

**Kingston Planning Board
August 17, 2010
Public Hearing**

Minutes

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

Members Present:

Rich Wilson, Chair
Jay Alberts, Vice Chair
Chuck Hart, BOS rep.
Dan Mastroianni

Ernie Landry
Glenn Coppelman
Rich St. Hilaire, Alternate

Members Absent: Marilyn Bartlett, Alternate

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

Mr. Wilson noted that Adam Pope, Board alternate applicant was present in the audience.

Mr. St. Hilaire will be a voting member this evening.

Board Business

Critical Correspondence:

- Letter received from RPC confirming Circuit Rider Contract.
- Letter received from BOS supporting grant.
- Copy of letter received from BOS re: complaint registering regarding generator at the High School. Mr. Hart stated that the BOS had forwarded the complaint to the School District.
- Copy received of Notice of Violation sent to Wayne Kinney.
- DES notification of Alternation of Terrain permit of 577,000 square feet for Diamond Oaks. The Board questioned the information regarding this permit request; no map was attached to the application that the Board received. Mr. Landry asked if this request included the clubhouse; that was unclear in the application.
- Notification from BOS that Mr. Heitz would be the BOS representative on the CIP Committee.
- ZBA decision received for Tasbak, R3-9.
- Request for release of escrow funds from Thomas Fraser. (Certificate of Monumentation was received from Paul Nichols during the meeting). Board agreed to release funds upon Ms. Faulconer's review that all pending bills have been paid.

Non-critical Correspondence: This file was reviewed by Mr. Wilson and passed around to the Board members.

- A copy of a letter was received from the BOS re: CMS Engineers and the New Boston Road Bridge; Mr. St. Hilaire took this letter as it was pertinent to the Road Agent and not the Planning Board.

Other Board Business:

- Updated Ordinance pages for the Residential Home Occupation were distributed for the Board members to replace in their books.

MM&S to accept the July 20th minutes as written. (Motion by Mr. Alberts, second by Mr. Hart) **PUNA**

- November 2nd, a scheduled meeting date, is also the date for the upcoming Fall elections; the Board will review its schedule again in October and determine whether to meet on that night.
- Mr. Wilson, per a previous ACTION item, told the Board that he spoke with the Fire and Police Chiefs about the possible Blasting Ordinance. Chief Seaman will write up the current Fire Department policy and get back to the Board.

ACTION ITEM: Mr. Wilson to receive information from the Fire Chief on the current Blasting policy.

Subdivision, Site Plan, Driveway Regulations Addition/Update
Public Hearing

Dennis Quintal reviewed the proposal to the Board; the proposal was to add more detailed designs to the regulations; he had reviewed the design with Mr. St. Hilaire, Road Agent. He explained that this would be a good model on how a road should be built; any alterations could be done through waivers. He added that this would help minimize disputes as it would now be clear what was expected with the rules and regulations.

Mr. Alberts asked if this proposal would apply to both commercial and residential; he cited an example of someone with an existing driveway that had a crack in it and wondered if this would apply to a resident who needed a repair. Mr. Quintal stated that he expected that, if it was a safety issue, then the driveway should comply with the regulation. Mr. St. Hilaire explained that currently, changes to a driveway would require a permit and compliance with the regulation however, he does not expect people to tear up a driveway unless there is a safety issue. To answer Mr. Greenwood's questions, Mr. St. Hilaire stated that the five foot setback for mailboxes exists now. Mr. Coppelman confirmed with Mr. St. Hilaire that he is in favor of adopting the proposal.

MM&S to include the new Driveway Entrance Detail, Typical Parking Cross Section, and Typical Roadway Cross Section to the Driveway Regulations, Subdivision and Site Plan Regulations. (Motion by Mr. Coppelman, second by Mr. Hart) **PUNA**

Taylor Lot Line Adjustment

Paul Nichols, Engineer and representative for Mr. Taylor, discussed the proposal with the Board; the Board reviewed the plan which involved 2 non-conforming lots.

Mr. Greenwood explained to the Board that the problem with the proposal is that the lots are non-conforming, due to their size, and therefore not in the Planning Board's authority to approve; it must go to the ZBA. He added that depending on the ZBA's action, the Planning Board would then need to address the proposal. He recommended the Board deny the application and send to the ZBA.

Mr. St. Hilaire asked if there was any way to send the application to the ZBA without ending the hearing so the applicant did not need to re-apply. After Board review, the Board decided that due to the current standards, there did not appear to be a way to accomplish this.

MM&S to deny the proposed lot line adjustment without prejudice and refer the applicant to the ZBA due to the fact that the Planning Board can not make a non-conforming lot more non-conforming. (Motion by Mr. St. Hilaire, second by Mr. Coppelman) **PUNA**

<At this time, the Board took a brief recess.>

Board Business, continued:

The Board reviewed the procedure for an applicant to get to the ZBA. They questioned the possibility of structuring a denial that did not require an applicant getting a formal denial from the Planning Board prior to going to the ZBA. Mr. Greenwood asked the Board's permission to speak with Attorney Loughlin about the possibility of the Board passing an application on to the ZBA. A question was raised about the possibility of the Planning Board making the decision at the time of "plan review" that the request needed ZBA relief prior to being on the Planning Board agenda for a public hearing. Mr. Alberts stated that he has spoken with an attorney who believed this to not be standard practice. Mr. Coppelman cautioned that sometimes the cases are not as simple as presented this evening and information discussed with the applicant and the Planning Board can be important to the applicant and the ZBA. Mr. Greenwood agreed and suggested that at the Board's work plan review, it can be determined if it is a simple ZBA request, if not, it could be added to the public hearing agenda to have the discussion. Mr. Quintal gave an example of case in S. Hampton that he was involved in that needed ZBA action where the Planning Board kept the hearing open. Mr. Greenwood stated that he would also ask Counsel about the possibility of keeping a hearing open. Since these were questions that the Board wanted

answered about policy, they authorized Mr. Greenwood to speak to the Board's legal counsel.

ACTION ITEM: Mr. Greenwood to contact Attorney Loughlin regarding policy and procedure involving hearings and ZBA action. Mr. Greenwood will copy information about these policies to the ZBA Chairperson.

Upcoming meetings and agenda items were reviewed by the Board.

Mr. Wilson asked about reviewing the Windmill Model Ordinance for Kingston. During discussion it was noted that it must include language about action concerning a non-productive windmill.

ACTION ITEM: Mr. Greenwood to work on language for a windmill ordinance for the Board to discuss on September 21, 2010.

ACTION ITEM: Mr. Greenwood will provide the necessary information for writing the grant for RPC for the mapping project.

ACTION ITEM: Mr. Wilson to meet with Ms. Faulconer and complete the grant application.

The upcoming budget process was discussed; the budget is due September 30th.

Diamond Oaks Golf Club, LLC
Tax Map R3-4, 4C, 13

The Chairman called the hearing to order at 8:15. Lynn Merrill introduced herself as a representative for the applicant along with Attorney Sullivan and Steve Cummings, engineer. Ms. Merrill stated that she was hoping that the Board could accept this current plan for jurisdiction this evening. Mr. Cummings gave a copy of a document titled "Maximum Allowed Flow" to the Board. He noted that he had met with Mr. Middlemiss, Health Officer. He handed out loading calculations to the Board. Mr. Cummings read from letter dated July 28, 2010 and noted the waiver requests.

MM&S to accept the plan for jurisdiction. (Motion by Mr. Alberts, second by Mr. Mastroianni)

Mr. Coppelman asked to discuss the Health Officer issues. Mr. Greenwood stated that the applicant has taken care of his issues for jurisdiction but there are issues with Health Officer and the Town Engineer seems to have an extensive list of issues. Mr. Wilson said that in discussions with the Fire Chief, the Chief doesn't want to review the plans anymore until there is a specific plan to review that the Board has accepted. Mr. Quintal explained that there are some issues that still have not been addressed; some are items that are needed to better understand the plan, waterlines and sewer lines need to be shown as examples. He

added that he did not think that there is anything missing to have the Board not accept jurisdiction.

Vote on the Motion: PUNA. Mr. Wilson noted that the date of acceptance of the plan for jurisdiction was August. 17, 2010.

Mr. Cummings told the Board that he was unclear as to the issues pending with the Health Officer. He said that the Health Officer wanted calculations and he brought them with him tonight so he did not know there were any other issues. Mr. Wilson reminded Mr. Cummings that one of the items requested by the Health Officer was the sheet that just came in during this meeting and, therefore, Mr. Middlemiss had not had an opportunity to see them yet.

The Board referred back to the waiver requests. The first waiver concerned the road; Mr. St. Hilaire said that he would need to review the request and the plan; he would not give an opinion without doing the full review. He did add that he wants the road to remain private; the condo. docs. need to state it; he commented that it needs to be noted in several places. Attorney Sullivan replied that it is in those documents along with a statement that the services associated with a road will not be provided by the Town of Kingston. There was discussion about the review of the condo. docs; Attorney Loughlin has reviewed them and the Board noted that he will continue to review get any updates/changes and review them.

Mr. Alberts asked that the Board be specific about what it wanted regarding the waiver request for item #1; he asked that the Board develop a course of action in dealing with the waivers. For Waiver #1, the Road Agent will review and get back to the Board.

For Waiver #2 (905.11 "J") – this request will be reviewed by the Road Agent and get back to the Board. Mr. St. Hilaire added that he will meet with the Town Engineer to review the plan; he stated that safety issues would also need to be looked at which would also need Fire Dept. review.

Mr. St. Hilaire explained that the Department Heads had not reviewed this plan; they were waiting for the jurisdictional plan before providing any additional reviews.

Waiver #3: this required Police and Fire Department review prior to approval.

Waiver #4: Mr. Greenwood explained that one person age 55+ is adequate, per federal law, so a waiver is not required.

Waiver #5: Mr. Cummings explained that this was not really a waiver request, just an explanatory comment.

Mr. St. Hilaire, as a member of the Conservation Commission, provided their comment. He referred to the Board to sheets 5 and 14; there is a concern that there is a steep grade in back of the buildings 10-13 that leads to the wetlands; the Commission is asking for proper handling of the sheet flow to keep it out of the wetlands. He added that the Commission's other concern was the use of Best Management Practices and that specified in the condo. docs. He stated there could be similar restrictions to assure that fertilizers, etc. were

kept out of the wetlands; similar to those on the original “golf course” plans. Mr. Cummings said that they could definitely look into that and show these things on the plans.

Mr. Wilson asked Mr. Greenwood to review his comments. Mr. Greenwood stated that this plan basically addressed his comments concerning previous deficiencies. He added that he is not saying that the plan meets all the standards required for site plan but that there is now a site plan for the Board to review.

Mr. Greenwood reviewed comments made by Mr. Middlemiss regarding the merging of the multiple lots. Mr. Greenwood’s concerns are an overall look at the developable project with the lots to be merged as a condition of approval. He explained that Mr. Middlemiss looks at it as it is able to support septic needs and that needs to be looked at as one lot, for his review. There was Board discussion regarding the Health Officer issues and conditions of approval.

Mr. Cummings wanted to know what pages the Board would require to be recorded; Mr. Greenwood explained that determination would come during the Board’s discussions.

The Board took straw vote regarding the merging the lots. Mr. Wilson asked for those who thought the lots needed merging prior to continuance of Board discussion: no hands raised; Those who found no need to merge the lots prior to setting conditions of approval – passed unanimously.

Mr. Greenwood told the Board that the applicant’s escrow account was almost at zero and that there needs to be funds added to the account; he suggested the addition of \$5,000. Mr. Wilson suggested, as has been done with previous applications, that when the threshold drops to \$1,000, the applicant adds funds to bring back to \$5,000. Ms. Merrill suggested that the applicant is willing to put in \$2500 as the process is at the tail end. Mr. St. Hilaire stated that this was not the tail end; the review process actually begins today as it was just accepted for jurisdiction. He continued that this is now a new plan that needed to be reviewed and added that there is no lighting plan which needed to show conformance with the Lighting Ordinance; there is a Commercial Building proposed that needs to show conformance, as well. He explained that there is still a lot to review.

MM&S to take recommendation of the Circuit Rider and require the applicant to add \$5,000 to their bond. (Motion by Mr. Coppelman, second by Mr. Landry) PUNA

ACTION ITEM: Ms. Faulconer will notify the Town Engineer when the funds are received so he can continue with the review of the plan.

ACTION ITEM: Ms. Faulconer will notify the applicant to replenish the escrow fund if the balance drops to \$1000.

Mr. Quintal reviewed his comments for the Board. He noted, on p.5, that Unit #32 is located behind the other units. He stated that it fits; meets the requirements but creates conflicts unless lines can show the common and limited common areas. He believes that

this area is “tight” and could cause conflict which is something the Board may want to address. He said that numbers 18 and 19 have similar situations with the shared driveway and he hoped that these areas could be changed.

Mr. Quintal discussed the grading on Unit 14 (comment 21); this area may need better protection and additional buffering. He commented that he was bringing possible issues to the Board’s attention for discussion with the applicant. Mr. Wilson commented that a 10 foot wall is a hazard and may need a guard rail; he stated that in a residential setting, that type of a drop is not permitted. Mr. Quintal suggested that Mr. Cummings review the comments and get back to him; it was nothing the Board needed to address this evening.

Mr. Wilson asked Mr. Cummings to confirm that the 25 foot setback is open, that it wouldn’t be encroached upon by a deck, as an example. Mr. Cummings agreed that it would make sense to clarify the space associated with each unit; he stated that there would be nothing closer than 25 feet; no building closer than 30 feet. Mr. Wilson said that he would like any possible decks added to the plan to see the layout. Mr. Cummings said that he will show those items discussed on the plan; he will look at the 10 foot drop to see if the slope can be changed.

Mr. Wilson noted that the cul-de-sac is bigger than twenty feet which is good for fire trucks. Mr. Cummings said the larger cul-de-sac is to allow a vehicle to be parked in front of someone’s house and still allow safety vehicles the ability to pass. Mr. Cummings asked about the possibility of knowing what pages would need to be recorded by the next meeting.

ACTION ITEM: Mr. Greenwood to speak with Mr. Quintal about which pages of the Diamond Oaks plan would need to be recorded.

Regarding tonight’s discussion, Attorney Sullivan reviewed that the Board was looking to see information specific to: fertilizer, BMP’s, Limited Common Area lines versus Common Areas for all units.

Mr. Coppelman asked Attorney Sullivan to explain how the attempt has been made to meet the requirements for Open Space; he asked to make sure he sees the section that addresses the requirements of 208.6 (C) regarding not being subdivided, etc. Attorney Sullivan referred to page 13, Open Space Easement along with P. 7, paragraph H. Mr. Coppelman confirmed that the easement is being held by the Homeowner’s Association but the Golf Course is being run by a commercial operation. Mr. Alberts asked the applicant’s attorney on legal guidance regarding the Board’s action regarding Open Space. Mr. St. Hilaire stated that any legal guidance for the Board should come from its own Counsel; Mr. Alberts agreed.

Mr. St. Hilaire asked about the phasing of the project and asked if a temporary cul-de-sac would be provided for turn-arounds. Mr. Dufresne, the applicant, answered that there would be a loop in Phase I and a cul-de-sac in Phase II. Mr. Cummings added that a specific construction sequence would be laid out. He said the septic would be done in two phases; the road in two phases; the buildings in five phases. Mr. Wilson asked how

building permits could be issues on a private road; Mr. St. Hilaire said that occupancy permits could not be issued until the road was paved.

Mr. Wilson asked for additional comments; there was no further discussion on the plan by the Board at this time.

Mr. Wilson stated that the Board anticipates comments now from the Department Heads and Health Officer that may need to still be addressed by the applicant. He asked that the Board review the plan more in depth prior to the next public hearing. The Board will review the plan at its next plan review meeting.

The Board referred to the Lighting Plan requirements and the cut sheets for the fixtures that would need to comply with the Town's ordinances. Mr. Coppelman stated that the "cone of illumination" should be shown as was done as a requirement of the Konover plan. Mr. Cummings agreed that he would show that on the plan; it will be shown on the clubhouse and street lighting plan. Mr. Coppelman explained that the Lighting Ordinance and Dark Sky Compliance requirement that was adopted in March; he suggested the applicant review this before returning to the Board.

The Board asked that this be received in time for the Energy Committee to review before the next public hearing.

ACTION ITEM: Mr. Cummings to have the Lighting Plan to the Board no later than Sept. 7th.

Mr. Cummings suggested that there be a meeting between himself and the Technical Review Committee. Mr. Wilson stated that the Board would like to review the Department Head comments first and then see if that meeting is needed.

MM&S to continue this hearing to September 21, 2010 at 7:30 PM. (Motion by Mr. Alberts, second by Mr. St. Hilaire) **PUNA**

The Board discussed procedural issues regarding plan review.

MM&S to adjourn at 9:50. (Motion by Mr. Alberts, second by Mr. Hart) **PUNA**