

TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

July 20, 2023

Pound School
41 Depot Road
East Kingston, New Hampshire

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

AGENDA

NH Housing Needs Assessment Project

Steve Morrison – 1 Main Street – Site Plan Review – Continued Public Hearing (Case# 2023-08)

Carter Family Irrevocable Trust – 68 South Road – 2-Lot Subdivision (Case# 2023-10)

Dan Bodwell – 79 North Road – Discussion

Board Members Present: Tim Allen – Vice Chair, Josh Bath - Chair, Ellie Cornoni, and Bob Nigrello – Ex-Officio (7:04pm).
Absent: Janet Smith.

Others Present: Victoria Healey – RPC Planner, Dennis Quintal – Town Engineer, Grant Carter, Donna Carter, Dan Bodwell and other members of the public who did not identify themselves.

Chairman Bath opened the meeting at 7:00pm followed by the roll call.

NH HOUSING NEEDS ASSESSMENT PROJECT

Chairman Bath announced there would be no NH Housing Needs Assessment update this evening.

STEVEN MORRISON – 1 MAIN STREET – SITE PLAN REVIEW PROPOSAL – MBL# 09-07-01 (Case # 2023-08)

Chairman Bath opened the public hearing on Mr. Morrison's proposal to operate a commercial business (Middleton Supply LLC) in the town center district located at 1 Main Street, MBL# 09-07-01 at 7:01pm and announced the applicant has requested to continue the public hearing until the August meeting citing the site plan was not yet ready for presentation.

MOTION: Vice Chair Allen motioned to continue the public hearing for Steve Morrison's site plan review proposal for property located at 1 Main Street, MBL# 09-07-01, to August 17, 2023 as requested by the applicant; seconded by Mrs. Cornoni. The motion passed 3-0-0.

With no further discussion Chairman Bath closed the hearing at 7:02pm.

CARTER FAMILY IRREVOCABLE TRUST 2-LOT SUBDIVISION PROPOSAL – MBL# 13-02-01 (Case # 2023-10)

Chairman Bath opened the public hearing at 7:02pm for the Carter Family Irrevocable Trust who proposes to re-subdivide a 51.69-acre parcel located at 68 South Road, MBL# 13-02-01, into two parcels. This is a modification of an approved subdivision plan (Case# 23-06) which will result in the creation of two parcels measuring 2.86 acres and 48.83 acres respectively. Previously proposed and approved lot lines have been modified to create a greater buffer between the existing barn and the northerly boundary line and the previously approved westerly boundary line has been extended to compensate for the loss of area due to the northerly boundary line change.

Donna Carter of 119 Amesbury Road, Kensington presented the plan noting it was the same plan that was approved by the board in May, containing the same lot sizes with a reconfiguration of the lot lines moving them farther away from the barn – everything else is the same. The plan still needs the stamp and signature of the soil scientist.

Mr. Nigrello arrived to the meeting at 7:04pm.

Town Engineer Quintal stated the bounds still need to be set and inspected, and the bound certification form needs to be completed. It was noted the board had been provided with a written report with recommendations from RPC Planner Healey stating the change to the plan is minimal, and all previous reviews still apply, thus she recommends the board approved the subdivision proposal pending NHDES Subdivision approval, or the NHDES may accept a waiver since the change to the plan is small.

Chairman Bath opened the meeting to public comment; there was none.

He then listed the previous conditions from the last plan, noting they also apply to the current plan:

1. Wetlands soil scientist stamp to be shown on the plan;
2. Application fees, engineering and planner review fees, recording fees, and monumentation fees must all be paid in full;
3. A certification of monumentation be submitted to the town; and
4. Monumentation to be witnessed by a town official.

MOTION: Chairman Bath motioned to approve the Carter Family Revocable Trust 2-lot subdivision proposal for property located at 68 South Road, MBL# 13-02-01 (Case #2023-10) with the four conditions noted; seconded by Vice Chair Allen. The motion passed 4-0-0.

With no further discussion Chairman Bath closed the hearing at 7:08pm.

DAN BODWELL – 79 NORTH ROAD – DISCUSSION

Mr. Bodwell spoke to the purpose of his request to meet with the board which was to discuss options for the use of the homestead property consisting of 12 acres. He had hoped that his neighbors would have attended the meeting because he wanted to have this discussion in public and wanted them to be informed on the matters he was going to present. It was noted the agenda was posted to two locations in town, to two town Facebook pages, and to the town's website. He went on to say that he intends to sell the homestead parcel with his first option to sell to a family member and transfer his grandfathered home occupation permit for trucking and excavation activities to that family member.

He then provided an historical account of his residency in East Kingston and of his position that the Planning Board's claim the town, as a whole, is zoned residential/agricultural is out of line. Although this type of zoning sounds nice, neither the town nor the federal government, encourage agricultural uses. He spoke about the cost of land and the offensiveness to animal farming activities as obstacles for farmers. He then went on to provide an account of his septage/sludge business which, although not closed, has been out of operation for the past four years – the closing process is being handled by the state. He noted the town has not addressed its septic needs – there is no plan in place to dispose of septage from individual septic systems. The town has since prohibited septage/sludge operations and he questioned the basis for this.

Vice Chair Allen responded that through no fault of Mr. Bodwell, the forever chemicals from the septage seeped through into the wells of neighboring properties. The septage pools should not have been placed in such close proximity to wells.

Mr. Bodwell stated he had no inclination the seepage of chemicals would happen. He went into the septage business innocently in partnering with Bob Rossi to use the septage as fertilizer. He exited the dairy farm business to operate the septage business. He took information he gathered, developed test spots, went to the NHDES and participated in their septage program, funded in part by the EPA. The program worked well until the contaminants, that seemed to come out of nowhere, were discovered. He believes strongly that the neighboring wells should be taken care of. He, himself, feels he was stumped by the government in participating in this program. The disposal of septic sludge has resulted in estuaries and rivers carrying the PFOAs. He feels bad for his agricultural brothers who received tons of sludge over the years to fertilize their lands – all having now been affected.

Speaking of his other 70-acre parcel, he spoke of alternative uses which included a manure tank and solar farm. The manure tank is a septage process that heats the product resulting in zero emissions. In hindsight and had the agricultural operations of his farmland been successful, he would never have sold the lots on Sanborn Road. Other options include a hog farm; however, his neighbors would not like this. He has concluded one cannot make a living agriculturally now.

Focusing back on the homestead parcel, he inquired if the board would consider the transfer of the grandfathered home occupation for excavating and trucking. The home occupation also covers welding operations.

Vice Chairman Allen responded the transfer would be done through the Planning Board.

Mr. Bodwell stated this is his first option which he wants to pursue before opening up the sale of the property to the public. He stated he wanted to be sure the grandfathered home occupation transfer would not restrict the expansion of the business as he would like to see his grandchildren be able to prosper with the business.

Discussion ensued on the process moving forward (land board secretary to assist) in determining the scope of the current grandfathered home occupation and applying for transfer prior to the sale of the property to the family member.

Mr. Bodwell then spoke to the historical value of the property, previous homeowners, and historical artifacts. Town Engineer Quintal offered to look at the artifacts for possible inclusion in the town's historical artifact collection.

APPROVAL OF MINUTES

Board members reviewed the minutes from June 15, 2023 meeting.

MOTION: Chairman Bath motioned to approve the June 15, 2023 minutes as published; seconded by Mrs. Cornoni. The motion passed 4-0-0.

OTHER BUSINESS

REVIEW OF LIGHT INDUSTRIAL PARK SITE PLAN CONCERNING ABUTTER COMPLAINT

Town Engineer Quintal spoke to his findings with respect to the boundary lines cited in a complaint alleging debris and trash had been pushed over the property line from the light industrial park located at 213 Haverhill Road onto property located on Bowley Road. His inspection of the property confirmed this to be the case, but that the refuge and debris was old as grass had grown over it.

Board members discussed the responsibilities of the light industrial park owner and his history of not following through with violation corrections including wetland reclamation which must be completed before the permit expires, the possibility of revoking the site plan altogether as a means of leverage, that the matter is now an enforcement issue outside the purview of the board, holding a joint meeting with the Selectmen, Planning Board and property owner to get the items address, withholding future tenancy approvals until the violations are addressed, and the process the Planning Board undertook to address the violations (site walks, detail list communicating the corrections needed, timeline imposed, with no action taken by the property owner).

Mr. Nigrello agreed that it was time to consult with legal counsel over how best to move forward. He will find the file, go through the list of violations, consult with legal counsel and address with the Board of Selectmen for action moving forward.

OLD TOWN HALL

Town Engineer Quintal spoke to his work with Kerri Marshall and the Board of Selectmen to renovate the old town hall by way of an LCHIP grant and private trust. The project consists of jacking up the building, pouring a full foundation, stabilizing the floor, updating windows, siding, etc. They were hopeful much of the work could be completed before

the winter, however, it seems likely they cannot meet this timeframe. Another part of the project is to identify, catalogue and store historical documents and artifacts. He asked the board if they were agreeable to moving the building back from the roadway and if so, do they wish to see a site plan.

Discussion ensued on moving the building further back, constructing a full cellar for storage, that government projects require a nonbinding review by the Planning Board, and the board's preference to review a site plan of the project. Town Engineer Quintal stated the feedback from the Planning Board was an important part of the process and that the construction, and building moving people schedules are unknown at this time, thus he cannot commit to any timing. He also spoke about plans to install an interior ramp and elevator and then fielded questions about the LCHIP grant which is funded through recording fees at the Registry of Deeds that targets projects related to historical buildings.

On a separate topic, he informed the board of the possibility of the development of the Turco property on North Road and on the need of a yield plan to determine the parcel's developable potential.

Land Board Secretary Belcher presented the following under other board business:

1. SITE PLAN REVIEW CHECKLIST FOR APPLICANTS: To assist applicants in the submittal process, a site plan review checklist has been created. This checklist consolidates the requirements for site plan applicant's ease of use. The board agreed the checklist should be included as part of the application.
2. ESCROW FUND FORM: A new escrow form was developed to include references to the RSA's, minimum account balance, and acknowledgement of how the funds are to be used. Discussion ensued on the process to enact an escrow fund requirement, on surrounding towns' escrow processes, not having to wait for payment of services until the end of the review process, and which applications the escrow account would apply to.

MOTION: Chairman Bath motioned to establish a mandatory escrow fund account of \$2500 and approve the proposed form effective immediately for all subdivision, site plan review, and lot line adjustment applications; seconded by Mr. Nigrello. The motion passed 4-0-0.

3. 2024 SUBMISSION OF APPLICATION DEADLINES AND PUBLIC HEARING DATES: Tentative dates were provided for both the submission application deadlines and public hearing dates for consideration of approval at the August meeting. Board members requested a 10-day deadline reference be included for plan revisions to allow time for professional and board review of any revised plans prior to the next scheduled hearing dates.
4. PLANNING BOARD CALENDAR AND PROJECTS LIST: A calendar and projects list has been developed to assist the board in tracking annual obligations and projects.

Discussion returned to the yield plan process for the development of property and the possibility of the town covering the cost to develop a yield plan as part of a plan to pre-empt a developer's involvement and promote conservation easement options.

ADJOURNMENT

MOTION: Chairman Bath motioned to adjourn; seconded by Vice Chair Allen. The motion passed 4-0-0.

The meeting ended at 8:36pm.

Respectfully submitted,

Catherine Belcher, Land Board Secretary

Minutes approved on August 17, 2023.