

TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

FEBRUARY 16, 2023

Pound School
41 Depot Road
East Kingston, New Hampshire

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

AGENDA

2023-02 Deschenes Trust Subdivision – Public hearing
2023-03 Cook Home Occupation Proposal – Public Hearing

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

Others Present: Julie LaBranche – Planning Consultant, Dennis Quintal – Town Engineer and Conservation Commission Chair, James O’Neil – Licensed Land Surveyor, Jamie Cook, Jim Webber, Kevin Frye, Phillip Renzi, Frans Ekendahl, Vicki and Duane Elbrecht, Roby and Sharon Day, Ellie Cornoni, and other members of the public who did not participate in public comment.

Chairman Bath opened the February 16, 2023 Planning Board meeting at 7:00pm followed by the roll call.

DESCHENES TRUST SUBDIVISION – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:01pm for Deschenes Trust to subdivide a 29.45-acre parcel which is located in both the towns of East Kingston (20.72 acres on Deer Run/MBL# 06-01-04) and Kingston (8.73 acres at 75 Exeter Road/R36 Lot 2-1) into two parcels utilizing the municipal boundary line as the new property line. The portion of land located in East Kingston will remain at 20.72 acres with over 500 feet of road frontage on Deer Run and the remaining parcel located in Kingston shall remain at 8.73 acres.

PRESENTATION BY APPLICANT

Licensed Land Surveyor James O’Neil of Hancock Associates, representing the applicants, noted the description of the proposal as announced by Chairman Bath was correct and added the original lot was subdivided by the Deschene family in 1991 to give lots to two of the sons with the remaining lot intact which straddles the Kingston and East Kingston town boundaries. The property does not qualify for bisection by municipal boundary as allowed under the statutes, which is why the applicant is before the board. It is the intent of the applicant to sell the East Kingston portion and keep the Kingston portion. Responding to questions, he noted the yellow color-coded area on the meeting presentation plan depicts field delineated wetlands and the green depicts upland.

TOWN ENGINEER REVIEW

Chairman Bath asked Town Engineer Dennis Quintal to report on his finding with respect to his review of the plan. Mr. Quintal shared his comments as follows noting some were specific to East Kingston, some to Kingston, and some to both towns as he also serves as Town Engineer for Kingston.

1. East Kingston Section VII.F – Show the proposed driveway location.
2. Section VII.L – Steep Slopes. It would be appropriate to clearly show a minimum of 3/4 acre upland topographic area that has slope not greater than 15%.
3. Section VII.T & Section X.B.7 – Show a distance from the proposed building area to the nearest fire pond or cistern.
4. Section VIII.A.10 – There are two test pits shown, however they must be located at least 50 feet apart. Please move the label “TP2” to be over the test data.
5. Section XVI.A.1 & Section XVI.4 - Provide the name of the Town Agent who witnessed digging the test pits.
6. Section IX.C – Provide NRCS Soil Survey to determine the existence of Soil Complex.

7. Section X.B.4 – Concrete or Granite 4"x4" bounds must be set on new lot corners. If unable to set because of water, then set as close as possible with reference dimension to the corner.
8. Are there any Very Poorly Drained Soils or Vernal Pools on this property?
9. Kingston Article 905.6.A – Please show the contiguous upland area that has natural slope less than 15%.
10. Article 905.6.E – Provide a distance from the dwelling to an NHFC hydrant or acceptance by the Kingston Fire Department.
11. Article 905.11.A – Show the driveway to the existing dwelling.
12. Article 905.11.E – Although existing show sight distance in both directions along Exeter Road. If it does not meet minimum then perhaps the driveway could be moved.
13. Article 905.14.C.9 – Provide Endorsement Block for the Planning Board. (Actually, Both Towns)
14. Article 905.14.C.19 – Provide Site Specific Soil Map or justifiable waiver.
15. Article 905.14.C.24 - Please provide a State Operational Approval number for the waste disposal system in Kingston. If none, then provide test pits within the 4K reserve area.
16. There is a change in the bearing along the Town line but there should not be.
17. Ties to the Town Bounds should be identified. (Setting of two reference bounds.)
18. Wetland line should extend to the property line.
19. The lot line curve on Route 111 (Exeter Road) is not tangent. It should be labeled & provide a cord bearing for closure.
20. Provide detail for the southwest corner as it appears the lot lines are not at those monuments.
21. Label monuments or provide symbol in legend.
22. Please identify the building setback line to distinguish it from the buffer lines.
23. The Surveyors statement says that this plat is not a subdivision. Please clarify.
24. A mylar shall be provided to both Town to sign. One Town should be designated to record it.
25. Strike through text in the Locus Map. Registry will not record plan with lines through text.
26. A Bound Certification must be provided by the Surveyor for the monuments to be set.

Discussion ensued on monumenting the corners of the lot as best as they can given the wetlands, specifically to provide abutting properties with clear boundaries. Mr. O'Neil noting the area is very wet, agreed bounds could still be set in those areas.

BOARD QUESTIONS

Chairman Bath opened the hearing to board questions. Vice Chair Allen indicated that in theory, the lot in East Kingston will have a house on it at some point, thus they will need to show the driveway with respect to access and runoff. Mr. O'Neil responded the driveway will be straight thus no need for runoff evidence. He further explained that the 60-foot future right-of-way was developed when Deer Run was developed and that there are no plans at this time to utilize this right-of-way.

Vice Chairman Allen stated a fire suppression notation needs to be added to the plan as required under Subdivision Regulations Section VII.S.1.b. Mr. O'Neil agreed to add this to the plan.

Planner LaBranche inquired about grading and drainage to which Mr. O'Neil responded the grading and drainage runs parallel with the road and flows towards the wetlands.

PUBLIC COMMENT

Chairman Bath opened the hearing to public questions and comments.

Vicki Elbrecht, of 7 Deer Run, inquired of the plans for the parcel once subdivided. Mr. O'Neil stated there were no plans at this time to develop the land; he is required to show that it is developable to receive subdivision approval. Should there be any plans to develop in the future, they would be required to come back to the planning board.

Duane Elbrecht, of 7 Deer Run, spoke to removing the future 60-foot right-of-way. Mr. O'Neil stated this could be addressed when the property is developed in the future as he is required to show existing conditions and parcel layout for this application.

With no other comments or questions, Chairman Bath closed the public comment portion of the hearing.

BOARD DISCUSSION

Chairman Bath noted his preference is to continue the public hearing to allow the applicant to address the numerous items listed on the Engineer's report along with those of the board prior to invoking jurisdiction. Board members were in agreement noting many of those items are part of the application process that should be addressed first.

MOTION: Chairman Bath motioned to continue the public hearing for Deschenes Trust to subdivide parcels MBL# 06-01-04 in East Kingston and Map R36-Lot 2-1 in Kingston to March 16, 2023 at 7pm to allow them to address the items as referenced in the Town Engineer's report and those of the board; seconded by Vice Chairman Allen. The motion passed 3-0-0.

Chairman Bath closed the public hearing at 7:26pm.

Noting an opportunity to address members of the public, Chairman Bath announced openings on the Planning Board and encouraged interested parties to apply.

The board then recessed from 7:27pm-7:29pm to allow for some members of the public to exit the building.

COOK HOME OCCUPATION PROPOSAL – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:29pm on the Home Occupation Application of Jamie Cook to operate a carpentry business, as provided under East Kingston Zoning Ordinance Article XVI Home Occupations, in a residential zone at property located at 4 Forest Drive, (MBL# 7-3-67) and noted the applicant proposes to operate JTC Construction LLC from the premises.

Mr. Cook presented to the board he is self-employed and wishes to operate his carpentry and home office from his residence. The carpentry work is conducted offsite, he owns two pickup trucks, one utility trailer and one dump trailer. He has one other trailer that is for his personal use. The dump trailer is typically left at the job site. He keeps his property clean, driveway neat, with no building materials kept outside. When needing to store building materials, they are kept in the garage or basement.

BOARD REVIEW

Chairman Bath conducted a review of the application noting two employees (Mr. Cook and one other), no signage, the office space is less than 25% of the gross floor area, the business is deemed visible due to the utility trailer with the business logo, the business is for offsite carpentry/remodeling with minimal deliveries with occasional material deliveries typically not exceeding twice a month, and a list of vehicles (two pickup trucks, one enclosed trailer, one dump trailer). With respect to hours of operation, Chairman Bath suggested Mr. Cook propose seven days a week with whatever hours of operation he thinks he needs.

Mr. Cook responded he wishes to apply for hours of operation from Sunday to Saturday from 7am to 7pm.

Chairman Bath continued reviewing the application noting the business makes four trips to and from the property each day, business equipment and vehicles consist of a 2018 Chevrolet Silverado (10,000 GVWR), a 2008 GMC Sierra (9,000 GVWR), 2017, a 2017 utility trailer (7,000 GVWR) and a dump trailer (14,000 GVWR), business-related materials include miscellaneous building materials occasionally stored overnight, and that the outside area of the residence is not used for conducting the business. He asked Mr. Cook why he did not check off #2 of the home occupation checklist with respect to the exterior of the building not displaying any evidence of the business. Mr. Cook responded because he stores ladders in the backyard in a fenced-in area and because the business logo on the utility trailer that is parked in the driveway.

Planner LaBranche responded that since the property is being used to store ladders and commercial vehicles and equipment outside, then item number 12 (outside area used for conducting business) should indicate such.

Vice Chairman Allen inquired about disposal of business materials to which Mr. Cook responded he takes materials to ERRCO in Epping or the Raymond dump station. Upon further inquiry, he stated building material that may be delivered to his home includes doors and windows by a lumberyard a couple of times a month, that the storage of equipment is part of his business, that on occasion he may do some work at home outside, but that he would refrain from doing so in order to obtain board approval.

Planner LaBranche asked if the intent was to establish a home office to which Mr. Cook responded affirmatively, and further clarified the trailers and vehicles are currently registered to his name and not the business as of yet, and that he has no plans to expand the business or add more equipment.

PUBLIC COMMENT

Jim Webber, of 1 Deer Run, spoke in support of the home occupation noting Mr. Cook has the most pristine and well-kept property on the street and the only thing one notices about the logo on the utility trailer is the shine because he keeps his equipment so clean. The property does not show any evidence of a business operation and there is never any trash or building material or refuge on the property.

Sharon Day, of 2 Blue Heron Court, stated she walks by the property three times a week and notices the equipment and trucks are neatly parked in the driveway. There is no sign indicating a business is being operated from the residence.

Phillip Renzi, of 2 Forest Drive, stated he has been residing next to Mr. Cook for 10 years and asked if he (Cook) went to the town to apply for a home occupation permit or if the town came to him. He spoke to different trade names of the business as registered with the state and questioned if this was a carpentry or construction business as well as which business (the carpentry or construction) a home occupation permit was being applied for.

Chairman Bath responded the Planning Board is not a policing board – they don't go out looking for violations, but are glad when residents come forward to register their businesses. He went on to say that construction and carpentry are similar and often overlap on services as both are building trades.

Mr. Renzi asked if there was a penalty for not applying. Vice Chairman Allen replied anything prior to this evening's hearing is irrelevant with respect to the home occupation permit process. The board will focus on the facts at hand with respect to the nature of the business and move forward from there – the past is an enforcement issue which is not a charge of the Planning Board.

Chairman Bath acknowledged Mr. Renzi's email communication (68-page document opposing the application) as official board correspondence and stated members of the board have read it in full. He said he commended Mr. Renzi for his thorough report on his feelings about the home occupation; however, the references made with respect to the Master Plan do not prevent the board from acting on or approving this application.

Mr. Renzi then referenced item #12 on the home occupation application with respect to providing a site plan should the business use the outside area of the property.

Planner LaBranche responded Mr. Cook only has two trailers and two trucks and uses no other part of the property for the business. If he were proposing to construct a building or use other parts of the property, the board can require a site plan. He is only using his driveway; thus, no site plan is warranted. Additionally, the board does have the right to waive a requirement of the application process should it deem it necessary.

Mr. Renzi inquired if any setbacks are required for this home occupation. Planner LaBranche responded there were none in relation to the business activity, but there would be for the construction of buildings or structures had they been part of the proposal.

Vice Chairman Allen then spoke to the terms construction and carpentry noting they are used interchangeably in the industry. For the purposes of this hearing, construction refers to excavation, hauling, and heavy equipment. He asked Mr. Cook if his business operation included this type of activity. Mr. Cook responded negatively and noted he uses no such equipment. His business consists of window replacement, roofing (not often), bathroom and home remodeling as well as residential snowplowing during the winter months. He owns and stores two snowplows.

BOARD COMMENT

With no other comments from members of the public, Chairman Bath opened the floor to board comments.

Planner LaBranche inquired of the construction and carpentry business registrations with the state. Mr. Cook stated he originally registered his carpentry business as JTC with the state as a sole proprietor, and later switched to an LLC. There is only one business. The business code changed with the registration of an LLC. The sole proprietor license will expire and the LLC will remain.

PUBLIC COMMENT

Duane Elbrecht, of 7 Deer Run, stated he seconded everything Mr. Webber said about Mr. Cook. People love the work he does and he supports the application 100%.

Kevin Frye, of 12 Forest Drive, stated people know him (Frye) as a stickler for rules. He agrees with how Mr. Cook maintains his property. He then spoke to the friction over the years between Mr. Renzi and Mr. Cook noting there is probably blame on both sides; however, he believes Mr. Renzi is focusing on this with respect to his opposition to the home occupation proposal.

Mr. Renzi asked how many vehicles and trailers a person can have on their property. Chairman Bath responded as many as one wants, provided they are registered. Mr. Renzi stated he wants to understand the rules. Planner LaBranche further explained that it is also discretionary and situational as to what is considered respectful between properties.

Mr. Renzi then raised the issue to parking and street access noting the trucks and trailers are backing into the street causing, what he believes to be, a safety issue.

Chairman Bath stated he conducted a drive by site visit of the property earlier in the day and noted the driveway and abutting driveway area are sufficient for vehicle and trailer turnaround. Utilizing the driveway should not impede traffic.

Mr. Cook noted the traffic on Forest Drive is minimal. Mr. Renzi countered he has been living next door for ten years and nobody turns around in Mr. Cook's driveway.

Vice Chair Allen stated that the board would be tasked to address this differently had this been a busy roadway. If the applicant elects to back into the driveway, not creating a safety issue, he/she can do so. The applicant has to show the driveway and turnaround criteria has been met and Mr. Cook has done so.

Chairman closed the public comment portion of the hearing.

BOARD COMMENTS

MOTION: Mr. Caron motioned to recommend the Board of Selectmen approve the home occupation of Jamie Cook; seconded by Vice Chair Allen. The motion passed 3-0-0.

For clarification purposes and to finalize the process, Chairman Bath went through the home occupation checklist as follows:

- The home occupation qualifies as a visible business. Although the only portion of the business to be conducted onsite was the business office, the presence of the business vehicles and trailers with the business logo give the presence of a business.
- The Home Occupation must be located within a dwelling unit, or in a building or structure accessory to a dwelling unit. – *Business office will be located in main dwelling at 4 Forest Drive. - MET*
- The exterior of the building must not create or display any evidence of the home occupation, except a permitted sign and parking for customers and delivery vehicles. Variation from the residential character is prohibited. – *The applicant is not proposing a sign nor any customer traffic to and from the premises - MET.*
- Adequate off-street parking must be provided for customers and deliveries. All businesses must provide adequate turnaround, drop-off, and pick-up areas in order to prevent cars from waiting in the street right-of-way and to prevent cars from backing up into the public right-of-way. The Home Occupation shall not require regular need for delivery of materials to and from the premises by commercial vehicles over twelve-thousand (12,000) pounds GVWR (e.g., tractor trailers and heavy commercial vehicles). – *Work is completed off site with ample turnaround for vehicles. - MET*
- The Home Occupation must be conducted by a resident or owner of the property. – *Business is owned and operated by Mr. Cook who resides at the premises. - MET*
- The home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter. – *Business office with carpentry/construction and snow removal operations conducted offsite. - MET*
- Home occupation must not cause excessive vibrations, store or handle combustible or explosive materials, or negatively impact the physical condition, safety, access or traffic volume of existing roads. – *Business office with carpentry/construction and snow removal operations conducted offsite. - MET*
- The Home Occupation must not utilize more than 50% of the gross floor area including dwelling, basement and accessory structures as the property is located on a state road. – *The office will measure approximately 600 square feet.*
- Not more than four non-residents (of the premises) may be employed by the Home Occupation. For the purposes of this section, the Planning Board shall determine whether sales or other personnel, who conduct the majority of their business away from the property, shall be included in the count of those employed at the premises. – *Mr. Cook employs one other individual besides himself who lives offsite.*
- Disposal of all solid waste generated by the business must be at the business owner's expense, and shall not be provided by the Town of East Kingston. – *Mr. Cook will bring any materials to ERRCO or the Raymond dump station.*
- The exceptions for businesses located on a state road do not apply to this application.
- The home occupation is considered a permitted use that is similar in nature, scale and impact to other permitted uses listed in the zoning ordinance.
- No signage is proposed.
- Hours of operation shall be Sunday through Saturday from 7am to 7pm.

Chairman Bath noted this finalizes the Planning Board's review and recommendation for the home occupation proposal. Mr. Cook was then informed of the process for Selectmen approval of the application, the annual permitting process, and that any changes to the scope of the business office would require Planning Board review and Selectmen approval. It was also recommended that he bring his home occupation approval letter (once issued by the Selectmen) to the town clerk when registering his vehicles and trailers under his business name. Chairman Bath closed the public hearing.

MEETING MINUTES

Chairman Bath indicated the approval of the January minutes would be postponed until next month as there were some issues that needed to be addressed first. Discussion ensued on the review process, the required format (specificity on motions and summary of topic to inform the reader of the subject matter). The minutes will be recirculated for consideration of approval at the March meeting.

REVIEW OF FINAL DRAFT INVESTNH HOUSING OPPORTUNITY GRANT APPLICATION

Planner LaBranche announced the board has been awarded grant funds as applied for under the InvestNH Housing Opportunity grant. She is waiting on the state to send the contract. Once receive, she will generate her own contract with the board. Her plan moving forward will include:

- A community survey with articles in the newspaper and town newsletter
- Adding a link to the Planning Board webpage to another external website for survey input
- Providing monthly written updates to the board on the work accomplished and to be conducted

PLANNING BOARD MEMBER RECRUITMENT

Ellie Cornoni of 45 East Road was present to formally apply for the vacant board member position. She had submitted her letter of interest to the board prior to the meeting. She stated she has resided in town for almost 29 years, has worked in the Amesbury Clerk's Office and is now employed by the Salisbury Planning Department as an administrative assistant and recording secretary to the Planning Board.

Chairman Bath indicated he would forward her letter to the Board of Selectmen for appointment to the regular members position recently vacated by Doc Marston. Mrs. Cornoni noted the once-a-month board meetings work well with her current schedule and looks forward to serving the town as she enjoys town planning processes.

Chairman Bath recommended Mrs. Cornoni sign up for the Office of State Planning annual spring training program as all new board members are recommended to attend.

Mrs. Cornoni could expect to receive board member materials after her official appointment. Mr. Quintal stated he was pleased to see a candidate come forward with some level of experience in planning matters.

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL REGULATIONS DISCUSSION

Planner LaBranche noted that this item has been on the backburner for a long time. The board adopted Site Plan Review stormwater management and erosion and sediment control regulations in 2011 and delayed updating the Subdivision Regulations as they wanted to make other changes to the subsurface and septic sections. She will move forward and work with Mr. Quintal on this project.

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 8:31pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on March 16, 2023.