stated his disappointment that this application was started months ago and there was still no information on the septic loading for the Health Inspector. Mr. Cummings said that he would need to look at the Elderly guidelines. Mr. Hurley advised the Board to establish what zone they are going to be applying to the proposal. Mr. Greenwood compared the Elderly and Innovative Zones.

MM&S that they have met the Open Space Requirements and they don't have to discuss it further. (Motion by Mr. Alberts, second by Mr. Wilson)

Discussion: Mr. Coppelman suggested that the Board determine the template being used first, Elderly or Innovative. Attorney Sullivan commented that there are so few guidelines in this District in the Ordinance; she suggested that Attorney Loughlin's recommendations are guidelines, not requirements. Mr. Cummings said that there is not much difference between the two Ordinances regarding Open Space; he doesn't think that the applicant

should be limited to a specific Ordinance, that it should be worked out between the two attorneys and the Board.

MOTION WITHDRAWN by Mr. Alberts, Mr. Wilson.

MM&S that what they declare as Open Space in this plan does meet the requirements of Open Space. (Motion by Mr. Alberts, second by Mr. Wilson) **(Motion passes 4-2 with Mr. Coppelman and Mr. Landry opposed)**

There was Board discussion regarding enforcement of age restrictions in an elderly development. Mr. Wilson said he understood that it would be up to the Homeowner's Association to enforce; he was leaning toward using the Elderly Zoning with a waiver for full 55+ zoning. Mr. Alberts read from Attorney Loughlin's letter; encouraged use of common sense. Mr. Greenwood explained the waiver process for this application. Mr. Coppelman read section 208.5.C referencing the Board's ability to grant waivers; giving the Board ability to negotiate. Questions were raised regarding age restrictions; Mr. Greenwood thought if the limit was set at 62+ than everyone would be held to that; if 55+ then 25% are allowed not to be age restricted; he added that he would need to check on those limitations.

ACTION ITEM: Mr. Greenwood to check federal code to verify age restriction limits.

Mr. Alberts suggested that both sides co-operate in good faith. There was discussion regarding the setbacks on buildings, buffers, septic systems. Mr. Wilson reminded the applicant that the Planning Board can't give waivers for septic design. Mr. Alberts questioned an objecting abutter's property is located in Kingston or Plaistow and whether it is zoned agriculturally or used commercially. Mr. Hurley noted that it would be up to the applicant to ask for waivers if the Board was using Elderly.

MM&S to apply the Market Rate Elderly Housing parameters to the application and ask the applicant to return with a plan that conforms to that or ask for waivers for those that don't apply. (Motion by Mr. Coppelman, second by Mr. Landry)

Discussion on the motion: Ms. Merrill noted certain requirements in the Elderly zone that the plan did not comply with and asked that there could be conversation on these points. Mr. Cummings thinks the zoning can be met as long as there is compromise with the Board. He stated that he would have the plans ready for the next hearing. Attorney Sullivan asked that the applicant review the information first. Mr. Coppelman explained that the motion was for the Board to make a decision; Mr. Hurley agreed that the Board needed to determine a starting point; he asked that the discussion be limited to the motion.

VOTE ON THE MOTION: PUNA

Mr. Hurley explained that he wasn't going to read the Department Heads' comments as the plan might be changing based on the Board's decision. Mr. Hurley stated that the plans

would need to be provided to the Board in time to distribute to the Department Heads. Mr. Cummings stated that he would bring the new plans to the office by next Thursday, July 29th.

MM&S to continue to August 17th at 8:15. (Motion by Mr. Coppelman, second by Mr. Landry) **PUNA**

Tupelo, LLC
Rte. 125

Mr. Mastroianni recused himself; presented plan to the Board. The Health Officer's comments were read into the record; he opposed utilizing the septic design plan as a site plan. A letter was read from Landscaper's Depot as an abutter; they had no objections to the plan. Mr. Hurley said that the original approval was for two residences; the proposal was for one residence and one commercial use. Mr. Wilson noted that the lot lines don't show on the plan. Mr. Mastroianni stated that they were about 1,000 feet back. There was discussion on the aspects of the plan.

MM&S to accept jurisdiction of the plan. (Motion by Mr. Alberts, second by Mr. Wilson) **PUNA**

Mr. Coppelman noted that the description of the activity needed to be added to the plan; Mr. Wilson added that the hours of operation and number of employees were also missing.

Mr. Greenwood explained that the plan as presented could not be recorded but that the Board could compose a Letter of Facts and Findings with those items specified and require that the Letter be recorded. Mr. Coppelman agreed that it would be a good idea to record the Facts and Finding in lieu of a recorded plan; Mr. Wilson said the Board would need to determine the specifics including the hours of operation, number of cars allowed since the surface was unpaved. Mr. Mastroianni explained that nothing there was paved, most of the parking would be on the existing pavement on the adjacent site; he said at this time there was 10 parking spaces. Mr. Wilson suggested adding 10 or less cars as part of the Letter. Mr. Coppelman said that the uses should be described better than simply "retail". Mr. Hurley stated that there was no pavement on the site; if this developed into larger retail there should be paved parking; this was originally 2 residential uses which would have had a maximum of 6 cars.

The Board established that the Facts and Findings Letter will include:

- Hours of operation will be 9 AM to 6 PM, 7 days
- Numbers of employees: 5 (per Mr. Mastroianni's statement that this complies with the approved septic design)
- approved use to be described at "dry goods retail"

There were no public comments.

Mr. Mastroianni asked for a waiver request for 904.5 of the site plan review regulations regarding required exhibits and data, as this is an existing site plan.

MM&S to accept the waiver request of 904.5. (Motion by Mr. Alberts, second by Mr. Wilson) **PUNA**

MM&S to conditionally approve the submitted plan based on the Facts and Findings being signed by the applicant and Board Chairman; applicant pays to register the Letter of Facts and Findings. (Motion by Mr. Alberts, second by Mr. Wilson) **PUNA**

Board Business, Continued

MM&S to accept the June 1st minutes as written. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion Passed 5-0-1 with Mr. Wilson abstaining.**

MM&S to accept the June 15th minutes as written. (Motion by Mr. Coppelman, second by Mr. Landry) **Motion Passed 5-0-1 with Mr. Wilson abstaining.**

Correspondence:

- Circuit Rider Contract; the rate has increased 3.8% over last year

MM&S to authorize the Chairman, on behalf of the Planning Board, to sign the contract and forward to the BOS. (Motion by Mr. Coppelman, second by Mr. Wilson) **PUNA**

- Submittals received from the Town Engineer for addition to the Subdivision and Site Plan Regulations.

MM&S to add Town Engineer submittals to the August 17th Public Hearing. (Motion by Mr. Coppelman, second by Mr. Wilson) **PUNA**

- Letter received from Landscaper's Depot about additional sales; Planning Board agreed that it was a permitted use as long as the description occurred inside the building.

ACTION ITEM: Ms. Faulconer to send a letter to Landscaper's Depot re: approval of use.

- P.R.E.P. Grant Application submission
- Watershed Grant Application availability
- Local Source Water Protection Grant availability
- Keith Martel's Bond request received; Mr. Walker has to review the mylar first

ACTION ITEM: Ms. Faulconer to contact Dave Walker to review Mr. Martel's mylar.

- MetroPCS Bond request received; can be released after confirmation that all bills have been paid.
- Mr. Avata's bond request received; can be released after confirmation that all bills have been paid.
- Ducks on the Pond – notification of non-renewal of Letter of Credit; Mr. Greenwood explained that that letter of credit was the security for Phase II; if this is not re-established, the applicant will need to come back in and re-establish bond prior to continuing on with Phase II.

ACTION ITEM: Send a letter to Ducks on the Pond – any work on Phase II will need to come back to the Board to re-establish the amount needed for the Bond.

- Letter received from Dana Truslow
- Information from Budget Committee re: liaison, submittal deadline.
- August Calendar approval
- Purchase Order approved for 1st and 2nd quarter mileage
- Resignation letter received from Mr. Hurley effective July 21st

The Board members discussed options based on Mr. Hurley's announcement.

ACTION ITEM: Ms. Faulconer to see about putting an ad in the paper re: looking for Board member and Board alternates/ put on cable.

MM&S to adjourn at 10:30 PM. (Motion by Mr. Coppelman, second by Mr. Wilson)
PUNA