



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2010-2011
David F. Sullivan, Chairman
Ron Morales, Vice Chairman

MINUTES
Regular Meeting 19 August 2010
7:05 pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Approval** of July 8 and July 15 minutes
- ◆ **Public Hearing** for Paul Masone, 213 Haverhill Road (MBL 11-2-17) regarding a change of use for a tenant (Randy and Beverly Cofske) in the light industrial park (EKPB#04-OB),
- ◆ **Public Hearing** to amend the East Kingston Site Plan Review Regulations Section I - Authority and Site Plan Procedures A - Introduction. The wording *including change of tenants* will be removed in both places it appears.
- ◆ **Approval** of the revised RPC Circuit Rider Contract.
- ◆ **Discussion** with Margaret Pandelena regarding a home occupation for day care.
- ◆ **Discussion** with Debbie Kiesel regarding a home occupation for a financial services Office in her home.
- ◆ **Board Business**

CALL TO ORDER: The regular meeting of the East Kingston Planning Board was called to order at 7:05 pm.

ROLL CALL: Mrs. White called the roll.

Members: Mr. D Sullivan, Mr. R. Morales, Dr. RA Marston, Ex-Officio Matt Dworman. Mr. E Warren was not in attendance.

Alternates: Mr. P. Gilligan. Mr. J. Cacciatore and Mr. R. Forrest were not in attendance.

Advisors: Ms. Julie LaBranche and Building Inspector Ray Donald

Also in Attendance: Randy and Beverly Cofske - co-applicant; abutters Mr. & Mrs. Richard Winters; Deborah Kiesel; and East Kingston residents Gary Hinz and Timothy Law.

Chairman Sullivan appointed Alternate Peter Gilligan as a voting member in Mr. Warren's absence.

Board Business

July 8 and July 15 Minutes

The first item on the agenda was to approve the minutes.

MOTION: Mr. Morales **MOVED** to approve the July 8 minutes with the minor changes as noted at the last meeting. Mr. Gilligan seconded. Mr. Sullivan and Dr. Marston abstained as they were not in attendance. The motion passed.

MOTION: Mr. Morales **MOVED** to approve the July 15 minutes as presented. Mr. Gilligan seconded. The motion passed unanimously.

Public Hearing for Paul Masone, 213 Haverhill Road (MBL 11-2-17) regarding a change of use for a tenant (Randy and Beverly Cofske) in the light industrial park (EKP#04-OB),

Mr. Sullivan invited the Cofske's to sit up front before the Board. Mr. Cofske explained that in addition to the business he was already approved for, he was contemplating moving from Building #2 where he presently conducts his business, to Building 5, where he would like to conduct a vehicle refurbishment business. Building 5 is much larger than his present space.

In regard to Building 5 and the proposed addition of vehicle refurbishment as a business, much like Planet Wreck, Mr. Cofske would fence in a portion of the property within which to park the cars, and also install a security system. He will need to apply for and receive a dealer's license from the state to conduct this business, which could take 1-4 months, but he wanted to have the approval of the Board before proceeding further.

Mr. Cofske explained that what he wanted to do entailed receiving shipment of damaged cars from insurance companies. The cars would already have been in accidents and sealed for any fluid leakage. What he would be doing is straightening chassis and then turning right around and selling them for shipment overseas where they are used for parts. He would not be taking anything apart, so there would be no spare parts; it would not be a junkyard.

Cars would be delivered by vehicle carrier, chassis straightened, stored on the lot until sold (anticipated time any car would remain on the lot before being sold was 2-3 weeks), and then picked up again by vehicle carrier. Mr. Cofske's present hours of operation are the same as the park hours - 7am-9pm Monday through Saturday; he did not work on Sundays.

To the question of how the lot is configured at the present time, Mr. Cofske explained there was a small section of reclaimed asphalt in the front of the building and the rest was earth that had been graded level.

Mr. Dworman noted Mr. Cofske had a spray booth at his present location and questioned if he anticipated painting cars at the new location. Mr. Cofske answered there was no spray booth at the new location and if he wanted to paint he would need to add one at a great expense. As stated when he was before the Board three years ago, although he did do some painting at his present location, he did not want to paint cars any longer; he was not anticipating installing a spray booth in building 5.

There was deep concern from Mr. Gilligan and Mr. Dworman regarding where any drainage would flow and any fluid leakage into the Powwow River as it supplied drinking water to a neighboring Town. The thought was that some sort of special culvert to make sure any fluids would not get into the water system might be necessary. Mr. Cofske noted the area was level; there was a fire pond nearby that was higher than the discussed property, and another one near the cell tower (a distance away). He did not think anything drained off the property, but could not say for sure.

Mr. Donald noted that Mr. Cofske would also need to make sure he did not block access to the fire pond in any way, and requested a sketch of the proposal in relation to where the fire pond was to the Board's review.

Mr. Morales noted that if the Board approved his change of use, he would still be bound by the terms of the May 17, 2007 Conditions of Approval and perhaps some additional conditions. Mr. Cofske indicated he understood this.

Ms. LaBranche asked how many cars he would be parking outside; Mr. Cofske noted as he had not taken any measurements for the fencing as of yet, so he could not give a number at this time. He would like to park as many as he can fit.

Mr. Dworman noted in reference to the 2007 discussions, there had been concern over too many unlicensed cars being parked outside and it becoming a junkyard, which is not allowed. Mr. Cofske was approved for 14 cars outside at his present building. Mr. Cofske stated his present location was much smaller.

The new location would have much more room both inside and out for more cars. He also noted that the cars he would be dealing with would be newer cars and were not expected to be on the property too long.

There being no more questions from the Board, Mr. Sullivan opened the floor to abutters.

Abutters Mr. and Mrs. Richard Winter, 221 Haverhill Road. Mr. Winter's property was directly behind Building 5. His concern was about noise late at night as he wife had to get up at 4:30 am; he worried about car carriers delivering at all hours. He was apprehensive with the present hours running until 9pm.

Mr. Cofske stated if it would put Mr. Winters' mind at ease, he would gladly change his working hours to end at 6pm; he usually left at 6pm and had no intentions of working beyond that hour or on Sundays.

Along with the Board, Mr. Winters also had concerns regarding any fluid leakage into the water system as he has wetlands on his property and draws water from there.

There being no further questions from the abutters, Mr. Sullivan closed the floor.

After questioning and discussion, the Board decided there needed to be a site walk to see the referenced property. Mr. Sullivan and Ms. LaBranche will conduct a site walk at a date TBD.

The Board also determined they needed to see a plan drawn up which showed the direction of drainage, where the proposed fence would be located, and where/how many cars would be parked outside.

Mrs. White will let Mr. Cofske know what engineer drew the original plans for the industrial park so he could contact him.

MOTION: Mr. Morales **MOVED** to continue this hearing to the September 16 Planning Board meeting. Mr. Gilligan seconded. The vote was unanimous

Mr. Sullivan closed this public hearing. Mr. and Mrs. Cofske thanked the Board for their time.

Discussion with Margaret Pandelena regarding a home occupation for day care.

Mrs. Pandelena was not in attendance, so the Board moved to the next discussion.

Discussion with Debbie Kiesel regarding a home occupation for a financial services office in her home.

Mrs. Kiesel moved to the front to speak to the Board. She explained she would like to have a home occupation for tax preparation and bookkeeping. Her business name was not approved yet, and she did not know if that needed to be final before she could apply to the Board. Some of her credentials also would not be in for a month or two and was not sure of that would make a difference. She was trying to make sure she had everything in order before submitting her application so it would not be rejected. She would not qualify for an invisible business as she wanted to have a sign. The Board felt that as long as she had a name for her business on her application, there should be no problems.

Mrs. Kiesel gave the secretary her application and pictures with her check for \$200. Mrs. White noted she would be placed on the agenda for the September 16 meeting and she would receive a notice regarding the meeting.

Mrs. Kiesel thanked the Board.

Public Hearing to amend the East Kingston Site Plan Review Regulations Section I - Authority and Site Plan Procedures A - Introduction. The wording *including change of tenants* will be removed in both places it appears.

It had been brought to the Board's attention previously that requiring change of tenants to come before the Board was not within the authority of the Planning Board, and phrase stating so should be removed from the regulations. Mrs. White had checked with the LGC and they confirmed the Board did not have the authority to require a new tenant to come before the Board only because they were a new tenant. If there was a change of use or an expansion of use, it was within the purview of the Board to require them to appear. So in the interest of keeping the regulations legal, this regulation was being changed.

The secretary read both regulations as they are presently written and with the phrase removed.

SITE PLAN REVIEW REGULATIONS
TOWN OF EAST KINGSTON, N.H.

Adopted January 27, 1983

SECTION I - AUTHORITY (Page 1)

Pursuant to the authority vested in the Town of East Kingston Planning Board voted on at the March 1982 Town Meeting in accordance with the provisions of Chapter 674:43-44, "New Hampshire Revised Statutes Annotated", 1995, as amended, the town of East Kingston Planning Board adopts the following regulations governing the review of site plans for the development, or change or expansion of use, of tracts for non-residential uses and for multi-family dwellings (in excess of two units), whether or not such development includes a subdivision or re-subdivision of the site. All changes and expansions of use – ~~including change of tenants~~ – require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes. The Board shall have the authority to waive any of the requirements herein if justification is shown. **(Adopted 12/97)** These regulations shall be entitled "Site Plan Review Regulations, Town of East Kingston". **(Amended 5/17/89)**

Underlined sentence amended to read:

All changes and expansions of use require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes. (Amended 5/17/89, 8/19/10)

SITE PLAN REVIEW PROCEDURES (PAGE 14)

A. Introduction:

1. All changes and expansions of use, ~~including change of tenants~~, require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes. (Amended 12/97)

Underlined sentence amended to read:

1. *All changes and expansions of use require written notification to the Planning Board (or its designee), who will determine whether the proposal shall be required to undergo the full Site Plan Review and public hearing processes. (Amended 12/97, 8/19/10)*

Mr. Tim Law, 23 Maplevale asked to speak. He asked how the Planning Board monitored the elderly communities with change of tenants. Mr. Morales noted that this change of regulation was only concerning the Industrial Park.

Ms. LaBranche noted it also applied to any non-residential use and development or multi-family dwellings such as apartments and 4-plexes. To Mr. Law's inquiry, Mr. Dworman noted that even though there are some 4-unit multi-family buildings in Maplevale, since one person did not own the entire building and rent out the apartments and each family owned their individual unit, they would not apply as multi-family under the regulation.

MOTION: Mr. Morales **MOVED** to approve the amendments the East Kingston Site Plan Review Regulations Section I - Authority (page 1) and Site Plan Procedures A - Introduction (page 14) adopted on January 27, 1983 to those as read by the recording secretary. Dr. Marston seconded. The motion passed.

Amended Circuit Rider Contract

Mrs. White noted that the Planning Board had sent a recommendation to the Selectmen to sign the contract for the RPC Circuit Rider for the forthcoming year at the last meeting. At that time it was asked what the difference was between the proposed new contract and the previous one; Mrs. White did not have those amounts to give the Board at that time.

When the contract came before the Selectmen, they noted the contract amount was for \$1,590 more than the previous year due to a rate increase of \$5/hour. The hourly contract amount had not been changed in several years. The Selectmen contacted Glenn Greenwood and renegotiated a new contract (with reduced hours) with a total amount of a little less than the previous contract. Mr. Greenwood noted that the new number of hours would be sufficient to handle any Planning Board needs. The new contract is for 168 hours and 12 meetings instead of 186 hours and 12 meetings.

Mr. Morales asked if, for any reasons, a project came up which needed more hours that were contracted for, did they have the option of contracting for additional hours at the hourly rate if it were necessary? Mr. Dworman thought that might be in the contract; Mrs. White will find out for sure and report to the Board.

MOTION: Mr. Morales **MOVED** to send a letter of recommendation to the Selectmen to sign the revised contract with the RPC for the Circuit Rider for the year. Mr. Gilligan seconded. The motion passed unanimously.

Mrs. White will send the letter to the Selectmen's Office for the amended contract. She will also find out if additional hours could be contracted for if the need should arise.

Ms. LaBranche noted that in the submission requirements for the subdivision regulations, it was included that an applicant would reimburse the Town for expenses incurred by the Circuit Rider for time and meetings spent on projects.

Mr. Gilligan asked if there was an option to have applicants pay for any other type of study the Board might require; Mr. Morales noted in the past the Board would direct the applicant what they needed and the cost would fall to them.

Agricultural Commission Committee Discussion Meeting

Ms. LaBranche reported they had an excellent meeting with 22 residents in attendance. Mr. Morales explained how the Planning Board got involved in the project, and Ms. LaBranche gave a presentation, which was well-received.

She reviewed where NH ranks in food-to-market and in dollar sales in the state of NH, and that the state had expanded the definition of farming to include agricultural activities. There was open discussion of the topics the public thought the committee could start off exploring and issues they would like information regarding.

A sign-in sheet had been passed around and people were asked for name/address/e-mail and if they would serve on the committee. Of the 22 people who signed the sheet, five stated they would definitely be interested in

serving on the committee, and another four stated they might be interested. Mrs. White will put together a letter and ascertain what dates most people would be available for possible meeting dates. The Board determined that the Thursdays they would have had as work meetings could be a good day to identify as meeting nights. Ms. LaBranche thought the Conservation Commission Chairman should be invited as well.

Ms. LaBranche noted the Steering Committee's responsibility would be to disseminate information about what an agricultural commission is and what they can do, and identify possible locations for a farmer's market. Also they would draft a warrant article to authorize an Agricultural Commission.

Mrs. White reminded the Board they would need to appoint a secretary as she could not act as the secretary for the committee unless approved by the Selectmen. Mr. Dworman opined it was a voluntary committee and just as the Conservation Commission had their own secretary, so should the Agricultural Committee/Commission.

Mr. Morales felt there was not enough time to draft a warrant article for the coming year in the time left before the deadline; Ms. LaBranche noted there was a draft 2-paragraph warrant article on the CD they could use. They could submit it on the warrant in 2011, but could actually form their committee at a later date. Passage of the warrant article would then allow them to form their committee when they were ready.

Mr. Morales will make copies of the CD for the members of the committee.

Mr. Ford

Mrs. White noted it was time to send a letter to Mr. Ford again asking him the status of the fence around his storage units. She hoped to have a reply from him before the next Planning Board meeting on September 16.

Mr. Law, 23 Maplevale Road

Mr. Law inquired if he could ask Planning Board some questions; Mr. Sullivan agreed.

Mr. Law's questions:

- Is there a setback requirement from a road right-of-way for structures in East Kingston?
Ms. LaBranche noted if the lot line is considered the ROW, then the set-back would be from the lot line. Mr. Donald noted Mr. Law was referring to the dumpsters in the Maplevale elderly community and stated the original setback at the time of approval was 25', and was later changed to 100'. The 25' setback is grandfathered in.
- Mr. Law stated the site was significantly expanded; there was one dumpster when he moved in, now there were 2 large dumpsters and a 3-bin recycling dumpster. *Mr. Donald noted they were no closer to the lot line; Mr. Morales stated they were still within the footprint.*
- Mr. Law stated his inquiry was if there was a setback from an existing ROW or built road in Town? Could he have a structure immediately adjacent to the blacktop of the road? *Mr. Morales stated no, there were utility rights-of-way where the poles were which are governed by the state so they can repair/replace their poles/wires. There is also town right-of-way of approximately 4-5 feet. Mr. Donald noted a house could only be built within 30 feet of the front line of a property and 25 feet within the side and rear property lines. But that was for buildings, not dumpsters. Also the road in question is a private ROW and not a town road.*
- Mr. Law noted there had been an abutter present that evening for one of the public hearings for a change of use. He wanted to know if there was a general requirement for anything that is subject to site plan for notification of abutters if the current use, conforming or non-conforming, is changed or expanded. *Ms. LaBranche noted it would require a public hearing with abutter notification.*

- Mr. Law asked specifically if he had a development subject to site plan review and changed something or placed something on that property or filled that property, what Board would he need to come before for approval for that or to have a public hearing? *Ms. LaBranche noted it would depend on the nature of the change. For residential subdivisions, people can put in small structures such as sheds, garages and decks with only a building permit as long as they meet the setback requirements and there are no covenants against it.*

For non-residential developments such as commercial and industrial, there are more conditions as to where dumpsters, snow storage, storm water management and access are located. Any changes to those items would require Planning Board approval. In residential instances, unless there is a covenant or some other type of stipulation, they would not need to come back before the Board. If someone was expanding their house, for instance, as long as they met the setbacks and building codes, they would only require a building permit and not need to come back before any Board for further action.

- Who is responsible for enforcing covenants? *Dr. Marston stated it would be the Maplevale Condo Association. Mr. Morales noted the original covenants stated the association would need to come in front of the Board before any covenants were changed. Both the Planning Board and the Selectmen supported the change and gave the condo association authorization to put on the ballot last year for the residents to vote whether or not they wanted to approve the town taking care of the trash pick-up for the elderly communities. The town did approve it and now all the elderly communities are included in the contract for town trash pick-up. The Planning Board is the entity to approve any changes to the covenants, but the condo association would be in charge of any enforcement.*
- Are the covenants public documents? *Mr. Morales stated that are. There is a copy in the Town Office and also on file with the Registry of Deeds/County Clerks Office. Mr. Dworman explained, as he lived in a development with a condo association, that there is a Board and enforcement officer. But ultimately it is up to a private individual to take civil action themselves if they deem a covenant is not being complied with.*

Mr. Law thanked the Board for their time.

September 16 Meeting

- Public Hearing - Mr. Cofske will be returning with his plan
- Public Hearing - Mrs. Kiesel will come before us with her home occupation application.
- Any replies regarding the CIP will be reviewed.

ADJOURNMENT

MOTION: Mr. Sullivan **MOVED** the Planning Board adjourn. Mr. Morales seconded. The motion passed unanimously.

Mr. Sullivan closed the meeting at 8:37 pm.

Respectfully submitted,

Barbara White

Barbara A. White
Recording Secretary

David F. Sullivan
Chairman

Minutes approved _____