

TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

June 16, 2022

Pound School
41 Depot Road
East Kingston, New Hampshire

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

PUBLIC HEARING AGENDA

Farmer Backlot Subdivision Application – 97 Giles Road
Anason Two-Lot Subdivision Application – 50 Depot Road
Donahue Home Occupation Application – 26 Haverhill Road

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

Others Present: Julie LaBranche – Planning Consultant and Dennis Quintal – Town Engineer and Conservation Commission Chair.

Applicants and members of the public who participated in the meeting: James Lavelle – Licensed Land Surveyor, Linda Anason, applicant, Jared Lavasseur – land purchaser, and Shawn and Tanya Donahue – applicants.

Chairman Bath opened the June 16, 2022 Planning Board meeting at 7:00pm followed by the roll call.

FARMER BACKLOT SUBDIVISION APPLICATION – 97 GILES ROAD – CONTINUED PUBLIC HEARING

Chairman Bath opened the public hearing at 7:01pm for Susanna and Davis Farmer to create a backlot subdivision on their 6.34-acre property (MBL# 6-01-42) located at 97 Giles Road, East Kingston. He then read aloud a letter dated June 10, 2022 from the Farmer's attorney Justin Pasay requesting the public hearing be continued to the July 21st board meeting due to a scheduling conflict and to waive the planning board's requirement for action within 65 days of the application acceptance pursuant to RSA 676:4 I (c) 1.

MOTION: Chairman Bath motioned to continue the public hearing on the 2-lot subdivision plan submitted by Susanna and Davis Farmer located at 97 Giles Road, MBL# 6-1-42 to the July 21, 2022 meeting at 7:00pm and to grant the request to waive the 65-day requirement for action; seconded by Vice Chairman Allen. With no further discussion, the motion passed 5-0-0.

Chairman Bath closed the public hearing for the Farmer subdivision application at 7:04pm.

ANASON TWO-LOT SUBDIVISION APPLICATION – 50 DEPOT ROAD – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:20pm for Linda and Christopher Anason to create a two-lot subdivision on their 4.29-acre parcel (MBL# 09-06-01) located at 50 Depot Road. The proposal would create one new residential lot of 2.06 acres and reduce the original lot to 2.38 acres. This is a continuation of the May 19th public hearing in which the board found the application complete enough to invoke jurisdiction.

Licensed Land Surveyor Jim Lavelle presented the following:

- He has responded to the Town Engineer's review letter and provided the requested data.
- He received a verbal update from the state (DOT) with respect to the entrance permit – the state wants to review the site distance easement language prior to approval.

Town Engineer Dennis Quintal indicated he received the revised plan on June 2nd and then presented his findings.

- The newly proposed driveway for the newly created lot reflects the 400-foot site distance requirement has been met. This placement of the driveway includes an easement to ensure the site distance will be maintained by the owners of the new lot as appropriate.

- The plan also depicts a newly proposed driveway for the parent lot in which more detail is needed (grading, line of sight, access to the house). The plan should show that the existing parent lot driveway be abandoned before the newly proposed driveway is constructed.
- State DOT driveway permit is required and should be noted on the plan.
- Bound certification is to be provided for the monuments to be set.

Applicant Linda Anason commented on the newly proposed parent lot driveway in that the area is so wet she can't even get a lawnmower to that location. Mr. Lavelle cited two previous cases where the DOT did not require the removal/abandonment of an existing driveway upon the approval of a new driveway and then requested the board grant conditional approval of the subdivision application upon DOT driveway approval.

Discussion ensued on the existing driveway noting it does not meet the current sight distance requirement of 400 feet (only 100 feet) and that the board has an opportunity to address a potentially hazardous situation. Also noted was that the existing driveway on a state road is pre-existing and non-conforming and that it is up to the state to determine its continued viability. It was the opinion of the landowner that the existing driveway was most convenient with respect to her accessing her home without navigating the grade of the back of the property as well as the significant distance required to travel by foot in the winter months. Land buyer Jared Lavasseur indicated the cost to relocated the new lot's driveway to the back of the parent lot home could make the purchase of the property unattainable. Members recognized an increase of costs to relocated the driveway; however, money could not be a consideration when it comes to making sure the plan meets all safety requirements.

Planner LaBranche suggested she and Town Engineer meet with the DOT and Mr. Lavelle to ascertain whether removal of the existing driveway is warranted and, at the recommendation of other board members, to see whether the DOT has the authority to waive current requirements for a pre-existing, non-conforming driveway. It was noted the risk factors to the existing driveway are in no way affected by the subdivision of the property. Soil types at the back of the parent property were noted as were building setbacks.

Chairman Bath opened the hearing to abutter's comments – there were none.

Board discussion ensued with respect to the advice they value from Town Engineer and possibly continuing the hearing to allow for more detailed driveway options. Mr. Levasseur asked what happens should the state approve the driveway plans that were submitted; how would this affect the board's request to consider other options? He was advised Planning Board approval would still be needed. Mr. Lavelle indicated he may be able to come up with another driveway plan the DOT will approve. He then voluntarily asked for a continuance of the hearing and agreed to waive the 65-day Planning Board action requirement.

MOTION: Chairman Bath motioned to continue the public hearing on the subdivision plan of Linda Anason, 50 Depot Road, MBL# 09-06-01 to July 21, 2022 at 7pm and to grant the request to waive the 65-day requirement for action; seconded by Vice Chairman Allen. With no further discussion the motioned passed 5-0-0.

Mr. Levasseur requested to be copied on any correspondence between the town, the land surveyor, and the state to which applicant Anason approved. It was noted that Mr. Levasseur provided a check to the Land Board Secretary in the amount of \$1,500 for the escrow fee agreement for this subdivision application. Chairman Bath closed this public hearing at 7:31pm.

HOME OCCUPATION APPLICATION – 26 HAVERHILL ROAD – DONAHUE AND SON INSULATION – PUBLIC HEARING

Chairman Bath opened the public hearing at 7:31pm for applicant Shawn Donahue's proposal to operate a construction/insulation business from 26 Haverhill Road. The business would include a business office located inside the home and the business would receive weekly deliveries of fiberglass insulation – the majority of insulation stock would be stored off site at a storage facility in Kingston. Hours of operation would be Monday through Saturday from 6am to 6pm. The board was then updated on the applicant's current application for an accessory dwelling unit that is before the Zoning

Board of Adjustment and that sketches of a proposed new garage and accessory dwelling unit were shared between the two boards as the garage and unit had not yet been constructed.

Chairman Bath noted the property is located in a commercial/residential zone and that the proposal would be deemed a visible home occupation. It was further noted that the home occupation process as initiated was a more appropriate process versus the site plan review process due to the scope of the business and the fact that the residence would continue to serve as the primary purpose of property.

The board then reviewed the home occupation ordinance criteria:

- The Home Occupation must be located within a dwelling unit, or in a building or structure accessory to a dwelling unit. – *Business office to be located in the proposed accessory dwelling unit at 26 Haverhill Road with space available in the proposed new garage for business materials.*
- 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 proposing to erect a 3-foot square sign on the property.*
- 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 thus there would be very little to no customer traffic; however, there would be weekly deliveries of insulation product from a 26-foot box truck. Noting the business is located in a commercial zone and that the deliveries would be once a week; the board determined this activity was not contrary to the provisions of the ordinance as the property is dually zoned.*
- The Home Occupation must be conducted by a resident or owner of the property. – *Business is owned and operated by Mr. Donahue and his wife who both reside at the property.*
- The home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter. – *Business office with insulation operations offsite.*
- 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 insulation operations offsite.*
- 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 be incorporated into the living space of the proposed accessory dwelling unit, a portion of the proposed garage will be used for insulation materials; however, the bulk of insulation materials will be stored off site. That which is stored onsite will be stored inside and on pallets.*
- 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. and Mrs. Donahue are the only employees.*
- 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. – *No dumpster is needed as there is very little in the way of solid waste generated by the business.*

There were no comments from abutters.

MOTION: Chairman Bath motioned to recommend the Board of Selectmen approve the Home Occupation application of Shawn Donahue, MBL# 09-02-04 for a visible home occupation to operate a construction/insulation business (Donahue and Son Insulation) based on the scope of the business as presented (hours of operation Monday-Saturday, 6am-6pm, with weekly deliveries to the premises); seconded by Vice Chairman Allen. With no further discussion the motioned passed 4-0-0. (Zoom connection with Dr. Marston lost at this time.)

Chairman Bath informed the applicant of the annual permitting process and that any changes to the scope of the business office would require Planning Board review and Selectmen approval. He then closed the public hearing at 7:48pm.

(The Zoom connection with Dr. Marston was reestablished.)

BOARD MEMBER RECRUITMENT INITIATIVE

The board agreed to hold open sessions at its June, July and August meetings to apprise interested persons on the roles and responsibilities of the planning board and zoning board of adjustment in an effort to recruit alternate members. At the end of these sessions, applicants would be reviewed and recommendations for appointment would be forwarded to the Selectmen. Recruitment flyers had been posted to three community Facebook pages, posted at the Town Offices and Post Office, and disseminated to other town officials/departments. It was agreed that continued efforts would be made to include publication in the Carriage Towne News and the East Kingston Newsletter.

Mr. Quintal reported that in a neighboring town, the board's administrative assistant also serves as an alternate thus providing an additional member at each of its meetings.

Also noted was that all oaths of office forms had been signed by all members and that the RSA's require the terms of board members be staggered so that no more than two board member's terms expire in the same year.

MEETING MINUTES

The board reviewed the May 19, 2022 meeting minutes.

MOTION: Chairman Bath motioned to approve the May 19, 2022 meeting minutes as presented. Vice Chairman Allen seconded. The motioned passed 5-0-0.

LIGHT INDUSTRIAL PARK DISCUSSION

The board was in agreement that a letter regarding compliancy violations be forwarded to the Board of Selectmen with respect to the light industrial park located at 213 Haverhill Road. Planner LaBranche was charged with drafting the letter for Chairman Bath's consideration and signature.

CERTIFICATION OF BOUNDS AND FEE SCHEDULE

Chairman Bath shared an email communication from the Building Inspector that provided his recommendation that the certification of bounds be conducted by the Town Engineer as part of the review/approval process. Mr. Quintal agreed with this recommendation citing the Town Engineer would be familiar with the plans and the cost associated with this service could be included in the escrow account. By general consent, the board designated the Town Engineer to certify bounds as needed.

Discussion then ensued on the escrow account requirement for all subdivision and site plan reviews and the need to update the related applications to include this requirement. The minimum balance for any escrow account during the application and review process would be \$500; the minimum established amount when submitting an application along with appropriate fees would be \$1,000 with a review of that amount and the consideration of waiving that amount to be addressed at the very first meeting as part of the application review process prior to invoking jurisdiction. The board would determine at that time whether or not the \$1,000 established amount would be sufficient based on the magnitude of the land use proposal.

The board also reviewed application costs and fees for 2021 to date noting the fees charged sufficiently covered the associated costs to administer the applications. Discussion ensued on the application submission deadline, the newspaper legal notice deadline, the review of applications for the purpose of moving forward to public hearing, abutter lists and associated costs. It was agreed that the board would move forward and implement the provisions of [RSA 675:7](#) that in lieu of publication in a newspaper, notice may be posted on the municipality's website. In doing so, the board would publish notification of this process in the newspaper for a period of three months (3 ads) to alert residents of where the public hearing notices can be found. Removing the newspaper publication deadline from the application administration process would free up an additional week for processing applications in a timely manner. Adjustments to the abutter lists and abutter fees process was also discussed in that the responsibility for submitting the list of abutters would fall to the applicant, and a fee per abutter be charged. The Planning Consultant will propose updates the site plan review and subdivision applications with respect to the escrow account requirement and associated application and abutter fees.

RULES OF PROCEDURE

This item was tabled to the July meeting.

PLANNING CONSULTANT CONTRACT

Chairman Bath spoke to the renewal of the Planner contract with Julie LaBranche noting her contract with the town is up July 31st. A new contract effective August 1, 2022 with same terms as the current contract was presented. It was noted that a recommendation was received from the Selectmen's Office to move the second payment from December 31, 2022 to January 15, 2023 to address being flagged by the auditors for over expending the Planning Board budget.

MOTION: Chairman Bath motioned to enter into a new agreement with Julie LaBranche for planning consultant services and to move the second payment of \$6,000 to January 15, 2023; seconded by Ms. Smith. The motioned passed 4-0-0. (Zoom connection with Dr. Marston lost at this time.)

Board members and the Planning Consultant were in agreement that a revised contract be submitted to Chairman Bath for signature.

PLANNING CONSULTANT UPDATES

Strategic planning updates to be provided at the July meeting which will include creating a list of zoning amendments for consideration.

Vice Chairman Allen updated the board on a zoning ordinance interpretation matter regarding the septic design plans for accessory dwelling units and confirmed the correct interpretation of the ordinance is that both a single or combined septic design plan is acceptable for cases of accessory dwelling units.

With no other business before the board,

MOTION: Chairman Bath motioned to adjourn the meeting; seconded by Mr. Caron. The motion passed 4-0-0. (Zoom connection with Dr. Marston lost at this time.)

The meeting adjourned at 8:36pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on July 21, 2022.