

**Kingston Planning Board
Public Hearing
February 15, 2011**

The Chairman called the hearing to order at 6:30 PM. There were no changes to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman	Glenn Coppelman
Jay Alberts, Vice Chairman	Dan Mastroianni
Ernie Landry	Richard St. Hilaire, Alternate
Chuck Hart, BOS representative (joined the meeting in progress)	
Adam Pope, Alternate (joined the meeting in progress)	

Members Absent: Marilyn Bartlett (alternate).

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer; Larry Middlemiss, Health Officer.

Mr. Wilson stated that Mr. St. Hilaire would be a voting member during this evening's meeting.

Board Business

Critical Correspondence:

- Letter received from a graduate student requesting review of 100 development proposals regarding wetlands proposal and review. The Board discussed the amount of administrative support that this might require and postponed the decision pending discussion with Ms. Faulconer.
- Received copy of the letter to BOS from the Building Inspector re: 48 Exeter Road.
- Purchase order for Name plaques per previous action item.
- Bond balance sheet was reviewed.

ACTION ITEM: Mr. Greenwood will follow-up on Alternative Sales previous bond request.

- Millbrook has asked for a continuance to March 1st; this will be discussed at their scheduled hearing this evening.

MM&S to approve January 19, 2011 minutes as written. (Motion by Mr. Coppelman, second by Mr. St. Hilaire) Motion carries 4-0-2.

CIP Update: Mr. Coppelman explained that the CIP sub-committee met last week to add the final touches to the current year's update to be presented to the Planning Board on Feb. 22, 2011. Ms. Gainty is inviting the Budget Committee members to attend; Mr. Coppelman asked Mr. Hart to invite the BOS members to the meeting.

(Board Note: Mr. Hart and Mr. Pope joined the meeting at this time.)

Brox Industries of Methuen, MA
8 Dorre Road

George Hall, manager of real estate for Brox Industries, introduced himself to the Board along with Eric Stevenson of Brox Industries and Mr. Baskerville of Bedford Design who is the engineer on the site. Mr. Hall explained that they had previously been before the Board with a preliminary design which was a different configuration from the current design. He continued that there were more wetlands than previously shown so the site shrank from the previous design. He noted that the access was off Roadstone Drive from Mr. Galloway's site to Rte. 125. The proposal is for a ready-mix concrete facility; the main components of the facility include storage of raw aggregate at one end; wash-out recycling system to remove aggregate from the ready-mix trucks when they return; there are two silos and an office storage building. He explained the plant processing and operation. Mr. Hall stated that much of Mr. Quintal's comments could be addressed through their drainage report; there were other engineering questions that could be answered by Mr. Baskerville.

Board note: Mr. St. Hilaire stated that he would be recusing himself at this time as he did a lot of business with Brox industries and the abutters. Mr. Wilson stated that Mr. St. Hilaire would be acting as the Road Agent and not a member of the Planning Board during this application.

Mr. Baskerville added that the site is about 17.7 acres; zoned industrial; they would be putting in 11 passenger parking spots and 6 truck parking spots; no wetland permit is involved; there is no need for a State Alteration of Terrain permit; the septic system has been submitted and approved; the stormwater basin was designed to hold the entire flow of a 50-year storm and then have it infiltrate into the groundwater; the wetlands have been evaluated by Peter Shower in accordance with the Town's regulations. A copy of his letter was submitted to the Board. Mr. Wilson confirmed with the applicant that they had received Mr. Quintal's comments; Mr. Greenwood's comments were given to the applicant. Mr. Wilson read the Fire and Health Department comments. Mr. Middlemiss commented on the possible future connection based on the Rte. 125 plan which might also impact the septic system. Mr. Baskerville said that the current revised plan shows the septic outside of the 60 foot right-of-way. Mr. Middlemiss suggested looking at any possible future connection so that it does not become an issue in the future. Mr. Baskerville agreed that there was a lot of room in the corner of the plan and it could be rotated to accommodate this. Mr. Middlemiss suggested that this be done now rather than later.

Mr. St. Hilaire stated that he liked the plan which also would address the Rte. 125 plan; he asked if the Board had seen documentation that said that the applicant has access through Roadstone. Mr. Wilson confirmed that Mr. Greenwood also had that as one of his comments. Mr. Hall stated that there was a court order and a recorded plan that can be provided.

Mr. Alberts suggested reviewing Mr. Middlemiss' comments and then reviewing each of Mr. Greenwood's comments and Mr. Quintal's comments, one by one to set up a to-do list of items needing to be addressed. The applicant stated that the septic could be moved, a new test pit

would probably be needed to be shifted. Mr. Alberts noted that Mr. Middlemiss was nodding in approval so that could probably be worked out. Mr. Alberts confirmed that the applicant needed to provide the Board with the court order and recorded plan; Mr. Coppelman asked if the documents would provide the Board with the information they needed for the appropriate easement language. Mr. Hall said that it would; the court determined the location of the easement and the use is the same as expected for any public road.

Mr. Greenwood's comments were reviewed. He began by stating that this was not an application for an asphalt batch plant which was a prohibited use; this application was for a cement plant which is an allowed use in this zone. He continued that the Board does have the soil scientist's report; in the past the Board has verified the wetland's setback determination by a third party and normally for consistency would recommend RCCD's review but in this case, they are already within 5 feet of the most stringent 100 foot setback; his comment is that the Board needs to make a determination of whether the review is required. He added that the Board usually takes a site walk on developments of this nature. He stated that on one side of the plan, the 500 foot setback is shown; he is assuming that there is no residence on the other side; he would like the applicant to verify this assumption. Mr. Greenwood continued that there are standard site plan review items that should be noted: number of employees, proposed hours of operation, daily truck trips anticipated to and from the site; Mr. Greenwood thought that the plan said that it was not operational in the winter and it says "seasonal"; he stated that if that was not the case, the note should be removed. He continued that the fuel oil storage area on the plan should be noted whether it is above or below ground; it should show how much fuel will be stored on-site and the type of containment proposed; what is done with excess materials that are not used when they are sent to a job site and presumably come back in the truck, where does that material go and is there an area on site where it is stored. Mr. Hall stated that it was no problem to address those questions in writing. Mr. Wilson stated that typically those items would be added to the plan as part of the approval process.

Mr. Alberts stated that he did not think a site walk was necessary. Mr. Landry said that he had not seen the site and would like to see it. Mr. Wilson said that the Board could decide this at a later time. Mr. Alberts asked about the third party review; Mr. Wilson said that it had been the Board's practice so he didn't think that practice should be broken; he added that based on the information provided, it should be a fairly simple process. Mr. Greenwood said that it can be done fairly quickly and could be done this time of year. It was the Board's consensus to forward for third party review. Mr. Wilson said that the Board had received a letter that the applicant did not need an air emission permit.

ACTION ITEM: Mr. Greenwood to contact RCCD about the review for the Brox application.

Mr. Quintal said that he only reviewed a copy of the plan; he did not review the copy of the drainage calculations. He reviewed his comments; the aerial photos show a well-vegetated site; this note should be added to the existing conditions plan; per 904.5B needs an indication on the plan of building size, type and location of entrances; building structure, height, bulk and surface treatment is required; 904.5J requires the plan show type, extent and location of existing and proposed landscaping and open space areas with an indication of those that will be retained; he

added that it is important to verify how much of the site will remain in case of possible expansion of the site in the future. Mr. Coppelman referred to the portion of the site that abuts the residential property and the property line that shows the potential 60 foot right-of-way and said that there should be a specifically designated “no activity” vegetated buffer noted on the plan per the ordinance; he stated that if that 60 foot strip is used for the road in the future, then the property line buffer goes away and the buffer needs to be on the applicant’s property, not on the residential property; he added that there was plenty of land to be able to accommodate that. Mr. Coppelman clarified that the buffer needs to be shown and designated between the industrial and residential uses. Mr. Coppelman stated that, regardless of the ownership of the property, it was the use of the property that determined the buffer requirements. Mr. Wilson clarified that the Board was referring to a vegetated buffer such as trees so the plant could not be seen from the residence. Mr. Quintal explained that the concern of the ordinance was to keep a buffer which did not necessarily have to be right at the property line but it should be shown so that if the road did go in, there would be a vegetated buffer between that and the operation. Mr. Coppelman said that the regulations do call for a 50 foot vegetated buffer between residential and non-residential uses. Mr. Greenwood read that there is a required buffer between abutting non-residential uses and residential uses; so it is not broken out to zones. The applicant confirmed that the property is used as a residence. Mr. St. Hilaire said that he didn’t think that it was an issue; there is a 60 foot right-of-way shown for a possible connection, go 50 feet away from that and there is still vegetation which can be delineated on the plan; Mr. Coppelman confirmed that this was his suggestion. Mr. Quintal stated that a note on the plan could easily be added to explain this.

Mr. Quintal continued with his comments; he suggested a note on the plan designating where temporary material will be stockpiled; plans must make provisions to accommodate increased run-off caused by the changed soil and surface conditions during and after the development; draft of long-term maintenance that will need to be recorded; draft cost-estimate is needed to establish the required bond; annual inspection fee needs to be established by the Planning Board in order to verify on-going maintenance of water quality protection measures. Mr. Quintal continued with his general comments regarding permits and approvals. He stated that the existence of vernal pools should be shown on the plan or a statement by the wetland scientist that they do not exist. He continued reading his comments on site disturbance, reclamation, percentage of impervious cover and undisturbed cover that should be shown on the plan; erosion control devices should be shown. Mr. Quintal commented that since the development is in the Aquifer Protection District, he would recommend an additional monitoring well be installed down-slope from the proposed developed area with details and sampling procedures shown on the plan; test results need to be submitted prior to the issuance of a building permit. He added that this is a decision to be determined by the Board. Mr. Quintal continued that fuel oil details and spill and containment measures should be shown on the plan; location and storage areas for concrete additives and regulation substances, waste products, raw materials should be shown on the plan or provided with appropriate language; provide construction details for the wash area.

Mr. Hall asked to return to the monitoring well discussion by referring to sheet 2 of 9; he stated that two wells were put in during the late 1980’s; in the northwest corner is a monitoring well. He asked if this well was sufficient. Mr. Quintal said that if it is down-slope from the proposed area, it would be adequate. Mr. Quintal asked if the data could be provided as initial data. Mr.

Quintal stated that this would be in the best interest of the Town to have some initial base data showing the quality of the water on the site with some sort of a monitoring program to be determined by the Board to verify that the actions being done on site are not harmful to the groundwater. The applicant said that he was not sure what they would be testing for; the applicant wanted to have some idea of what the Town would be concerned about and what they were initially testing for. Mr. Quintal asked what type of sampling had already been done on the existing wells with the possibility that these results could be provided to the Town as a baseline. The applicant said that they were tested about 20 years ago for volume and drinkability and was unsure if the results were still available. Mr. Quintal said that this type of a test was not expensive and could establish a baseline at this point in time with regular testing for this type of an industry. Mr. Coppelman asked the Health Officer for guidance for the type of testing the Town might require. Mr. Wilson said that this is sort of a new territory for the Town due to new regulations; Mr. Middlemiss explained that the Town does require a baseline test for any new well that is drilled for drinking water purposes; they are tests recommended by the State. Mr. Middlemiss would suggest doing the test twice in the first year and then if everything is good, extend it out one to two years. The applicant stated that they hoped that this would be done after the approval; he said that it could be a condition of approval prior to a building permit. Mr. Quintal stated that this complied with his comment.

Mr. St. Hilaire said that monitoring wasn't new, in 1983, when Compair Kellogg moved into Town, there was a monitoring program for test wells; there was water testing done at the Golf Course and the Shell station. Mr. Wilson said that by "new" he meant the Board actively monitoring it and maintenance levels that the Town will be following-up on; actively working on the enforcement issues.

Mr. Alberts confirmed that the applicant was going to comply with this requirement and asked to move on. Mr. Quintal continued with his comments: stormwater control incorporate a silt-removal device which is recommended prior to an infiltration basin; test pit results show that the seasonal water table is 12 inches below grade, the detention recharge basin should be at least one foot above seasonal water table requiring the developed site to be at least two feet higher than shown. This is a recommendation based on the Alteration of Terrain Best Management Practice; he explained that it would not be a successful infiltration basin recharge area if it had a foot or two of water in it; Mr. Quintal said that his review showed a note that this plant was going to be seasonal use only but that even in the springtime a facility like this would still have levels above seasonal high-water table and then the recharge area would not function.

Mr. Quintal continued that the detention recharge basin must be able to be completely drained within 72 hours as a BMP; dust control measures should be shown; entrance location must be shown on the site plan; revegetation plan and proper removal of on-site invasive species issues should be noted.

Mr. Wilson asked if the applicant had any issues with addressing these comments/adding notes to the plan. The applicant said that they would certainly work with Mr. Quintal; there were no points of contention at this time; the applicant was told that they could contact Mr. Quintal directly. The applicant questioned the extent of removal of the invasive species on the 18 acres; Mr. Quintal suggested that they determine how they would like to address it and bring it back for

the Board's discussion. The applicant stated that they would need about a month to address the issues before coming back to the Board.

Mr. Wilson opened the discussion up to the public and the Board. There was not public comment. In response to Mr. Hart, the applicant clarified that the current proposal's only access to this property at this point was from Roadstone Drive. Mr. St. Hilaire explained the Rte. 125 future proposal for the Industrial properties with a proposed timetable of 2017. Mr. St. Hilaire suggested the Board visit a cement plant; the Board decided on March 5th with the 12th as a back-up date.

MM&S to continue the Brox hearing to the site walk on March 5th at 9:00 AM at the Hudson plant and the public hearing on March 15th at 7:00 PM. (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

Millbrook RV Park

Mr. Wilson re-iterated the receipt of a letter from the applicant requesting a continuance to March 1st which is not a public hearing night.

MM&S to continue Millbrook RV Park to March 15th at 7:30. (Motion by Mr. Coppelman, second by Mr. Landry) **PUNA**

Board Business, continued

- A letter was brought in to the Board from Mark Heitz regarding a change in tenant; a dental and cosmetic laser surgery business will be taking the space formerly taken by a sign company; hours will be 8 AM to 9 PM. Mr. Middlemiss confirmed that he had no issues or concerns. Mr. Coppelman noted that the use was changing from a dry goods type to a medical use and would like to hear from the Health Officer about the water use issue. Mr. Middlemiss stated that Mr. Heitz meters his water for the site which is approximately 500 gpd; the septic system is designed for 2200 gpd.
- Mr. Wilson noted that the letters he was asked to write on behalf of the Board were emailed out to the Board members today and read the letter. Mr. Coppelman commented that there was an article in the Eagle Tribune on the Water District article. Submission of the letter was unanimously supported.
- Mr. Alberts notified the Board of actions taken at the ZBA meetings
- Mr. Wilson discussed the Golf Course recording issue; he explained that the paperwork signed by the applicant for the lot line adjustment states that all taxes are paid; there are actually over \$200,000 in back taxes owed on the properties so it will not be recorded until those are paid.
- Mr. Coppelman updated the Board on the HDC meeting.
- There were no updates for the Conservation Commission and the Board of Selectmen.
- Mr. Landry told the Board that the Southeast Land Trust is sponsoring a hike on the Tucker/French properties at 9:00 AM this Saturday.

First Congregational Church

Mr. Wilson stated that the Notice of Decision was received from the ZBA regarding the granting of the variance. Mr. Nichols distributed a new set of plans which he explained to the Board; sheet 2 of 6 shows a vegetated buffer on the southerly side where the parking is proposed within the 50 foot buffer. He said that the church had obtained a letter from the property owners for their approval for the minor encroachment into the buffer; a little bit of vegetation was added to the NW corner of the "Vaccaro" lot for better screening. He continued that on sheet 6 a tree-planting detail was added; he submitted the drainage analysis to Mr. Quintal; the church is still working on their parking agreements with some of the abutters for additional parking off-site.

Mr. Wilson asked Mr. Middlemiss for any comments; Mr. Nichols said that the septic plan would be submitted prior to the issuance of the Building permit; he said that the Planning Board approval did not hinge on the septic approval. Mr. St. Hilaire explained that the Board did not have the right to deny a plan based on a pending decision from another Board; he added that if a decision is made that makes the Board's decision moot than the applicant would need to start all over again. Mr. Nichols said that there was one other outstanding permit for public water they needed from the State. Mr. Nichols reviewed Mr. Quintal's comments; all of the previous comments had been addressed; there was a spelling error on Sheet 2. Mr. Nichols also confirmed that just sheet 2 of the plans would be recorded. The possible closing of Church Street to accommodate excessive parking was discussed.

Mr. St. Hilaire questioned snow storage; it is shown on the plan. Mr. Wilson suggested that the off-site parking area being discussed for use for the plaza might need to be double checked to see if the septic system is at that location and suitable for parking on top of it.

Jason Vaccaro, 4 Church Street, asked about the type of vegetation being used for the buffer. Mr. Nichols said it would be a mixture of deciduous and evergreen; the note on the plan with the description was read by Mr. Coppelman. He questioned the lighting for the site. Mr. Wilson said there was a Town Lighting Ordinance that would need to be complied with; there was a dark-skies compliance component. Gary Thomas from Northpoint Construction explained that the new parking lot lighting would be on time-clocks; a lighting package would be submitted as part of the Building permit. Permitting and compliance was explained.

Mr. Coppelman stated that he still has a concern about the encroachment as there are other alternatives on the site for the additional 10 parking lots that would not encroach on the buffer or through supplemental off-site parking. Mr. Wilson explained that the current abutter may not always own the property. Mr. Coppelman agreed that future owners would not have recourse; he stated that as the body responsible for the regulations and ordinances on the planning side that he thinks the Board needs to look out for future owners and there are other possibilities on the site. Mr. Wilson felt that the Church would park there, with or without permission; Mr. Coppelman said that it would be a vegetated buffer so nothing could be done there; he clarified that it was a regulation so the Board could waive the requirement. Mr. St. Hilaire stated that they use it for parking now, except during the wet seasons. He does have a problem with the Board accepting an email as a document; he stated that it should be a signed, notarized letter if the person writing the letter was not going to come to the meeting to confirm they wrote it. Mr. Wilson said this

was a point for all documents received by the Board. Mr. St. Hilaire encouraged the board to grant the waiver from the regulation. Mr. Wilson read the letter from the applicant asking for a waiver from Article 904.6.D to allow parking within the 50-foot setback which will leave a 26-foot buffer. Mr. Wilson would rather give the waiver and have the parking spaces properly installed rather than have them parking incorrectly. Mr. Mastroianni said that if it wasn't fenced off, people would park there anyway so he would rather grant the waiver. Mr. Pope said there was already an issue with parking so it was better to grant the waiver.

Mr. Wilson clarified that there were two outstanding issues being discussed, there is not an approved septic system and the parking issue. Mr. Alberts read the waiver request for the Board, signed by Robert Cook.

MM&S to grant a waiver from article 904.6.D for proposed improvements within the 50-foot buffer to residential property; the proposed improvements will be 26 feet from the southerly property line with required vegetative screening. (Motion by Mr. Pope, second by Mr. Mastroianni) **Motion Passed.**

A verification letter from the abutter was discussed; the Board wanted something for the record in writing from the abutter. Mr. Coppelman asked if the Board wanted verification of the additional off-site parking as part of the evidence and approval to handle the volume. Mr. Wilson stated that he didn't think it would have any permanent impact. The use is not being expanded; the parking issue is something that exists; these plans are just trying to address the existing problem. Parking issues and possibilities were discussed.

MM&S to approve the plans with the revision date of Feb. 7, 2011 as submitted for the First Congregational Church, 6 Church St. conditional upon receipt of the letter from the abutter (Leaks) regarding the parking encroachment on the buffer setback. (Motion by Mr. Alberts, second by Mr. Hart) Discussion: Mr. Hart confirmed that the BOS are all set with the previous right-of-way issue. Vote on the motion: **PUNA**

Board Business, continued

Mr. Wilson returned to the issue brought up this evening regarding letters received by abutters; these letters are never required to be notarized. The discussion was to require any document representing someone not attending a meeting should be notarized. Mr. Wilson suggesting making sure there were letters authorizing representation for applicants not in attendance. He was suggesting that the Board get a little stricter on these issues.

ACTION ITEM: Ms. Faulconer to add documentation informing applicants that authorization letters must be notarized.

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