

**Kingston Planning Board
Public Hearing
April 19, 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	Ernie Landry
Dan Mastroianni	Adam Pope
Jay Alberts	
Mark Heitz, BOS rep. (arrived with meeting in progress) Jay Alberts	

Members absent: Glenn Coppelman, Richard St. Hilaire (Alternate)

Also in Attendance: Glenn Greenwood, Circuit Rider Planner (arrived with the meeting in progress); Dennis Quintal, Town Engineer; Ellen Faulconer, Administrative Assistant.

Mr. Wilson stated the Ms. Faulconer will be a voting member this evening.

Board Business

Mr. Wilson discussed the article that was passed regarding televising meetings.

ACTION ITEM: Ms. Faulconer to send a memo to the BOS regarding televising the Planning Board hearings, at a minimum.

Critical Correspondence:

- Three letters were received regarding the Hunt Rd. Subdivision scheduled this evening; Mr. Wilson will save them for that hearing.
- Bond update received from the Financial Officer.
- Information regarding an upcoming Watershed Symposium, from RPC, to be discussed when Mr. Greenwood arrives.
- Diamond Oaks bankruptcy notification.
- Memo re: return of check to Diamond Oaks
- Copy of letter sent to BOS from Gordon Bakie.
- Notification of Rx take-back program on April 30th.
- Memo re: BudCom reps. to CIP and Article 22 Land committees.

(Mr. Heitz arrived at this time)

- Copy of letter from Building Inspector to Raguzza.

Mr. Wilson discussed a seminar he attended that included information given by the NH Groundwater Protection Association on geothermal heat and Aquifer protection. He believes that the Board will need to write ordinances that address geothermal heat.

(Mr. Greenwood arrived at this time)

Mr. Wilson discussed the information from the seminar about the possibility of development of geothermal if done properly.

- Returned to Correspondence from RPC re: Watershed Alliance; Mr. Greenwood stated that part of Kingston is in the watershed.

Mr. Wilson asked Mr. Heitz when meetings would be televised adding that the Board was specifically asking for public hearings to be televised although the Board used to have all meetings televised. He added that he didn't know how much money was available to pay for all the meetings to be televised.

MM&S to accept the minutes of March 15th as amended by adding the word “not” prior to “do business for financial gain”. (Motion by Mr. Landry, second by Mr. Mastroianni) (Motion carried 4-0-3 with Mr. Heitz, Mr. Alberts and Ms. Faulconer abstaining)

Mr. Heitz stated that nothing significant to the Board occurred at the last BOS meeting.

Mr. Wilson reminded the Board that the 2011 gravel pit permits will be on the next meeting's agenda; currently there is not a bond on the Early pit; this is a requirement. Mr. Heitz asked about existing pits and bonds; there is only one other pit which has a bond. Mr. Wilson suggested that Mr. St. Hilaire and the Town Engineer could come up with an amount.

Mr. Alberts updated the Board on the last ZBA hearing.

Brox Industries, Inc.
8 Dorre Road
Tax Map R2 Lot 3

Mr. Hall handed out small copies of the plan to the Board. Mr. Wilson asked if it was possible for the applicant to agree to a month's delay in the Board's decision to wait for the Road Agent to be present due to his interest in the access to the property. Mr. Hall replied that the request was not a surprise. Mr. Wilson stated that the review could continue tonight so the applicant could address any issues for next month.

Mr. Baskerville began with a review of the March 24, 2011 letter with the answers to the comments in blue. The 8" rubber pipe description has been changed to corrugated polyethylene pipe and shows appropriate calculations which is noted on the plan set; a note has been added that the area outside of the disturbed area will remain wooded; a note shows where the blocks and forms will be stored, in the storage bin areas. He continued that after approval, they need to have the septic system revised and will do that as a condition of approval; that note was added to the plan. Note 15 on the overview plan addresses the water sampling establishing the dates for testing. Mr. Baskerville stated that there is a comment on the drainage analysis; the number has been updated which did not change any of the elements of the design. He continued that one other note to the plan was added, regarding hours of operation, that if 4 more trucks will be leaving the facility after 9 PM or before 6 AM, the owners shall give the Selectmen's office 12

hours notice. Mr. Wilson stated his belief that the Board had suggested a 24-hour notice. Mr. Hall stated that 24-hour notice was fine; the note will be changed. Mr. Wilson explained to Mr. Heitz that the applicant had asked for 24-hour operation, year-round; the Board extended the hours but they had to give notice for a night project, 24-hours in advance. Mr. Heitz asked if the hours of operation were 6 AM to 9 PM unless there was a special project going on; Mr. Wilson stated "yes". Mr. Hall clarified that this was only if there was more than 4 trucks; if there is one truck going out at night, then there wouldn't be a notice. Mr. Alberts stated this was a courtesy gesture on the applicant's part. Mr. Wilson stated that if this gets to be a regular thing, then the Board will need to re-address and drop the 24-hour capability.

Mr. Wilson, since the applicant was addressing night issues, reminded the applicant that they had stated previously that, at night, the back-up alarms could be turned off and a strobe was in place instead; he stated that this should appear as a note on the plan. Mr. Hall agreed to add that note.

Mr. Baskerville stated that he had no further updates to the plan. Mr. Greenwood said that his comments had been addressed. He added that the meeting that the applicant had with the Board of Selectmen should be added to the record.

ACTION ITEM: Copy of BOS meeting with the applicant (Brox) needs to be added to the Board's file.

Mr. Quintal reviewed his letter dated April 19, 2011. He stated that his comments were all addressed; he added on about the discussion about the right-of-way; prior to approval, he would hope that the Board is assured that all the parties involved with the easement access are in agreement with the right-of-way location, responsibility for the design and long-term maintenance. He stated that some conditions of approval are listed on Sheet 3; the regulations require other issues such as which sheets are to be recorded, which should be determined by the Board. Mr. Quintal said that the Board should determine the threshold for "active and substantial development" and determine the threshold for substantial completion; all fees must be paid and the final mylar presented for recording with the appropriate number of prints. He has no other comments at this time.

Mr. Wilson had a couple of comments on Mr. Quintal's comments. He stated that the ROW is the reason for the request of the month's delay due to Mr. St. Hilaire helping to work out the details on that issue. He stated that the "substantial amount of work that is done", Brox has asked for an extension on that once and if they get approval for three years, instead of two. Mr. Hall stated that a lot of that decision will have to do with the discussion of the ROW. Mr. Wilson suggested putting that off until after the ROW discussion.

Mr. Wilson commented on requirements for the Lighting Ordinance; in the plan, the wall-mounted specs. describe them as metal halide; however the pole lights do not have that information listed; the Lighting Ordinance suggests the use of timers, dimmers or motion sensors after 11 PM; he added that obviously if working 24 hour operation that it wouldn't apply but for non-operational evenings, it could be used. He said that the building was far enough back not to spill onto residential property.

Mr. Wilson added that the Sign Ordinance says that the location of the sign for a business must be on the subject property of the business being reviewed; obviously if the sign is shown out at the road, it is not on the property of the business; it may be on property owned by you but it's not on the property that the business is being operated on. He stated if that was left there, the applicant would need to go to the ZBA for approval of a non-complying sign. Mr. Wilson informed the applicant that the location and sign type, size, description and details of the sign needed to be submitted to the Planning Board; it's supposed to be part of the approval even though the plan notes says it will be provided later.

Mr. Alberts read the section of Mr. Quintals' comments regarding the agreement with the ROW and confirmed that this was what the Board was waiting on. Mr. Wilson agreed. Mr. Alberts confirmed that there are actions and activity taking place at other meetings to address this. Mr. Wilson explained that this was basically between all four parties involved that own land in that area, including the Town of Kingston.

Mr. Wilson asked for any public comment at this time. A question was asked by an abutter that referred to an upcoming hearing.

Mr. Wilson confirmed that basically, the Board was going to continue this for a month until Rich St. Hilaire can be present and hopefully there will be more detail about anything worked out with the property owners. Mr. Alberts asked about the "drop dead" date. Mr. Hall asked to discuss "substantial completion"; he asked that active and substantial development be at the conclusion of major site grading, the construction of the access road and the retention pond; all the rough grading completed. He asked that substantial completion would not include items like landscaping and final paving; many times you end up in the Fall and it's not appropriate to do the landscaped planting then. He stated this could be within the year or whatever period is agreed. Mr. Wilson stated that the Board can set those guidelines on the night of the approval. Mr. Hall stated that he is assuming that they are going onward with the plan. Mr. Alberts asked about the time clock; Mr. Greenwood said that if the applicant agreed to the continuance then the 65 day clock is extended. Mr. Hall agreed with the continuance.

MM&S (contingent on the applicant agreeing to the continuation of the "drop-dead date) to continue this hearing for the Brox site plan review to May 17th at 7:00 PM. (Motion by Mr. Alberts, second by Mr. Pope) **PUNA**

Mark Lepage
155 Route 125
R21 Lot 18

Paul Nichols introduced himself as representing Mr. Lepage, who was also present. He explained that the proposal is for Lepage Auto Sales which includes vehicle sales, repair and re-conditioning; the site is 2.6 acres that are fairly well cleared. Mr. Nichols stated that the proposed site includes a 40 x 60 building for repair and re-conditioning and two (2) offices for auto sales; there are also parking spaces for vehicle sales and employee parking; there will be a maximum of 8 employees on the site, this amount is dictated by the septic system. Mr. Nichols continued by explaining that everything slopes to Rte. 125; all run-off is contained and diverted

into 3 hooded catch basins, the majority is caught by 2 catch basins and a couple of drainage swales; the run-off will infiltrate into the soil, the excess will run-off into the existing catch basin. He added that pre and post run-off will maintain pretty much the same flow.

Mr. Cloutier, abutter, stated that the applicant has spoken to him and has been told there will be a 8-foot stockade fence with a row of mixed evergreen and deciduous plantings.

Mr. Quintal reviewed his letter dated April 18, 2011. His comments include: there isn't a deed reference on the plan; easement for Stoney Brook should be noted; type of fence; type of building; only minor landscaping is shown, this may need to be addressed; parking lot grade could be waived from 4% to 8%; location of silt fence; show at least one monitoring well; driveway access is wide enough but there is a steepness issue, a need to comply with the Driveway Entrance Detail; schedule for Inspections and Maintenance for BMP's; two drafting issues on Sheet 1; well in parking lot needs manhole detail; specify outlet hood in catch basin; details for infiltration basin per Art. 110.7.A (Mr. Quintal will talk with Mr. Nichols about this); septic system and EPA Construction Permit is required.

Mr. Greenwood reviewed his comments dated April 19, 2011; the property is split in the Aquifer Protection Zone but the construction is outside of the zone; abutting property tax map needs correcting; proposed lot coverage is 46% which requires stormwater management techniques for Board approval; Board needs to discuss buffer request to off-set inadequate buffer distance; several requirements for vehicle sales need to be discussed, gas traps, monitoring wells, liquid and hazardous materials; septic system approval; elevation view of the proposed building is necessary; holding tank, vehicle washing clarification; lighting plan is required; signage information.

Mr. Wilson read the Health Officer's comments: details needed for well and housing; holding tank alarm should be hard-wired. Mr. Wilson stated that the Building Inspector and Fire Department had no comment at this time. Mr. Wilson cautioned the applicant to review the Lighting Ordinance for compliance as it had been revised within the past year. Mr. Greenwood agreed that the spec. sheet should be submitted. Mr. Wilson added that the Police Chief typically likes to review the lighting on the site. The Board had no additional comments at this time.

Mr. Wilson opened the discussion to the public. Mr. Cloutier, 160 Rte. 125, stated his concerns on the NW side of the site where the snow storage is proposed; the rest of the site is being designed to catch parking lot fluids, this area is now a straight line to his property line. Mr. Quintal agreed that he is concerned with the snow piled on this slope area. Mr. Nichols stated that this could be changed. Ms. Faulconer agreed with the change but suggested that a note also be added about "not having snow storage in that location". Mr. Nichols agreed to add that note. Mr. Cloutier stated that he is okay with the buffer as proposed by the applicant.

Megan Cloutier asked about the hours of operation. Mr. Lepage stated that the hours would be Monday through Friday, 9 to 6; Saturday 9 to 5; Sunday 11 to 4; these need to be changed on the plan. The applicant was told that any lights that were used after 11 PM should have dimmers or motion detectors to keep with the dark skies policy. Mr. Lepage confirmed that the construction of the building would not start before 7 AM and would end by 6 or 7; Mr. Wilson stated that he

needed to comply with the Ordinance. Mr. Wilson thought that the fence should go up before construction gets too underway, to keep the abutters happy.

David Payette, 5 Stoneybrook Lane, asked if the fence was going all around the property; the previous buffer had been removed creating dust issues. Mr. Nichols pointed out the existing vegetation on the 50 foot setback on the western side of the property; he agreed that it is wooded but not really dense. Mr. Wilson asked if vegetation needed to be added; Mr. Nichols said that the residence is a distance from the vegetation.

Mr. Heitz asked about the detail of the number of parking spaces; Mr. Wilson agreed that the specs. should be on the plan including spaces, employee spaces, handicap spaces, the maximum number of spaces on the lot should be shown. Mr. Payette continued that the previous owner took away a lot of the buffer. Mr. Heitz asked how close the dwelling was to the property line and if there was vegetation on his own property; Mr. Payette answered that all the vegetation was on the Lepage site. Mr. Greenwood suggested that a site walk was a good idea. Another abutter, Gail Gordon, stated that prior to the property being sold, there was more vegetation, and they couldn't see the house.

The Board agreed to schedule a site walk at the Lepage property on April 30th at 9:00 AM. Mr. Wilson announced that this was a public meeting and the public was invited to attend.

Mr. Wilson asked about the easement to Stoneybrook; Mr. Nichols said there is a subdivision plan showing an easement.

Mr. Cloutier stated that there are a few large pine trees in the buffer area that are tall enough to fall and damage his house; he was hoping these would be removed to eliminate that possibility and protecting his property. Mr. Wilson recommended he be at the site walk; Mr. Cloutier has marked them with orange tape.

MM&S to continue the Lepage hearing to May 17, 2011 at 7:15. (Motion by Mr. Alberts, second by Mr. Mastroianni) **PUNA**

Solar Hills Design Review
76 and 78 Hunt Road
Tax Map R6 Lots 10-4, 14

Mr. Lavalley introduced himself to the Board along with Tim Lavalley and Bob Pellegrino. He explained that it is the consolidation of two parcels which will be subdivided into 9 lots, 8 new and one existing lot; this will be serviced by a 60 foot ROW, to be named later; the total areas of the lots are shown on the plan. Mr. Lavalley reviewed the sheets in the submitted plan; he explained that they used the most restrictive requirements for wetlands set-back in lieu of getting the other information for establishing the setbacks. He stated that he received the Town Engineer's comments and nothing on it can't be addressed; they will do the HISS map as requested.

Mr. Lavalle asked to address the turnaround area on the road; they did what had been done on a previous road that was able to be developed by continuing the road rather than using a cul-de-sac. He continued that they can cut back on the road length and put in a cul-de-sac if that is what the Board wants; they can revise the plans. Mr. Lavalle added that they had met with the Fire Department about doing a cistern but the developers are “sprinkling” the units so the cistern won’t be needed. Mr. Quintal suggested that he not review his comments as Mr. Lavalle said he would address them. Mr. Greenwood said the road issue needed to be discussed. Mr. Wilson said that the road was a concern for Mr. St. Hilaire.

Mr. Wilson read a letter from Daniel and Debra Bartley who were in opposition to the plan; stating that there was a restriction on the deed for 10-4 for one residence. He read a letter from Mr. Pellegrino that said that they were not adding anything to the property; Mr. Lavalle said they were aware of the restrictions. Mr. Wilson read a letter from Dave Ingalls, Conservation Commission, that discussed issues with accessing the Town Forest and asking for possible access through the subdivision. Mr. Wilson noted that there were no comments from Fire, Health or Building at this time. Mr. Lavalle said there was certainly the possibility of an easement along the property line but it was about 380 feet to the Town Forest. A KCC issue with easements to the Town Forest was discussed; Mr. Heitz suggested that KCC should come to a BOS meeting to discuss it.

The Board discussed the deed restriction on 10-4. Mr. Lavalle said it was a civil issue between the two parties. Mr. Bartley explained that he had subdivided his property into four lots and the restrictions were put on each of the lots. The Board continued discussing the legal issues with the deed restriction. Mr. Wilson suggested that the Board needed to talk to counsel about this issue. Mr. Lavalle stated that his clients have Charlie Tucker looking into this issue.

Mr. Lavalle asked to have the Board address the cul-de-sac issue. Mr. Heitz stated that the cul-de-sac is a requirement. Mr. Quintal, not wanting to speak for Mr. St. Hilaire, did say that a meeting with Mr. St. Hilaire he said he was against the proposed arrangement and wanted a cul-de-sac; he continued that the steepness of the road was an issue; the curve on a crowned road was an issue. Mr. Wilson asked about the total length of the road; Mr. Lavalle said that as proposed it was 1300 feet but if the cul-de-sac was in, it would comply with the 1,000 foot maximum. Ms. Faulconer suggested that the entrance onto Hunt Road was discussed with the possibility that it could be reconfigured to make it safer.

Mr. Wilson asked for public comment. Ron Conant was representing his father, Dave Conant, owner of lot #13. Mr. Wilson explained that a memo had been received confirming this representation. Mr. Conant noted that the plan shows an access road through 10-4 from Hunt Road to the Town Forest and 11 to 13; he said that depending on how the road is designed, his father’s property could be cut off. Mr. Lavalle said the cul-de-sac would end further away from that property and there were no easements of record on the property. Mr. Heitz suggested that the Board require an easement; Mr. Wilson said that it is a requirement for a dead-end road. The Board discussed the possibility of asking for a legal opinion about continuing the review of the plan based on the deed question. Mr. Greenwood confirmed that the Board can ask for legal review as part of the bond put up by the applicant. The Board had questions based on the deed language. Mr. Wilson wondered if the lot could be subdivided and if anything could be built on

it; Mr. Heitz stated that the Board received testimony from the abutter who appeared clear on his intent when adding the language to the deed.

Mr. Lavalley asked to have the Design Review hearing continued. Mr. Heitz suggested getting the question to the attorney as soon as possible so Mr. Lavalley can be notified whether the Town can entertain the subdivision.

ACTION ITEM: Ms. Faulconer to contact Attorney Loughlin about the deed question for the Solar Hills subdivision.

ACTION ITEM: Ms. Faulconer to research the ROW issue for the Solar Hills subdivision.

Mr. Wilson wondered what happened to the Conant property if the ROW doesn't exist. Mr. Heitz explained that in the past, when a subdivision put in a cul-de-sac, there was a requirement for deeded access to any developable land. The Board would need to review the plan as there may be a number of parcels affected.

ACTION ITEM: Ms. Faulconer to contact Mr. Lavalley after discussion with Attorney Loughlin.

Tim Coombs, 73 Hunt Road, stated that this was the worst curve in Town right now and it was where the road was going in; he was concerned with run-off. Mr. Wilson said that the water can't run onto the road. Mr. Coombs continued that he was concerned with water and salt. Mr. Quintal said that the Board would be reviewing that issue.

MM&S to continue the Solar Hills Design Review to May 17th at 7:30. (Motion by Mr. Pope, second by Mr. Mastroianni) **PUNA**

ACTION ITEM: Ms. Faulconer to remind the Board of the upcoming site walk on April 30th.

MM&S to adjourn at 8:45. (Motion by Mr. Alberts, second by Mr. Mastroianni) **PUNA**