

**Kingston Planning Board  
Public Hearing  
February 1, 2011**

The Chairman called the hearing to order at 6:31 PM and explained that this was a rescheduling of the hearing and continuation from January 18, 2011. There were no changes to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman  
Jay Alberts, Vice Chairman  
Chuck Hart, Selectmen's Representative (joined the meeting in progress)  
Ernie Landry  
Richard St. Hilaire, Alternate  
Adam Pope, Alternate (joined the meeting in progress)  
Glenn Coppelman (joined the meeting in progress)

Members Absent: Dan Mastroianni, Marilyn Bartlett (alternate).

Also in Attendance: Glenn Greenwood, Circuit Rider Planner (arrived shortly after the meeting began); Larry Middlemiss, Health Officer; Dennis Quintal, Town Engineer

Mr. Wilson called for the hearing for the First Congregational Church to begin; he noted that several phone calls had been received and it was confirmed that the meeting would go on as scheduled. While waiting for the representatives to attend the meeting, Mr. Wilson moved on to other items.

**Board Business**

- Letter received from BOS re: horses; asked to wait on the discussion for Mr. Greenwood to arrive.

Mr. Wilson informed Mr. Greenwood that no one from the church was currently present for their scheduled time on the agenda; he informed the Board that they have the right to deny or continue and recommended continuing; he recommended continuing for later in the meeting and then continue again if necessary.

The Board returned to the "horse" discussion and discussed the interpretation of Attorney Loughlin's letter to the Selectmen. Mr. Landry asked for clarification regarding whether the discussion was about "a horse" or "horses". Mr. Wilson said that it said "horse or horses depending on the acreage". Mr. Alberts asked if this was just horses or all chattel. Mr. Wilson said it referred to "livestock". Mr. Middlemiss re-iterated that it referred to livestock but that Best Management Practices would need to come into play which has requirements as to how much area is needed for grazing, paddock and so on for each animal; he continued that it is not just a straight answer that animals would be allowed, there needs to be enough space for those

animals under the State's BMP's. Mr. Wilson wondered if the recommendation would be to say "okay" to this letter but that the Board work on an ordinance specific to livestock.

**Action Item: Ms. Faulconer to add "livestock ordinance" to the "to-do" list for 2011.**

- e-mail received by Mr. Alberts re: the 1/4/11 minutes. He is requesting that the testimony of the people that night be put into the record and the tapes be preserved. Mr. Landry asked if the request was requiring that the every comment be typed and added into the minutes. Mr. Alberts started to explain his request and was going to recuse himself from the Board but that would eliminate the Board having a quorum. Mr. Wilson suggested postponing the discussion and await the attendance of other Board members.
- Mr. Wilson read a DES notice of denial for a permit at 84A Main Street re: 28 ft. long retaining wall; required information not received by DES.

(Mr. Pope joined the meeting at this time.)

- Mr. Wilson told that Board that copies of the upcoming warrant were available for them this evening.

(Mr. Hart joined the meeting at this time.)

Mr. Wilson noted that Mr. St. Hilaire and Mr. Pope would be voting members this evening.

**Millbrook RV Park  
Rte. 125**

Terry Trudell, from SEC and Associates, explained that he was filling in for Charlie Zilch who had been handling the project for Ray Durbin. He reviewed the proposal which is in the Aquifer Protection District and a Flood Zone located along Mill Brook. He explained that this was previously known as Harold's Grove Campground; basically serving motorized RV's since the inception back in 1960. Mr. Trudell continued that Mr. Durbin purchased the site in 2004; there were approximately 82 sites served by holding tanks and several on-site wells. There are two leach fields, one servicing 44 units, the other servicing 41 units. Mr. Trudell explained that, currently, the site has been approved for 85 sites; there is also a three bedroom house on the site that Mr. Durbin rents. He continued that the proposal before the Board is to add 7 RV sites located on the SW corner of the property and replace an existing building, the pavilion that at one time served as a garage, storage area, bathroom and shower facility. The existing building's impermeable surface footprint is about 3,000 sq. ft; the proposed pavilion will be 1500 sq. ft; the existing building will be razed and removed; the impervious area will be cut in half; the existing building is partially located in the flood zone area. Mr. Wilson asked why Mr. Trudell said there were 7 new sites but the plan said there were 10 new sites. Mr. Trudell explained that the State had approved up to 85 sites; the Town had previously approved 82; so they are asking for approval from the Town for 10 additional sites although they would only need approval for 7 additional sites from the State.

Mr. Trudell told the Board that they had approvals from Water Supply and Subdivision for the additional 7 sites required from the State; Mr. Middlemiss has approved the needed additional septic system for the additional sites; this has gone to the State and they are currently in the process of addressing the comments from the State. He stated that he had received the comments from Mr. Greenwood which they could easily address. Mr. Quintal's comments were made available to Mr. Trudell. He said that he would verify the information with Mr. Zilch for the Board; Mr. Quintal suggested that Mr. Trudell address with Mr. Zilch and return with a letter of response. Mr. Wilson agreed that the Board could point out any problems tonight and the applicant could return to address them at the next meeting.

Mr. Middlemiss had no comments. Mr. St. Hilaire stated that Mr. Durbin had done a great job in cleaning up the site and bringing it into compliance; Mr. Wilson agreed that it looked much better than it did years ago.

**MM&S to continue to February 15, 2011 at 7:30.** (Motion by Mr. Alberts, second by Mr. Hart) **PUNA**

### **Board Business, continued**

Mr. Wilson returned to the discussion regarding the email request received from Mr. Alberts. Mr. Alberts recused himself at this time. Mr. Wilson explained that this is a request regarding the January 4, 2001 meeting when Mr. Alberts had the citizen's petition hearing on his article; he is requesting that the minutes of that hearing take comments into effect and be posted on those minutes and the tapes be preserved from that meeting. Mr. Wilson continued that Mr. Alberts cannot make that motion since he was not a voting member at that time; a member of the Board would need to make the motion. A question was asked regarding the time needed to transcribe that section of the meeting; Mr. Wilson said the comment period lasted about 30 minutes so it would probably take a couple of hours. Mr. St. Hilaire stated that he understood where Mr. Alberts was coming from with all of the legal mumbo-jumbo that had occurred.

**MM&S to ask the Planning Board secretary to provide a verbatim set of minutes for all comments pertaining to the citizens petition hearing for Jay Alberts' citizen's petition.** (Motion by Mr. St. Hilaire, second by Mr. Pope)

Board discussion: Mr. Landry commented that he thought that the Board's minutes were to try to capture all major or relevant decisions that are made and he questioned why having all of the individual words and testimony was important enough to be in the set of minutes; he added that if everybody asks that when they have a hearing and asks to have the minutes be verbatim then the Board is establishing a precedent where the Board has to say that it was done once for one case then it would need to be done for another case. He questioned whether the issue is sufficient enough to warrant all verbatim testimony to be done on that hearing and then any other subsequent hearing that someone wants to hear; he stated that this was a question he had; he did not know the answer. Mr. Wilson stated that if one person's comments were captured that night, then all of them had to be done; the Board can't just go with one side of the story. He continued that there had been 13 plus lawsuits over this property which justifies the need to do this; he added this was just his opinion. Mr. St. Hilaire said that during the Hannaford hearings, there

were pretty detailed minutes taken at all of the Hannaford hearings. Mr. Landry asked if someone else came in and asked to have all of the minutes taken verbatim, does it become a question of what the issue is and why they want it done that way and then each case is determined individually by the Board to determine if their issues merit having it done. Mr. Wilson, said in his opinion, yes. Mr. St. Hilaire said, in his opinion, precedent was set three years ago when Hannaford's proposal first came into town. He added that when the Board at the High School, with hundreds of people in attendance, everyone's testimony was transcribed; while this was not a Hannaford hearing, it was all tied together. He said that if it was someone else in a neighborhood squabble, he probably wouldn't make this motion.

Vote on the Motion: **PUNA**

Mr. Alberts thanked the Board. Mr. Wilson reviewed the actions done at the beginning of the meeting for those Board members who arrived late.

Mr. Alberts returned to the Board as "un-recused" at this time.

The Board took a brief recess while awaiting the First Congregational Church's representative.

Mr. Coppelman joined the meeting at this time.

### **First Congregational Church**

Paul Nichols told the Board that the plans they had before them had been revised; the revisions reflect the Town property that traverses between the center of the church property and the Masonic Lodge; the original plan showed it as an easement, the revised plan shows it as a "fee". He explained that the "hitch" there was the setback; so the proposed setback, on Sheet 2 of 6, is 13 feet to the Town property. He added that also changed the lot loading so the well for the parsonage was eliminated; they will now share the same well as the church. A new septic design is being proposed to meet the needs with the new addition as well as the expansion that has occurred over the years; shown on sheet 3. (There were Board comments that they didn't have a sheet 3) Increasing the usage also requires more parking; this was tried to be accommodated by more parking on the southerly side; he stated that it was not increased by what they actually needed but the best that could be done based on the property; they are encroaching within the 50-foot setback on the southerly side so the Church will be requesting a waiver for that parking; a 26-foot setback can be met. Mr. Wilson asked what the total number of spaces would be; Mr. Nichols stated that the total would be 61 spaces which includes 4 handicapped spots; he believed that they had an agreement with the Masonic Lodge to use their 17 spaces and there is enough parking across the street in the grass area which they have been using for overflow parking that would amount to about 24 spaces making it a total of 98 spaces. Mr. Nichols used a requirement for a church in Portsmouth of 5 people per parking space while noting that Portsmouth is a bigger city and a lot of people walk to church; he added that Mr. Quintal thought that a more accurate estimate of persons per vehicle was 3 which would bring the required number up to about 111 spaces. Mr. Wilson stated that of the last two churches that came to Town, one used 2.5 persons per vehicle and one used 3 per space; he added this application was way above those numbers. He said that the church has spoken with the Plaza about possibly using it for overflow

parking but he was unaware of any confirmation of this possibility; he said this would primarily be for Sunday mornings that there would be the most problem with parking.

Mr. Middlemiss confirmed that this was the first time he had seen the revised plan. Mr. Nichols stated that the plan also had an erosion and sedimentation control plan added and an extra detail sheet showing the stormwater management plan with notes for a construction sequence and seating specifications and he apologized that not everyone was given a full set of plans. He stated his belief that the threshold for requiring these two additions was a disturbance area of over 15,000 sq. ft; this plan falls just under this number at about 14,000 sq. ft. The actual proposed additions are already taken up by disturbed areas that are already paved; it is not increasing a lot more run-off on those two sections, mostly on the southerly and westerly section where the increased parking is. He stated that they are proposing some infiltration basins on the easterly side of the southerly parking which would hopefully accommodate any increase in run-off; a drainage analysis has yet to be prepared for that but that can be ready for the following meeting.

Mr. Nichols confirmed that the addition on the revised plan was the same as on the original plan. Mr. Wilson stated that the HDC was okay with the plan. Mr. Greenwood asked if the new addition was for sanctuary space. Mr. Nichols explained that a gentleman from Northpoint had a presentation for the Board about the usage of the additions.

John Whittier, member of the Church's building committee, read a letter about the usage of the proposed function of the new addition which included improve safety and current needs, additional classrooms and meeting rooms, bathroom facilities, updated kitchen, expansion of office area; he clarified that it was not sanctuary space, not additional growth; it was to accommodate existing needs. A copy of the letter was provided to the Board.

Mr. Coppelman confirmed that the nearest point of the new addition actually encroaches on the 20-foot setback to the Town's property; Mr. Nichols stated that it was 13 feet. Mr. Coppelman explained that this would require a variance. Mr. Wilson questioned whether the parking encroachment on the lower side would also require a variance; Mr. Coppelman said that would be a site plan review regulation as it is a buffer between non-similar uses; Mr. Wilson stated that the abutting property was a residential use. Mr. Coppelman continued that Mr. Nichols was asking for a waiver from the 50-foot buffer down to a 26-foot buffer. Mr. Nichols said that the area currently is quite vegetated with a lot of mature pines and undergrowth.

Gary Thomas from Northpoint Construction and Management explained that the encroachment on the 50 foot buffer is on a driveway to a residence; cars will be parking up against the driveway; they kept the parking outside of the shoreland protection zone. Mr. Coppelman said that even if the church was keeping a 50-foot setback to the Vaccaro residence, it was not a fully vegetated 50-foot buffer; it appears to be partially vegetated. Mr. Thomas stated it was what existed now. Mr. Hart asked if 4 people per vehicle was allowed; could the parking being discussed be eliminated. Mr. Nichols said that the parking was being increased but the church sanctuary has 333 fixed seats and that goes back before zoning; there has never been enough parking. He continued that while there was not an increase in use; they are trying to accommodate as much parking as possible on the site. Mr. Hart stated that he was trying to

eliminate the need for the waiver. Mr. Coppelman said it might be possible to eliminate those additional 10 spaces if there was an arrangement with the plaza for parking and keep the 50-foot buffer. Mr. Wilson stated that it appeared that the Church knew that it couldn't meet the requirements and was trying to do the best that it could. Mr. Thomas stated that this was correct. Mr. Wilson stated that the parking that was done between Church and Depot was considered illegal as it was a Town right-of-way. Mr. Whittier discussed the possibility of having legal agreements with neighboring properties for parking. Safety concerns regarding parking were discussed. Mr. Nichols suggested that the church would be glad to add to the buffering either by a fence or Japanese yews. Mr. Quintal stated that Mr. Nichols has added parking on this lot as best he could; another site he had reviewed had a separate parking plan where the cars were doubled up, without blocking emergency vehicles, which increased the number of spaces that could be used on the lot. Mr. Wilson said that this is a common issue for existing churches, especially at holidays and major events; he suggested leaving the parking issue to review any other issues the Board had with the proposal.

Mr. Hart confirmed that the applicant was scheduled to appear before the ZBA on February 10<sup>th</sup> for the issue with the 20-foot building setback; the BOS will send a letter saying that they have no issue with the setback. Mr. Wilson talked about the possibility of the church buying the land from the Town and re-working that roadway. The history of that roadway was reviewed. Mr. Coppelman asked if the vegetated area in front of the church was considered for parking; Mr. Nichols said he thought that it would ruin the aesthetics of the church; Mr. Coppelman said that he understood that consideration but it would probably allow for the 10 additional parking spaces and eliminate the encroachment issue and might be something worth considering.

Gary Thomas, from Northpoint Construction, reviewed the proposed floor plan for the Board; uses within the building.

Mr. Wilson read the Fire Departments Comment: obtain a third-party review by a NH licensed engineer for the sprinkler system, whether it is needed or not. Mr. Wilson asked for abutter's comments. Jason Vaccaro, 4 Church Street, stated that he originally had concerns about the buffer but he sees that the plans show that being kept which he is happy about; he said the only other concern he had was about lighting which was discussed at the HDC meeting but he said the applicant agreed to address that based on the Town's ordinances. He said that the only concern might be some additional vegetation between his property and the parking lot. He's willing to negotiate with the applicant. He agreed with Mr. Wilson's proposal of Church Street. Mr. Wilson said that the proposal had been brought to him by the Chief of Police. Mr. Alberts talked about the safety issues that would be addressed by changing that section of the roadway. Mr. Wilson thought it might be something the Town wanted to look at to see if it was possible.

Mr. Middlemiss said that when the plans were originally reviewed there were concerns with expansion as the loading is maxed out with the State septic system rules and therefore there could not be any major occupancy expansion. He continued that, after many discussions, the lot loading will not be having the church suppers when church services are happening so these numbers did not need to be added together; the greater of the two were used for the "number". There is a limit of what can be done per day for functions per gallonage per day. He cautioned that there is a second floor being added which needs to be watched so that the future use does not

exceed the loading on the septic system. He stated that the only other place that he has a comment refers to the right-of-way that has two dry wells that are being converted over to be used for drainage control; the second dry-well encroaches on the right-of-way; Mr. Nichols stated that the second one will be removed for that use. Mr. Middlemiss wanted that encroachment pointed out.

**MM&S to accept the plan for jurisdiction.** (Motion by Mr. Alberts, second by Mr. St. Hilaire) **PUNA**

**MM&S to deny the plan based on the 13-foot setback not being in compliance with the Town's regs., with a recommendation that the applicant go the ZBA to seek relief.** (Motion by Mr. Alberts, second by Mr. St. Hilaire) **PUNA**

The Board reviewed the upcoming calendar; Mr. Wilson said that Millbrook was scheduled for 8:00; the Brox review was at the beginning of the meeting.

**MM&S to continue to February 15<sup>th</sup> at 8:15.** (Motion by Mr. Coppelman, second by Mr. Alberts) **PUNA**

Mr. Whittier asked that the ZBA be sent a Notice of Decision.

**ACTION ITEM: Ms. Faulconer to send a Notice of Decision regarding the First Congregational Church to the ZBA ASAP; for their hearing on February 10<sup>th</sup>.**

### **Board Business, continued**

- Letter re: Municipal Water District was discussed; Mr. Coppelman stated that he put in a personal one in support already; Mr. Wilson said that the Board had discussed a letter re: Ash Drive possibly in conjunction with the BOS but he had heard that the BOS might not want to do that. Mr. Hart said that the BOS does not normally support letters to the editor however, on the Water Issue one, if the Planning Board writes the letter, the BOS consent to being included; they are not opposed to being mentioned as supporting the Board's position in both the Water Issue letter and the Ash Drive issue.

**Action Item: Mr. Wilson will work with Ms. Faulconer on getting these letters (Water District and Ash Drive) written and submitted.**

- For the record, Mr. Wilson explained that he sent a letter to the editor, as an individual, endorsing the Library; he clarified that he was not asked to write this letter, he did it on his own.

**MM&S to adjourn at 8:14.** (Motion by Mr. Alberts, second by Mr. Hart) **PUNA**