

TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

NOVEMBER 17, 2022

Pound School
41 Depot Road
East Kingston, New Hampshire

Josh Bath, Chair
Tim Allen, Vice Chair
7:00PM

AGENDA

- Subdivision Regulations Section XVI Procedure for Obtaining Approval for Subdivision – Public Hearing
- Site Plan Review Regulations Section IV Submission Requirements – Public Hearing
- Change of Tenancy – 213 Haverhill Road – Light Industrial Park (Todisco Services, Inc. Case# 22-0D)
- Proposed Zoning Amendments
- Rules Of Procedure – Adoption
- Elderly Housing Ordinance
- Discussion On Invest Nh Housing Opportunity Grants

Board Members present: Josh Bath – Chair, Tim Allen – Vice Chair, and Janet Smith. Absent: Dr. Robert Marston and Rob Caron – Ex-Officio.

Others Present: Julie LaBranche – Planning Consultant

Applicants and members of the public who participated in the meeting: Ben Loizides.

Chairman Bath opened the November 17, 2022 Planning Board meeting at 7:00pm followed by the roll call.

SUBDIVISION REGULATIONS SECTION XVI PROCEDURE FOR OBTAINING APPROVAL FOR SUBDIVISION – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:01pm for amending subdivision regulations per RSA 675:6 by

1. Changing the process for providing notice to the public, specifically to allow the posting of public hearing notices on the town's website instead of publication in the local newspaper as permitted under RSA 676:4; and
2. Changing the RSA reference on the extension or waiver to render a decision on a completed application from RSA 676:4, I(I) to RSA 676:4; and
3. Changing the test pit provision by assigning the witnessing of test pits to the building inspector or designee and to forward the test pit results to the planning board.

He noted these changes were basically housekeeping with some modification to the public hearing notification process. He then read through the proposed changes. With respect to change #1 - Clarification was given in that regional impact proposals would still require public notification via newspaper, and the NH Municipal Association and the NH Office of Strategic Initiatives were both consulted for guidance in amending this notification process.

With respect to change #2 – The rationale for modifying the statute reference was because the paragraphs and sections to RSA 674:4 would likely be changing (renumbered) due to the passing of HB1661.

With respect to change #3 – These changes were resultant of the Town Engineer's recommendation to align the language of the regulations with current practice.

Board discussion: It was noted that the proposed language allowing public notification by way of the town's website, does not preclude the board from publishing notices in the local newspaper.

Public comment: There was none.

MOTION: Chairman Bath motioned to adopt the new language changes to Subdivision Regulations Section XVI Procedure for Obtaining Approval for Subdivision as presented; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

Chairman Bath closed the public hearing at 7:12pm.

SITE PLAN REVIEW REGULATIONS SECTION IV SUBMISSION REQUIREMENTS – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:12pm for amending site plan review regulations per RSA 675:6 by

1. Changing the process for providing notice to the public, specifically to allow the posting of public hearing notices on the town's website instead of publication in the local newspaper as permitted under RSA 676:4; and
2. Changing the RSA reference on the extension or waiver to render a decision on a completed application from RSA 676:4, I(I) to RSA 676:4;

He read through each proposed language change and noted the rationale for these changes were the same as identified under the subdivision regulations proposed changes.

Board discussion: There was none.

Public comment: There was none.

MOTION: Chairman Bath motioned to adopt the new language changes to Site Plan Review Regulations Section IV Submission Requirements as presented; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

Chairman Bath closed the public hearing at 7:16pm.

CHANGE OF TENANCY – 213 HAVERHILL ROAD – LIGHT INDUSTRIAL PARK – CASE # 22-0D

Chairman Bath opened discussion on the change of tenancy application for Todisco Services, Inc. at 7:16pm. It was noted that Mr. Ben Loizides would be representing business owner Pasquale Todisco III.

FINDING OF FACT

Mr. Loizides provided an overview and fielded board question about the business operations. He stated Todisco Services, Inc. is a certified and approved warehouse contractor for the United States Marshal Service which securely stores vehicles and assets seized by the Federal Bureau of Investigation, the Drug Enforcement Agency, and Homeland Security.

Seized assets include vehicles, tractors, boats, tobacco, equipment, ATVs, etc. No contraband, hazardous materials or weapons are stored on site as these items are held directly by the respective agency. All assets are vetted and approved by the US Marshal Services prior to storage at the warehouse.

Assets are held until released by the agency or federal court with some cases having been delayed due to COVID. The average case is resolved within two to three years. Once the matter is adjudicated, the asset is either released to the owner, or sold at an online auction.

All items will be stored inside the secured warehouse (building #1). No additional lighting is needed, only security cameras will be added.

Hours of operation for the purposes of manning the building with a single employee is Monday through Friday from 8am to 5pm. No members of the public visit the premises and all authorized visitors are vetted, approved and scheduled by the US Marshal Service. The single employee is not armed as Todisco Services, Inc. is a towing service that provides storage; they are not law enforcement.

Mr. Loizides noted that separate from the business operations, he, at the approval of the property owner, Paul Masone, is storing a boat on the premises for a friend, and since the boat is not part of the business operations, it cannot be

stored inside the warehouse. He noted that the seized assets are typically high-end items due to the nature of the seizures and are required to be stored inside, thus there would be no storage outside the building. Board members noted their preference that all items be stored inside the warehouse. Justification for this preference is based on past issues of property abandonment at the site. Mr. Loizides agreed to relocate the boat in question to a Salem, NH site as he stated he did not want this to be an issue in their pursuit for approval of the business.

PUBLIC COMMENT

There was no public comment.

BOARD DELIBERATION

MOTION: Chairman Bath motioned to approve the tenancy application from Todisco Services, Inc. as presented with condition the boat in question be moved from the property within 30 days of this approval; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

Mr. Loizides was informed that an official notice of decision would be drafted and forwarded to business owner Pasquale Todisco. Mr. Loizides requested it be forwarded by way of info@todiscotowing.com.

PROPOSED ZONING AMENDMENTS

Board members reviewed proposed zoning amendments for inclusion on the March 2023 warrant. They included changes to the Home Occupation Ordinance that clarify the process for invisible home occupations and the public hearing notification process.

ARTICLE XVI – HOME OCCUPATION: Discussion ensued on the invisible home occupation process resulting in the clarification that truly invisible home occupation proposals are not required to undergo the full public hearing process. This means no public hearing notice, no abutter notification; just completing an application and presenting the proposal to the Planning Board who will then make a determination that the business is truly invisible (no evidence of the business at the premises by customers, signage, business equipment, or deliveries). Once determined, the applicant will only need to pay the annual invisible home occupation permit fee. Should the home occupation not be deemed invisible, the applicant will be directed to undergo the full public hearing process. The proposed amendment for this clarification shall be depicted in paragraph D.2 of the home occupation ordinance as follows:

*2) Administrative support for businesses or services that are conducted on or off-site of the residential premises are exempt from the ~~formal application and approval~~ **public hearing of the application** process but must complete an ~~Invisible~~ **a** Home Occupation application for the purposes of municipal record keeping, pay the annual Invisible Home Occupation Permit Fee, and meet with the Planning Board to present the application and receive a favorable recommendation from the Planning Board. (Amended 3/97) (Amended 3/18)*

The board then discussed the second proposed amendment to the Home Occupation Ordinance that related to the public hearing notification process. The intent is to change the language for public hearing notification to mirror that of the newly adopted subdivision and site plan review regulations so that public notification for public hearings would be done by posting to the town's website, or in the newspaper should the board determine this was needed, and that abutters would be notified by certified, return receipt mail. The proposed amendment for this change shall be depicted in paragraph J Procedure of the home occupation ordinance as follows:

- J. Procedure: Application shall be made to the Selectmen's office, including public hearing fees paid in accordance with the Town of East Kingston Subdivision Regulations. Abutters will be notified **by certified, return-receipt mail, the public will be notified by public hearing notice posted on the town's website or newspaper of general circulation and posted in two other locations**, and the applicant will be scheduled for a public hearing with the Planning Board. After the public hearing, the Planning Board will make a recommendation to the Selectmen as to whether the Home Occupation Permit should be granted. The application will then be forwarded to the Selectmen who will issue their final decision. (Adopted 3/96)

MOTION: Chairman Bath motioned to move both proposed zoning amendments to Article XVI Home Occupations to public hearing on December 15, 2022; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

ARTICLE VIII SECTION F – ACCESSORY DWELLING UNITS

Due to some confusion on the intent for septic design on accessory dwelling units, both Planner LaBranche and Vice Chair Allen worked on proposing changes to the language that would clarify the need that the septic design must accommodate both the existing dwelling and the newly proposed accessory dwelling unit. In doing so, language was restructured without changing the meaning and new language would be inserted to provide clarification for either a combined or separate septic system. Additionally, the evidence for meeting the septic design requirement and evidence of the approval of the accessory dwelling unit would be inserted. The proposed amendment for these changes shall be depicted in Article VIII – Uses Permitted, Section F Accessory Dwelling Unit, paragraph g as follows:

*g. **Septic facilities and water. An accessory dwelling unit shall conform to all applicable water and sanitary standards for residential structures. Prior to Special Exception approval by the Zoning Board of Adjustment for an Accessory Dwelling Unit, the owner shall provide evidence as part of the Special Exception application that septic facilities are adequate to serve both the principle dwelling and the accessory dwelling unit. The principal dwelling and accessory dwelling may be served by either a combined septic system or separate septic systems. This initial Evidence of septic system adequacy shall be in the form of:***

- **compliance with requirements in either section i or ii below; and**
- **septic system inspection required in section iii for all instances when a new septic system is not installed.**

Below shall be required:

- A replacement septic system design plan prepared by a state licensed Septic System Designer sized to accommodate **either a combined system or separate systems to serve both the primary dwelling and the accessory dwelling.** The Zoning Board of Adjustment Special Exception approval shall be conditional upon approval of the septic replacement plan by the NH Department of Environmental Services.*
- Alternatively, if the existing septic system ~~is~~ **has been** state approved and **proven to be** adequately sized to accommodate both the primary dwelling and accessory dwellings and conforms to state and local requirements, an applicant may choose to submit a copy of the existing **state approved** septic system plan. **The applicant shall also provide** ~~and~~ an inspection report by a state licensed Septic System Designer ~~determining~~ **documenting a site inspection and the current condition and function** of the existing system.*
- If installation of a replacement septic system is not proposed as part of the application, a site inspection of the existing septic system shall be performed by a state licensed Septic System Designer. If upon site inspection the existing septic system is found to be not fully functional or inadequate to serve both the principal dwelling and accessory dwelling, the property owner shall install a replacement septic system according to an approved replacement septic system design plan prepared by a state licensed Septic System Designer sized to accommodate either a combined system or separate systems to serve the primary dwelling and accessory dwelling.***

If utilizing methodology i. above, prior to the issuance of a building permit for and a dwelling renovation and/or accessory dwelling unit construction, the owner shall provide the East Kingston Building Inspector a copy of the NH Department of Environmental Services Construction Approval (CA) for the septic design presented with the Zoning Board of Adjustment notice of decision approving the accessory dwelling unit.

~~Prior to a dwelling renovation or accessory dwelling unit construction, the owner shall provide evidence to the East Kingston Building Inspector that septic facilities (whether separate or combined) are adequate to serve both the principal dwelling unit and the accessory dwelling unit, and obtain the necessary Town and State permits.~~

~~Such evidence shall be in the form of a replacement septic system plan prepared by a State of New Hampshire licensed septic system designer and approved by the State and the Town. The property owner shall have an existing septic system inspected by a licensed septic system inspector and provide a report of the inspection results. If the existing septic system is found to be not fully functional, the property owner shall install a replacement septic system according to the approved plan. The property owner shall provide evidence that there is adequate potable water (whether separate or combined) to serve both the principal dwelling and the accessory dwelling unit, according to State standards.~~

MOTION: Chairman Bath motioned to move the proposed zoning amendments to Article VIII, Section F Accessory Dwelling Units to public hearing on December 15, 2022; seconded by Mrs. Smith. With no further discussion the motion passed 3-0-0.

RULES OF PROCEDURE

Chairman Bath presented the draft version of changes to the board's Rules of Procedure that were discussed at the October meeting and posted along with the meeting's agenda as required by statute. There was no further discussion on the proposed changes.

MOTION: Chairman Bath motioned to adopt the changes to the board's Rules of Procedure; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

A copy of these updated rules will be placed on file with the Town Clerk and made available for public inspection.

ELDERLY HOUSING ORDINANCE

Planning Consultant LaBranche noted the board is not a point to do anything with the Elderly Housing Ordinance at this time; they can address it next year as part of the work of the housing grant. She stated it is okay to keep it on the books for now. She recommended the board pick out and identify the incentives in the ordinance that would apply to workforce housing should an applicant bring forward a proposal. Chairman Bath directed the Elderly Housing Ordinance be placed on the back burner for now.

INVEST NH HOUSING OPPORTUNITY GRANTS

Planner LaBranche provided information on the proposal for grant application and execution noting the board had asked her to provide a bulleted list on possible grant items with respect to the Needs Assessment Grant and the Regulatory Audit.

She reported that the Rockingham Planning Commission is going to request an extension on releasing the housing needs assessment report that includes a breakdown of each town's fair share of workforce housing from December 2022 to April 2023. As such, consideration would be given to extend the deadline on the grant applications as the grant work is predicated on the results of the housing needs assessment report. Given the anticipated deadline change, the board can still move forward to apply. She recommends a February timeframe and she would apply for the grants pro bono provided she be named the lead and sole consultant for the grant work.

She then provided an overview of the framework for the grants. The Needs Assessment Grant would be divided into two phases: 1) public input through surveys, and 2) analyzing the housing assessment data a create a housing profile. The Regulatory Audit would include review of the zoning ordinance and land use regulations, meeting with town officials and municipal staff to discuss housing challenges, prepare a draft and final report of audit findings. These initiatives would benefit from a Grant Project Steering Committee to provide guidance, local knowledge and general oversight of the tasks and deliverables. With respect to deliverables, there are numerous possibilities that could be addressed in the zoning ordinance (tiny homes, commercial housing developments with condo style association, and other outside-the-box ideas.

Discussion ensued on the grant work, on assigning Planner LaBranche as lead/sole consultant, time needed to apply for the grant, and moneys on the planner's current contract.

MOTION: Chairman Bath motioned to accept Planner LaBranche's proposal to write the grant proposals and be named consultant for the NH Housing Grant Program with the condition that the steering committee members be selected by the Planning Board; seconded by Vice Chair Allen. With no further discussion the motion passed 3-0-0.

MEETING MINUTES

The board reviewed the October 20, 2022 meeting minutes.

MOTION: Chairman Bath motioned to approve the October 20, 2022 meeting minutes as presented; seconded by Vice Chair Allen. The motion passed 2-0-1 (Mrs. Smith abstained).

TOWN WEBSITE

The board was informed the new town website is up and running and that much is slated for posting. Once trained, the land board secretary will upload documents and maintain the board's site.

NEXT MEETING'S AGENDA

Public hearing on zoning amendments and the annual review of the Growth Management Ordinance.

With no other business before the board,

MOTION: Chairman Bath motioned to adjourn the meeting; seconded by Vice Chair Allen. The motion passed 3-0-0.

The meeting adjourned at 8:57pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on December 15, 2022.