

**DRAFT – NOT YET APPROVED**  
**TOWN OF EAST KINGSTON PLANNING BOARD**

MEETING MINUTES

July 21, 2022

Pound School  
41 Depot Road  
East Kingston, New Hampshire

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

**AGENDA**

Farmer Backlot Subdivision Application – 97 Giles Road  
Anason Two-Lot Subdivision Application – 50 Depot Road  
Davis/Johnnen Trust Lot Line Adjustment Application – 1 and 3 Main Street  
Change of Tenancy – Perusse Rigging and Transport – 213 Haverhill Road  
Purchase and Sales Agreement Review – 3 Main Street

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, Dennis Quintal – Town Engineer and Conservation Commission Chair, and Lt. Tom Sturgis – East Kingston Fire Department.

Applicants and members of the public who participated in the meeting: Tim Lavelle – Lavelle Associates, Linda Anason, applicant, Jared Levasseur – land purchaser, Keri Marshall – Trustee, Matt Gallant – EKFD, Sue Jordan – abutter, Grace Ruelle – Town Administrator and Tim and Heather Malm.

Chairman Bath opened the July 21, 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 an email dated July 7, 2022 from the Farmer's attorney Justin Pasay requesting the public hearing be continued to the August 18th board meeting due to a scheduling conflict.

**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 August 18, 2022 meeting at 7:00pm; 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 7:03pm.

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

Chairman Bath opened the public hearing at 7:03pm 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 June 16th public hearing in which the board requested the applicant research other driveway options to ensure maximum site distance for the driveways. Additionally, the applicant waived the 65-day clock for required board action on the plan at the June meeting.

Tim Lavelle of Lavelle Associates provided updated plans and presented that at the last meeting the board requested other driveway options be presented due to concerns of site distance. The driveway has since been relocated to Willow Road. The process for driveway approval is unclear to him as the DOT is requiring town approval as part of their approval process; and in speaking with both the road agent and building inspector, they indicated the Planning Board must approve the

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driveway; but the Planning Board is requiring DOT approval first. The newly proposed driveway meets the 2% grade requirement and the 10-foot setback from boundary lines.

The order of operations, as noted by the Planning Consultant, were to get condition approval from the town engineer and the road agent, then the town itself, and then the state. It was Mr. Lavelle's position was that this process was not articulated in the town regulations. He finds himself caught between the state and the town with respect to getting driveway approval.

Planner LaBranche read an email communication from the DOT indicating that due to the subdivision proposal, both the lot of record and the newly created lot must meet the current site distance of 400 feet. This would require the existing driveway to the lot of record be eliminated and a new driveway constructed. Once this is completed, a building permit can be issued.

Discussion then ensued about the proposed configuration of a new driveway, concerns of losing access to the main dwelling's garage, the homeowner's personal safety in relation to navigating the entrance to the home from the back of the property, shared driveway pros and cons, and fire department's access to the fire pond located in close proximity to the proposed driveway (cistern inoperable), and fire department's access to the main house from Depot Road. Also noted as items to be addressed included:

- Adding site line of distance to the plan and depicting more of Willow Road
- Removing the existing driveway, loom and seed the area, inspecting the work, prior to a building permit being issued
- Adding driveway detail to the plan should drainage or culverts be needed.

Noting the reluctance of the applicant in moving forward with the Willow Road driveway option, Chairman Bath offered Ms. Anason to recess the hearing. This would allow for private conversation between herself, Mr. Lavelle and Mr. Levasseur. The hearing would resume after the next public hearing on the evening's agenda. Ms. Anason accepted the offer and the public hearing recessed at 7:38pm.

### **DAVIS/JOHNNEN TRUST LOT LINE ADJUSTMENT APPLICATION – 1 MAIN STREET AND 3 MAIN STREET – PUBLIC HEARING**

Chairman Bath opened the public hearing for applicants Matthew Davis and Carl F. Johnnen Trust and Municipal Assigns to convey 5.55 acres from MBL# 9-7-1, located at 1 Main Street, to MBL# 9-7-3, located at 3 Main Street, by way of a lot line adjustment at 7:38pm. This proposal will result in increasing MLB# 9-7-3 from 1.49 acres to 7.04 acres and MLB# 9-7-1 will decrease from 10.77 acres to 5.22 acres.

Dennis Quintal presented for the applicant and noted this was a simple lot line adjustment between the Davis property and property owned by the Town of East Kingston as represented as Johnnen Trust and Municipal Assigns. The purpose of the lot line adjustment is to convey 5.55 acres to the town for future municipal use. He then reviewed the specifics of the plan (acreage, ownership, lot line configurations, property lines, buildings, pond, wells and abutters) and informed the board that the town cannot accept the land unless certain processes and public hearings are held.

Sheet 2 of the plan depicted contours of grading, the hayfield, edge of the tree line, soil (62 B – fine sandy loam), and the zoning line for the town center district. He noted the plan has been reviewed by the acting town engineer and read the engineer's report. Outstanding items include the plan receive the stamp and seal of the licensed land surveyor and adding well easement to the plan.

### **BOARD/PLANNER COMMENTS**

Planner LaBranche noted the applicant may require a waiver from the 125-foot width requirement as a portion of the property measures only 55 feet. Chairman Bath requested the plan delineate properties owned by the Town of East

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Kingston and the East Kingston Volunteer Firemen's Association. Vice Chairman Allen noted the lots appear to maintain all other zoning requirements (apart from the 125-ft width).

Mr. Quintal then submitted a written request to waive the provision of Subdivision Regulations Section VII.A regarding lot width not being not less than 125 feet.

### PUBLIC COMMENT

Sue Jordan of 19 Main Street inquired about the driveway access to the back part of the property is this was located directly behind her property. Mr. Quintal responded that the salt shed would be removed and the parcel would be accessed at the 55-foot section, noting that this was wider than required for a road.

Kerri Marshall, representing the Carl F. Johnnen Trust, provided a back story to the application noting Mr. Johnnen fully supported the fire department and included in his will monies to be donated to purchase the property. Time is of the essence as the property owner (Davis) wants to sell his property and move. She reiterated no tax dollars will be used to purchase this property.

Chairman Bath closed the public comment section of the meeting.

**MOTION: Vice Chairman Allen motioned to accept jurisdiction on the application of Matthew Davis and Johnnen Trust and Assigns to convey 5.55 acres from MBL# 9-7-1, located at 1 Main Street, to MBL# 9-7-3, located at 3 Main Street, by way of a lot line adjustment; seconded by Mr. Caron. With no further discussion the motioned passed 5-0-0.**

Vice Chairman Allen read aloud Subdivision Regulations Section IV – Granting of Waivers noting the board must find that the following apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The waiver will not, in any manner, vary the provisions of the East Kingston Zoning Ordinance, Master Plan or Official Maps.
3. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver.

Mr. Quintal responded that all the findings apply to the waiver he is submitting and further stated the purpose as stated in the Subdivision Regulations – to ensure that an applicant is not unduly burdened as opposed to merely inconvenienced by the regulations – also applies.

**MOTION: Chairman Bath motioned to grant the waiver from Subdivision Regulations Section VII.A regarding lot width not being less than 125 feet; seconded by Mr. Caron. With no further discussion the motioned passed 5-0-0.**

The board then reviewed the conditions noted for considering the lot line adjustment as:

- Licensed Land Surveyor seal and signature be added to the final plan.
- Bounds be set and certification of monumentation be completed.
- Property owners be updated to reflect Matthew Davis and Carl F. Johnnen Trust and the Town of East Kingston.
- Receipt of the Board of Selectmen's decision to approve the conveyance and purchase of 5.55 acres from Matthew Davis.
- The approved waiver from Subdivision Regulations Section VII.A regarding lot width not less than 125 feet be added as a note on the plan.
- East Kingston Volunteer Firemen's Association and Town of East Kingston ownership detail be added to the plan.

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- Well easement for the well located to the left of the emergency management building be noted on the plan.

**MOTION: Chairman Bath motioned to approve the lot line adjustment proposal of Matthew Davis and Johnnen Trust and Assigns to convey 5.55 acres from MBL# 9-7-1, located at 1 Main Street, to MBL# 9-7-3, located at 3 Main Street, as presented with aforementioned conditions (listed above); seconded by Vice Chairman Allen. With no further discussion the motioned passed 5-0-0.**

Chairman Bath closed the public hearing at 8:11pm.

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

Chairman Bath reopened the public hearing for the Anason 2-lot subdivision at 8:12pm. Mr. Lavelle announced the applicant would be withdrawing her application without prejudice at this time.

**MOTION: Vice Chairman Allen motioned the board accept the applicant's request to withdraw the application for a two-lot subdivision for property located at 50 Depot Road without prejudice.; seconded by Mr. Caron. With no further discussion the motioned passed 5-0-0.**

It was noted the escrow monies would be refunded less the invoices submitted by the Planning Consultant and Town Engineer for plan review services. Chairman Bath closed the public hearing at 8:16pm.

### **CHANGE OF TENANCY APPLICATION – PERUSSE RIGGING AND TRANSPORT – 213 HAVERHILL ROAD**

Chairman Bath opened discussion with Mike Perusse (applicant) regarding his request for approval to utilize building # 2, located at 213 Haverhill Road for storage for his business, Perusse Rigging and Transport. Mr. Perusse participated in the meeting via FaceTime as he was currently on location in Texas.

Fielding questions from the board, Mr. Perusse described the nature of the business as a transport service and would only be utilizing the building for storing business operations equipment (8-10 forklifts, CNC machines, plastic machines, miscellaneous equipment, boom lift). He has two commercial trucks, one he parks at his home, and the other would be at the building site along with two trailers. He would pick up and drop off the equipment as needed and would keep all but the trucks and trailers inside the building. He would not be utilizing a dumpster service as the storage operations would not produce enough waste; he would take whatever he needs to dispose of to the Newton dump. Hours of operation would be 6am-6pm, Monday through Saturday and the business would consist of four employees (himself, 2 sons, and another person). He would not keep any hazardous substances at the site other than LP gas tanks that are used for the forklifts. He would be willing to store those outside if need be. Parking would be located in front of the building and across the road so that at no time would the roadway be blocked. He would agree to an annual fire inspection as he keeps fire extinguishers on hand at all times.

Lt. Sturgis shared fire code compliance concerns of the light industrial park and suggested this request and future requests be tabled until those issues are resolved. The board discussed conditions of approval that would enable the applicant to operate his business in the light industrial park once all safety and fire code concerns are address for that particular building. A list of compliance issues can be provided to both Mr. Masone and Mr. Perusse who can then decide whether or not to move forward with the business plan.

There was no public comment.

**MOTION: Chairman Bath motioned to approve the change of tenancy request of Michael Perusse of Perusse Rigging and Transport with the condition that prior to moving into building #2, the Fire Department will conduct an inspection of the building to ensure it is in compliance with current fire codes. To that end, the tenant and the property owner shall work together to address any non-compliance issues. The Fire Department shall notify the tenant, the property owner, the Planning Board, and the Board of Selectmen of the compliance issues as well as when those issues are satisfactorily resolved; seconded by Mrs. Smith. With no further discussion the motioned passed 5-0-0.**

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### BOARD MEMBER RECRUITMENT INITIATIVE

The board shared information about the roles and responsibilities of both the Planning Board and Zoning Board of Adjustment to interested members of the public and further explained the process for selecting alternate members. (After open house sessions in August, the board would review letters of interest, meet with those persons, and then make selections for appointment to the Board of Selectmen.)

### MEETING MINUTES

The board reviewed the June 16, 2022 meeting minutes.

**MOTION: Chairman Bath motioned to approve the June 16, 2022 meeting minutes as presented. Vice Chairman Allen seconded. The motioned passed 5-0-0.**

### RULES OF PROCEDURE

This item was tabled to the August meeting.

### BOARD REVIEW OF PURCHASE AND SALES AGREEMENT BETWEEN SELLER MATTHEW DAVIS AND BUYER CARL F. JOHNNEN TRUST AND ITS ASSIGNED

At the request of the Board of Selectmen the Board reviewed an Updated Sales Agreement and Deposit Receipt between SELLER Matthew Davis and BUYER Carl F. Johnnen Trust (Town of East Kingston) identifying approximately 5 acres of land, abutting the East Kingston Town Hall and located in the town center district, that was deemed suitable for the construction of a fire station or other municipal building as approved by the Board of Selectmen and the Planning Board. No formal action on this review was required at this time; only that the board review the document, and if desired, provide comment on the town's proposal to acquire this land. Board members expressed their individual support for the town to acquire this property at no cost to the taxpayer.

### HOUSE BILL 1661

Planner LaBranche informed the board of the passage of House Bill 1661 that involves some of the board's procedures. She will review the bill further and present her findings to the board at the August meeting.

With no other business before the board,

**MOTION: Dr. Marston motioned to adjourn the meeting; seconded by Mrs. Smith. The motion passed 5-0-0.**

The meeting adjourned at 8:53pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on \_\_\_\_\_.