

TOWN OF EAST KINGSTON PLANNING BOARD

MEETING MINUTES

August 18, 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
Malm Home Occupation Application – 56 Haverhill Road
Conceptual Consultation/Stone Curators – 9 Bowley Road

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

Others Present: Julie LaBranche – Planning Consultant.

Applicants and members of the public who participated in the meeting: Sukie and Davis Farmer, Sarah and Paul Nanez, Attorney Justin Passay, Licensed Land Surveyor Henry Boyd, Tim and Heather Malm, Matt Trail, Gavin Johnston, and AJ Pappas.

Chairman Bath opened the August 18, 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. The proposal would create one new residential building lot of 3.10 acres and reduce the original lot from 6.34 acres to 3.24 acres. In 2021, the applicant received variances from the East Kingston Zoning Board of Adjustment under Zoning Article IX.B. for lot size, minimum frontage, and driveway location requirements. This is a continuation from the of the July 21st hearing.

Attorney Justin Passay introduced team members on the project, referenced the variances granted by the ZBA, and noted that the last time the applicants were before the board (April 2022) there were issues to be addressed. Licensed Land Surveyor Henry Boyd of Millennium Engineering Inc. then distributed updated plot plans (revision date April 22, 2022).

Attorney. Passay reviewed the town engineer's review report that was presented at the April 18th board meeting and noted the following:

1. Shape of the new lot which at no point shall be less than 125 feet – the Zoning Board of Adjustment granted relief from this requirement on February 21, 2021.
2. Each building lot shall have its own driveway – the ZBA granted relief from this requirement on February 21, 2021 due to the location of a utility easement located within the 40-foot road frontage.
3. Bound Certification form and boundary monuments to be set – these will be completed upon approval of the plan.
4. Access easements for both the driveway and the utilities – the vast majority of the driveway is located on lot A (existing lot) and utilities are located on the newly proposed lot. Easement language will be drafted and submitted to the town for review and approval.
5. The final recorded plan requires the stamp and signature of the soil scientist – this has been added to sheet one.
6. Soil test data on sheet two requires the stamp and signature of the soil scientist – this will be added to sheet two.
7. The site development should meet all wetland setbacks – the building envelope meets all wetland setbacks and further compliance shall be given.
8. Lot loading calculations validating each lot can accommodate the sanitary waste disposal system – there are no objections to this note.

9. Ascertain State Subdivision Approval – approval has been obtained (eSA2021120301). A copy of the approval is to be provided.
10. Jurisdiction on the plan was invoked at the April 18th meeting.

Attorney Passay then reviewed engineering (Millennium representative) notes from the April meeting and provided the following responses:

- For clarification of whether or not a waiver is required to address the required 125-foot lot width under Subdivision Regulations Section VII.A General Requirements two points were made:
 - The backlot requirements provide only 40 feet of road frontage. This 40-foot provision conflicts with the 125-foot lot width requirement in the subdivision regulations.
 - the Zoning Board of Adjustment granted relief from this requirement on February 21, 2021.
- Legal analysis of the newly created lot being subject to the Zoning Ordinance (width not less than 125 feet) and the Subdivision Regulations (backlot access not less than 40 feet) resulted in agreement, by general consent, that the backlot provisions override the typical subdivision regulations. All other zoning ordinance requirements apply to the lot and are met as depicted on the plan.
- With respect to an easement on or along the Marston property to York Brook/pond located beyond the back of the lots in question, Attorney Passay provided an overview of seven property deeds spanning 1949-1994 which made no reference to such easement (although the applicant did not perform a title abstract). It was noted that the fire department had an easement to the pond along the stonewall, approximately 30 feet wide; however, this could not be located on any of the deeds or within town records.

Discussion ensued noting further resolution of this easement issue should be conducted by the underlying parties as this matter does not affect the application before the board; the board will forego further investigation as the easement to the pond seems to have been well-researched.

Board comments and questions – none at this time. Chairman Bath opened the hearing to comments from the public and read aloud a letter from abutter Rosanne Seiler which had been received by the board back in April. The letter articulated the abutter's opposition to the subdivision plan as well as requests made to provide a barrier between the properties. Mrs. Farmer indicated she had spoken to the abutter since the letter and the abutter had changed her mind. Additionally, Mrs. Farmer had agreed to consider constructing a green barrier.

MOTION: Chairman Bath motioned to accept the findings presented by DTC Lawyers explaining the variances granted by the ZBA in 2021 address the zoning requirements in question as well as the determination that no waiver from subdivision regulations regarding the 125-foot lot width is required; seconded by Mrs. Smith. With no further discussion, the motion passed 4-0-0.

Chairman Bath noted all other comments from the town engineer have been addressed. This being the case, a final list of outstanding items/conditions were noted:

1. Soil Scientist seal and signature be added to sheet two of the final plan.
2. Easement language be submitted and approved by the town that will 1) grant access to the shared driveway to both Lot A and Lot B and 2) grant access to the utilities located on Lot B to benefit Lot A.
3. Bounds be set, certification of monumentation submitted and inspection of monumentation be completed by a town representative.
4. Provide a copy of State Subdivision Approval eSA2021120301.
5. Payment of all professional review invoices.
6. Provide a final plan for recording at the Registry of Deeds.
7. Submit recording fees made payable to the Rockingham County Registry of Deeds (both mylar recording fee and LCHIP fee).

MOTION: Chairman Bath motioned to approve the 2-lot subdivision plan submitted by Susanna and Davis Farmer located at 97 Giles Road, MBL# 6-1-42 with the seven conditions as noted above; seconded by Dr. Marston. With no further discussion, the motion passed 4-0-0.

Chairman Bath closed the public hearing for the Farmer subdivision application at 7:37pm.

MALM HOME OCCUPATION APPLICATION – 56 HAVERHILL ROAD – PUBLIC HEARING

Chairman Bath opened the public hearing for Timothy Malm who seeks to establish a home-based business office, as provided under East Kingston Zoning Ordinance Article XVI Home Occupations, in a residential zone at property located at 56 Haverhill Road, (MBL# 9-1-4). The applicant proposes to operate 603 Dirt Works, a landscaping, excavation, and construction business from the premises.

Mr. Malm indicated he wants to operate the business from his home and once he gets established, to move the business operations elsewhere. He noted the excavation equipment used for the business is rented thus not stored on the premises other than the occasional use of the equipment for personal use on his own property and at that, he would store them away from street view.

Chairman Bath presented the home occupation checklist and asked the applicant to indicate whether or not each item had been met or not met. He noted the scope of the business would be for a home office (bookkeeping) only, thus would qualify as invisible.

- 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 main dwelling (100 square foot office) at 56 Haverhill Road. - 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 at this time but would come back before the board should this change - 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 thus there would be very little to no customer traffic. - MET*
- The Home Occupation must be conducted by a resident or owner of the property. – *Business is owned and operated by Mr. Malm 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 excavation/construction/landscaping operations 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 excavation/construction/landscaping operations 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 100 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. Malm is the only employee at this time.*

- 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 no solid waste generated by the business.*

Chairman Bath asked for board comment and questions; there were none. He then opened the meeting to public/abutter comment. It was noted this public hearing was published to the general public only per invisible home occupation provisions, thus abutter notices were not sent out. Land board secretary Cathy Belcher, who also happens to be an abutter, made comment with regard to non-business-related equipment at the property.

MOTION: Chairman Bath motioned to recommend the Board of Selectmen approve the Home Occupation application of Timothy Malm, MBL# 09-01-04 for an invisible home occupation to operate an excavation/construction/landscaping business office (603 Dirt Works) at 56 Haverhill Road based on the scope of the business as presented with the hours of operation of Monday-Sunday, 7am-5pm; seconded by Mr. Caron. With no further discussion the motioned passed 4-0-0.

The applicant was 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. Chairman Bath closed the public hearing at 7:51pm.

CONCEPTUAL CONSULTATION – MATT TRAIL – 9 BOWLEY ROAD

Chairman Bath opened discussion at 7:52pm with Matt Trail, Gavin Johnston, and AJ Pappas regarding conceptual consultation for a site plan review proposal to operate a stone curator business at 9 Bowley Road located in the light industrial park. The purpose of this conceptual consultation will allow the property owners to discuss with the Board, in very general terms, the types of uses suitable for the property and to receive instruction on the site plan review process.

Mr. Trail indicated the business owner, Gavin Johnston, has a purchase and sales agreement for 9 Bowley Road and they are looking for guidance from the Planning Board before finalizing the purchase. Mr. Johnston provided an overview of his business (Stone Curators) with stone yard locations in Millis and Salisbury, Massachusetts. The business was founded in 2017 and it represents quarries worldwide. The company uses technology to assist architects find the right stone for high-end residential construction projects. Nine Bowley Road would be used for storing, organizing, and palletizing stone. Any stone splitting will be done with a feather wedge; there are no large saws and any fabrication projects are sent out to fabrication shops. The company does not crush stone and is not a retail yard; it is only open to the trade. No building would be constructed as the land (approximately 4-6 acres) would be cleared to allow for a gravel pad to store the stone. Improvements to the access road would be made as large trucks would need to enter and exit the site. He noted that of the almost 30 acres, 12 acres are deemed usable for light industrial activity. They are proposing utilizing only 4-6 acres. Discussion with the gas and utilities companies are in process as there are easements on the property. The purchase and sales closing date is scheduled for September and the applicants are looking for a heads up on any issues that could be a concern for development.

Discussion ensued on the site plan review process, anticipated road improvements including input from the fire department on size and construction, a stormwater management plan, an engineering site plan, a construction plan, erosion and sediment plan, wetlands will need to be re-delineated, escrow account for engineering fees – all of which are outlined in the Site Plan Review Regulations. The applicants were also provided with the application submission deadline dates. It was noted this conceptual consultation was non-binding; the purpose of the consultation was to provide process guidance. Discussion ended at 8:19pm.

BOARD MEMBER RECRUITMENT INITIATIVE

No members of the public were present for this recruitment initiative.

MEETING MINUTES

The board reviewed the July 21, 2022 meeting minutes.

MOTION: Chairman Bath motioned to approve the July 21, 2022 meeting minutes as presented. Mrs. Smith seconded. The motion passed 4-0-0.

HOME OCCUPATION APPLICATION

Board members reviewed an updated home occupation application form drafted by Planner LaBranche and, by general consent, authorized its immediate use moving forward.

HOUSE BILL 1661

Chairman Bath provided an overview of the items in the newly adopted law specific to planning boards.

- Training opportunities which he highly recommended to new members.
- Publication of Fees specific to land use applications/permits – updated and posted. The board will look at how abutter fees are charged at an upcoming meeting.
- Incentives to Work Force Housing – the board will take a look at the current senior housing ordinance for revision and/or elimination.
- Written Findings with an emphasis on why a plan/application is approved or denied. Planner LaBranche to draft a procedural memorandum for this process.
- Timeline Changes with respect to invoking jurisdiction and final decisions.

These items will be placed on the September agenda for further review.

NEXT MEETING'S AGENDA

Tentative items for the September 15th agenda include Rules of Procedures, SPR/Subdivision posting requirements, HB1661 items.

With no other business before the board,

MOTION: Dr. Marston motioned to adjourn the meeting; seconded by Chairman Bath. The motion passed 4-0-0.

The meeting adjourned at 8:44pm.

Respectfully submitted,

Catherine Belcher

Land Board Secretary

Minutes approved on September 15, 2022.