



PLANNING BOARD
EAST KINGSTON, NEW HAMPSHIRE

2021-2022
William Caswell, Chairman
Tim Allen, Vice Chairman

EAST KINGSTON PLANNING BOARD
Final Approved Minutes – February 17, 2022

The Town of East Kingston Planning Board met on February 17, 2022 at 7:00 pm at the Pound School, 41 Depot Road, East Kingston, NH. The following members, staff and public were present.

Planning Board: Chair Bill Caswell, Josh Bath, Ex-Officio Joe Cacciatore, Doctor Marston and Janet Smith (alternate)

Staff: Julie LaBranche, Planning Consultant

Public: Brad Poole, Brett Smith

Chairman Bill Caswell opened the Planning Board meeting at 7:00pm.

BOARD BUSINESS

Approval of the January 20, 2022 Planning Board minutes.

Mr. Bath noted that he was not recorded in these minutes as attending then asked that the minutes be revised to reflect his attendance.

Mr. Bath motioned to approve the January 20, 2022 Planning Board minutes. Doctor Marston seconded the motion. A vote was taken, all were in favor, and the motion passed unanimously.

PUBLIC HEARINGS

Chairman Caswell appointed Alternate Janet Smith to be a full voting member for the meeting.

BRAD AND NAOMI POOLE HOME OCCUPATION APPLICATION

Chairman Caswell opened the public hearing, read the public notice

The application of Brad Poole & Naomi Poole for a Home Occupation Permit for a landscaping business and storage of vehicles and equipment located on a 12-acre parcel at 116 North Road, Tax Map/Lot 15-03-14.

This public hearing was continued upon request from the applicant to the February 17, 2022 Planning Board meeting.

Chairman Caswell reviewed the public hearing process for the applicant and asked the Mr. Poole to present their application. Poole reported the following: home business office in the residence, no deliveries to the residence, no visibility of the business from the road. Chairman Caswell reviewed the Home Occupation checklist finding that the application was in compliance with all of the criteria.

Mr. Bath asked the classes of vehicles on the site as service versus commercial weight and use, cited the restriction for vehicles over 14,000 GVW in a residential district, and noted the prohibited uses in the Home Occupation ordinance which include "commercial activity". Poole responded that most vehicles are not stored on site on a regular basis, his business began on site in 1999. Bath asked why he was pursuing a Home Occupation Permit at this time. Poole replied that town staff advised him that a Home Occupation permit is required for registration of his business vehicles.

Chairman Caswell inquired about the state's definition of a commercial vehicle versus the weight limitation in the residential district. Bath responded that the 14,000 GVW limit was adopted to ensure commercial activity would not be allowed in a residential district. Abutter Brett Smith, 3 Ashlie Road, questioned whether heavy duty trucks for personal use would exceed the 14,000 GVW limit.

Chairman Caswell asked Poole if there have ever been any complaints from neighbors of accidents with his business vehicles in town. Poole replied that he has not received complaints about his business activities nor been involved in accidents with his business vehicles.

Bath stated that the Planning Board bases its decisions on the text of the zoning ordinance, both Home Occupation and permitted uses in the residential district. Ms. LaBranche cited Section E permitted uses and criteria #12 of the Home Occupation ordinance.

Poole again reported that vehicle registration was what triggered the current Home Occupation application. Poole noted an approved building related to this activity. Caswell asked if there were any accidents with these vehicles in Town over the time this activity has taking place. Poole answered no – none.

Chairman Caswell again queried the state's definition of 26,000 GVW for a commercial vehicle then inquired whether Poole could weigh his vehicles to confirm capacity. Poole replied that it is customary to rely on the GVW rating for a vehicle as the weight would vary depending on the load/material type.

Chairman Caswell asked Poole if it would be hardship to relocate his commercial equipment off site. Poole replied that after many years of keeping his business from his home that moving his equipment off site would be a hardship.

Chairman Caswell closed the public hearing for deliberation.

Chairman Caswell noted that Janet Smith would be appointed as a regular member for the purpose of voting on this application and throughout the meeting.

Bath motioned to not recommend the Poole Home Occupation application to the Selectmen. Janet Smith seconded the motion. The motion passed unanimously.

BRETT SMITH HOME OCCUPATION APPLICATION

Chairman Caswell opened the public hearing, read the public notice

The Home Occupation application is submitted by Brett Smith at property located at 3 Ashlie Road, MBL#10-06-13 to establish a site work/excavation business.

Chairman Caswell asked the Mr. Smith to present their application. Mr. Smith reported the following: has an established home office at his residence, he occasionally brings home a heavy duty vehicle to store overnight, and all other business related vehicles and equipment are stored off site in Greenland, NH. He is requesting a Home Occupation permit because town staff notified him that he could not register commercial vehicles with the town without such permit.

Smith inquired why after 24 years of registering his vehicles that he is no longer allowed to do this because of a zoning amendment in 2020. He stated that this has caused confusion with residents and among town staff and raised the point of why property owners who have registered commercial vehicles in town not notified of the zoning change. Ex-Officio Cacciatore acknowledged that further discussion may be needed to evaluate impacts on businesses that have operated for many years before the 2020 zoning amendment.

Chairman Caswell reviewed the Home Occupation checklist finding that all criteria appear to be met. Smith reported that only residents of the property would be employed by the home-based business office and that no business sign would be installed on the property. No hours of operation for the home office were noted.

Chairman Caswell also inquired whether Smith had any accidents with his business vehicles stored at his property or received any complaints from other residents. Smith replied that he had not on both counts.

Bath inquired if Smith could store a commercial vehicle he might occasionally bring to his residence at the Greenland location. Smith replied that he could do that. Chairman Caswell noted the weight of this vehicle and its infrequent storage on the property as well as lack of its visibility. In general, weight, frequency of use at the residence and visibility to neighbors are involved in the decision process.

Bath noted the following observations:

1. The Home Occupation Application proposal does not comply with Zoning Ordinance Article III-B.1 which states that parking of not more than one commercial vehicle of 14,000 GVWR or less is permitted and shall not have the appearance of business operations from the property. Mr. Smith provided detailed information that he stores occasionally one commercial vehicle on the property which exceeds the 14,000 GVWR limit in the Residential/Agricultural District.
2. The application proposal does not comply with Zoning Ordinance Article XVI.F which states that that commercial activity is not a permitted use under a Home Occupation Permit. Mr. Smith's Home Occupation Application clearly states its purpose is to establish a home office for his commercial landscaping business and storage of one commercial vehicle on site which exceeds the 14,000 GVWR limit.

Chairman Caswell closed the public hearing for deliberation.

Bath motioned to recommend the Home Occupation by Brett Smith with the condition that all commercial vehicles be stored at an off-site location, not on the residential property. Ex-Officio Cacciatore seconded the motion. The motion was approved unanimously.

DISCUSSION ITEMS

Conservation Commission Natural Resources Inventory Presentation

Conservation Commission Chair Dennis Quintal and member Vicki Brown presented the Conservation Commission's 2021 Natural Resources Inventory (NRI) including ***a handout to the Board which is appended to these minutes which provided highlights of the Inventory along with its recommendations for discussion.*** The following discussion items were raised during the discussion:

- Soils are highly variable throughout town, even on a parcel basis
- Additional funding is needed to reach land and resource conservation goals
- Conservation Commission will work with private landowners to encourage conservation easements.
- Conservation Commission wishes to prepare a master conservation plan
- Discussion of the long-term actions notes in items #1-7
- A recommendation is to increase lot sizes in some areas of town from 2-acres to 5-acres; it was noted that this might conflict with future workforce housing options/strategies

- Recognition of strategies to require mitigation for wetland impacts perhaps >1:1 replication, require buffers, removal of invasive species, and required maintenance of mitigation areas
- Outreach to property owners helps to encourage community support for funding land conservation

Ms. LaBranche stated there could be opportunity to formalize the role of the Conservation Commission in reviewing development applications and offering recommendations.

Chairman Caswell offered a motion for the Board to adopt a goal of 500 acres of land conservation. The motion was not carried.

Chairman Caswell noted that the NRI could be incorporated into a new Master Plan Update as a reference. LaBranche noted that the NRI could be adopted as an Appendix to the existing Master Plan. No motion was made to take further action on the NRI. Chairman Caswell noted that the NRI information and recommendation ideas would be included for future meeting discussions. LaBranche offered that the Planning Board could work with the Conservation Commission in 2022 to review the existing Wetland Conservation Ordinance to evaluate whether revisions are necessary or needed. Conservation Commission Chair Quintal offered that they could provide recommendations for revisions by a May-June timeframe for the Board to consider.

Zoning Ordinance Article XIII Growth Management – continued review

Chairman Caswell reviewed the final revisions to the Growth Management ordinance. He noted that the ordinance while using 2020 Census data has not adopted the Census' growth projections to 2040 as they seem excessively high given current growth rates. The Board broadly discussed whether a duplex housing unit would require 1 or 2 building permits vs. occupancy permits; Chairman Caswell said he would look into this issue with the Building Inspector. Chairman Caswell mentioned the 5-year vesting statute [RSA 674:39] and how that may influence building permit applications in the future because some, larger developments could take over 5 years to fully build out. The Board did not motion to formally adopt the revised Growth Management ordinance.

Workforce Housing

Chairman Caswell introduced the topic, asking Consultant LaBranche to present information from handouts. LaBranche presented a letter from Governor Sununu dated January 20, 2022 outlining findings from a recent report from the Josiah Bartlett Center for Public Policy which concluded that NH is one of the most restrictive states in the country for residential development, with the consequence of limiting available housing stock and driving up rental and home ownership prices in the state. The report advocates for limiting local control on land use decisions and control. Also, the recently convened Housing Appeals Board in NH has also been vacating local decisions by Planning Board and Zoning Boards regarding housing related decisions. The Board discussed possible strategies for permitting more multi-family housing developments but with careful consideration of design guidelines to keep the rural and historical character of the town intact.

Comparison Residential Zoning District Summary

Chairman Caswell distributed a summary of residential zoning districts in neighboring towns noting that many other towns have far more residential zoning districts than East Kingston and that residential zoning was something to look more closely at in the future. Having said that, Caswell indicated our current Residential/Agricultural zoning district along with Commercial and Industrial zoning districts may well be appropriate with no strong reason to modify in the foreseeable future. LaBranche noted that many of these residential zoning districts were established to match the existing land use pattern that was established before the zoning was put in place. She noted that when zoning was adopted in East Kingston, the majority of land was open space and farms, thus, the low density 2-acre zoning that was first adopted and that exists today. The topic will be discussed at a future meeting.

Planning Board Rules of Procedure

The Planning Board Rules of Procedure were be provided for discussion at the February 17, 2022 Planning Board meeting however this item will be approached at a future meeting.

Doctor Marston noted the passing of a long-time previous planning board secretary Nancy Marden. LaBranche offered to circulate a card for the Planning Board to send to her son who lives in town.

ADJOURNMENT

Dr. Marston motioned to adjourn the meeting. Ex-Officio Joe Cacciatore seconded the motion and the motion carried unanimously. The meeting was adjourned at 9:35 PM.

Submitted by:

Julie LaBranche, Planning Consultant

February 2022 Minutes Approved on March 17, 2022